



Letter to the U.S. EPA regarding its draft Environmental Justice Strategic Plan

September 27, 2005

Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460-0001

Dear Administrator Johnson,

This letter is in regard to the EPA's draft Environmental Justice Strategic Plan, specifically the new language in it that defines environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to development, implementation, and enforcement of environmental laws, regulations, and policies." [emphasis added]

The term "regardless," while appearing to promote equality, would actually institutionalize inequality. The statement "fair treatment and meaningful involvement of all people" is meaningless unless the EJ policy explicitly provides for the allocation of resources, personnel, funds, and priorities in the proportion of the harm suffered by people of different race, class, color, national origin, income level, and gender.

It is obvious and well documented that certain people – specifically, racial minorities and poor people – are more affected by environmental problems than others. Institutionally, race and class are still major factors in determining whose neighborhood gets polluted and how communities are protected from contaminated air, soil, and water. For instance, Native Americans have been very disproportionately impacted by uranium mining, as have African Americans in the South by toxic waste dumps. Polluting facilities are more likely to be located in poor neighborhoods, disproportionately affecting some ethnic minorities.

The use of the concept of "Reference Man" provides another instance of how inequality is institutionalized and why fairness demands protection of the most vulnerable, whether that is defined by race, class, gender, age – or even pregnancy status. According to 40 CFR Part 61, Subparts B, H, and I, §61.21, 61.91, and 61.101, the EPA bases its calculations of effective dose equivalent on the body of Reference Man (also called Standard Man). Reference Man is defined in Publication No. 23 of the International Commission on Radiological Protection (1975):

Reference Man is defined as being between 20-30 years of age, weighing 70 kg, is 170 cm in height, and lives in a climate with an average temperature of from 10o to 20oC. He is a Caucasian and is Western European or North American in habitat and custom.

The concept of Standard Man is incorporated into official, government-approved models used for environmental remediation of contaminated sites, making it the basis for federal decisions regarding protecting people from the hazards of radioactive pollution. However, because women, children, infants,



and the embryo/fetus are generally more sensitive to the harmful effects of radiation, the EPA and other agencies, by relying on standard man, have built in a regime that is systematically discriminatory against some groups and against future generations.

Systematic protection of those most at risk of health problems from exposure to radiation and toxic chemicals should form the basis of public health and environmental protection. Unless the EPA actually makes an effort to determine how different communities and groups are affected by toxic chemicals and radiation, it cannot have a basis for creating a policy that is fair.

In view of the above, we request that:

1. the EPA remove the word “regardless” from its draft plan and explicitly recognize that “fair treatment and meaningful involvement of all people” means that the disproportionate harm done to poor and minority groups, and in some cases, women and children, must be addressed in government environmental and health protection policy. The EPA should develop a plan that complies with the 1994 Executive Order on Environmental Justice and U.S. civil rights laws;
2. the EPA extend the public comment period on the draft plan for at least 3 additional months and hold public hearings, particularly in areas around the country most affected by environmental injustice;
3. the EPA review its rules and regulations that are based on “Reference Man” and other definitions of “reference” persons and modify them as necessary to ensure that they are oriented so as to protect those most at risk from exposure to radiation and toxic chemicals, be they pregnant women, the embryo/fetus, infants, children, or ethnic minorities. EPA rules and regulations (such as maximum contaminant levels in drinking water standards, residual contaminant levels in soil, levels of contaminants in food and cosmetics) should be revised and updated accordingly. This would include changing computer or other dose and risk estimation models used by EPA for regulatory purposes.

Lastly, we must comment on the poor timing of EPA’s proposed EJ plan. Using the phrase “people regardless of race, color, national origin, or income” in the context of demonstrable disproportionate harm and vulnerability is much like ordering the evacuation of everyone from New Orleans equally, without regard to the additional needs of those without cars, money, or the physical ability to get themselves to safety. We urge you not to pursue the present course suggested by the language in your proposal. The very publicly visible tragedies in Hurricane Katrina’s wake are creating a renewed recognition that inequality of opportunity and inequality of suffering have a racial component. President Bush recognized that explicitly when he made his speech from Jackson Square in New Orleans. The problem of inequality of harm to health from environmental pollution is equally compelling from a practical and moral standpoint.

The EPA has had the clarity of vision and purpose to have recognized the problem of environmental injustice in the past. Rather than the course implied by your proposal, we urge you to maintain and enhance that tradition by adopting more vigorous programs to redress the widespread injustices that exist.

Sincerely,

Arjun Makhijani, Ph.D.



President

Cc:

Barry E. Hill, Director, EPA Office of Environmental Justice, Mail Code: 2201A

Members of the National Environmental Justice Advisory Council (via email)