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# **Public Involvement Policy**

of the

## U.S. Environmental Protection Agency

May 2003



## **Involvement brings the pieces together**

### **Disclaimer**

The statutory provisions described in this Public Involvement Policy contain legally binding requirements. As indicated by the use of non-mandatory language such as “may,” “should,” and “can,” this Policy describes recommended procedures and approaches for conducting public involvement. It is a policy, not a rule, and is not legally enforceable.

### **Graphics on the Covers**

“Involvement brings the pieces together” artwork is the creation of Erica Ann Turner who contributed the work to EPA through an agreement between the Art Institute of Washington and the Agency.

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## **EPA's PUBLIC INVOLVEMENT POLICY (Final May 2003)**

### **Introduction**

EPA's mission is to protect human health and the environment. To achieve that mission, EPA needs to continue to integrate, in a meaningful way, the knowledge and opinions of others into its decision-making processes. Effective public involvement can both improve the content of the Agency's decisions and enhance the deliberative process. Public involvement also promotes democracy and civic engagement, and builds public trust in government.

EPA has long been committed to public involvement. The fundamental premise of this Policy is that EPA should continue to provide for meaningful public involvement in all its programs, and consistently look for new ways to enhance public input. EPA staff and managers should seek input reflecting all points of view and should carefully consider this input when making decisions. They also should work to ensure that decision-making processes are open and accessible to all interested groups, including those with limited financial and technical resources, English proficiency, and/or past experience participating in environmental decision-making. Such openness to the public increases EPA's credibility, improves the Agency's decision-making processes, and informs its final decisions. At the same time, EPA should not accept any recommendation or proposal without careful, critical examination.

This Policy supplements, but does not amend, existing EPA regulations that prescribe specific public participation requirements applicable to EPA's activities under specific statutes, such as those found at 40 CFR Part 25 "Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act." (See 40 CFR Part 25, which can be found at <http://www.epa.gov/publicinvolvement/pdf/part25.pdf>.) The public participation requirements contained in such regulations specify the minimum required level of public participation. (A partial listing of existing public participation regulatory requirements is contained in Appendix 3.) Whenever feasible, Agency officials should strive to provide increased opportunities for public involvement above and beyond the minimum regulatory requirements.

### ***What is Public Involvement?***

The term "public involvement" is used in this Policy to encompass the full range of actions and processes that EPA uses to engage the public in the Agency's work, and means that the Agency considers public concerns, values, and preferences when making decisions. The term "the public" is used in the Policy in the broadest sense to include anyone, including both individuals and organizations, who may have an interest in an Agency decision. (See Appendix 2 for a detailed definition of "public" and other important terms.)

### ***What Are the Purposes, Goals and Objectives of This Policy?***

The purposes of this Policy are to:

- Improve the acceptability, efficiency, feasibility and durability of the Agency's decisions
- Reaffirm EPA's commitment to early and meaningful public involvement
- Ensure that EPA makes its decisions considering the interests and concerns of affected people and entities
- Promote the use of a wide variety of techniques to create early and, when appropriate, continuing opportunities for public involvement in Agency decisions
- Establish clear and effective guidance for conducting public involvement activities

Effective public involvement will make it easier for the public to contribute to the Agency's decisions, build public trust, and make it more likely that those who are most concerned with and affected by Agency decisions will accept and implement them. This policy supports EPA in meeting statutory and regulatory requirements regarding public participation, particularly in environmental permitting programs and enforcement activities.

EPA goals for public involvement processes are to:

- Foster a spirit of mutual trust, confidence, and openness between the Agency and the public
- Ensure that the public has timely, accessible and accurate information about EPA programs in a variety of formats so that people can better understand the implications of potential alternative courses of action
- Consult with interested or affected segments of the public and take public viewpoints into consideration when making decisions
- Learn from individuals and organizations representing various public sectors and the information they are uniquely able to provide (community values, concerns, practices, local norms, and relevant history, such as locations of past contaminant sources, potential impacts on small businesses or other sectors, industry conducted study results, etc.)
- Solicit assistance from the public in understanding potential consequences of technical issues, identifying alternatives for study, and selecting among the alternatives considered
- Keep the public informed about significant issues and changes in proposed programs or projects
- Foster, to the extent possible, equal and open access to the regulatory process for all interested and affected parties
- Understand the goals and concerns of the public, and respond to them
- Anticipate conflict and encourage early discussions of differences among affected parties
- Promote the public's involvement in the Agency's mission of protecting human health and the environment
- Explain to the public how its input affected the Agency's decision

To achieve these purposes and goals, while recognizing resource constraints, Agency officials should strive to provide for, encourage, and assist public involvement in the following ways:



- Involve the public early the public early and often throughout the decision-making process
- Identify, communicate with and listen to affected sectors of the public (Agency officials should plan and conduct public involvement activities that provide equal opportunity for individuals and groups to be heard. Where appropriate, Agency officials should give extra encouragement and consider providing assistance to sectors, such as minority and low-income populations, small businesses, and local governments, to ensure they have full opportunity to be heard and, where possible, access to technical or financial resources to support their participation.)
- Involve members of the public in developing options and alternatives when possible and, before making decisions, seek the public's opinion on options or alternatives
- Use public input to develop options that facilitate resolution of differing points of view
- Make every effort to tailor public involvement programs to the complexity and potential for controversy of the issue, the segments of the public affected, the time frame for decision making and the desired outcome
- Develop and work in partnerships with state, local and tribal governments, community groups, associations, and other organizations to enhance and promote public involvement

### ***When Does This Policy Apply?***

This Policy applies to all EPA programs and activities. In programs or activities where the public is already meaningfully involved, EPA can use this Policy to enhance that public involvement. Where the existing level of public involvement needs to improve, this Policy provides suggestions for how to move forward. Finally, this Policy can serve as a model for building public involvement into new programs as they are developed.

The activities where conducting meaningful public involvement should particularly be considered include:

- EPA rulemaking, when the regulations are expected to be classified as Significant Actions (under the terms of Executive Order 12866)
- EPA issuance or significant modification of permits, licenses or renewals
- Selection of plans for cleanup, remediation or restoration of hazardous waste sites or Brownfields properties
- EPA's decision on whether to authorize, delegate or approve states or local governments to administer EPA programs consistent with the relevant regulatory requirements for each program ( Note: Tribes seeking approval to administer environmental programs under EPA statutes generally also seek "treatment in a similar manner as a state (TAS)" status from EPA. Appropriate opportunities for public participation are contained in the relevant statutory and regulatory provisions establishing a TAS process. Consult with the Office of Regional Counsel or the Office of General Counsel, and/or the American Indian Environmental Office for assistance.)
- All other policy decisions that the Administrator, Deputy Administrator or appropriate Assistant, Regional or Associate Administrator determine

warrant public participation in view of EPA's commitment to involve the public in important decisions

- The development of significant information products (as the Office of Environmental Information has defined them in Appendix 2: Definitions)
- For activities not listed here, EPA staff may use this Policy in whole or in part to strengthen decision making

In planning and conducting public involvement activities, Agency officials should rely on the sound use of discretion. The Policy is not a rule, is not legally enforceable, and does not confer legal rights or impose legal obligations upon any member of the public, EPA or any other agency. Resource constraints, the need for timely action and other considerations may affect the appropriate nature and extent of public involvement. For example, a compelling need for immediate action may make it appropriate to limit public involvement. In particular, the desire to reach agreement among all parties, while valuable, should not prevent the Agency from carrying out its responsibility to make decisions or take actions to preserve and protect the environment and public health.

Nevertheless, the Agency should approach all decision making with a bias in favor of significant and meaningful public involvement. Experience throughout government has shown that a lack of adequate participation or of effective means for participation can result in decisions that do not appropriately consider the interests or needs of those that will be most affected by them. Furthermore, early involvement can ultimately reduce delay, by avoiding time-consuming review, public debate or litigation. Finally, decisions based on meaningful public involvement are likely to be better in substance and stand the test of time, avoiding the need to reopen controversial issues.

### ***Does This Policy Affect Authorized, Approved or Delegated Programs?***

EPA developed this Policy for EPA staff use, but it also may be useful to States, Tribes and local governments that implement federally delegated, authorized or approved programs. EPA encourages these entities to adopt similar public involvement policies if they have not already done so. EPA intends to discuss the effectiveness of their public involvement activities during periodic meetings with States, Tribes and local governments, and will obtain their input about ways to improve EPA's activities. EPA will not use whether a State, Tribe or local government has adopted EPA's Public Involvement Policy as a criterion for the authorization, approval or delegation of programs or the award of grants. In general, recipients may use grants for continuing environmental programs and Performance Partnership Grants to fund public involvement activities to the extent that costs are allowable under OMB Circular A-87 and applicable EPA regulations. (Note: Some statutory or regulatory provisions require compliance with certain public participation requirements before EPA may approve a grant. See 40 CFR 25.11 and 25.12.) The grant applicant may comply with such requirements without adopting EPA's Policy.

### ***What are the Roles of States, Tribes and Local Governments?***

State agencies, Tribes and some local governments have unique roles regarding EPA's programs and decisions:

1. State agencies, Tribes and some local governments may be co-regulators with EPA. In some cases, they implement authorized, approved or delegated Federal programs. In other cases, they run independent, but closely-related programs. In both cases they work closely with EPA as regulatory partners, and EPA will consult them as appropriate when implementing this Policy. In addition, they may have expertise that can be valuable to EPA in designing public involvement activities.
2. State agencies, Tribes and local governments also may be regulated parties when they undertake activities that are subject to Federal laws and regulations. As regulated parties, they are also members of the community of regulated stakeholders, and would benefit from the application of the Policy like other regulated parties.
3. Whether they are partners helping EPA implement a program or members of the regulated community affected by EPA regulations, state agencies, Tribes, and regional and local governments often play an active role in making recommendations on policies, rules, plans and recommendations under development, and providing input on EPA's decisions.

The role of Tribes is unique in another way. Each federally-recognized Tribal government is a sovereign entity that has an individual government-to-government relationship with the federal government. EPA should coordinate and consult meaningfully with Tribes to the greatest extent practicable for agency actions that may affect the tribes. This Policy complements EPA's efforts to consult with Tribes. See Executive Order 13175, Consultation and Coordination With Indian Tribal Governments November 6, 2000.

Consultation should be a meaningful and timely two-way exchange with Tribal officials that provides for the open sharing of information, the full expression of Tribal and EPA views, a commitment to consider Tribal views in decision making, and respect of Tribal self-government and sovereignty. The Agency should allow comment from Tribes early in the planning process and prior to making a decision. However, consultation does not imply that the Tribes or any other non-EPA entities that are consulted can stop an Agency action by withholding consent.

### ***How Does the Policy Relate to Environmental Justice?***

This Policy complements and is consistent with EPA's environmental justice efforts. "Environmental Justice" is the fair treatment of people of all races, cultures, and incomes, including minority and/or low-income communities and Tribes, with respect to the development, implementation, and enforcement of environmental laws and policies, and their meaningful involvement in the decision-making processes of the government. Environmental justice is achieved when everyone, regardless of race, culture or income, enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn and work. This includes ensuring greater public participation in the Agency's development and implementation of its regulations and policies. (Memorandum

from EPA Administrator Christine Todd Whitman, dated August 9, 2001, "EPA's Commitment to Environmental Justice.") (See also, Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, dated February 11, 1994.) Thus, ensuring meaningful public involvement advances the goals of environmental justice.

### **EPA's Seven Basic Steps for Effective Public Involvement**

The EPA should ensure that it conducts meaningful public involvement activities and implements all public involvement provisions required by statute.

There are seven basic steps to consider when planning for public involvement. Agency officials should exercise judgment and carefully consider the particular circumstances of each situation in determining how to carry out those steps. Agency staff and managers should strive to provide the most meaningful public involvement opportunities appropriate to each situation. Agency officials should consider the issues, locations, potential environmental and human health consequences of the activities, potential for controversy, specific needs of the public and the Agency, and other circumstances when designing public involvement processes. For instance, enhanced opportunities for public involvement should be created for those situations in which there is the potential for greater environmental or human health consequences or controversy. It is important to note that the Agency needs to set priorities for its use of resources, and that budgetary constraints may affect the implementation of any of these elements.

The seven basic steps for effective public involvement in any decision or activity are:

1. Plan and budget for public involvement activities
2. Identify the interested and affected public
3. Consider providing technical or financial assistance to the public to facilitate involvement
4. Provide information and outreach to the public
5. Conduct public consultation and involvement activities
6. Review and use input and provide feedback to the public
7. Evaluate public involvement activities

The recommended goals, actions and methods for each of these steps are described in Appendix 1, Guidance for Implementing Public Involvement at EPA, at <http://www.epa.gov/publicinvolvement/policy2003/guidance.pdf>.

### ***Who is Responsible for Managing the Application of this Policy?***

Under the overall direction of the Administrator, and consistent with this policy, Assistant, Regional and Associate Administrators are responsible for ensuring that their managers and staff encourage and facilitate public involvement in programs and activities. Public involvement should be an integral part of any Agency program. Moreover, the Agency should strive to achieve public involvement that is commensurate with the potential impact of the activity. The Assistant, Regional or Associate Administrators should make certain that

concerns about the adequacy of public involvement are heard and, where necessary, acted upon as resources allow. Managers should encourage and facilitate the proper training, support and counseling of staff, and, recognizing overall budgetary constraints, should plan for and provide adequate funding for training or other needs in their specific budgets. (See more detailed responsibilities section in Appendix 1 at <http://www.epa.gov/publicinvolvement/policy2003/guidance.pdf>.)

## Appendix 1 - Guidance for Implementing Public Involvement at EPA

This guidance is to help EPA staff and managers in implementing the seven basic steps for effective public involvement outlined in the Agency's Public Involvement Policy.

1. Plan and budget for public involvement activities.

Goal: To facilitate effective public involvement processes through advance planning, early notice to stakeholders, adequate time and resources, and evaluation.

a. Actions: When preparing budget and planning documents for regulatory and nonregulatory programs, Agency officials should provide: resources and staff time dedicated to public involvement activities; time for conducting and evaluating public involvement activities; and staff and resources to provide technical assistance to the involved public where appropriate (See the Policy's Step 3, "Consider providing technical or financial assistance to the public"). These activities may be included in planning documents such as regulatory development plans, analytic blueprints, program plans or EPA's plans for complying with the Government Performance and Results Act. Budget documents should include resources for public involvement separate from and in addition to funds required to comply with statutes and executive orders that require public involvement, such as the Unfunded Mandates Reform Act, the Regulatory Flexibility Act, Executive Order 13132 (Federalism), and Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). In addition, any planned activities should comply with the Paperwork Reduction Act (PRA) and the Federal Advisory Committee Act (FACA), as necessary. EPA staff should consult with the Office of General Counsel (OGC) or the Office of Regional Counsel (ORC) for information on these statutes.

Agency officials should include the following in such planning documents, as appropriate:

- Key decisions subject to public involvement, with their significant intermediate decision making points (for example, identifying issues, developing options, assessing impacts, evaluating and choosing options)
- Staff and budget for public involvement
- Objectives of public involvement in the project or decision, and the appropriate level of public involvement (For example, does the issue warrant information dissemination, interactive consultation or more collaborative approaches?)
- Segments of the public targeted for involvement and plans for identifying organizations and individuals, [Note: Plans involving collecting information from more than nine nonfederal parties may be subject to the PRA, which ensures that federal agencies' efforts to collect information do not unnecessarily burden the public. For advice on whether the PRA applies, staff should consult with the OGC as well as the Collection Strategies Division of the Office of Environmental Information, or their website <http://intranet.epa.gov/icrintra>]
- Opportunities that help participants gain an adequate understanding of relevant scientific, financial and technical information relevant to the decision

- Proposed schedule for public involvement activities that is consistent with the timing of the decision process
- Mechanisms to apply the seven basic steps -- Planning and Budgeting, Identification, Providing Assistance, Information and Outreach, Public Consultation and Involvement, Review and Feedback, and Evaluation -- set out above -- consistent with the proposed schedule
- Measures or methods to evaluate the effectiveness of public involvement

When identified in an approved grant work plan, grant funds may be used, subject to any statutory or regulatory limitations, to support reasonable costs of public involvement incurred by assisted agencies or organizations, including advisory group expenses.

2. Identify the interested and affected public.

Goal: To identify groups or members of the public who may have expressed an interest in or who by the nature of their location, purposes or activities, may be affected by an upcoming EPA activity or action.

a. Actions: For each program, activity or project EPA should develop a contact list, and add to the list those members of the public who request they be added. EPA should update each list frequently and strive to ensure lists include the full range of interested and affected parties. Lists will be most useful if subdivided by category of interest or geographic area. The nature and intensity of the involvement activities will drive the frequency of updating. EPA should use the contact lists to send announcements of involvement opportunities: notices of meetings, hearings, field trips, and other events; notices of available information, reports and documents; and to identify members of the public who may be considered for advisory group membership and other activities.

b. Methods: Staff can construct these lists of contacts using various methods, including, but not limited to the following:

- Participating in workshops, community meetings, public events, etc. to share information with potentially interested groups and individuals, and enable them to request additional information on the particular program, activity or project
- Providing a mailing list sign-up sheet at workshops, community meetings, public events, etc. (The sign-up sheet should include a prominent notice at the top of each page informing those who sign it of how the list will be used. Potential signers should be asked to specify whether they agree to allow the Agency to use their name and address for mailings regarding only a specific topic or for a wider variety of Agency issues.)
- Sharing mailing lists between different EPA program and regional offices if the individuals on the lists have provided the Agency permission to use their names and addresses for mailings on a wide range of EPA-related topics
- Encouraging external organizations and agencies to publicize EPA activities
- Using questionnaires or surveys to find out levels of awareness and the need for tailored public education and outreach [Note: see section 1 above on the Paperwork Reduction Act]
- Including an EPA point of contact on EPA documents (fact sheets, public notices, sign-up sheets at meetings, etc.) so individuals may ask to be placed on lists
- Soliciting interest through notices in the Federal Register; trade and trade association publications; local print, radio, cable and television outlets;

not-for-profit secular and religious publications; or through the Internet or other electronic means

- Asking those who attend events what, if any, interests are missing
- Using other comprehensive or creative means that consider the community structure, languages spoken, local communications preferences and the locations (such as libraries, churches, schools and other centers) where the community regularly congregates

EPA recognizes that efforts to assemble mailing lists can raise privacy concerns. The Agency is committed to protecting the privacy of individuals. Thus, it is Agency policy not ask individuals for their names and addresses for creating new mailing lists without explicit permission from those individuals or to use names and addresses collected for disseminating information about one specific topic for any unrelated purpose unless the individuals on the mailing list grant permission to do so.

EPA mailing lists should be organized by subject matter, program or other topic. EPA should not combine mailing lists to create profiles of specific individuals.

3. Consider providing technical or financial assistance to the public to facilitate involvement.

Goals:

- To improve public involvement opportunities through providing technical or financial assistance, when available and appropriate, to stakeholders, small local governments and members of the public.
- To use such assistance to help build capacity to understand complex technical issues and enable people to participate substantively in EPA's decision-making processes.

a. Actions: EPA recognizes that many of its actions involve highly technical, complex issues. An understanding of the underlying science is a basic requirement for meaningful public involvement in the Agency's decision-making processes, but can require substantial commitments of time for study, research, analysis and discussion by the public. It is important for EPA to provide a sound understanding of the issues and options it is considering; EPA staff efforts and access to EPA materials often are sufficient. It is also important for the Agency to identify those situations where members of the affected public may not have the requisite knowledge or resources to participate directly or obtain expertise to engage in meaningful involvement. In such situations EPA may have the authority to take special measures such as providing technical or financial assistance to facilitate effective participation.

When such assistance is needed and available, EPA should announce its availability as early in the process as possible, and clearly describe the process and timing for accessing it.

b. Methods: There are numerous ways to assist members of the public and small local governments who lack the ability to participate in an effective or timely manner in Agency public consultation or involvement activities. The Agency can provide assistance through services that the interested public can use. Knowledgeable staff can help to determine which methods are most appropriate to the situation and meet applicable legal requirements. Methods may include:



- Access to Agency experts or contractors to obtain information and analyses as resources allow
- Access to technical personnel through grants to universities (for example, the Superfund Program's Technical Outreach Services to Communities project has provided independent university-based scientific and engineering expertise to 115 communities dealing with hazardous substance contamination questions)
- Technical Assistance Grants (TAGs) under Section 117 of Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) awarded to groups of individuals who may be affected by a release or a threatened release at Superfund sites to obtain assistance in interpreting and disseminating data and information related to site activities
- Task-specific technical assistance to help stakeholders address issues either in project negotiation or implementation phases of regulatory flexibility projects
- Collection and dissemination of information on outside sources of funding or technical assistance
- Collaboration with nongovernmental organizations and other information brokers
- Provision of surplussed computer equipment to parties who need access to the Internet, following Agency requirements for this activity (under EPA's policy in response to Executive Order 12999 - Educational Technology Ensuring Opportunity for all Children in the Next Century that directs special attention be given to schools and nonprofit organizations, including community based educational organizations located in minority, low-income and underserved communities)

In some limited circumstances, direct financial assistance may be available for EPA partners, outside organizations and stakeholders. For example, depending on annual budget authorizations, and when EPA managers deem appropriate and essential for achieving program goals, EPA may sometimes have authority to provide funds to small local governments, outside organizations and stakeholders for public involvement activities associated with rules under development. In addition EPA should, in limited situations, consider providing financial support to stakeholders such as:

- Travel and per diem for stakeholders to provide information and advice directly to Agency officials
- Compensation for meeting time spent as a member of a Federal Advisory Committee

However, funds for such purposes are generally very limited. When EPA does provide funding, the primary purpose must be consistent with the Federal Grant and Cooperative Agreement Act, and one or more of EPA's statutes must provide appropriate authority for the funded activities.

c. Considerations for funding public involvement: Applicable statutes and regulations generally specify criteria for providing financial assistance. Agency staff should also consider:

- Whether the proposed activity is allowable under applicable statutory authority
- The adequacy of the representation of involved interests
- The adequacy of the applicant's resources in relation to ability to participate
- The applicant's qualifications to accomplish the work
- The involvement of those with a direct stake in the local community in the activity

- The ability of the activity to further public involvement objectives and benefit the public

In general, the Agency should make special efforts to provide assistance to groups that may have fewer opportunities or insufficient resources to participate.

4. Provide information and outreach to the public.

Goals:

- To provide the public with access to accurate, understandable, pertinent and timely information to facilitate effective involvement in Agency decision-making processes
- To assist the public in understanding the reasons for Agency action, the legal framework for decision making and the significance of the related technical data so the public can provide meaningful comments.

a. Actions: Whenever possible, Agency officials should:

- Provide the public with adequate and timely information concerning a forthcoming action or decision
- Provide policy, program, and technical information to the affected public and interested parties at the earliest practicable times, to enable those potentially affected or interested persons to make informed and constructive contributions to decision making
- Provide information at places easily accessible to interested and affected persons and organizations
- To the extent practicable, provide the public with integrated, on-line, user-friendly access to health and environmental data and information and to the extent practicable, enable communities, including minority, low-income and underserved populations, to have access to relevant data and information
- To the extent practicable, develop information and educational programs so all levels of government and the public have an opportunity to become familiar with the issues, technical data and relevant science behind the issues
- Provide informational materials that clearly identify the role of the public in the specific decisions to be made
- Summarize complex technical materials for the public
- Write information and outreach documents in plain language the public will easily understand
- Write engineering and technical documents as clearly and concisely as possible
- Consider whether EPA should provide documents in languages in addition to English to reach the affected public or interested parties, consistent with Executive Order 13166 on "Improving Access to Services for Persons with Limited English Proficiency," signed August 11, 2000
- To the extent possible, maintain ongoing communication and outreach with the interested and involved public on particular EPA activities through periodic newsletters, list serves or other means

- Use EPA's existing public involvement manuals, which contain helpful advice for involving the public in specific EPA programs. (See these manuals at <http://www.epa.gov/publicinvolvement/involvework.htm#manuals>.)

b. Methods: Information and outreach programs require the use of appropriate communication tools, and should be tailored to accommodate the public's familiarity with the subject and means of access.

The following, among many other approaches, may be used:

- Publications, fact sheets, technical summaries, bibliographies, resource guides, relevant supporting documents and other printed and electronic materials. (These materials may be made available through the mail, on the EPA web site, and at information repositories such as EPA regional and field offices, federal depository libraries and local public libraries, and state/tribal/local agencies.)
- Videos and CD ROMs
- Questionnaires, surveys, and interviews [Note: subject to the Paperwork Reduction Act, see Step 1 above]
- Public service announcements, articles and news releases through local newspapers, radio, and other media sources that reach the interested and affected public
- Educational publications, programs or activities
- Electronic communications such as Web pages, chat rooms, on-line dialogues, and list serves (Agency officials wishing to use web pages, on-line dialogues, and chat rooms should obtain approval from EPA management and consult with their information security officer.)
- Participation in conferences, workshops, meetings, community dialogues or local study groups
- Telephone communications such as hotlines, clearinghouses and toll-free comment lines
- Video conferences and satellite downlinks
- Participation at public events, such as fairs and festivals
- Tours of relevant sites and facilities

c. Content. Examples of outreach materials may include but are not limited to:

- Background information (for example, statutory basis, rationale, specific goal(s) of involvement activities or the triggering event of the action)
- A timetable of proposed actions
- Summaries of lengthy documents or technical material, if relevant
- An outline of issues and the interests that they may affect
- Alternative courses of action or tentative determinations the Agency may have made
- Information on whether an Environmental Impact Statement or Environmental Assessment is or will be, available
- Specific encouragement to stimulate active involvement by the public, including describing the nature of its influence, roles, and potential impact on the decisions
- The name and contact information (address, e-mail address, telephone and telefax numbers) to reach EPA staff for further information
- Information on the social, economic and environmental consequences of proposed decisions and alternatives prepared in connection with the proposed decision

- Technical evidence and research methodology explained in nontechnical language
- If available, a list of sources of technical assistance, advice and self-help manuals or other publications that could be helpful to the public

Fact sheets, news releases, summaries, and similar publications in print and on the Internet may be used to provide notice of availability of materials and to facilitate public understanding of more complex documents, but should not be a substitute for public access to the complete documents. When practicable, EPA should provide information in formats and locations that match the public's needs. Some documents (e.g., confidential business information) are not available for public review. Before releasing privileged documents or for advice on whether a particular document is privileged, staff and managers should consult with the ORC or OGC.

d. Notification. Responsible officials should make parties on the contact list and the media aware of the outreach materials available. The public should have adequate time and opportunity to receive and review the information before EPA conducts any additional public involvement activities. Notices should include information about the repository (address, hours of operation, etc.) or other information relating to access to all documents referred to in the notice, including the name of a contact person when appropriate.

e. Timing. To enable effective and meaningful public involvement, EPA should distribute outreach materials that make the public aware of the planned activity and that outline the issue(s) as early as such information is available. The more complex the issue and greater the potential for controversy or misunderstanding, the earlier the Agency should distribute the materials. When there is a formal public comment process, EPA should, whenever possible, notify stakeholders of the expected timing of that process to enable stakeholders to plan for participation and provide the most useful response. Furthermore, the comment period should not open until materials are available for the public to obtain and review. The Agency often makes EPA's materials available to the public by placing them in a public docket. Dockets are discussed in more detail below under "g. Repositories or dockets."

Statutes or rules often specify minimum public comment periods. Generally, the Agency should provide materials for public comment should as soon as they are available and should allow for at least 30 days for the public review and comment (or longer, as specified in program-specific requirements) or 45 days notice for public hearings.

Unless the applicable statute or regulation provides otherwise, the comment period for public review of unusually complex issues or lengthy documents generally should be no less than 60 days.

f. Fees for Copying: In responding to a request for records, the Agency will follow its regulations implementing the Freedom of Information Act ("FOIA") at 40 CFR Part 2. The Agency may waive the fees associated with a FOIA request, pursuant to the criteria listed at 40 CFR 2.107(l), if disclosure would contribute to public understanding of government operations and is not primarily in the commercial interest of the requester.

g. Repositories or Dockets: The Agency should provide one or more central collections of documents, reports, studies, plans, etc. relating to controversial issues or significant decisions in a location or locations convenient to the public. Suitable locations will depend on the nature of the action. For national rules a single central docket is generally appropriate, but local repositories may be preferable when decisions relate to individual facilities or sites. RCRA regulations authorize EPA to require hazardous waste treatment, storage or disposal facilities to set up and maintain a repository of information related to the RCRA site. (40 CFR §124.33) In all other instances, for actions at local facilities or sites, Agency officials should work with community representatives and the facility to determine the most accessible repository site(s) within the community. When choosing the site for a document repository, Agency officials should consider accessibility, travel time, parking, transit, and availability during off-work hours. Copying facilities should be available at repositories. Agency officials are encouraged to determine the accessibility to the interested public and feasibility of electronic repositories that take advantage of the Internet to reach directly into homes, libraries and other facilities throughout a community and across the nation. If the public has reasonably convenient, well-advertised electronic repositories, this can achieve significantly enhanced accessibility at a very modest cost.

At EPA, dockets serve as the repository for the collection of documents or information related to a particular agency action or activity. The docket generally consists of the documents specifically referenced in the related Federal Register document, any public comments received, and other information used by decision-makers or otherwise related to the Agency action or activity. Agencies most commonly use dockets for regulatory actions, but may also use dockets for various other nonrulemaking activities, such as Federal Register documents seeking public comments on draft guidance, policy statements, information collection requests under the Paperwork Reduction Act, and other nonrule activities.

EPA's EDOCKET is an online public docket and comment system initially designed to expand public access to documents in EPA's major program dockets, eventually to include the other EPA dockets. EDOCKET allows the public to search available dockets online, submit or view public comments, access the index listing of the contents of the docket, and to access, download and print those documents in the docket that are available electronically.

In August of 2002, EPA consolidated several of the Headquarters paper docket facilities into one, the EPA Docket Center. Through this Docket Center, EPA has improved the docket's internal workflow processes and has enhanced customer service and public access to information. This central facility for most EPA Headquarters dockets also offers the public both convenience and efficiency, enabling citizens to access multiple program dockets and conduct cross-docket searches from one location. The EPA Docket Center features a Public Reading Room with the following services: computers for the public to access EDOCKET, scanners, copiers, telephone lines and faxes. For more information about the EPA Docket Center or EPA's EDOCKET, go to <http://www.epa.gov/epahome/dockets.htm>.

5. Conduct public consultation and involvement activities.  
Goals:

- To understand the interests and needs of the affected public.
- To provide for the exchange of information and views and open exploration of issues, alternatives and consequences between interested and affected members of the public and officials responsible for the forthcoming action or decision.

a. Actions: Agency officials should:

- Identify and select public consultation or involvement processes appropriate for the scope of the decision and the time and resources available
- When possible, consult or involve the affected public to ensure the approaches selected consider and, if appropriate, accommodate the potentially affected parties' needs, preferences, schedules and resources, as well as the Agency's needs
- Notify the public of potential consultation and involvement activities early enough to ensure the public has adequate time to obtain and evaluate information; consult experts, and formulate and express their opinions, options, and suggestions prior to Agency action
- For site-specific activities, start public involvement efforts early in the action and continue them, as appropriate, until completion of all work
- Conduct public consultation and involvement activities at times and places that, to the maximum extent feasible, facilitate attendance or involvement by the affected public
- Whenever possible, consider whether public meetings concerning local facilities or sites should be held during non-work hours, such as evenings or weekends, and at locations accessible via public transportation
- Provide guidance, resources, training, and professional assistance to Agency staff and interested delegated program partners, when feasible, to assist them in conducting or participating in public consultation and involvement activities in an effective and credible manner (This includes providing the technical, scientific, and background information in a manner that allows the involved public to understand the relevant science for the issues under discussion.)
- Consider the appropriate use of third parties (neutral facilitators or mediators) in the development and implementation of programs, projects and activities
- Be knowledgeable of and comply with provisions of open meetings laws and regulations, such as the Federal Advisory Committee Act, as well as all information gathering requirements, such as the Paperwork Reduction Act
- Be knowledgeable of and comply with provisions of the Rehabilitation Act regarding appropriate accommodations for individuals who need special assistance in attending public hearings, meetings or other events

b. Methods: Consultation and involvement processes may take a variety of forms, depending on the issues to be addressed, the timing of the decision-making action, and the needs and resources of the interested and affected public. In all cases EPA should work to maximize the use of existing institutional resources as vehicles for consultation and involvement processes. The more than twenty EPA Federal Advisory Committees are such an institutional resource. EPA established each of them to provide advice on a different aspect of environmental policy or management. These committees are part of the Executive Branch decision-making process and include members who are scientists, public health officials, businessmen, private citizens, and officials at all levels

of government. Approximately 1,400 citizens sit on FACA committees, bringing a variety of perspectives and expertise to the environmental consensus building process.

EPA staff can use a wide variety of public involvement methods. Step 4, "Provide information and outreach to the public," addresses predominantly one-way communications from EPA to the public. More direct involvement activities range from information exchange, in which EPA and the public share views, to more collaborative methods that result in stakeholder-defined recommendations or agreements. When starting public involvement for a particular decision, EPA staff should consider using a variety of methods within these broad categories as well as using combinations of outreach, information exchange and collaboration to more effectively involve the public in the decision-making process. Using a collaborative recommendation or agreement process or reaching consensus with the involved public is not required, necessary or practical in all decision-making processes.

General descriptions of public involvement methods follow, including their purposes, common examples, and key actions. The following list of public involvement methods is not exhaustive. Its variety demonstrates the need for program officials to be flexible and to obtain information that enables them to choose the appropriate techniques for each situation. EPA staff also should review the Agency's detailed public involvement manuals and guides when planning public involvement activities. (See Addendum 1 for a list of key resources.)

#### 1. Information exchange activities

##### Purposes:

- To enable the public and the Agency to share data, ideas, advice and concerns
- To allow EPA to obtain input from a wide range of interested and affected parties
- To compile a knowledge base of the public's various interests, ideas and needs, allowing the Agency to better understand and consider the issues related to a particular decision

##### Common examples:

- Communication directed from the public to the Agency, as in public comment processes, public meetings or public hearings
- Interactive methods that provide participants with opportunities to discuss the issues and their input with the Agency through public meetings, listening sessions, workshops, availability sessions, open houses, interviews, focus groups or surveys, Internet-based dialogues and other methods (Note: Some of these types of exchange activities, including surveys and Internet dialogues, potentially are subject to provisions of the Paperwork Reduction Act and security and privacy constraints)
- Public hearings and public meetings  
Public hearing and meetings provide an opportunity for formal or informal public involvement. EPA's statutes and/or regulations often require EPA to hold public hearings or meetings. EPA also may provide such opportunities on a voluntary basis. Unless other procedures are set out in the relevant statute or regulations, public meetings and hearings should follow the procedures set out in 40 CFR Part 25. The Agency should conduct public meetings and hearings objectively and should carefully consider the needs of the affected community and individual participants when planning these events. Though certain formalities should apply to all public hearings and meetings, procedures should

not be so prescriptive as to discourage participation. When the subject of a public hearing, meeting or other information exchange process relates to conditions or facilities in a specific geographic area, EPA should hold the public hearing or meeting in that general geographic area. Public meetings and hearings should be part of an overall process that also gives the public more opportunities for becoming informed and involved.

## 2. Recommendation Processes

### Purposes:

- To develop recommendations for EPA, generally through the collaboration of members of EPA-established advisory committees, but also through other means, including receiving recommendations from individuals
- To provide input into EPA's decision-making processes, especially when decisions are complex and/or have far-reaching effects
- To identify and analyze various options, recommend creative solutions and find common ground among competing points of view
- In addition to soliciting input from the general public, to obtain input from specific stakeholder groups who can provide valuable technical expertise, information or viewpoints that EPA should consider in order to create a sound decision

### Common examples:

- Committees established by EPA under the Federal Advisory Committee Act (FACA)
- External technical committees (such as those conducted by the American Society for Testing and Materials), and various technical advisory groups, citizens' advisory groups or panels that EPA does not establish, manage or control that may provide recommendations to the Agency

### Actions:

- The Agency may adopt the recommendations of a FACA committee, but is not bound to implement the committee's recommendations (See Appendix 4 for FACA requirements)
- As FACA requires, advisory committees must be balanced in the points of view represented for the function the committee is to provide
- EPA should include the affected community when appropriate

## 3. Agreement processes

### Purposes:

- To reach a mutually acceptable decision between EPA and selected stakeholder representatives, in a written agreement. In some cases, such agreements are not legally enforceable, but do represent a good faith commitment by EPA and the other parties.
- To develop creative and flexible solutions for particularly difficult or controversial issues through a process that includes direct participation by interested parties
- To reduce the time needed to reach a final decision, build support among various constituencies, facilitate early implementation, and reduce the threat of litigation

### Common examples:

- Negotiated rulemaking committees
- Other negotiated or mediated agreements and Memoranda of Understanding

### Actions:



- EPA should seek to ensure that the selected participants have the relevant knowledge and resources to engage in agreement processes and provide a balanced and wide range of views
- EPA should ensure that negotiated rulemaking committees meet all FACA requirements

Facilitation and Alternative Dispute Resolution (ADR) are tools the Agency may use to convene and conduct activities or to seek to resolve differences among various stakeholders during information exchange and collaborative processes. For ADR, EPA obtains the services of neutral, trained facilitators and mediators who manage discussions between the Agency and a set of well-defined stakeholders. ADR is most effective when there are a few highly involved and informed stakeholder groups who agree to participate in a dialogue through which they raise their concerns and seek to resolve a particular issue by consensus. The Agency can use facilitation and ADR processes to encourage conflict prevention or resolution at any time during a decision-making process. Additional information on this topic is available <http://www.epa.gov/adr>

c. Content: Agency officials should clearly identify the issues for discussion, negotiation or decision before and during a public involvement process, so participants understand on which issues they should comment. EPA officials should describe clearly the type of public involvement process planned, the schedule, EPA's expectations for the outcomes of the process and the timing and type of feedback that EPA will provide. If possible, EPA should involve the public in determining the design of the processes.

d. Notification: As early in the decision-making process as possible, the Agency should notify all parties on the appropriate contact lists and, when appropriate, the news media, of opportunities to participate and provide them with relevant information. In addition to legal notices and/or Federal Register Notices, Agency officials should use other outreach methods (as described in Step 3) to publicize public involvement opportunities. Notices should, at a minimum, give the time, date and location of the public involvement process, a general description of the topics or agenda, a contact person and contact information, and a general description of the nature of the process to be conducted, as well as the role of the public. Agency officials should consider the use of multilingual notices of upcoming activities and/or translator services, when appropriate.

e. Timing: Agency officials should provide early advance notice of public involvement processes so the public can obtain background information, formulate their needs and interests and obtain expert assistance, if necessary. Minimum time frames for notification of public hearings and public meetings will vary according to the applicable regulations and the complexity of the issue. For example, for actions subject to the public participation requirements of 40 CFR Part 25, the regulations require EPA to provide at least 45 days' notice before public hearings, but that time may be reduced to 30 days if there are no substantial documents to be reviewed and no complex or controversial matters to be addressed at the hearing (40 CFR § 25.5). If the issues are unusually complex or involve review of lengthy documents, this period generally should be at least 60 days. EPA may further reduce or waive the hearing notice requirement in an emergency situation in which EPA determines there is an imminent danger to public health (40 CFR § 25.5).

Regulations governing some other programs not covered by Part 25 have similar requirements. In programs that do not have a regulatory requirement to provide a hearing or meeting upon request, EPA staff should nonetheless consider such requests unless circumstances clearly necessitate urgent action.

When the Agency holds a formal public comment process, EPA officials should make the relevant materials available and accessible to the public at the beginning of the comment period. Minimum public comment periods often are specified in statutes or rules; however, generally EPA should allow at least 30 days for the public review and comment period (or longer, as specified in program-specific requirements or for complex issues or lengthy documents). Program-specific notice requirements should be followed. For example, CERCLA requires that, regardless of complexity, EPA allow the public 30 days to submit comments on proposed remedies and, upon a timely request, that EPA extend the public comment period by a minimum of at least 30 days (40 CFR § 300.430).

f. Summaries: The Federal Advisory Committee Act requires the preparation of detailed minutes of advisory committee meetings. [Appendix 4 summarizes basic information on the management of EPA advisory committees.] In addition, some statutes also require minutes of public meetings. Even when not required, Agency officials generally should make summaries of public hearings and public meetings available to participants and other interested parties. When appropriate and practicable, Agency officials should consider including additions or corrections that participants submit to the summary. In rulemaking proceedings, EPA should place in the docket a summary of significant new factual information concerning a proposed rule received during informal meetings or conversations with outside parties. In nonrulemaking situations, it may be helpful to document discussions that contribute information useful to decision making and make that information available to participants and interested parties.

6. Review and use input, and provide feedback to the public.

Goal: To consistently earn and retain the public's trust and credibility for EPA's actions and consultation processes by evaluating and assimilating public viewpoints and preferences into final decisions, where appropriate and possible, and by communicating to the public the decisions made and how public input affected those decisions.

Gathering and using public viewpoints and preferences involves examining and analyzing public input in relation to scientific and other information relevant to the decision, considering if and how to incorporate that input into final program decisions and carefully considering public views when making or modifying decisions. For each decision, EPA officials should attempt to find a balance that enables the Agency to consider both relevant scientific and other information and expressed public values in determining how best to protect the public's health and the environment. The Agency should demonstrate, in its decisions and actions, that it has understood and fully considered public concerns. Finally, the Agency should communicate the decision to the public and discuss how the public's input influenced the final decision.

a. Actions:

1) Review and use the information: Agency officials should briefly and clearly document consideration of the public's views in responsiveness summaries, regulatory preambles, environmental impact statements or other appropriate documents. This should occur at key decision points. Unless inappropriate or otherwise required by law or regulations, each responsiveness summary (or similar document) should:

- Describe briefly the action that EPA initially proposed and why EPA determined such an action was needed
- Include a statement of the action that EPA took
- Explain briefly the public involvement activity that EPA conducted
- Identify generally those who participated and their affiliation (either individually or as groups)
- Describe the matters on which EPA consulted with the public
- Summarize the public's views, important comments, criticisms and suggestions
- Explain the Agency's reason for the decision
- Indicate the effect the public's comments had on that action
- When feasible, provide the Agency's specific responses to each comment or group of comments; otherwise, discuss specific responses to significant issues raised in the comments. These responses should discuss how the comments resulted in modification of the proposed action or explain why the Agency did not accept proposals that the public made

(2) Provide feedback to the public: The Agency should provide feedback to participants and interested parties about the outcome of the public's involvement. Some statutes and regulations contain requirements for responding to comments EPA receives on actions such as rules, permits and cleanup plans.

The public can typically submit comments to EPA electronically, by mail, by facsimile or through hand delivery/courier. The Agency's preferred method for receiving comments is use of EPA's electronic public docket and comment system, EDOCKET, to submit comments to EPA electronically. EPA officials should encourage members of the public to use EDOCKET to submit comments, because it will facilitate quicker access to comments for both the public and EPA staff.

In addition to carefully considering the public comments received, Agency officials traditionally include a summary of those comments with a summary of the Agency's responses to them, in the preamble of the Federal Register document or as a separate document available in the docket. This traditional method, however, does not always ensure that those who have participated in a decision-making process are made aware of or have access to, the Agency's feedback. Therefore, in addition to the minimum statutory or regulatory requirements, Agency staff should explore, and use whenever feasible, other feedback methods such as publishing the response on a website or publishing it or a notice of its availability in widely read publications. Where resources allow, EPA should mail or e-mail a copy of the response or information on how to easily obtain the response to those who participated in the public involvement processes, those who submitted comments and others on the contact list. The Agency can use press briefings and news releases where the number of commenters is so large that individual contact is not practical (for example, where mass mailings have been received in response to a proposed nationwide rule). In appropriate cases, direct feedback can be provided in public meetings; if so, the feedback should be documented (and care should be taken to avoid the appearance of reopening the decision process).

Appropriate feedback techniques will vary greatly depending upon the circumstances, but the goal is to ensure that those who contributed significantly to the process receive a response that tells them how EPA used their input.

7. Evaluate public involvement activities.

Goal: To evaluate the effectiveness of this Policy and of public involvement activities.

a. Actions: Agency officials should evaluate and measure, on a continuing basis, both the effectiveness of the Policy to improve public involvement in regulatory and nonregulatory processes, and the effectiveness of public involvement activities.

b. Methods: Agency officials should routinely use surveys, interviews, focus groups and other tools to evaluate whether public involvement practices are performed appropriately and have the intended effects (subject to the Paperwork Reduction Act). Agency officials also should conduct periodic broad-based Agency-wide evaluations to determine whether implementing this Policy improves the quality of public involvement and environmental decisions.

***Who manages the application of this Policy?***

Responsibilities Relating to the Public Involvement Policy:

1. Administrator: Provides leadership and direction to EPA headquarters and regions for all EPA public involvement programs.

2. Assistant Administrators and Associate Administrators: Provide leadership and direction for their managers and staff by:

- Ensuring that effective public involvement is a cornerstone of all decisions, activities, plans and pilots, and fully complies with all applicable legal requirements
- Encouraging effective public involvement by providing their staff and managers guidance, technical assistance, resources, training and incentives, as appropriate
- Encouraging broad-based stakeholder participation, including drawing on the expertise and networks available in the EPA offices responsible for public affairs and communications with state, local and tribal governments.
- As appropriate, providing guidance, assistance and resources to regions to conduct public involvement, and to the affected public to ensure its input
- Evaluating the effectiveness of public involvement processes and taking action to improve them

3. Regional Administrators: Provide leadership for their program managers and staff by:

- Ensuring that effective public involvement is a cornerstone of all decisions, activities, plans and pilots, and fully complies with all applicable legal requirements
- Encouraging effective public involvement by providing staff guidance, technical assistance, resources, training and incentives, as appropriate

- Encouraging broad-based stakeholder participation, including drawing on the expertise and networks available through their public and intergovernmental affairs offices, regional tribal assistance programs, and the Headquarters tribal office
- Evaluating the effectiveness of public involvement processes and taking action to improve them
- Working with authorized, approved or delegated program participants to improve public involvement on those programs and EPA activities
- As appropriate, providing technical or financial assistance to individuals or organizations to support effective public involvement.

4. Associate Administrator, Office of Public Affairs: Develops and supports Agency public involvement activities by:

- Assisting EPA headquarters and regional programs to identify interested and affected members of the public
- Supporting the headquarters and regional programs in developing, reviewing and distributing outreach materials to inform and educate the public about Agency programs, issues and public involvement opportunities, including specialized distribution to targeted audiences.
- Encouraging, developing and supporting Agency strategic communications plans to include effective public awareness and public involvement activities

5. Associate Administrator, Office of Congressional and Intergovernmental Relations: Assists program offices by:

- Identifying state and local officials, both elected and appointed, to engage in public involvement activities
- Suggesting appropriate ways to reach these stakeholders

6. Associate Administrator, Office of Policy, Economics and Innovation: Assists headquarters and regional programs by:

- Providing tools and advice that lead to meaningful public involvement by supporting regulatory and nonregulatory actions, community based environmental protection work, efforts to involve small businesses and small communities, and work relating to smart growth, innovative voluntary programs, economic analysis and evaluation
- Providing tools to assist in implementing the Public Involvement Policy

7. Deputy Administrators, Deputy Regional Administrators, Office and Division Directors and other appropriate supervisors: Ensure that they adequately support and recognize the public involvement efforts of their staff.

### ***Responsibilities for Implementing Public Involvement***

## Headquarters and Regions:

- Identify activities, plans and decisions where public involvement is appropriate
- Include adequate time and resources for effective public involvement in plans, activities and policies
- Help each other implement public involvement activities
- Implement the public involvement and public information portions of approved program plans
- Evaluate the effectiveness and appropriateness of public involvement expenditures
- Evaluate and improve the effectiveness of public involvement activities
- Encourage the coordination of public involvement activities
- Consider funding demonstration projects that promote improved public involvement practices
- Provide technical assistance for EPA public involvement activities
- Provide public involvement funding, as appropriate and available, to appropriate outside interest groups and stakeholders in a manner that ensures efficient and cost effective public involvement process improvements
- Provide guidance, technical assistance and training, as appropriate, to support public involvement activities for authorized, approved and delegated programs of state, tribal and local governments
- Develop guidance and training to ensure that program office and regional staff and managers can perform public involvement activities effectively
- Provide incentives to Agency staff to ensure commitment to/competence in implementing public involvement
- Ensure that applicable legal requirements associated with public involvement are adhered to, such as the Federal Advisory Committee Act, the Paperwork Reduction Act, the Freedom of Information Act, the Regulatory Flexibility Act and the Privacy Act

### Headquarters:

1. Seek public involvement in decisions that modify or develop major national policies
2. Incorporate public involvement when amending regulations, where appropriate
3. Consult with OCIR to identify state and local officials, organizations and forums that may be appropriate for involvement in specific activities identified by this Policy

4. Consult with AIEO to identify appropriate ways to engage tribes where tribal people and lands may be affected

### Regions:

5. Work closely with state, tribal and local governments to encourage, coordinate and improve public involvement activities in

## Appendix 2: Definitions

“Affected parties,” are stakeholders who are or may be impacted by EPA decisions.

“Alternative (means of) Dispute Resolution” is “any procedure that is used to resolve issues in controversy, including but not limited to conciliation, facilitation, mediation, fact finding, minitrials, arbitration, use of ombuds or any combination thereof.” 5 U.S.C. 571(3)

“Fair treatment” as defined on EPA’s environmental justice web page [<http://www.epa.gov/compliance/environmentaljustice/index.html>], means that no group of people, including a racial, ethnic, or a socioeconomic group, should bear a disproportionate share of the negative

environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

“Meaningful involvement” (See [<http://www.epa.gov/compliance/environmentaljustice/index.html>]) means that: (1) potentially affected community residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; (2) the public's contribution can influence the regulatory agency's decision; (3) the concerns of all participants involved will be considered in the decision-making process; and (4) the decision makers seek out and facilitate the involvement of those potentially affected.

The term “the public” is used in the Policy in the broadest sense, meaning the general population of the United States. Many segments of “the public” may have a particular interest or may be affected by Agency programs and decisions. In addition to private individuals, “the public” includes, but is not limited to, representatives of consumer, environmental and other advocacy groups; environmental justice groups; indigenous peoples; minority and ethnic groups; business and industrial interests, including small businesses; elected and appointed public officials; the news media; trade, industrial, agricultural, and labor organizations; public health, scientific, and professional representatives and societies; civic and community associations; faith-based organizations; and research, university, education, and governmental organizations and associations.

A “Significant information product” uses national or regional data to describe environmental conditions, trends, and/or the performance of companies, facilities, and communities. (See <http://www.epa.gov/ipbpages>)

“Stakeholders” are representatives from organizations or interest groups who have a strong interest in the Agency's work and policies.

“Timely information” means distributing information sufficiently far in advance so the interested public has enough time to review relevant material, decide whether to become involved, and make plans for that involvement. Timely applies to the availability of background information on particular issues, as well as notification of public meetings, public comment periods or other critical involvement activities.

“Tribe” means an Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

### ***Appendix 3: Examples of EPA's Public Involvement Regulations***

The following citations to EPA regulations are intended to provide examples of current EPA regulations that contain public involvement procedures for specific programs. This is not an exhaustive list, but it contains a good cross section of administrative regulations, procedures and decision process requirements for public involvement. Numerous EPA rules, regulations, policies and procedures contain such requirements.

- 40 CFR Part 2 - Freedom of Information Act
- 40 CFR Part 6 - Procedures for Implementing the Requirements of the Council on Environmental Quality of the National Environmental Policy Act

- 40 CFR Part 25 - Public Participation in Programs under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act
- 40 CFR Part 51 - Requirements for Preparation, Adoption, and Submittal of Implementation Plans (under the Clean Air Act)
- 40 CFR Part 124 - Procedures for Decisionmaking (EPA procedures for issuing, modifying, revoking and reissuing or terminating all RCRA, UIC, PSD, and NPDES permits)
- 40 CFR Part 154- Special Review Procedures (procedures to assist the Agency in determining whether to initiate procedures to cancel, deny or reclassify registration of a pesticide product because uses of that product may cause unreasonable adverse effects on the environment)
- 40 CFR Part 164 - Rules of Practice Governing Hearings, Under the Federal Insecticide, Fungicide, and Rodenticide Act, arising from Refusals to Register, Cancellations of Registrations, Changes of Classifications, Suspensions of Registrations and other Hearings Called Pursuant to Section 6 of the Act
- 40 CFR Part 173 - Procedures Governing the Rescission of State Primary Enforcement Responsibility for Pesticide Use Violations
- 40 CFR Part 271 - Requirements for Authorization of State Hazardous Waste Programs
- 40 CFR Part 300 - National Oil and Hazardous Substances Pollution Contingency Plan, Subpart E - Hazardous Substance Response (establishes methods and criteria for determining the appropriate extent of response authorized by CERCLA and CWA section 311(c))
- 40 CFR Part 300 - National Oil and Hazardous Substances Pollution Contingency Plan, Subpart I - Administrative Record for Selection of Response Action
- 40 CFR Part 790 - Procedures Governing Testing Consent Agreements and Test Rules (Procedures for gathering information, conducting negotiations, and developing and implementing test rules or consent agreements on chemical substances under section 4 of the Toxic Substances Control)

#### ***Appendix 4: Advisory Committees***

When the Agency seeks to obtain advice or recommendations from a group that includes one or more individuals who are not federal government employees, the Agency should determine whether the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, applies. If it does, meetings of the group must comply with FACA requirements. FACA requires, among other things, that such groups be chartered, have a balanced membership, hold open meetings and make written materials available to the public. EPA staff should consult with the Office of General Counsel or the Office of Regional Counsel to determine whether FACA applies, and with the Committee Management Officer in the Office of Cooperative Environmental Management (OCEM) for guidance on complying with the FACA requirements. OCEM's website provides useful information and guidance on FACA. (<http://www.epa.gov/ocem/committees.htm>)

The primary function of an advisory group is to provide advice and recommendations to federal officials. Advisory groups also can provide a forum for addressing issues, promoting constructive dialogue among the various interests represented on the group, and enhancing community



understanding of the Agency's action. FACA committees address a wide variety of issues, including policy development, project alternatives, financial assistance applications, work plans, major contracts, interagency agreements, and budget submissions.

A. Requirements for Federal EPA Advisory Committees: The FACA requirements include:

- Charter. EPA must develop a charter for each advisory committee, consult with GSA regarding the charter, and file it with Congress. The Charter must contain several specific elements, including the committee's official designation, the objectives and the scope of its activities, the period of time necessary for the committee to carry out its objectives, the agency or official to whom the committee reports, the agency responsible for providing the necessary support for the committee, and a description of the duties for which the committee is responsible. The charter must be renewed every two years. 5 U.S.C. App. 2, sec. 9.
- The Establishment Federal Register Notice. At least 15 calendar days before the charter for a new committee is filed with Congress, EPA must publish a notice of establishment in the Federal Register. This notice describes the nature and purpose of the committee, the agency's plan to attain fairly balanced membership, and a statement that the committee is necessary and in the public interest. 5 U.S.C. App. 2, sec. 9.
- Balanced Membership. Advisory committees must be "fairly balanced" in the points of view represented. 5 U.S.C. App. 2, sec. 5.
- The Meeting Federal Register Notice. EPA must publish a notice in the Federal Register of each advisory committee meeting at least 15 calendar days prior to the meeting. 5 U.S.C. App.2, sec. 10.
- Open Meetings. Interested persons may attend any advisory committee meeting (unless the meeting is closed) and appear before and/or file written statements with any advisory committee. 5 U.S.C. App.2, sec.10.
- Minutes. Detailed minutes must be kept of all advisory committee meetings. 5 U.S.C. App.2, sec.10.
- DFO Attendance. A Designated Federal Official (DFO) must attend each advisory committee meeting and approve the agenda. The DFO must be a full-time federal employee. The DFO is authorized to adjourn meetings when it is in the public interest to do so. 5 U.S.C. App.2, sec.10.
- Closed Meetings. Meetings may be closed only in accordance with the exceptions set out in the Government in the Sunshine Act (5 U.S.C. 552b(c)). To close a meeting to the public, the DFO must obtain the approval of both the Administrator and the General Counsel. 5 U.S.C. App. 2, sec.
- Availability of Documents. Subject to the FOIA exemptions, all documents provided to or created by or prepared for an advisory committee must be provided to the public on request. 5 U.S.C. App. 2, sec. 10.

In instances where regulations, program guidance or the public involvement plans of state or local agencies, call for advisory groups, such groups should follow applicable state and local laws.

The following addendum is not part of the Policy. It contains information that may be useful to EPA staff and the public.

***Addendum 1: Selected Tools to Support Public Involvement***

Community Culture and the Environment: A Guide to Understanding a Sense of Place (EPA 842-B-01-003, January 2003) <http://www.epa.gov/ecocommunity/pdf/ccecomplete.pdf>

Environmental Justice in EPA Permitting: Reducing Risk in High-Risk Communities is Integral with the Agency's Mission, National Academy of Public Administration, December, 2001  
<http://www.epa.gov/compliance/resources/publications/ej/napa-epa-permitting.pdf>

RCRA Public Involvement Manual (EPA530-R-96-007, September 1996)  
<http://www.epa.gov/epaoswer/hazwaste/permit/pubpart/manual.htm>

Guide on Consultation and Collaboration with Indian Tribal Governments and the Public Participation of Indigenous Groups and Tribal Citizens, National Environmental Justice Advisory Committee, Indigenous Peoples Subcommittee, November, 2000  
[http://www.epa.gov/compliance/resources/publications/ej/ips\\_consultation\\_guide.pdf](http://www.epa.gov/compliance/resources/publications/ej/ips_consultation_guide.pdf)

How to Participate in EPA Decision-Making (63 FR 58038, October, 1998)  
Resource Guide for Resolving Conflicts in Communities (EPA/360-F-00-001, May 2001)  
<http://www.epa.gov/adr/Resguide.pdf>

Information Products Bulletin: see <http://www.epa.gov/ipbpages>

Libraries at EPA: see <http://www.epa.gov/natlibra/libraries.htm>

Model Plan for Public Participation (EPA/300-K-96-003, November 1996)  
[http://www.epa.gov/compliance/resources/publications/ej/model\\_public\\_part\\_plan.pdf](http://www.epa.gov/compliance/resources/publications/ej/model_public_part_plan.pdf)

Office of Cooperative Environmental Management <http://www.epa.gov/ocem>

Public Involvement Web site: see <http://www.epa.gov/publicinvolvement>

Public Involvement in Environmental Permits: A Reference Guide (EPA599-R00-007, August 2000) <http://www.epa.gov/permits/publicguide.htm>

RCRA Public Involvement Manual (EPA 530-R-96-007, September 1996)  
<http://www.epa.gov/epaoswer/hazwaste/permit/pubpart/manual.htm>

Regulations and Proposed Rules Web site: see <http://www.epa.gov/opei/regulatory.htm>

Small Business Gateway Web site: see <http://www.epa.gov/smallbusiness/>

Social Aspects of Siting RCRA Hazardous Waste Facilities (EPA/530-K-00-005, April, 2000)  
[www.epa.gov/epaoswer/hazwaste/tsds/site/k00005.pdf](http://www.epa.gov/epaoswer/hazwaste/tsds/site/k00005.pdf)

Strategic Information Plan: A Framework for the Future (July 29, 2002): see  
<http://www.epa.gov/oei/collecting.htm>

Public Involvement Techniques for Transportation Decision-making, US Department of Transportation, Federal Highway Administration, Federal Transit Administration (FHWA-PD-96-031HEP-30/9-96/(4M)QE, September 1996)  
<http://www.fhwa.dot.gov/////reports/pittd/contents.htm>

The following addendum is not part of the Policy. It contains information that may be of interest to EPA staff and the public.

### ***Addendum 2: Summary of Response to Comments***

EPA received 202 public comments on the draft policy. Comments came from 26 state agencies, 12 local governments, 17 environmental organizations, 82 citizens, 5 industrial interests, 5 agricultural interests, and many others.

The most frequent comments request that EPA:

- Improve how it plans and conducts public meetings
- Clarify the roles of state and local governments in EPA's decisions and clarify how the policy affects state public involvement activities
- Ensure that public input influences EPA's decisions, and that EPA provides feedback to participants or commenters
- Use specific enhanced methods for conducting outreach to the public
- Affirm its commitment to early and meaningful public involvement
- Implement the policy and hold staff and managers accountable for public involvement
- Increase and improve its use of electronic communication methods
- Put more emphasis on evaluation
- Reference good EPA resources for staff and managers to use
- Relate public involvement to EPA's mission

EPA made many changes to the Policy and its presentation to accommodate the comments. The most significant changes were:

- Clarifying the roles of state, tribal and local governments
- Clearly stating the Policy applies only to EPA
- Expanding and clarifying Step 5 - "Conduct public consultation and involvement activities" to include suggestions for when to use which techniques
- Adding a list of public involvement tools (Addendum 1)
- Adding a seventh step on Evaluation
- Expanding the section "Who is responsible for managing the application of this Policy?" to include additional officials and levels of authority
- Including a prominent statement of EPA's mission
- Stating the relationship of public involvement to environmental justice
- Including a summary of the Policy at the beginning
- Placing response to comments information in an addendum to the Policy
- Editing to maximize clarity and minimize redundancy
- Moving most definitions to an appendix
- Revising the Advisory Committees appendix to match the latest FACA revisions
- Eliminating most of the statutes, regulations and Executive Orders, and listing only the key statutes as an appendix
- Recognizing resource constraints in several places
- Adding information about those portions of the Privacy Act that relate to contact lists
- Adding information about the EDOCKET

The Policy has been modified to address these comments. The "Framework for Implementing EPA's Public Involvement Policy" and materials in development for distribution to staff and managers will also respond to many of the comments.

EPA's Response to Comments on the Draft 2000 Public Involvement Policy" is available on the Internet at <http://www.epa.gov/publicinvolvement>. Printed copies are also available by request to: USEPA/OPEI/OEPI Mail Code 1807T, Public Involvement Staff, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

The public input received through EPA's Internet-based "Dialogue on Public Involvement in EPA Decisions" helped to inform the Implementation Plan. EPA convened a 10-day Internet-based Dialogue in July 2001 through which 1,166 participants suggested how EPA could improve public involvement and identified areas of needed improvement. Many of the suggestions parallel the ideas expressed in formal public comments. (See Dialogue messages at <http://www.network-democracy.org/epa-pip>.) Participants suggested ways that EPA could improve in the following areas:

- ▶ Identifying members of the public who should be invited to participate
- ▶ Providing technical and financial assistance to assist the public's participation
- ▶ Effectively using collaborative processes (through advisory committees or other participatory practices)
- ▶ Evaluating EPA's public involvement activities and making EPA accountable
- ▶ Conducting effective public involvement for local site-specific decisions
- ▶ Providing outreach to the public in effective ways
- ▶ Making necessary information and documents available to the public
- ▶ Improving the public involvement process for permits and rules
- ▶ Working with states, tribes and local governments

**Published Federal Register material not duplicated in the Public Involvement  
Policy, its Appendices and Addenda**

**ENVIRONMENTAL PROTECTION AGENCY**

6560-50

**OA-2003-0005: FRL-7508-7**

**Public Involvement Policy**

**AGENCY:** Environmental Protection Agency (EPA)

**ACTION:** Notice of New Public Involvement Policy

**SUMMARY:** The EPA is issuing its new Public Involvement Policy. The purpose of today's Notice is to advise the public and present the Policy. The new Policy provides guidance to EPA staff on effective and reasonable means to involve the public in EPA's regulatory and program implementation decisions. The core of the Policy is the recommended seven basic steps for effective public involvement, which the Agency should consider when making major decisions on rules, policies and program implementation activities. The Policy is directed internally, but EPA's partners in states, tribes or local governments may also find it to be a useful tool for them.

**FOR FURTHER INFORMATION CONTACT:** Patricia Bonner, Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W. Washington, DC 20460-0001; 202-566-2204; [bonner.patricia@epa.gov](mailto:bonner.patricia@epa.gov). For printed copies, telephone 202-566-2216.

**SUPPLEMENTARY INFORMATION:** How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OA-2003-0005. The official public docket consists of the complete Public Involvement Policy with its appendices and addenda, public comments on the 1981 and draft 2000 Policy, the Agency's Response to Comments and the Framework for Implementing EPA's Public Involvement Policy. The official public docket is the collection of materials that is available for public viewing at the Office of Environmental Information Docket, EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744.

2. *Electronic Access.* You may access this Federal Register document electronically through the EPA Internet under the "Federal Register" listings at <http://www.epa.gov/fedrgstr/> or use <http://www.epa.gov/publicinvolvement> to access the Policy and all its attachments. Electronic versions of items in the public docket are available through EPA's electronic public docket and comment system, EPA Dockets (EDOCKET). You may use EDOCKET at <http://www.epa.gov/edocket/> to access the index listing of the contents of the official public docket and documents that are available electronically. Once in the system, select "search," then key in the appropriate docket ID number. You may still access any of the publicly available docket materials through the EPA Docket Center.

## **BACKGROUND**

On January 19, 1981, the Environmental Protection Agency (EPA) published its first Agency-wide Public Participation Policy (46 FR 5736, Jan. 19, 1981). In November 1999, the EPA requested public comment on whether and how to change that Policy, and subsequently began a process to revise the policy and create a plan to implement it across the Agency. In December 2000, EPA released a draft revised Public Involvement Policy for public comment (65 FR 82335, Dec. 28, 2000). The comment period closed on July 31, 2001, following a two-week internet-based dialogue on "Public Involvement in EPA Decisions," which included 1,144 participants from all 50 states.

## **OVERVIEW OF EPA'S NEW PUBLIC INVOLVEMENT POLICY**

The Policy's core elements are the following seven basic steps for effective public involvement:

1. Plan and budget for public involvement activities
2. Identify the interested and affected public
3. Consider providing technical or financial assistance to the public to facilitate involvement
4. Provide information and outreach to the public
5. Conduct public consultation and involvement activities
6. Review and use input, and provide feedback to the public
7. Evaluate public involvement activities

This Policy is meant to encourage development of new tools for public involvement and should not limit the degree or types of public involvement already in use at EPA. Agency guidance, which EPA is issuing simultaneously with this Policy, provides specific recommendations for accomplishing each of these seven steps, while also acknowledging the need for EPA officials to use discretion when planning and implementing public involvement activities.

The Policy reflects changes over the past 22 years such as:

- New and expanded public participation techniques
- New options for public involvement through the Internet
- EPA's emphasis on assuring compliance
- Increased use of partnerships and technical assistance
- Increased public access to information
- Increased capacity of States, Tribes and local governments to carry out delegated programs

The Policy also reflects EPA's experience with public involvement from the national to the local level, and incorporates many ideas provided to EPA through public comments on the draft Policy. Today's Notice is limited to this brief introduction and the core policy statement. Concurrent with this Notice, EPA is also issuing the following supporting documents to facilitate and promote support the Policy's implementation:

Appendix 1- "Guidance for Implementing Public Involvement at EPA"

[<http://www.epa.gov/publicinvolvement/policy2003/guidance.pdf>.]

Appendix 2 - Definitions that are integral to this Policy

Appendix 3 - Examples of EPA's Public Involvement Regulations

Appendix 4 - Federal Advisory Committees

Addendum 1 - Selected tools the Agency has developed since 1981 to assist EPA staff and regulatory partners in conducting public involvement and consultation

Addendum 2 - Summary of comments and EPA's responses.

Two additional documents may be of interest. The Agency's complete "Response to Comments on EPA's Draft 2000 Public Involvement Policy" is available at <http://www.epa.gov/publicinvolvement/responsetocomments.pdf> and the "Framework for Implementing EPA's Public Involvement Policy" is available at <http://www.epa.gov/publicinvolvement/framework.pdf>. (All documents referenced in the Policy are also available upon request to Public Involvement Staff, USEPA/OPEI/OEPI/PPCD Mail Code 1807T, 1200 Pennsylvania Ave., NW, Washington, D.C. 20460.)

The goal of this Policy is to improve the effectiveness of EPA's public involvement activities, ensure well-informed decisions, and encourage innovative methods for involving the public. As EPA implements the Policy, the Agency plans to share its experiences with states, tribes, local governments and other partners and interested parties.

**Date:**

May 29, 2003 \_\_\_\_\_

\_\_\_\_\_  
Christine Todd Whitman

**Administrator.**





