

DEPARTMENT OF JUSTICE Environmental Justice Strategy

I. INTRODUCTION

President Clinton signed Executive Order No. 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, on February 11, 1994. 59 Fed. Reg. 7629 (Feb. 16, 1994). The Executive Order instructs each Federal agency to “make achieving environmental justice part of its mission.” *Id.* § 1-101. The Executive Order also sets forth procedural and substantive requirements each agency must satisfy by specified dates. *See id.* § 1-103(b)-(f).

The Executive Order directs the Department of Justice, as well as all other agencies, to develop agency-wide environmental justice strategies as a core part of this obligation. *Id.* § 1-103(a)-(g). The Order requires that the Department of Justice’s strategy address, “as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities” on minority and low-income communities, *id.* § 1-101, by promoting the equal enforcement of civil rights, health, and environmental statutes; by ensuring greater public participation in decisions affecting human health and the environment; by improving research and data collection involving human health and the environment; and by identifying differential patterns of consumption of natural resources. *Id.* § 1-103(a)(1)-(4).

In 1995, Attorney General Janet Reno issued the Department of Justice Environmental Justice Strategy in fulfillment of the Executive Order’s directive. This memorandum updates and reissues the Department’s Environmental Justice Strategy (“Strategy”).

II. THE DEPARTMENT OF JUSTICE'S STRATEGY AT A GLANCE

A. LAW ENFORCEMENT

The Department of Justice will:

1. **Promote the goal that all communities may live in a safe and healthy environment through the fair and effective enforcement of the Nation's laws.** This effort will be carried out in conjunction with client agencies and will include the investigation and litigation of environmental, civil rights, and criminal cases by the Environment and Natural Resources, Civil Rights, and Civil Divisions, and the United States Attorneys' Offices.
2. **Ensure consistent enforcement of Title VI of the Civil Rights Act of 1964** by coordinating with other Federal agencies, including the Environmental Protection Agency and the Department of Transportation, to effectively investigate civil rights complaints. Additionally, the Department will provide technical assistance to agencies and jointly investigate matters when appropriate.

B. MEDIATION, ADVICE, COUNSEL, AND OUTREACH

The Department of Justice will:

1. **Mediate disputes and facilitate community dialogues** related to environmental justice matters through the Community Relations Service. Where appropriate, the Department's litigating components and the United States Attorneys' Offices will pursue mediated resolutions to environmental disputes.
2. **Advise client agencies of their obligations** in light of the Executive Order, and consider environmental justice concerns in resolving litigation against client agencies.
3. **Counsel and assist state, local, and tribal governments** to coordinate their actions with those of the Federal government to further the goals of the Executive Order.
4. **Work with communities** so that enforcement actions and other programs, activities, and policies respond as directly as possible to actual environmental risks and concerns.

C. EDUCATION AND TRAINING

The Department will:

1. Periodically review and update, as necessary, the Department of Justice Strategy and Guidance Concerning Environmental Justice.
2. Provide education and training on environmental justice issues to Department staff and managers, including Department-wide briefings.
3. Assist client agencies in providing education and training on environmental justice issues.
4. Develop instructional environmental justice materials.

III. SPECIFIC ELEMENTS OF THE DEPARTMENT OF JUSTICE PLAN

A. OPERATING STRUCTURE

1. Director of Environmental Justice

The Office of the Associate Attorney General is responsible for coordinating the Department's Environmental Justice work, but the Attorney General remains the official responsible for meeting the Department's obligations under the Executive Order. The Associate Attorney General will assign a Director of Environmental Justice to coordinate environmental justice issues that arise in the ongoing work of Department of Justice components. This coordination allows the Department to ensure consistency in policy, maximize limited resources, and better use expertise and experience. The Director will lead the Department's Environmental Justice Working Group, as set forth below.

2. Senior Advisory Council

The Senior Advisory Council will consist of component heads or their designees. The components represented on the Senior Advisory Council are:

Office of the Deputy Attorney General;
Office of the Associate Attorney General;
Environment and Natural Resources Division;
Civil Rights Division;
Civil Division;
Federal Bureau of Investigation;
Federal Bureau of Prisons;
Community Relations Service;
Access to Justice Initiative;

Office of Legal Policy;
Office of Tribal Justice;
United States Attorneys' Offices (through one or more members from the Attorney General's Advisory Committee, Environmental Issues Working Group, and/or Native American Issues Subcommittee, and/or other U.S. Attorney designees as appointed by the Executive Office for the United States Attorneys).

The purpose of the Council is to advise the Director and to recommend Department policy and Department-wide initiatives on environmental justice to the Attorney General, the Deputy Attorney General, and the Associate Attorney General.

The Associate Attorney General will lead the Senior Advisory Council and convene meetings of the Senior Advisory Council at least annually to ensure that the Department is meeting its obligations under the Executive Order and this Strategy, and to update the Strategy as necessary.

Heads of components represented on the Senior Advisory Council are responsible for submitting to the Associate Attorney General an annual report of the component's progress in implementing the Department's Environmental Justice Strategy and any proposed revisions to the component's strategy. The Associate Attorney General may also request a report or briefing from the head of any Department component that is not a member of the Senior Advisory Council explaining how the component may facilitate the Department's efforts in meeting its obligations under the Executive Order and this Strategy.

3. Working Group

The Environmental Justice Working Group ("Working Group") will consist of attorneys and professional staff drawn from throughout the Department and led by the Director of Environmental Justice. The Working Group will consist of attorneys and other personnel from components represented on the Senior Advisory Council. Members of the Working Group may also be the Environmental Justice Coordinators referenced in Section III.A.4. The Director will convene meetings of the Working Group periodically, at least twice each year, to ensure that the Department is meeting its obligations under the Executive Order and this Strategy.

Responsibility for virtually all substantive work will remain in the components, and Working Group members will continue to answer to their components. The Working Group will receive input from attorneys and staff within the Department's components. For example, the Environment and Natural Resources Division has organized a group of attorneys who meet regularly to discuss environmental justice issues.

4. Environmental Justice Coordinators

Components with members on the Senior Advisory Council and Working Group, as well as those selected at the discretion of the Director, will appoint one or more environmental justice coordinators who will be responsible for coordinating environmental justice activities within their respective components, conducting reviews for environmental justice issues as appropriate under this Strategy, and communicating with the Working Group.

B. DEPARTMENT-WIDE ACTIVITIES

1. Strategy and Guidance

The Department issued this Strategy in fulfillment of Executive Order 12898, and concurrently issued the *Department of Justice Guidance Concerning Environmental Justice* for Department personnel (“Guidance”), which includes provisions for identifying, tracking, and addressing environmental justice matters. The Strategy and Guidance will be reviewed and updated, as necessary, every three years.

2. Component Strategy and Annual Reports

Each component that has a representative on the Senior Advisory Committee will conduct a review of its work and prepare an Environmental Justice Strategy in accordance with the requirements of the Executive Order, the Department’s Strategy, and the Department’s Guidance.

As noted in Section III.A.2 above, the heads of each component represented on the Senior Advisory Committee will prepare and submit to the Associate Attorney General an annual report of the component’s progress in implementing the Department’s Environmental Justice Strategy and any proposed revisions to their component’s strategy. The Associate Attorney General also may request a report or briefing from the head of any component not a member of the Senior Advisory Council explaining how the component may facilitate the Department’s efforts in meeting its obligations under the Executive Order and this Strategy.

3. Investigations

The Department in conjunction with United States Attorneys’ Offices will continue to work with the Environmental Protection Agency and other Federal agencies, as appropriate, to develop a list of environmental justice enforcement priorities and an enforcement strategy for addressing these priorities.

4. **Referral Guidance**

The Department will continue to provide guidance, such as referral guidelines, to assist client agencies in referring matters that may raise environmental justice issues.

5. **Assess Cases and Legal Authorities**

The Department will review cases, programs, and policies that may raise environmental justice issues. In addition, the Department will assess the law applicable in cases that raise environmental justice concerns, including environmental, criminal, and civil rights statutes and regulations, and constitutional provisions.

6. **Litigation Activities**

The Department of Justice can assist in achieving environmental justice as it brings and defends cases that raise environmental justice matters.

The Department's litigating components and United States Attorneys' Offices will conduct investigations with other agencies that may result in cases raising environmental justice issues.

The Department will consider intervening in pending litigation or filing amicus curiae briefs to serve the interests of client agencies and the purposes of the Executive Order.

Where environmental justice questions arise in cases that the Department is defending, in addition to consulting with the client agency, attorneys will consult their environmental justice coordinators who will be responsible for coordinating with other Department components on appropriate action.

7. **Interagency Coordination Activities**

The Department will continue to collaborate with and provide technical assistance to other Federal agencies to address environmental justice issues to the extent the law permits.

8. **Education**

The Department will continue to provide general training and education about what environmental justice means, the contexts in which environmental justice problems may arise, and the ways in which recognition of potential environmental justice matters may affect the work of Department employees and clients.

In particular, the Department will:

- a. Continue to distribute the Executive Order, the Department's Strategy, and the Department's Guidance to all relevant Department personnel;
- b. Continue to use instructional videos or other materials prepared for Department attorneys and other staff. The training materials, along with the Department's Guidance, provide an overview of the scope of environmental justice and procedures for identifying and reporting such issues;
- c. Continue to encourage employees in the Civil Rights Division, the Environment and Natural Resources Division, the United States Attorneys' Offices, and Federal agencies that have responsibilities for environmental matters, such as the Environmental Protection Agency, the Department of the Interior, the U. S. Coast Guard, and the Department of Agriculture, to consult with one another regarding environmental justice matters;
- d. Educate environmental attorneys about criminal, civil, and civil rights laws and educate civil, criminal, and civil rights attorneys about environmental laws to the extent necessary for them to identify and effectively address environmental justice problems;
- e. Continue to promote the use of an environmental justice e-mail "hotline" (ejstrategy@usdoj.gov) which will enable attorneys and other Department staff to seek information and guidance on environmental justice issues;
- f. Plan joint education and training activities, where appropriate, with client agencies and state, local, and tribal legal offices;
- g. Work with the Office of Legal Education and the Environmental Protection Agency to develop a Continuing Legal Education course on environmental justice; and
- h. Continue to incorporate environmental justice into training programs for Honors Graduate attorneys.

9. Data Assessment

The Department of Justice will encourage all relevant components within the Department to maintain an appropriate system for tracking and assessing cases that raise environmental justice concerns. In addition, the

Department will utilize, as appropriate, publicly available computerized information systems to gather relevant information for analysis.

10. Counsel, Advice, and Collaboration

a. Within the Federal Government

Department of Justice attorneys will continue to counsel agencies, in conjunction with the agencies' offices of general counsel, on environmental justice issues that may arise in the development and implementation of programs and policies or that may arise in litigation involving the defense of an agency action.

In particular, the Department will coordinate with other agencies in evaluating agency enforcement of Title VI within their own statutory and regulatory frameworks. For example, the Department has committed a senior Civil Rights Division attorney experienced in Title VI law to the Environmental Protection Agency's Office of Civil Rights to work with EPA attorneys on developing Title VI enforcement cases in the environmental justice context.

b. Outside the Federal Government

The Department will assist state, local, and tribal governments and indigenous populations or communities in the United States in their efforts to achieve environmental justice. The term "indigenous populations or communities" encompasses American Indians, Alaska Natives, and Native Hawaiians. The Community Relations Service, in appropriate situations, will help facilitate a working relationship between parties involved in environmental justice issues, including regulated industry, state, local, and tribal decision-makers, and minority or low-income communities.

11. Promote Participation

Each relevant component of the Department will consider ways to promote participation by all segments of the community in decision-making processes that affect health and the environment, including, for example, application of the Department's Language Access Plan. The Department will ensure that such efforts serve important and permissible governmental goals, consistent with applicable legal standards.

12. Outreach

The Department will continue to work with the Executive Office of the President and the Environmental Protection Agency to inform Congress about the details of the Executive Order and the actions of the Department of Justice to comply with it.

The Department of Justice will continue to meet with individuals, grassroots organizations, community and business leaders, environmental justice advocates, and others to discuss the Department's compliance with the President's Executive Order and other environmental justice concerns.

The Department recognizes that communications between the Federal government and communities must be simple and direct. The Department will design its communication efforts with the goal of maximizing community understanding of, and participation in, environmental justice matters.

The Department will continue to work with the Environmental Protection Agency and other Federal agencies to promote understanding and communication between communities and the Federal government about lawsuits and other actions or policy decisions that affect those communities.

C. SPECIFIC COMPONENT OBLIGATIONS

1. Access to Justice Initiative (ATJ)

The Department will use the Access to Justice Initiative, when appropriate, to serve as a liaison for Legal Aid entities and other interested attorneys and organizations in environmental justice matters where access to counsel for affected low-income people is needed.

2. The Community Relations Service (CRS)

The Community Relations Service has designated environmental justice contacts in each of its Regions and has directed those coordinators to work with the Environmental Protection Agency and other Federal agencies on environmental justice matters when appropriate.

The Department will use the Community Relations Service to act as a liaison between governments, regulated industry, community groups, and other affected interests, and to provide mediation and alternative dispute resolution services, where appropriate, to further the goals of the Executive Order.

3. Federal Bureau of Investigation (FBI)

The FBI is committed to the investigation of significant environmental crimes, without regard to the socio-economic status of the victims or perpetrators. Because of its limited resources, the FBI will continue to support key Environmental Crimes Task Forces which combine investigative resources of Federal, state, local, and tribal governments to target the most significant threats to our nation's health and natural resources.

- a. Knowing Endangerment
Any individual or business that knowingly handles hazardous waste and pollutants in a manner that significantly compromises public health will be investigated by the FBI jointly with other Federal, state, local, and tribal law enforcement partners.
- b. Repeat Offenders
Subjects who have a pattern of flagrant violations suggesting that they have made an economic decision that it is cheaper to pay the civil penalties associated with violations of the law rather than make the improvements necessary to conform to the law will be targeted for criminal investigation.
- c. Federal Facilities/Public Lands
Investigations involving government agencies or environmental crimes occurring on government facilities or public lands are uniquely Federal in nature. The FBI will support such investigations as necessary.
- d. Organized Crime
Organized crime elements have exerted control over the waste hauling and treatment industries in several areas of the country. Any criminal activity involving organized crime continues to be an FBI priority.
- e. Catastrophic Events
The FBI is committed to the rapid deployment of its investigative resources to address catastrophic environmental incidents where there is indication of criminal activity. The FBI will also engage a robust victim-assistance program to support victims of such crimes.

4. Federal Bureau of Prisons (BOP)

The Bureau is working to ensure that its activities are consistent with the President's mandate. For example, the Bureau will include consideration of environmental justice in its environmental impact statements under the National Environmental Policy Act.

5. Office of Legal Counsel (OLC)

The Office of Legal Counsel will provide legal advice, as requested, to ensure that the Department's environmental justice actions are undertaken in a manner consistent with constitutional and statutory provisions.

6. Office of Legislative Affairs (OLA)

The Department, working principally through the Office of Legislative Affairs, will continue to monitor proposed legislation for environmental justice implications.

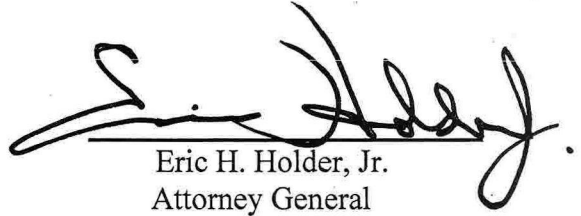
7. Office of Tribal Justice (OTJ)

The Office of Tribal Justice will continue to provide program and legal policy advice to the Attorney General and Department components on environmental justice issues in Indian country with respect to Indian treaty rights and the trust relationship. Consistent with OTJ's mission, the office will serve as the Department's point of contact and principal liaison for federally recognized tribes and will coordinate with other agencies and Department of Justice components when there are tribal implications in environmental justice matters.

IV. JUDICIAL REVIEW AND ENFORCEMENT

This Strategy is intended only to improve the internal management of the Department of Justice. It shall not be deemed to create any right, benefit, or trust obligation, either substantive or procedural, enforceable by any person or entity in any court against the United States, its agencies, its officers, or any other person. Consequently, neither this Strategy nor the deliberative processes or products resulting from implementation of the Strategy shall be treated as establishing standards or criteria that constitute any basis for review of the actions of the Department of Justice or any other agency. The Department's compliance with this Strategy shall not be justiciable in any proceeding for judicial review of agency action.

Dec. 18, 2014
Date



Eric H. Holder, Jr.
Attorney General