and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 23, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.go* v. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 3, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11042 Filed 5–8–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket ID No. EPA–HQ–OAR–2012–0452; FRL–9811–1]

EPA Activities To Promote Environmental Justice in the Permit Application Process

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of regional actions to promote public participation in the permitting process and promising practices for permit applicants seeking EPA-issued permits.

SUMMARY: As part of its ongoing efforts under Plan EJ 2014 to integrate environmental justice into all of its programs, the Environmental Protection Agency (EPA) is publishing *Actions that EPA Regional Offices Are Taking to Promote Meaningful Engagement in the Permitting Process by Overburdened Communities* and *Promising Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Neighboring Communities.* This notice responds to comments on the proposals issued for public comment in June 2012. These documents reflect suggestions and input received by EPA from numerous stakeholders. This notice describes actions that EPA regional offices are taking when issuing EPA permits to promote greater participation in the permitting process by communities that have historically been underrepresented in that process. This notice also describes promising practices for permit applicants that are designed to encourage and assist permit applicants to reach out to neighboring communities when applying for permits that may affect communities' quality of life, including their health and environment.

FOR FURTHER INFORMATION CONTACT: For more information on this **Federal Register** notice, contact Shani Harmon, Office of Air and Radiation, Mail Code 6102A, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 564–1617, *ejpermitting@epa.gov.*

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I. General Information

Expanding the conversation on environmentalism and working for environmental justice are top priorities of the Environmental Protection Agency (EPA). In 2011, EPA published Plan EJ 2014, the Agency's overarching strategy for advancing environmental justice. The Plan has three goals:

1. Protect health and the environment in overburdened communities;

2. Empower communities to take action to improve their health and environment; and

3. Establish partnerships with local, state, tribal, and federal governments and organizations to achieve healthy and sustainable communities.

The year 2014 marks the 20th anniversary of the signing of Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.* That Executive Order directs each covered federal agency to ''make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities.'' Plan EJ 2014 is EPA's roadmap for integrating environmental justice into its programs, policies and activities. One focus area of the Plan is ''Considering Environmental Justice in Permitting.'' Environmental permits often contain measures to mitigate pollution from a source. Therefore, environmental permits play a key role in providing effective protection of public health and the environment in communities. For this reason, Plan EJ 2014 calls upon EPA to: (1) Enhance the ability of overburdened communities to participate fully and meaningfully in the permitting process for EPA-issued permits; and (2) take steps to meaningfully address environmental justice issues in the permitting process for EPA-issued permits to the greatest extent practicable.

In this notice, EPA focuses on enhancing the opportunity and ability of overburdened communities to participate in the permitting process. Plan EJ 2014 uses the term ''overburdened'' to describe the minority, low-income, tribal and indigenous populations or communities in the United States that potentially experience disproportionate environmental harms and risks due to exposures or cumulative impacts or greater vulnerability to environmental hazards. This increased vulnerability may be attributable to an accumulation of both negative and lack of positive environmental, health, economic, or social conditions within these populations or communities. EPA believes that the participation of overburdened communities in EPA's permitting process is an important step toward the ultimate goal of promoting environmental justice through the permitting process. EPA realizes that enhanced public engagement is only one aspect of addressing environmental justice in the context of permitting. As part of the Plan EJ 2014 initiative, EPA also intends to enhance its analysis of environmental justice impacts associated with permits and identify additional measures that can be

incorporated into permits to address environmental justice issues.

Following the National Environmental Justice Advisory Council (NEJAC) recommendation to encourage more public participation in the permitting decision-making process, EPA has identified actions that EPA and permit applicants, both for new and renewed permits, can take to reduce barriers to participation in the permitting process. In overburdened communities, these barriers can include lack of trust, lack of awareness or information, lack of ability to participate in traditional public outreach opportunities, language barriers, and limited access to technical and legal resources. More transparency and dialogue can to lead to more meaningful engagement of overburdened communities in the permitting process. More meaningful engagement, in turn, can lead to better permit outcomes for communities as well as permit applicants.

Both EPA regional offices and permit applicants can—and in some cases already do—bring overburdened communities into the permitting process through special outreach efforts. To learn more about how EPA and permit applicants can involve overburdened communities in the permitting process for EPA-issued permits, EPA launched an extensive outreach effort to solicit diverse stakeholder views. EPA conducted numerous listening sessions, conference calls and meetings with a variety of stakeholders, including environmental justice stakeholders, members of the business community, state, local and tribal governments and communities, non-governmental organizations, and the NEJAC, to gather input on how to enhance participation of overburdened communities in EPA's process of issuing permits. EPA also surveyed its regional offices, where EPA permitting activity predominantly occurs, to determine what steps are currently being taken or could be taken to meaningfully involve overburdened communities in the permitting process. On June 26, 2012, EPA proposed *Actions that EPA Regional Offices Are Taking to Promote Meaningful Engagement in the Permitting Process by Overburdened Communities* and *Draft Best Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Neighboring Communities* (77 FR 38051).

In addition to soliciting comment on these ideas (Docket Number EPA–HQ–OAR–2012–0452), EPA continued its collaboration and dialogue with stakeholders to obtain feedback on its proposals. EPA hosted several informational calls with stakeholders to explain the proposals, answer any questions, and gather input on the content of its proposals. Under the *EPA Policy on Consultation and Coordination with Indian Tribes,* EPA conducted a national consultation with federally recognized tribes. EPA also presented its proposed ideas during the NEJAC's public meeting on July 24–25, 2012. Listening sessions, dialogues and numerous comments provided invaluable stakeholder feedback from communities, states, municipalities, tribes, businesses, environmental groups, trade associations, and federal advisory committees.

EPA appreciates the commitment of time and resources from the numerous stakeholders who provided feedback. EPA has considered all the comments and questions it received. EPA has revised the draft proposals and is now issuing two documents. The first is *Actions that EPA Regional Offices Are Taking to Promote Meaningful Engagement in the Permitting Process by Overburdened Communities* (hereafter referred to as ''*EPA Actions''*). The second document is *Promising Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Neighboring Communities* (hereafter referred to as ''*Promising Practices''*). In today's notice, EPA incorporates some suggestions and addresses several issues raised during public outreach on the proposals. In addition, EPA has provided a Frequently Asked Questions document responding to many of the questions and issues raised in public engagement. The Frequently Asked Questions document is available at *http://www.epa.gov/environmental justice/plan-ej/permitting.html.* EPA expects to revise that document over time.

II. Overview

Executive Order 12898 and Plan EJ 2014 direct EPA to make achieving environmental justice part of its mission and to be a leader among federal departments and agencies in addressing the impacts of federal activities on overburdened communities. EPA believes that EPA's permitting process presents opportunities to address environmental justice. EPA further believes that it has the responsibility to lead by example by addressing environmental justice in its permits. Therefore, the actions described in this notice focus exclusively on EPA-issued permits.

Several commenters asked whether *EPA Actions* and *Promising Practices* change existing regulations and guidance addressing public participation in the permitting process. The answer is no. Although EPA expects these two documents to aid EPA in its implementation of Executive Order 12898 with regard to permitting, *EPA Actions* and *Promising Practices* are not an interpretation of environmental statutes, nor do they add to or change interpretations of statutory obligations regarding permitting contained in existing regulations. They create no legal obligations and in no way change the legal landscape of the EPA permitting process. To the contrary, the only legal requirements applicable to EPA regional offices and permit applicants throughout the permitting process are those contained in the EPA's environmental statutes, implementing regulations, the Administrative Procedure Act, applicable anti-discrimination laws and other applicable statutes and regulations.

EPA is issuing *EPA Actions* to encourage more transparency and consistency in EPA's permitting process with the goal of increasing meaningful engagement of overburdened communities in that process. As some commenters noted, EPA already has a legal obligation to provide opportunities for public involvement in the permitting process. EPA believes, however, that in some circumstances it is appropriate to go beyond the minimum public involvement requirements of statutes and regulations to encourage the participation of communities that will be significantly impacted by a permit but that have historically been underrepresented in the permitting process.

Further, though EPA has discretion to increase the level of public outreach it makes to communities beyond the requirements found in statutes and regulations, EPA's ability to perform outreach is constrained by its resources. EPA developed *EPA Actions* to more effectively target outreach resources for the most meaningful engagement and to provide guidance to its permitting programs in regional and headquarters offices in order to promote consistency and transparency in EPA's permitting outreach planning, and to ensure that enhanced outreach is provided in situations where it may have an impact on permit outcomes. EPA believes that such transparency and consistency aids EPA in making more informed decisions, but also gives notice to the public of EPA's considerations and encourages public engagement in the permitting process.

EPA is issuing *Promising Practices* to encourage permit applicants to strategically plan and conduct enhanced

outreach to overburdened communities in the permitting process. As some commenters noted, EPA has recommended some of the outreach strategies included in *Promising Practices* previously. Nevertheless, EPA believes that it is important to issue *Promising Practices* to encourage greater use of practices, some of which are already employed by permit applicants, that EPA believes can be effectively and beneficially used in the context of permitting and environmental justice.

EPA is not requiring permit applicants to adopt the *Promising Practices. Promising Practices* are simply that: Good ideas in the form of suggestions to permit applicants. EPA believes permit applicants may benefit from applying these Promising *Practices.* EPA hopes that when permit applicants practice early and meaningful dialogue with community members, they can help build trust, promote a better understanding in neighboring communities of the facility's environmental impact, and build strong relationships that will lead to better results for both the permit applicant and community. For example, EPA expects the alignment of interests between a permit applicant's interests and those of community members, who can be employees, customers, or investors in the applicant's company, to lead to creative solutions that promote the achievement of mutual economic and environmental goals. EPA also believes that engaging community members upfront and throughout the permitting process can be an effective tool for identifying and addressing (or even avoiding) potential problems, and avoiding delays resulting from concerns being raised late in the permitting process. These and other benefits are discussed in the *Promising Practices.*

Some commenters suggested that EPA should expand the scope of the Environmental Justice in Permitting Initiative beyond EPA-issued permits. EPA recognizes that most permits under its environmental statutes are issued by state, local, and tribal governments, not EPA. EPA believes, however, that the best way to exercise leadership in this particular area is by undertaking these activities itself before requiring state, local and tribal governments to do so. EPA believes permits issued by EPA present valuable opportunities to address environmental justice in the permitting process. EPA intends to discuss its experiences and ideas with these governments as well as with other federal agencies with the goal of learning from its state, local and tribal partners and of promoting similar efforts.

EPA is not discouraging state, local and tribal authorities from adopting elements of *EPA Actions* or *Promising Practices* or other measures that may improve their own or their permit applicants' efforts to engage overburdened communities in their permitting processes. EPA recognizes that some state, local and tribal governments already engage in the kinds of activities described in this notice and have made significant progress in meaningfully involving overburdened communities in the permitting process. EPA believes that state, local and tribal permitting authorities with experience in this area can provide valuable information that will strengthen EPA's efforts. Therefore, EPA invites these authorities to continue to share with EPA ideas and approaches that can ensure the meaningful involvement of overburdened communities in the permitting process and encourage dialogue between permit applicants and communities.

EPA also recognizes that states may have obligations to ensure public participation in the permitting process under EPA regulations governing state programs. As recipients of federal financial assistance, they have affirmative obligations not to discriminate under Title VI of the Civil Rights Act of 1964 and other non-discrimination statutes, EPA regulations at 40 CFR parts 5 and 7, and terms and conditions of their grant awards. This notice does not address or modify those obligations. Please refer to *EPA's Guidance to Environmental Protection Agency Financial Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (69 FR 35602, June 25, 2004) and *Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs* (71 FR 14207, March 21, 2006).

As previously mentioned, considering Environmental Justice in Permitting is one initiative under Plan EJ 2014. The ideas in this notice are meant to complement all of the other tools and resources developed under Plan EJ 2014 and other EPA initiatives to aid communities and EPA permitting authorities in incorporating environmental justice into the permitting process. The tools and resources include: *EJ Legal Tools,* which addresses EPA's legal authority to consider environmental justice; EPA's effort to develop a *nationally consistent screening tool for environmental justice;* EPA's efforts to meaningfully engage local communities and stakeholders in government decisions on land cleanup, emergency preparedness and responses and the management of hazardous substances and wastes through the *Community Engagement Network;* and EPA's collaboration with other federal agencies to improve our community-based actions and assistance and to strengthen the use of *interagency legal tools,* such as the National Environmental Policy Act. These resources supplement information disseminated by *EPA regional offices* about their permit processes and particular permits.

Section III below focuses on activities that EPA regional offices are undertaking to promote meaningful engagement of overburdened communities in the permitting process. Section IV presents promising practices that permit applicants can use to initiate and sustain a dialogue with the neighboring communities that are impacted by the permitted activity.

III. Actions That EPA Regional Offices Are Taking To Promote Meaningful Engagement in the Permitting Process by Overburdened Communities (''EPA Actions'')

EPA has identified a number of activities and approaches that can be used to promote greater public involvement of overburdened communities in its permitting processes, particularly for major permitted activities that may significantly impact these communities. Each EPA regional office is developing a regional implementation plan to address meaningful engagement of overburdened communities in their permitting activities. This notice describes the general expectations for the regional plans and presents the framework and specific activities intended to enhance public participation.

EPA expects that each regional office will use the agency-wide guidelines to develop a regional implementation plan that is appropriate for the particular circumstances within that region. The agency-wide guidelines in this notice are designed to promote consistency among regional offices and provide EPA's expectation for a basic regional plan. At the same time, EPA recognizes that each permit and community is different and that each EPA regional office has the insight and experience to develop strategies tailored to the particular communities and needs within that region. Thus, the regional implementation plans reflect a balance between national consistency and regional flexibility. EPA expects these plans to evolve as ''living documents''

that are updated periodically to more accurately reflect their experiences or circumstances once the plans are being implemented within the regions.

The activities described in this notice supplement the standard notice-and-comment procedures required by law. Even though not required to do so, EPA promotes the use of these techniques and activities within regional offices because enhanced outreach can help remove some of the barriers that deter overburdened communities from participating in permit processes that affect them and are appropriate in some circumstances. The result could be better public health protection for these communities.

It is important to note the difference between EPA's ''meaningful engagement'' of tribal *communities* in permitting in the environmental justice context and EPA's government-to-government consultation with federally recognized tribes. Although EPA implements its commitment to environmental justice by engaging tribal communities, organizations, and individuals on issues of environmental and public health protection, the Agency's engagement and consultation with tribal governments arises from EPA's recognition that the federal government has a unique government-to-government relationship with federally recognized tribes. The federal government has a trust responsibility to federally recognized tribes that arises from Indian treaties, statutes, Executive Orders, and the historical relations between the United States and Indian tribes. EPA, like other federal agencies, must act consistent with the federal trust responsibility when taking actions that affect federally recognized tribes. Part of this responsibility includes consulting with tribes and considering their interests when taking actions that may affect them or their resources. EPA will continue to consult with federally recognized tribes on EPA-issued permits that may affect them or their resources.

A. Agency-Wide Guidelines for EPA Regional Offices

The guidelines presented here provide a framework for the regional offices to identify possible actions they can take to promote the meaningful engagement of overburdened communities for priority permits. Specifically, the guidelines for EPA regional offices are designed to: (1) Help regional offices identify which permits to prioritize for enhanced outreach to overburdened communities; and (2) suggest activities the regional offices can undertake to promote greater public involvement in their permitting process.

1. Priority Permits for Enhanced Public Involvement Opportunities

Although any permit action may be an opportunity to enhance the engagement of a community, EPA believes that it is particularly important to provide meaningful engagement opportunities for permitted activities that may have significant public health or environmental impacts on overburdened communities. Robust public outreach and engagement can consume substantial resources among everyone involved. EPA recognizes that its regional offices cannot enhance engagement for every EPA-issued permit and that overburdened communities might not have the same interest in engagement for every permit potentially impacting them. For this reason, EPA will consider prioritizing for enhanced public involvement opportunities those EPA-issued permits associated with activities that may have significant public health or environmental impacts on overburdened communities. These might include new large production facilities or major modifications to existing facilities. However, EPA does not intend to scale back the public involvement opportunities it typically provides in other permits as a result of its efforts to provide enhanced public involvement for priority permits.

To assist the regional offices in identifying priority permits for enhanced outreach, EPA has identified the types of permits that may involve activities with significant public health or environmental impacts. In providing this list, EPA does not intend for its regional offices to enhance engagement opportunities in every instance where one of these permits is at issue. Rather, this list is provided to illustrate the kinds of permit applications or renewals that may involve activities with significant public health or environmental impacts and that may be appropriate for prioritization if those impacts affect overburdened communities. Regional offices may also choose to prioritize permits that are not listed here. Examples of permits that may involve activities with significant public health or environmental impacts can include, but are not limited to, the following:

- Construction permits under the Clean Air Act, especially new major sources (or major modifications of sources) of criteria pollutants;
- Significant Underground Injection Control Program permits under the Safe Drinking Water Act;
- ''Major'' industrial National Pollutant Discharge Elimination System (NPDES) permits (as defined in 40 CFR 122.2) under the Clean Water Act that are for:
  - New sources or new dischargers, or
  - Existing sources with major modifications, including, but not limited to, a new outfall, a new or changed process that results in the discharge of new pollutants, or an increase in production that results in an increased discharge of pollutants;
- ''Non-Major'' industrial NPDES permits (as defined in 40 CFR 122.2) under the Clean Water Act that are identified by EPA on a national or regional basis as a focus area, for:
  - New sources or new discharges, or
  - Existing sources with major modifications, including, but not limited to, a new outfall, a new or changed process that results in the discharge of new pollutants, or an increase in production that results in an increased discharge of pollutants; and
- RCRA permits associated with new combustion facilities or modifications to existing RCRA permits that address new treatment processes or corrective action cleanups involving potential off-site impacts.

Several commenters asked for clarification on how EPA will prioritize permits for enhanced outreach, and whether such prioritization of permits is necessary. EPA believes a prioritization process will help regional offices to focus more thoughtfully on permitted activities that may have significant public health or environmental impacts on overburdened communities and to devote resources to outreach activities that will be most effective in engaging a particular community. EPA believes the prioritization process articulated in the guidelines appropriately takes into account available resources to engage in this work, variability across EPA regions, and variability across different communities. EPA expects the prioritization process to result in a manageable number of permits for which regional offices and communities can apply these guidelines.

EPA recognizes that, as some commenters pointed out, the prioritization process articulated in the guidelines may not provide enough detail to determine which particular permits a regional office will prioritize for enhanced outreach. The guidelines in this notice are intended to establish parameters for regional implementation plans and to provide some national consistency across the plans while maintaining the flexibility of the regional offices to tailor outreach to particular circumstances.

Some commenters asked whether EPA would provide enhanced outreach only if two criteria were met: (1) The

permitted activity is expected to have significant environmental or public health impacts, and (2) the affect community is already overburdened. EPA regional offices have the discretion to use other considerations to prioritize EPA-issued permits for enhanced outreach that do not meet either or both of those criteria. One important consideration would be whether a community has expressed concerns over a permit application or renewal. EPA regional offices may consider prioritizing such permits and may tailor the engagement of neighboring communities in proportion to the actual health or environmental impacts or public concerns expressed over the permitted activity. However, given resource constraints, EPA expects that it will only infrequently provide enhanced outreach for permitted activities in response to public concerns in the absence of information about potential significant public health or environmental impacts. Further, the enhanced outreach activities for a permitted activity that does not have significant public health or environmental impacts will not necessarily be the same as those for a permitted activity that has significant public health or environmental impacts. EPA intends to tailor enhanced outreach to the particular circumstances to most effectively utilize the time and resources of EPA as well as communities and permit applicants. Similarly, EPA may, on occasion, prioritize a permitted activity for enhanced outreach due to its significant impacts even though it does not impact an overburdened community.

In response to comments inquiring whether permits that are not prioritized will receive outreach, EPA emphasizes that EPA will still comply with all applicable public participation requirements established by the relevant statutes and regulations. But EPA-issued permits that are not prioritized for enhanced outreach may not receive the supplemental activities presented below.

2. Regional Offices' Activities To Promote Greater Public Involvement in the Permitting Process

Presented below is a list of activities that EPA regional offices are undertaking at key junctures in the permitting process to promote greater involvement of overburdened communities. The list of activities is intended to identify priority areas of activity and to provide options for activities regions can consider including in the regional implementation plans they develop. Regional offices, therefore, may choose not to implement all of the activities listed below. Similarly, the list of activities is not meant to be comprehensive or exhaustive. Different situations will justify different responses.

Planning & Gathering Information:

○ Identify upcoming priority permits for promoting greater public involvement. When identifying priority permits, focus on permits that community members have identified as a priority, to the extent such information is available.

○ Locate existing data and studies that are relevant to the particular community.

○ Explore ways to reach out to the affected community in coordination with relevant EPA staff, including permit writers, EJ coordinators, public affairs staff, the press office, and EPA's Conflict Prevention & Resolution Center.

○ Coordinate with state, local, and/or tribal authorities in appropriate circumstances.

○ Evaluate the appropriate length of the public comment period and EPA's openness to requests to extend that period.

○ Consider holding information meetings for the public in addition to the formal public comment processes.

Coordinating within EPA:

○ For applicants with multiple EPA permits, inform EPA permit writers from other offices in the region that your office has received a permit application from the applicant.

Communicating with Community Members:

○ Designate EPA point(s) of contact that community members can contact to discuss environmental justice concerns or questions of a technical nature about the permit application.

○ Use informational materials to explain the permitting process.

○ Use plain language when communicating with the public.

○ Use communication techniques that community members value, such as direct mailings, posters, articles in local newspapers, and emails to list serves.

○ Offer translation services for communities with multi-lingual populations (including interpreters at public meetings or translations of public documents).

○ Make key documents on the proposed project readily accessible to community members, using a variety of media tools (paper copies, online, etc.), when appropriate.

○ Hold public meetings at times and places in neighboring communities best designed to afford the public a meaningful chance to attend.

○ Give careful consideration to requests to extend the comment period, or hold additional public meetings.

○ After the permit has been issued, make available to community members a summary of EPA's comment responses and provide information on where community members can find the entire comment response document.

Communicating with the Permit Applicant:

○ Encourage the permit applicant to provide EPA with a plain-language description of its proposed project or permit application.

○ Encourage the permit applicant to consult EPA guidance on environmental justice and other resources developed under Plan EJ 2014, including the *Promising Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Neighboring Communities.*

Some commenters inquired why EPA does not require all EPA regional offices to perform the same or particular outreach activities. *EPA Actions* strikes an important balance between national consistency and regional flexibility. The Agency-wide guidelines establish national consistency by providing EPA's expectations for the regional implementation plans. At the same time, EPA recognizes that the regional offices need the flexibility to take actions suited to the types of permits and communities typically seen within the region. EPA believes that each regional office has the insight and experience to develop strategies tailored to their particular circumstances. To support this needed regional flexibility, the guidelines do not prescribe which permits the EPA regional offices must prioritize or which outreach activities they must adopt.

B. EPA's Expectations for Regional Implementation Plans

EPA expects each regional office to develop, implement and make publicly available a regional implementation plan consistent with the Agency-wide guidelines presented in this notice in order to support the meaningful engagement of overburdened communities in the permitting process for priority permits. EPA believes that regional offices will be better able to provide enhanced outreach when they have planned and allocated resources for outreach in advance through the development of regional implementation plans. EPA also believes that making the regional implementation plans publicly available will increase transparency and inform communities of EPA regional offices' efforts to create opportunities for

overburdened communities to meaningfully engage in the permitting process. EPA intends for the plans to evolve as ''living documents'' as the regional offices gain experience with using the plans to guide their outreach efforts in overburdened communities for priority permits.

EPA expects the regional implementation plans to address with more specificity the process that a regional office will use to prioritize permits for enhanced engagement, including the types of permits and activities the regional offices plan to implement. EPA expects the regional plans to be tailored to the region's specific needs but also to be consistent with the Agency-wide guidelines on prioritization of permits for enhanced engagement and priority areas of outreach activities outlined in today's notice.

Consistent with the Agency-wide guidelines previously discussed, EPA expects the regional implementation plans to include:

I. EPA Regional Offices' Process for Prioritizing Permits for Enhanced Engagement

a. Use of a screening tool or other methodology to help identify potentially overburdened communities; and

b. Types of permits with significant public health or environmental impacts.

II. Priority Enhanced Outreach Activities

a. Planning and gathering information;

b. Coordinating within EPA;

c. Communicating with Community Members; and

d. Communicating with the Permit Applicant.

In summary, EPA expects the regional implementation plans to give a general picture of the types of permits that a regional office expects to target for enhanced outreach and what enhanced outreach might entail. Regional implementation plans are intended to inform the public of an EPA regional office's plans to prioritize and conduct enhanced outreach for permits generally. However, the regional implementation plans are not intended to be a prospective or retrospective account of the particular permits a regional office prioritized and specific activities it conducted for enhancing outreach in overburdened communities.

EPA anticipates that the regional implementation plans will be publicly available in Spring 2013. The regional implementation plans will be posted to EPA's Plan EJ 2014 Web site, at *http://www.epa.gov/environmental justice/plan-ej/index.html.* Additionally, each Region will post its regional implementation plan to the appropriate EPA regional Web site.

Under the Agency-wide guidelines for regional implementation plans, EPA regional offices are expected to prioritize permits for enhanced outreach based on the criteria of whether the permitted activities could have significant environmental or public health impacts, and whether those impacts affect an overburdened community. To be prioritized for outreach, a permit will likely need to meet both criteria. However, as previously mentioned, on occasion, EPA regional office may decide to prioritize some EPA-issued permits for enhanced outreach even if they do not meet one or both of the criteria.

When prioritizing a permit for enhanced outreach, an EPA regional office need not assess whether permitted activities have significant environmental or public health impacts prior to investigating whether the permitted activities affect an overburdened community, or vice versa. Thus, EPA expects that some EPA regional offices will examine whether a permitted activity has significant environmental or public health impacts prior to assessing whether an overburdened community would be impacted by the permitted activity while other EPA regional offices might first examine whether an overburdened community would be impacted. Accordingly, if an EPA regional office assesses the significance of the environmental and public health impacts of a permitted activity first, the EPA regional office may decide not to perform an environmental justice screening on every permit application it receives. Instead, the EPA regional office would perform an environmental justice screening only on the permits that have been found to have significant environmental or public health impacts. Consequently, EPA does not expect that EPA regional offices will perform an environmental justice screening on every permit application.

Some commenters asked how EPA regional offices would perform an environmental justice screening of permits. The Agency has developed a nationally consistent screening tool to help identify communities that are potentially overburdened. This tool, known as EJSCREEN, is one of several tools being developed under Plan EJ 2014. EPA anticipates that its regional offices will use EJSCREEN and other readily available information, including known community concerns, to help prioritize their permits for enhanced outreach. In cases where EJSCREEN is not appropriate for use in screening because the relevant data were not available for the area, the region will complete a similar screening by reviewing available demographic and environmental data. EPA expects that in most circumstances EJSCREEN will be the appropriate tool for initial screening. Please visit EPA's Plan EJ 2014 Web site (*http://www.epa.gov/environmental justice/plan-ej/index.html*) to learn more about EJSCREEN.

Other commenters asked how EPA regional offices would determine whether a permitted activity has significant environmental or public health impacts. When permit applicants submit an application, they are required to provide information on the proposed project consistent with the requirements of particular statutes and regulations. EPA may also do its own assessment of the environmental and public health impacts of a proposed project, using modeling and monitoring data for example. All of this information would inform an EPA regional office's decision on whether a permitted activity has significant environmental or public health impacts.

EPA recognizes that a permitted activity could potentially impact an area that straddles two or more EPA regions. The EPA region where the permitted activity is located has the lead for issuing the permit and is expected to apply the prioritization process for enhanced outreach as described in their regional implementation plan. EPA regional offices with the lead for issuing the permit routinely engage other EPA regional offices impacted by the permitted activity to coordinate on analysis and outreach.

Some commenters inquired about the relationship between enhanced outreach and the ultimate permit terms. Specifically, they asked if a prioritized permit for enhanced outreach would be subject to stricter emissions or discharge limits or perhaps denied altogether. In response to this comment, EPA notes that an EPA regional office's decisions on whether to issue a permit and, if so, the conditions to impose within a permit are distinct from the EPA regional office's decision about the outreach it will perform during the permitting process. An EPA regional office's decision on whether to issue a permit and what permit conditions to impose are governed by statute and regulation. Neither *EPA Actions* nor *Promising Practices* affects that. However, enhanced outreach to communities during the permitting process can provide an EPA regional office with information relevant to the EPA regional office's decision to issue a permit, and what conditions to require

should the regional office issue the permit. For example, community involvement in the permitting process might provide EPA information on vulnerable portions of the community. Based on that information, EPA might require additional monitoring or reporting to learn more about how pollution from the permitted activity impacts vulnerable sub-populations, in accordance with applicable laws and regulations.

IV. Promising Practices for Permit Applicants Seeking EPA-Issued Permits: Ways To Engage Neighboring Communities

For EPA-issued permits, both the permit applicant and the potentially affected community are key stakeholders in the permitting process. Therefore, EPA engaged in extensive outreach to these stakeholders and in particular the business community, on how to meaningfully engage neighboring communities in the permitting process. Business leaders on environmental justice issues shared their experiences and insights with EPA. EPA learned that if a permit applicant engages a community early and maintains that conversation, a partnership can form that facilitates the exchange of information and provides the foundation for dialogue on issues that may arise later during the permitting process.

Such engagement may be especially beneficial with communities that have historically been underrepresented in the permitting process and that potentially bear a disproportionate burden of an area's pollution. EPA learned from its conversations with business stakeholders that dialogue with community members early in the permitting process promotes reasonable expectations among the public and, therefore, more predictable outcomes for the permit applicant. EPA also learned that permit applicants that invest in outreach may avoid the costs of delay, negative publicity among peers and investors, and community distrust resulting from community members objecting to a permit late in the permitting process.

In EPA's view, a facility that believes in environmental stewardship in all its dimensions and that acts consistently with that belief, including accountability to the neighboring community, may achieve more environmental good than any permit can compel. Reducing treatment failures, spills or other incidents becomes a source of organizational pride when facility's successes—including the facility's response and prevention strategies—are publicized within neighboring communities. Transparency and accountability also make good business sense because facilities save energy, devise new technologies, reduce the rate of equipment failures, and develop cleaner products, among other things. This ethic of corporate responsibility can improve the neighboring environment and far beyond. Engaging meaningfully with the local community is another facet of responsible corporate citizenship that achieves environmental results. EPA believes that a partnership with neighboring communities can lead to more informed permits, resulting in better outcomes for the permit applicant as well as neighboring communities that have a stake in the success of the facility.

In order to maximize the benefits of community engagement, and conserve the limited resources of both the permit applicants and the communities for outreach, EPA has identified what it considers to be effective communication practices and strategies that permit applicants can employ to meaningfully involve communities in the permitting process. EPA gathered these practices and strategies from numerous conversations with members of the business community, environmental justice stakeholders, state, local and tribal governments and communities, non-governmental organizations, and the NEJAC. The resulting document, entitled *Promising Practices,* is included in today's notice.

An earlier version of this document described the practices and strategies as ''best practices.'' As several commenters noted, not every practice will be appropriate for every circumstance, as the term ''best practices'' implies. The term ''promising practices'' better communicates EPA's desire to encourage permit applicants to use and tailor these effective outreach practices in appropriate situations.

The promising practices are designed to foster leadership among permit applicants operating, or proposing to operate, facilities in overburdened communities. EPA hopes that these promising practices will inform businesses and other participants in the permitting process of some effective techniques for meaningfully engaging overburdened communities in the permitting process for EPA-issued permits. Though previous EPA regulations, guidance and informational materials may have already highlighted some of these practices as effective outreach tools, EPA believes it is appropriate to emphasize the effectiveness and benefits of employing them in the context of permitting and environmental justice. EPA commends those permit applicants who are already employing promising practices, and encourages other permit applicants to adopt promising practices as appropriate.

The promising practices are meant to complement existing guidance and recommendations issued by permitting authorities, including state and local agencies. The promising practices are not themselves legal requirements and do not modify existing statutory or regulatory requirements for the permitting process for EPA-issued permits. EPA emphasizes that no permit applicant will be required to follow these suggestions. Nor are the promising practices intended to be de facto requirements in the process, as a checklist or otherwise.

V. Conclusion

EPA appreciates the suggestions and comments received in response to its proposals. EPA is issuing the *EPA Actions* to encourage more transparency and consistency in EPA's permitting process with the goal of increasing meaningful engagement of overburdened communities in the permitting process. EPA is issuing *Promising Practices* to encourage permit applicants to similarly strategically plan and conduct enhanced outreach to overburdened communities in the permitting process.

The *EPA Actions* and the *Promising Practices* are not an interpretation of environmental statutes, nor do they add or change interpretations of statutory obligations regarding permitting contained in existing regulations. Throughout the permitting process, EPA regional offices and permit applicants must comply with the relevant public process obligations set forth in the applicable statues and implementing regulations. However, EPA feels that in some circumstances it is appropriate to go beyond the minimum public involvement requirements of statutes and regulations to encourage the participation of communities that will be significantly impacted by a permit but have historically been underrepresented in the permitting process.

Although enhanced engagement of overburdened communities in the permitting process may not necessarily change the permit outcome, EPA believes that meaningful involvement of overburdened communities is a desirable end in and of itself. This is because, in some cases, overburdened communities have significantly been impacted by a permitted activity but

have not been able to access or participate in the permitting process. By expanding a community's participation in the permitting process, EPA can promote their understanding of the permitted activity, acquire important information about their concerns, and foster a community's sense of connection to government and business actions. EPA also believes that enhanced engagement of overburdened communities in the permitting process improves the permitting process generally through more transparency and more consistency. EPA believes that such transparency and consistency aids EPA in making more informed decisions, but also gives notice to the public of EPA's considerations and encourages them to engage EPA in the permitting process generally as well as for specific permits. Additionally, engagement of permit applicants and communities earlier in the permitting process can lead to a more informed permitting process that allows for resolution of issues earlier that could otherwise delay the issuance of a permit. EPA further believes that every time enhanced outreach leads to a feasible solution to an issue of interest to a community, all stakeholders benefit.

Dated: April 30, 2013.

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Promising Practices for Permit Applicants Seeking EPA-Issued Permits: Ways To Engage Neighboring Communities

I. Introduction

Achieving environmental justice is an integral part of EPA's mission to protect human health and the environment. One way EPA promotes environmental justice is to ensure that individuals in all parts of society have access to information sufficient to help them participate meaningfully in EPA decision-making.

EPA decision-making takes many forms. These promising practices focus on the permitting process, through which EPA authorizes industrial and municipal facilities to release pollutants into the environment at levels intended to meet applicable standards.

By soliciting public comment prior to issuing permits, EPA plays an important role in bringing communities and other members of the public into the permitting conversation. But the best time to begin positive, collaborative dialogue is before the permit is drafted, even before a permit application is filed. And the key players are not EPA but rather permit applicants and members of the neighboring community. Both sets of individuals have a long-term stake in the health of the community and the success of the company or enterprise.

Information is critical at this early stage in the permitting process, and the permit applicant has access to the information that can create a constructive dialogue throughout the permitting process. The permit applicant also has an interest in being a good neighbor to a community. EPA believes that many applicants for EPA-issued permits are already employing practices to be good neighbors. These promising practices are designed to help all permit applicants to apply good neighbor values to the permitting process, with an emphasis on ways to reach out effectively to the neighboring community.

EPA encourages all permit applicants to experiment with these practices; all neighborhoods and communities benefit when a facility reaches out as part of the permitting process. EPA emphasizes neighboring communities because, for the vast majority of permits, communities most proximate to a facility are likely to be the most impacted by a permitting decision. For some permits, however, the communities most impacted by a permitting decision may exist beyond the fence-line. EPA encourages permit applicants for such permits to make efforts to engage the communities that are likely to experience public health or environmental impacts from their permitted activities. These practices also have particular value in overburdened neighborhoods that have been historically underrepresented in the permitting process or may face barriers to participation in the permitting process, such as lack of trust, lack of awareness or information, language barriers, and limited access to technical information and other resources.

EPA hopes that these promising practices—which emerged from EPA's conversations with a host of community, permit applicant and government stakeholders—will help applicants for EPA-issued permits to seize a leadership role in this important area and, in doing so, demonstrate publicly that their statements of core values on their Web sites or elsewhere do indeed influence corporate behavior.

II. The Purpose of Promising Practices

The purpose of these promising practices is to publicize the good neighbor practices already employed by permit applicants across the country and to encourage their greater use. Many of these practices are quite simple. They can help build trust, promote a better understanding in a community of the facility's environmental impacts, foster realistic expectations and help build strong partnerships that lead to better results for all parties. Investing in outreach to communities is a cost-effective strategy. EPA encourages permit applicants to make each of its facilities a good neighbor to the neighboring communities. EPA hopes that the promising practices will help companies think of ways to engage the neighboring communities and, in doing so, become better neighbors.

III. Why is EPA providing promising practices to permit applicants?

Industrial facilities are important members of the communities in which they are located. In addition to their important role as a source of employment and economic stability within a community, facilities play other roles. Many facilities, for example, have robust community engagement strategies that recognize the value of community outreach. Pursuant to these strategies, facilities engage actively with a community through environmental initiatives, neighborhood beautification projects, education programs and charitable giving, civic programs and the arts, youth activities, and other investments in communities. Indeed, many companies and public authorities embody these principles in their mission statements, using words and phrases like collaboration, respect, and mutually beneficial relationships. Some even aspire to measure their own success by the success of their customers, shareholders, employees and communities. In short, a corporate culture has emerged in this Nation that values and actively promotes community partnerships.

EPA recognizes that many permit applicants already practice community outreach. These promising practices are meant to encourage those leaders to continue their efforts and to provide helpful suggestions for those seeking greater direction. EPA also hopes that the practices described here will persuade those who are new to these ideas to experiment with this form of leadership. Indeed, engaging with their communities as described here is consistent with many permit applicants' core values. These principles, practices and values lead to corporate sustainability, stability and—ultimately—profitability.

Early and meaningful dialogue between the permit applicant and a community is especially important in communities that have historically been

underrepresented in the permitting process or that potentially bear a disproportionate burden of an area's pollution. Meaningful dialogue promotes environmental justice. EPA encourages applicants for EPA-issued permits to engage in public outreach to the neighboring communities whenever the facility's pollutant releases have—or are perceived by a community to have—potential health and environmental impacts on overburdened communities. In such cases, the permit applicant has an opportunity to inform the neighboring community about the facility's actual pollutant releases and impacts. Providing specific information about the pollution and related health impacts of a permit action may allay general concerns community members have about the facility or educate it about other sources of exposure. A permit applicant that ignores a neighboring community's concerns about pollution from its facility or general concerns about pollution in the community may experience delays in the permitting process, negative publicity, and community distrust. Employing promising practices can foster a dialogue between the permit applicant and community members to prevent misunderstandings and possibly opposition to the permit. The permit applicant can tailor the engagement of the neighboring community to be proportionate to the actual health and environmental impacts of the facility or the particular concerns of community members. This approach is consistent with EPA's objectives under Plan EJ 2014, which promotes meaningful involvement of an affected community in the permitting process.

EPA believes these promising practices can foster a smoother and faster permitting process. This outcome is in everyone's interest—EPA, permit applicants and communities alike. The permit applicant and EPA have an interest in an efficient permitting process. The permit applicant wants permission to make operational improvements or construct a new facility. The permitting authority wants to efficiently issue a permit that comports with the law and accounts for public comment in addition to protecting human health and the environment. Some communities at the very least wants the assurance that, through appropriate permit terms and conditions, the permit applicant accepts responsibility for appropriately controlling its pollutant releases and keeps a community informed of its control successes (and failures). These interests, while different, do not conflict. Conversations between the permit applicant and community members *before the permit application is filed* can help launch the permit process in a way that achieves all of these interests, with minimum conflict and delay. This could result in a more expeditious permitting process.

Early engagement can also yield a less contentious permitting process. It seems axiomatic that communities generally do not welcome one more source of pollution, especially when the community already feels aggrieved by past siting decisions. But this may not be so self-evident when the new project accelerates a transition to cleaner energy or achieves another important environmental objective with benefits beyond the local community. Early meaningful dialogue can help sort out the interests, encourage a permit applicant to accept responsibility for *its* impacts, and perhaps find low-cost ways valuable to some communities by which the permit applicant can voluntarily mitigate environmental burdens. Community members may be less likely to hold a new project responsible for past unrelated actions if the permit applicant accepts responsibility for its own actions and is willing to help make community life better.

IV. How can a permit applicant enhance its outreach to a neighboring community?

There are many ways that a facility can enhance its outreach to a community. Whatever degree of outreach a facility chooses to employ, the following promising practices are designed to help both the permit applicant and the surrounding communities get a reasonable return on their investment of time, energy and other resources. EPA gathered these ideas from permit applicants that have employed them, but EPA notes that every situation is different. The permit applicant and the affected community are in the best position to determine what engagement strategy is most appropriate for their particular circumstances.

1. Think Ahead

Before deciding whether to undertake special efforts to reach out to the neighboring community regarding a permit application, a permit applicant may want to ask itself the following types of questions. The answers to these questions may help the permit applicant decide what kind of community engagement will be most appropriate under the circumstances.

- What are the geographic boundaries of the neighboring community?
- What are the demographics of the neighboring community?
- Who in the community may be affected by the proposed permit?
- Has the facility successfully worked with the neighboring community in the past?
- Are there other facilities or major pollution sources (e.g., highways, landfills) in the neighboring community? Do community members have a history of engaging with those facilities?
- Would the new permit introduce new or additional pollutants to the neighboring community?
- Is the neighboring community already exposed to pollutants originating from other facilities?
- How will changes at the facility site affect the quality of life in the neighboring community, independent of the pollutants released?
- Is the proposed pollutant release—or associated activity—likely to cause concern among community members?
- If a risk assessment has been performed for the neighboring community, what does it say? What have community members said about it?
- What direction do the permit applicant's published core values offer?

Permit applicants may be required to reach out to a neighboring community before applying for a permit. For example, EPA's Resource Conservation and Recovery Act permitting regulations for hazardous waste treatment, storage, or disposal facilities have such requirements. See 40 CFR 124.31. In most cases, however, the decision on whether to engage in pre-application outreach is committed to the permit applicant's good judgment. (See Section V below for a discussion of the benefits to permit applicants when they engage community members as part of permit applications.) But however a permit applicant chooses to engage the neighboring community, its outreach activities should be proportional to the impact the facility's proposed permitting action would have upon the community. In other words, permitting actions that may have a significant impact on the community may justify more extensive outreach than permits likely to have fewer impacts. Engaging community members early in the permitting process can help a permit applicant gauge the level of outreach appropriate to community member's concerns.

Community assessments can be a useful tool for permit applicants to consider as they develop appropriate outreach strategies for a community.

These assessments can help permit applicants develop a detailed profile of a community and identify any concerns related to the proposed project. They can also provide background information on a community the permit applicant anticipates engaging. Another useful tool is a public participation plan. Public participation plans can vary greatly in the extent of their detail. The purpose of a public participation plan is to aid the permit applicant in organizing its outreach. It can also help convey the facility's outreach strategy to a community.

EPA recognizes that a permit applicant, despite its planning and execution, might not elicit community interest in its project. For example, few people might attend meetings or visit the plant for tours. Before concluding that community members are uninterested in the project, the company may want to explore whether its engagement efforts were sufficiently tailored for the community. If the permit applicant's efforts to engage the community are made in good faith and are sufficiently tailored for community members, this will go a long way toward building trust, even if members of the community ultimately choose not to engage.

2. Engage Community Leaders

An effective way of promoting early and meaningful engagement between a permit applicant and the surrounding community is by creating a community environmental partnership. The key is to assemble the *right* people to be in the partnership. EPA has learned from stakeholders that the first step in meaningful engagement is identifying, working with, and cultivating trusting relationships with community leaders; doing so will then foster effective relationships among the interests they represent and will help identify their common as well as their unique goals.

Community leaders may be elected officials or specialists in local, state or tribal government. Thus, permit applicants may want to engage government officials in the permitting process for EPA-issued permits to take advantage of their knowledge, experience and networks. In some cases, government officials may have already played a role in approving the facility through zoning and siting processes. Thus, these government officials are in the best position to address such concerns with community members. Similarly, government officials may be an excellent source when gathering information about other facilities that impact a community. The following promising practices can help a company create a successful community environmental partnership.

- Find out who the established community leaders are, both elected and unelected.
- On tribal lands, work with the tribal government and other contacts to identify tribal community leaders to commence outreach and assistance to tribal communities.
- Identify people who collectively understand the needs (and aspirations) of *local* stakeholders (permit applicant, community, environmental groups, academic, etc.).
- Recruit stakeholder representatives who have strong interpersonal skills and are willing to:
  - Seek common interests;
  - Cultivate trusting relationships.
- Engage with diverse leadership so that many views can be brought into the dialogue. Successful partnerships have a variety of *local* perspectives, including:
  - Grassroots organizations and leaders;
  - Faith community leaders;
  - Tribal government and community representatives;
  - Academic institutions;
  - State, county or local governments;
  - Environmental groups;
  - Health organizations;
  - Permittees, including, ideally, the facilities in the neighborhood that engage in activities that generate pollution.

3. Engage Effectively

As is the case with any relationship, predictable and ongoing interactions are key to a strong partnership between a permit applicant and a community. A permit applicant engaging a community early in the permitting process, or even before the formal permitting process begins through pre-application meetings, can lay the foundation for a positive relationship with a community. In addition to early engagement, holding regularly scheduled meetings throughout the permitting process can build on that earlier outreach and ensure continuing communication, further fostering the relationship between community members and permit applicant.

The following promising practices can help the permit applicant engage effectively with community members.

- Foster sustained involvement by the participants; relationships are created between individuals, not the positions they hold.
- If a public participation plan or policy describing outreach activities was developed, make it available to the public as a sign of the permit applicant's intention to engage meaningfully with community members.
- Invite community members and leaders to comment on community outreach plans and processes, and give feedback on what is working and lessons learned.
- Discuss project plans and potential impacts as early in the planning process as possible, even if the permit applicant can speak only in general terms.
  - If the permit applicant is unsure about potential impacts, it is better to acknowledge this fact; denying the potential for impacts can undermine credibility and trust.
  - Encourage input from community members on their concerns about particular impacts early in the planning stages.
- Provide progress or status reports.
- Invite members of the community and community leaders for regular tours of the facility, especially when the facility is planning to change a process that might affect the community.
- Consider investing time in public education, e.g., by hosting one- or two-day public information sessions with posters and kiosks dedicated to specific topics, with discussions led by facility personnel who are both familiar with the subject *and* capable of effective discussion with the public (using a conversational tone, not being defensive, using clear and non-technical language, etc.).

4. Communicate Effectively

Permit applicants may need help to determine the most effective and appropriate methods for informing and receiving input from community members. Community leaders can provide this help. For example, they can identify commonly spoken languages and any language barriers or Limited English Proficiency within the neighboring community. They can also help identify which media outlets (radio, newspaper, church bulletins), outreach methods (going door-to-door, using social media, texting, phoning, putting up fliers) and outreach materials (brochures, fact sheets, postcards, letters, web postings) will be most effective in communicating with community members. Community leaders can also help to create more effective opportunities to receive information from the public (individual/small/large/public/private meetings, anonymous hotlines, solicitation of written comments). For some communities, it may be appropriate to consider utilizing collaborative or interactive Web-based information technology (IT) tools, social media, cell phone applications, or other tools to

keep communities informed of activities related to a permitting project. On the other hand, some communities do not have access to the most modern communications tools and permit applicants may need to resort to using local radio stations, CB radio, local newspapers, posters at grocery stores or trading posts, or village/community center/chapter meetings to keep communities informed. Every community is different, so permit applicants that listen to their community's advice and involve the community in their outreach efforts have a greater chance of a successful outcome.

A key component of effective communication is creating an environment for all stakeholders to meaningfully participate in a dialogue. Good ideas, including ideas that are good for the permit applicant, can come from many sources. By meaningfully engaging with a community potentially affected by an environmental permit, a permit applicant may acquire a better sense of a community's true concerns and ways a permit applicant could help alleviate them. Transparency and disclosure of information that may be of interest to a community, such as performance reports, can build trust conducive to meaningful dialogue.

EPA recognizes that both permit applicants and communities have limited resources to engage in dialogue. The following promising practices on fostering two-way communication and collaboration between permit applicants and communities, collected from permit applicants and communities, may help permit applicants communicate more effectively and thus efficiently use their resources.

- Set up a hotline for community members to report a problem or concern about the proposed project.
- Identify a single person within the facility to be the liaison that community members can call with concerns or problems.
- Institute regular meetings among all stakeholders.
- Consider organizing citizen advisory councils or community environmental partnerships.
- Select meeting locations and times that are convenient and comfortable for the community. Follow advice from community leaders to communicate in ways most effective for the community you are trying to reach. Use language and terminology that community members understand, including providing technical data in everyday terms.
- Consider alternate methods of obtaining input for community members who may be interested but unable to attend public meetings (e.g., allow submission of comments and surveys in writing, online, or through a designated point of contact).
- Build in mechanisms for meeting attendees to ask questions, express concerns and propose solutions.
- During the meeting, talk about participants' concerns and questions (rather than simply ''taking note'' of them).
- Recognize that community members may be concerned about a variety of things—within and outside the permit applicant's control—including matters that do not relate to the permit under discussion (e.g., truck routes, delivery times, etc.).
  - Careful listening and an effort to understand the underlying interests behind related and seemingly unrelated complaints might yield a solution that addresses community member's true concerns at a reasonable (or even minimal) cost to the facility.
- Consider using a neutral facilitator to assist in designing an effective public participation process and conduct meetings to encourage all participants (permit applicant and community) to listen effectively, focus on interests rather than initial positions, and to identify potential solutions.

5. Follow Up

Follow-up can be crucial in building a strong partnership with a community. The repeated interaction that follow-up provides can create a predictable pattern of engagement that is conducive to building trust. When a permit applicant delivers on commitments made during meetings (e.g., to provide additional information) a permit applicant demonstrates responsibility, integrity and commitment to the process. The following promising practices can help permit applicants design follow-up activities with communities.

- If the public is invited to comment on plans, discuss the comments with community members after considering them.
  - If a comment is not clear, ask for clarification; do not ignore a suggestion due to a lack of understanding.
  - Report back to let community members know how their comments affected the permit applicant's planning or operation.
  - Explain when comments cannot be incorporated into the permit applicant's planned actions.
- Consider using a good neighborhood agreement to memorialize agreements between permit applicants and communities.
- Make environmental performance records available to community members without being asked, especially regarding pollution matters that are important to some communities.
- Keep the conversation going even after the permit has been issued; maintaining a collaborative relationship with some communites can pay benefits at unexpected times.

Provide opportunities for communities to give feedback on the public engagement strategy, through a formal evaluation or informally through questionnaires, interviews, comment boxes, or debriefs.

Example 1: Using Web and Social Networking Tools to Enhance Communication

The use of web and social networking tools to provide communities with instant and easily understandable information concerning their environment is expanding. For example, EPA collaborated with federal, tribal, state and local partners to develop the AIRNow Web site that provides the public with easy access to national air quality information and offers daily Air Quality Index (AQI) forecasts as well as real-time AQI conditions for over 300 cities across the United States, and provides links to more detailed State and local air quality Web sites. EPA also recently created a new application and Web site called How's My Waterway. This innovative tool helps people find information on the condition of their local waterways using a smart phone, tablet, or desktop computer and makes science-based water quality information accessible and understandable for everyone. In addition to several other features, users can instantly receive a list of waterways within about five miles of the search location where each waterway is identified as unpolluted, polluted, or unassessed, along with the year its condition was reported. A map option offers a view of the search area with the waters color-coded by assessment status. The Regulatory Development and Retrospective Review Tracker (Reg DaRRT) was developed by EPA to provide information to the public on the status of EPA's priority rulemakings and retrospective reviews of existing regulations. This tool allows people to sign up for RSS feeds as an easy way for them to keep up with news and information on a regulatory action that is of particular interest, and helps avoid the conventional methods of browsing or searching for information on websites because the content is delivered directly to the individual. Permit applicants should consider using modern communications technology, if appropriate, to assist in their efforts to reach out to neighboring communities.

Example 2: Alternative Dispute Resolution

The success of pre-application meetings will vary widely depending on the proposed project, the concerns of the community, and the ability of the permit applicant and the community to agree upon potential solutions. Sometimes, conversations between a community and a permit applicant have the potential to be contentious. For such cases, EPA recommends the use of a professional, trained, neutral facilitator to aid in creating and implementing an outreach strategy if an applicant is not successful in developing sufficient outreach capacity to enable meaningful involvement by a community. EPA and The U.S. Institute for Environmental Conflict Resolution have designed and initiated The National Roster of Environmental Dispute Resolution and Consensus Building Professionals (http://roster.ecr.gov/Search.aspx), which is a resource to identify neutral third parties and connect them with appropriate projects.

Example 3: Community Advisory Councils, such as The Deer Park Community Advisory Council (DPCAC, http://www.deerparkcac.org/) provide a "forum for an open and frank mutual exchange of ideas between representatives of the local community and industry." These groups engage in frequent dialogue to help build understanding between industry and community.

V. Return on Investment: Benefits of Outreach to Permit Applicants

EPA recognizes that a permit applicant would need to invest time, energy and money in order to reach out to the neighboring communities. For some permit applicants, "business as usual" might appear to be the path of least resistance. But EPA has learned from conversations with permittees that permit applicants that engage in effective outreach with neighboring communities can realize a meaningful return on that investment. The list below reflects these conversations. To further illustrate these ideas, we present text (in italics) from corporate mission statements, lists of corporate values, and annual reports linking overarching business principles to benefits from effective community outreach and engagement.

1. *The neighborhood has a stake in a permit applicant's success.* Community members are not only neighbors, but also often employees, customers or investors. Healthy and sustainable

companies directly promote healthy and sustainable communities. That alignment of interests can lead to creative solutions that promote the achievement of mutual economic goals in more sustainable ways. *We are proud of our involvement in the communities where we operate. It's our goal not only to support important projects in the communities where we operate, but also to partner and build relationships where we live and work. We always listen to local needs and find ways to invest that are relevant to our business.*

2. *An environment of trust pays dividends throughout the permit term.* A permit applicant not only applies for a permit but also develops strategies for complying with its requirements. Meaningful public engagement during the permitting process and throughout the permit term can be a valuable component of a permit applicant's compliance strategy. Community members often say they have nowhere to turn when they worry about their local environment; a meaningful dialogue with the permit applicant that addresses community members' concerns can build trust. So, a permit applicant that experiences a failure of its treatment processes—and, in real time, discloses and takes action to remedy the problem—may maintain its reservoir of trust within a community. *We know you have questions; call us. We believe that people work best when there's a foundation of trust.*

3. *Engaging with a community is an effective cost-containment strategy.* Permit applicants that foster meaningful community outreach incur ''costs'' in terms of time, resources energy, and money. But a permit applicant that bypasses outreach incurs costs as well, especially when these choices lead to misunderstandings with community members. Even if the permit is granted, at what cost? Certainly, the permit applicant incurs the cost of delay, negative publicity among peers and investors, and community distrust (even apart from attorneys' fees associated with litigation). Each of these costs has a monetary value and each is potentially avoidable with an upfront investment. Good business sense often dictates a small investment early in order to avert larger costs later. Corporate leaders tell us that meaningful community outreach is no different. *Successful companies engage in long-term planning to achieve strategic goals. Working with the community during project development and implementation is just part of the process.*

4. *Engaging with a community is an effective risk management strategy.* Thoughtful risk-taking is a characteristic of many successful enterprises. A permit applicant engaged in thoughtful risk-taking around a new idea routinely gathers information and critically examines the idea from many perspectives, identifies the range of possible risks, modifies its idea as appropriate to minimize the risks, and then weighs the benefits against the risks that remain. The better a permit applicant anticipates and manages the risks, the more predictable and successful the outcome. Engaging community members early in a permit applicant's decision-making process can be an effective way to manage the risks of a new idea. A permit applicant that is truly open to gathering information, dialogue, and collaboration will find itself with a more predictable operating or business environment, reduced conflict, and, frequently, an outcome that achieves greater operational efficiency and community support. Its risk-taking is thoughtful because it identifies, analyzes and manages its risks. Permit applicants that are thoughtful risk-takers recognize that having an engaged and informed community as an ally promotes reasonable expectations among the public and, therefore, more predictable outcomes. *We practice humility and intellectual honesty. We consistently seek to understand and constructively deal with reality in order to create value and achieve personal improvement.*

5. *A permit applicant that engages meaningfully with a community is more likely to be considered a good neighbor.* A permit applicant is more likely to be seen as a good neighbor by a community when it makes efforts to engage and build a relationship with the community. Having treated community members as good neighbors, the permit applicant is more likely to be treated as a good neighbor by community members in return. A community that understands the actual impacts a facility has on the neighborhood and trusts the facility to behave responsibly may also be less likely to hold the facility responsible for other facilities' pollution. *We are committed to improving our environmental performance: we track our progress and report our results to the public.*

6. *Investors prefer good corporate citizens.* Even if a permit applicant survives a dispute with a community over a new project and obtains the necessary environmental permits, investors may well inquire whether that costly battle could have been avoided. Indeed, some investors might even wonder whether the permit applicant's inadequate response to the neighboring community's concerns signals a lack of corporate responsibility, values-based leadership, or long-term strategic thinking that is important in other areas of the business. Leaders in this area say: *It is more important than ever that we continually earn investor confidence. We will do this by remaining a leader in good corporate governance and providing clear, consistent, and truthful communication about our performance.*

Example 4: Collaborations in Chester, Pennsylvania

Since the early 1990s, US EPA Region III has been working closely with the community and residents of Chester. With effective collaborations and partnerships, the City of Chester and its residents have successfully worked with local business and industry, government, and academia. These community-driven partnerships have led to increased awareness of environmental justice within the City of Chester.

When citizens first raised their Environmental Justice concerns to EPA Region III, the regional Office took action by establishing a dialogue with the citizens, PADEP, PADOH, [probably worth explaining who we're talking about; I assume it's the Pa. Departments of Environmental Protection and Health] and a number of local businesses in an effort to bring greater understanding and resources to the issues and concerns. EPA Region III, PADEP, and PADOH were active in working with the community and the other partners to address the issues that had been raised. The 1995 EPA Chester Risk Study not only looked at community risk and environmental concerns, but opened dialogues among the partners, and led to the formation of a number of workgroups. The workgroups then undertook on-the-ground actions to address some of the local concerns. PADEP provided an onsite inspector for the City of Chester. EPA and PADEP continued their dialogue on Environmental Justice, holding a number of joint meetings on the issues.

Covanta Energy applied for permits to operate in Chester, and the citizens raised their concerns to Region III and PADEP. PADEP hosted a series of meetings between the citizens and the company. From these collaborative discussions, the Chester residents' concerns were heard and considered, and an agreement was reached that allowed for the citizens and the company to have their needs met. Covanta continues to work proactively with the citizens in a productive and successful partnership, primarily through a citizen-led community organization called the Chester Environmental Partnership, founded and chaired by Reverend Dr. Horace Strand. The residents and other community stakeholders, including Covanta, have worked together in a primarily cooperative fashion to effect change and environmental improvement in Chester. The Chester Environmental Partnership works to bring about environmental improvement and growth by bringing all parties to the table – industry, government, non-government organizations, and the citizens – to have face-to-face dialogue on issues of concern. Covanta has taken an active partnership role in CEP. The ongoing dialogue and ground work of the partnership is a hallmark of these collaborative efforts and reflects a community-driven model that has produced positive results for Chester and its neighbors.

VI. Conclusion

The promising practices are a starting point intended to promote partnerships between communities and permit applicants. EPA believes that a permit applicant that follows the promising practices will take an important step on the path to building a fruitful and cooperative relationship with community members on environmental issues. EPA also believes that a permit applicant's efforts to meaningfully engage an overburdened community are an important way to promote environmental justice. EPA agrees with the message that many stakeholders send: Collaborations between permit applicants and the surrounding neighborhoods achieve greater environmental protections, more profitable operations, and more sustainable communities.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–9811–4]

Clean Water Act: Availability of List Decisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of EPA's action identifying water quality limited segments and associated pollutants in Louisiana to be listed pursuant to Clean Water Act Section 303(d), and request for public comment. Section 303(d) requires that States submit and EPA approve or disapprove lists of waters for which existing technology-based pollution controls are not stringent enough to attain or maintain State water quality standards and for which total maximum daily loads (TMDLs) must be prepared.

On May 01, 2013, EPA partially approved and proposed to partially disapprove Louisiana's 2012 Section 303(d) submittal. Specifically, EPA approved Louisiana's listing of 323 waterbody pollutant combinations, and associated priority rankings. EPA proposed to disapprove Louisiana's decisions not to list three waterbodies. These three waterbodies were added by EPA because the applicable numeric water quality standards marine criterion for dissolved oxygen was not attained in these segments.

EPA is providing the public the opportunity to review its proposed decisions to add the three waters to Louisiana's 2012 Section 303(d) List. EPA will consider public comments and if necessary amend its proposed action on the additional waterbodies identified for inclusion on Louisiana's Final 2012 Section 303(d) List.

DATES: Comments must be submitted in writing to EPA on or before June 10, 2013.

ADDRESSES: Comments on the decisions should be sent to Diane Smith,