The concept of environmental injustice—that residents of some communities, especially those with significant percentages of minority or low-income populations, may experience disproportionately high levels of adverse health effects from environmental pollutants—has been around for several decades. However, this simple definition does little to identify all of the possible manifestations of this phenomenon or provide the specifics necessary to guide the development of effective approaches to mitigate or prevent adverse effects to human health and the environment.

The US Environmental Protection Agency (EPA) and other federal, state, and local agencies have been working for more than two decades to address such inequality. Identifying cases of environmental injustice or potential injustice requires not only quantitative data, such as emissions, exposure, and area demographic data (e.g., race, ethnicity, household income), but also a nuanced, qualitative understanding of the degree to which community residents are able to participate “meaningfully” in community decision-making processes, such as those surrounding permitting actions.

The “promising practices” document represents an important milestone in encouraging meaningful involvement of all populations.

Engaging Overburdened Communities in Permitting Actions: US Environmental Protection Agency’s “Promising Practices” to Promote Environmental Justice

Carol J. Forrest
Fortunately, the EPA has made substantial strides in the development and use of quantitative data to identify potential “environmental justice” (EJ) communities. Further, the agency has also worked with numerous stakeholders to develop a public engagement framework that can promote “meaningful involvement” in overburdened communities during permitting activities—an important step toward environmental health parity among all communities in the United States.

About This Article

This article presents an overview of EPA’s “Promising Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Neighboring Communities,” which appeared in the Federal Register on May 9, 2013 (EPA, 2013, pp. 27228). The “promising practices” document represents the culmination of years of work by the agency, and it provides a truly useful approach that permit applicants can use to engage their communities with the sensitivity and flexibility necessary to identify, address, and prevent potential environmental injustice situations.

However, to fully understand the importance of the “promising practices,” I first provide an overview of EJ, including important definitions and a discussion of key EJ documents. This background provides insights into EPA’s thinking regarding EJ as it relates to permitting activities.

I should note that most of the sources cited in this article, including the “promising practices,” apply to federal EPA activities and spell out strategies that the federal agency and its regional offices intend to take to prevent and mitigate cases involving environmental injustice. However, the agency states that it expects that state and local governments will seek guidance from these documents, as well. Industry, consultants, and advocacy groups are also expected to use these documents.

What Is EJ? Some Important Definitions

The short description given at the beginning of this article conveys the concept of environmental injustice, but it is not sufficiently descriptive for either government or industry to develop concrete programs to address it. For this reason, I am presenting several formal definitions that provide the details necessary to understand this complex issue.

First, I should note that I used the term “environmental injustice” at the beginning of this article, which may have surprised some readers. EJ, as defined in this section, is what the EPA is striving to achieve—to remedy injustice. Ironically, the term is also used, as in the phrase “an EJ community,” to refer to a community that is either experiencing, or in danger of experiencing, disproportionately high and adverse human health or environmental effects, and thus is in need of EJ. Hopefully, readers will be able to pick through the senses in which this term is used—both as a goal to shoot for and a label suggesting that actions must be taken to prevent continuing or potential injustice.

Four of the most important definitions provided here apply to the terms “EJ,” “overburdened,” “fair treatment,” and “meaningful involvement.” The definitions of these terms and others included in the “Additional Definitions” sidebar can go a long way toward helping readers understand EPA’s approach to EJ, especially in regard to permitting actions. However, as the sections following these definitions explain, there are other elements—including historical lack of enforcement—which provide additional depth and meaning to these terms.
Meaningful Involvement

Meaningful [public] involvement 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 contributions can influence the regulatory agency’s decisions; (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. (EPA, 2011, p. 3)

This last definition is particularly important in regard to the “promising practices.” As the following paragraphs explain, absent meaningful involvement, virtually any contentious permitting action, regardless of the demographic makeup of the community, could be claimed as evidence of environmental injustice.

Demographics Are Not Absolute Determinants

In keeping with the complexity of social and community-based issues, the absence of minority and/or low-income populations in the vicinity of a facility undergoing permitting is not necessarily the only determining factor that the EPA would consider when determining whether EJ considerations come into play. One must also consider whether nearby populations will be disproportionately affected by pollutants and whether community residents were given an opportunity to engage in “meaningful involvement.”

Historically, environmental justice concerns have focused on populations considered to be minority and/or low-income; however, since environmental justice is

Environmental Justice

[EJ] is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA has this goal for all communities and persons across this Nation. It will be achieved when everyone 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. (EPA, n.d., para 1)

Overburdened

Overburdened is used to describe:

the minority, low-income, tribal, and indigenous populations or communities in the US that potentially experience disproportionate environmental harms and risks as a result of greater vulnerability to environmental hazards. This increased vulnerability may be attributable to an accumulation of both negative and lack of positive environmental, health, economic, or social conditions within these populations or communities. (EPA, 2011, p. 1)

Fair Treatment

Fair treatment means that no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies. (EPA, 2011, p. 3)
Additional Definitions Used in EJ Assessments

The following definitions are taken directly from the EPA’s 2004 document, “Toolkit for Assessing Potential Allegations of Environmental Injustice” (EPA, 2004) and are meant to be used in the context of conducting EJ assessments. They are, however, also very useful to understand the specifics of the EJ issue.

Affected Area or Community of Concern

The affected area or community of concern is the geographic area of analysis that the proposed project or action will or may have an effect on.

Adverse Effect or Impact

Adverse effect or impact is a term used to describe the entire compendium of “significant” (as defined under the National Environmental Policy Act) individual or cumulative human health or environmental effects or impacts that may result from a proposed project or action. Examples of adverse effects or impacts include but are not limited to:

- Bodily impairment, infirmity, illness, or death;
- Air, noise, soil, and water pollution or contamination;
- Destruction or disruption of man-made or natural resources;
- Destruction or disruption of aesthetic values;
- Destruction or disruption of community cohesion or a community’s economic vitality;
- Destruction or disruption of the availability of public and private facilities and services;
- Vibration;
- Adverse employment effects;
- Displacement of persons, businesses, farms, or nonprofit organizations; and
- Increased traffic congestion, isolation, exclusion, or separation of individuals within a community or from a broader community.

Disproportionately High and Adverse Effects or Impacts

Means an adverse effect or impact that: (1) is predominantly borne by any segment of the population, including, for example, a minority population and/or a low-income population; or (2) will be suffered by a minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect or impact that will be suffered by a nonminority and/or non-low-income population.

Low Income

Low income means a person whose median household income is at or below the US Department of Health and Human Services poverty guidelines.

Low-Income Population

Low-income population means any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant farm workers of Native Americans) who will be similarly affected by a proposed project or action, or EPA program, policy, or activity.

Minority

Minority means a person, as defined by the US Bureau of Census, who is a: (1) Black American (a person having origins in any of the black racial groups of Africa); (2) Hispanic person (a person of Mexican, Puerto Rican, Cuban, Central or South America, or other Spanish culture or origin, regardless of race); (3) Asian American or Pacific Islander (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); or (4) American Indian or Alaskan Native (a person having origins in any of the original people of North America and maintains cultural identification through tribal affiliation or community recognition).

Minority Population

Minority population means any readily identifiable group of minority persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed project or action, or EPA program, policy, or activity.

Reference Community

Reference community means another community of equal size, the surrounding county, the region or metropolitan statistical area, the state, or the entire United States.

Within the context of this suggested approach, the term “geographic areas” is used instead of the term “environmental justice communities” as follows when conducting EJ assessments:
Engaging Overburdened Communities in Permitting Actions

- Geographic areas where any readily identifiable group of minority persons reside at a higher percentage than the state average minority populations which are defined by the U.S. Bureau of Census as individuals who are members of the following population groups: American Indian or Alaskan Native; Asian American or Pacific Islander; Black American not of Hispanic origin; or Hispanic. This definition includes, if circumstances warrant, geographically dispersed/transient persons who may not be accounted for in census data. These populations include seasonal, migrant farm workers. Sources of information regarding small pockets of minority populations can be obtained through local churches, state and local colleges, community centers, and expanded public participation efforts.
- Geographic areas where any readily identifiable group of individuals, whose median household income is at or below the U.S. Department of Health and Human Services poverty guidelines, who reside at a higher percentage than the state average. Because the U.S. Bureau of Census data related to poverty is only gathered every 10 years and may not provide the level of detail required for analysis, local sources of information (e.g., university, local or state departments of economic development) can also be used to augment census data. Geographic areas where the percentage of children (6 years of age and younger) and/or older individuals (65 years and older) reside at a higher percentage than the state average (EPA, 2004, pp. 17–19).

defined as the fair treatment of all people, this characterization would not necessarily cause an [EJ] assessment to be considered “closed” if the population were not considered minority or low-income. (EPA, 2004, pp. 21–22)

What the Department of Justice Says About EJ

The US “Department of Justice [DOJ] Guidance Concerning Environmental Justice” (DOJ, 1994) adds another wrinkle to some EJ cases: historical lack of enforcement in some communities. This factor is in addition to the presence of disproportionately high levels of adverse health effects and/or lack of opportunity to engage in meaningful involvement. The DOJ lists the following factors that should be considered when determining whether a specific situation may involve EJ:

- Whether individuals, certain neighborhoods, or federally recognized tribes suffer disproportionately adverse health or environmental effects from pollution or other environmental hazards;
- Whether individuals, certain neighborhoods, or federally recognized tribes suffer disproportionate risks or exposures to environmental hazards, or suffer disproportionately from the effects of past under enforcement of state or federal health or environmental laws; and
- Whether individuals, certain neighborhoods, or federally recognized tribes have been denied an opportunity for meaningful involvement, as provided by law, in government decision making related to the distribution of environmental benefits or burdens. Such decision making might involve permit processing and compliance activities (DOJ, 1994, pp. 5–6).

A Word on the Scientific Bases for Determining Risk to Disadvantaged Populations

Finally, lest any reader wonders whether demographic characteristics (e.g., age, race/ethnicity, gender, income) can exacerbate exposure to pollutants, I am including the following excerpts from the Science Tools Development Section from EPA’s Plan EJ 2014:

Multiple aspects of the physical environment in which we live, learn, work, and play can put certain groups of people ‘at higher risk.’ Also, individuals and groups may experience disadvantages related to their gender, lifestage, socioeconomic status, race, ethnicity, disability, education,
geographic location, or other characteristics historically linked to discrimination or exclusion. This complex interaction between the physical environment and other conditions of social disadvantage contributes to social disparities in environmental health outcomes….

...The concept of disproportionate environmental health impacts and burdens refers to the finding that some populations systematically experience higher levels of risks and impacts than the general population….This perspective recognizes that multiple factors, including social, psychosocial, economic, physical, chemical, and biological determinants may contribute to disproportionately high and adverse human health or environmental impacts. (EPA, 2011, p. 45)

Exhibit 1 lists some of the many factors, characteristics, or circumstances that could trigger concerns about environmental injustice in permitting actions for reasons having to do with disproportionately high levels of adverse health effects and/or lack of meaningful involvement.

Legal Underpinnings of EJ

Persons studying EJ will no doubt begin with, or encounter early in their studies, Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (Office of the President of the United States, 1994). This order was signed by then-President William Clinton on February 11, 1994, and it “directs federal agencies to put in place procedures and take actions to make achieving EJ part of their missions” (DOJ, 1994, p. 2).

The DOJ goes on to note that, in the memorandum issued with the executive order, the President “underscore[d] certain provisions of existing law that can help ensure that all communities and persons across this Nation live in a safe and healthy environment...[Further], [t]he memorandum…directs agencies to take ‘appropriate and necessary steps to ensure’ that existing laws are implemented ‘immediately’ to redress disproportionate environmental harms” (DOJ, 1994, p. 2).

These statutes require that the EPA ensure equal protection from environmental hazards to all United States residents, regardless of race, ethnicity, income, and the like, as well as the opportunity to participate in public decision-making processes.

In EPA’s case, implementation of EJ is consistent with the following, existing statutes:

- Title VI of the Civil Rights Act of 1964 (DOJ, 1964);
- The agency’s own civil rights program (EPA, date unknown); and

Plan EJ 2014 and Its Emphasis on Permitting

EPA’s current approach to EJ in permitting was first delineated in Plan EJ 2014 (EPA, 2011). Plan EJ 2014, which was issued in September 2011, was one of the direct antecedents to the “promising practices” document. The name, Plan EJ 2014, is meant to mark the 20th anniversary of executive order 12898, discussed in the previous section.
### Exhibit 1. Factors That Should Be Considered When Identifying Cases of Potential Environmental Injustice—and for Identifying Potential Challenges to Meaningful Involvement

<table>
<thead>
<tr>
<th>Factors That Could Lead to Disproportionately High Levels of Adverse Health Effects from Environmental Pollutants</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Large number of emissions sources, including point, area, and mobile sources combining to approach or exceed air quality standards, safe drinking water standards, etc.</td>
</tr>
<tr>
<td>• Historical lack of enforcement or other safeguards, meaning long-standing exposures.</td>
</tr>
<tr>
<td>• Demographic or cultural features that can increase pollutant exposures.</td>
</tr>
<tr>
<td><strong>Examples:</strong></td>
</tr>
<tr>
<td>◦ Subsistence fishing,</td>
</tr>
<tr>
<td>◦ Reliance on household-raised produce, and</td>
</tr>
<tr>
<td>◦ Occupational exposures.</td>
</tr>
<tr>
<td>• Demographic features that can make residents more susceptible to the adverse effects of exposure to pollutants.</td>
</tr>
<tr>
<td><strong>Examples:</strong></td>
</tr>
<tr>
<td>◦ Genetic predispositions to certain medical conditions,</td>
</tr>
<tr>
<td>◦ Lack of affordable fresh produce for lower income residents, and</td>
</tr>
<tr>
<td>◦ Significant numbers of elderly or very young residents, who are more susceptible to the adverse effects of pollutant exposures.</td>
</tr>
<tr>
<td>• Neighborhood features that can lead to greater susceptibility to adverse health effects from environmental exposures.</td>
</tr>
<tr>
<td><strong>Examples:</strong></td>
</tr>
<tr>
<td>◦ Lack of nearby or readily accessible stores selling fresh produce,</td>
</tr>
<tr>
<td>◦ Lack of access to medical care or inability to afford medical care,</td>
</tr>
<tr>
<td>◦ Lack of exercise in neighborhoods that may have high crime rates or that lack pedestrian-friendly streets or parks, and</td>
</tr>
<tr>
<td>◦ Aging housing stocks with asbestos, lead paint, and other hazards.</td>
</tr>
</tbody>
</table>

#### Identifying Potential Lack of Access to Meaningful Public Involvement

- Social or political structure of community may discourage, intentionally or not, involvement on the part of some populations (e.g., low-income, new residents, renters, racial, or ethnic minorities).
- Long distances (in rural areas) to meeting areas, libraries, or other resources.
- Lack of reliable public transportation urban and suburban areas; lack of transportation options for some rural residents.
- Lack of appropriate, acceptable, and safe meeting places, including wheelchair accessible facilities.
- Other factors, such as crime, which may discourage residents from entering certain areas or going out at night.
- Language barriers (e.g., immigrants who do not speak English, hearing-impaired residents).
- Literacy issues or low levels of educational achievement (e.g., difficulty understanding technical terms or scientific concepts or processes).
- Work schedule issues (e.g., large number of shift workers in community or large number of residents holding multiple jobs) can make scheduling meetings and other engagement activities difficult.
- Multiple channels of communication within a single community means that different groups of residents may get their information via different means (e.g., local newspaper, neighborhood newsletters, church bulletins, interest group websites). Thus, communication through multiple channels may be necessary.

Demographic data, interviews, and input from community leaders can help determine how best to reach out to all stakeholder groups or populations that should be included in permitting dialogues and engagement activities.

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Although Plan EJ 2014 applies only to the federal EPA and its regions, in it, the agency states that it intends that the concepts, goals, strategies, and tools that it is developing will eventually be implemented by the states, local agencies, tribal and indigenous people’s agencies, and other federal agencies. Plan EJ 2014 maps out five broad cross-functional areas through which the EPA plans to incorporate EJ. These five areas include:

- Incorporating EJ into rulemaking,
- Considering EJ in permitting,
(2) Assist permitting authorities to meaningfully address environmental justice issues in permitting decisions to the greatest extent practicable. (EPA, 2011, p. 10)

Specific Proposals to Address EJ in Permitting

Plan EJ 2014 confirms several key trends in EPA’s ongoing efforts to address EJ through a more vigorous approach to permitting. I have pulled together from the document these proposed actions, which include:

• Compiling data on cumulative risk from both permitted and unpermitted sources and using these data to inform permitting actions, including the setting of permit operating conditions;
• Exploring increased monitoring, including monitoring requirements in permitting actions;
• Expanding the inclusion of mitigation and Supplemental Environmental Project–like activities into permitting actions in overburdened communities;
• Developing and encouraging the use of quantitative data (e.g., socioeconomic and demographic data as well as data on emissions, permit exceedences, and existing contaminated sites) to identify potentially overburdened communities;
• Considering the distribution of both the environmental burdens and benefits of EPA’s past and present actions; and
• Empowering communities and community groups by providing information, permit pre-application meetings, technical assistance, and the like to promote meaningful public involvement.

Discussion of These Proposals and What They Might Mean for Permit Applicants

In the following paragraphs, I discuss what these proposed actions might mean to permit applicants.

Plan EJ 2014 confirms several key trends in EPA’s ongoing efforts to address EJ through a more vigorous approach to permitting. The overarching goals of this plan are to enable overburdened communities to have full and meaningful access to the permitting process and to develop permits that address environmental justice issues to the greatest extent practicable. (EPA, 2011, p. 43)

Permitting is a key activity for addressing and preventing environmental injustices, as this excerpt explains:

Many federal environmental statutes rely heavily on permits to deliver the environmental protection results that are the goal of our federal environmental laws. These permits play a key role in providing effective protection of public health and the environment in communities. Building upon the Agency’s efforts to incorporate environmental justice concerns in rules, Plan EJ 2014 calls upon the EPA to consider environmental justice concerns during the permitting process. The EPA will develop and implement tools to: (1) Enhance the ability of overburdened communities to participate fully and meaningfully in the permitting process, and
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applicants and the communities in which their facilities operate.

**Cumulative Risk Data**

The first bullet point, compiling data on cumulative risk and possibly using it to set permit operating conditions, represents a departure from considering each permit on its own. Both advocacy groups and communities have been asking for an approach such as this for several decades. This approach does place permit applicants in a position of having to address emissions or environmental conditions that are not under their control—something that may not please them. However, this is probably inevitable as additional monitoring data become available.

Interestingly, in the “promising practices” document, the EPA advises that permit applicants invite owners or operators of other permitted facilities to participate in their community engagement activities (EPA, 2013, p. 27229), which suggests that permit applicants are not the only parties who may need to have substantive dialogues with their neighbors regarding cumulative risk within the context of a given permitting action.

**Increased Monitoring**

The second bullet point, which calls for increased monitoring as a condition of permitting, is another action that advocacy groups and communities have been requesting for a long time—at least in cases in which there is some contentiousness over a permit. Managers of facilities that have difficulty controlling their emissions will probably not like this approach.

However, managers of facilities that operate at or below their emissions limits are likely to welcome, at least for community relations purposes, the opportunity to show, via scientific data, that they are complying with their permits. Further, depending on the parameters that the monitors are measuring and the locations of the monitoring stations, some facility managers may find that the monitoring data can demonstrate that excessive emissions in area are not caused by their specific facilities.

**Mitigation Projects**

The third bullet point, use of Special Environmental Project–like mitigation to relieve some of the burden on nearby populations, presents an intriguing idea. Whether permit applicants will embrace or resist this proposal, or whether such mitigation projects deliver real environmental benefits to host communities, remains to be seen.

**Developing and Using Quantitative Data**

The fourth bullet point, which advocates the greater development and use of quantitative data and other authoritative information, should be viewed as a positive step by most permit applicants. The ability to refer to actual emissions data or risk data is typically preferable to asking community residents or other stakeholders to “trust us.” The availability of quantitative data increases the likelihood of substantive dialogues that are less likely to become bogged down by supposition or vague fears.

**Distribution of Past and Present Environmental Burdens and Benefits**

Although the fifth bullet point, which addresses a community’s history in receiving “environmental burdens and benefits,” is basically an issue for the EPA or other agencies to address, I find that history frequently looms large in the minds of community residents and other stakeholders.

Understanding what issues communities have had to deal with in the past—and how they dealt
recommendations from its National Environmental Justice Advisory Council.

The EPA then published in the Federal Register on June 26, 2012, the proposed “EPA Activities to Promote Environmental Justice in the Permit Application Process” (EPA, 2012a).


Twenty-eight individuals and individuals representing various organizations commented on the draft “best practices.” Included among these comments was support from a number of commenters for encouraging permit applicants to take an active role in the public engagement process. Some commenters also recommended that the EPA advocate the use of community assessments or research at the very beginning of public engagement efforts to ensure that those who needed to be involved were identified and to inform other aspects of the engagement effort—such as identifying how best to communicate with communities or specific populations within communities.

Some of the comments also suggested that the term “best practices” could be misinterpreted, particularly by permit applicants who might believe that specific practices, in and of themselves, would automatically constitute “meaningful involvement.” One such practice singled out for discussion was community advisory panels (CAPs) and other advisory groups.

Successful CAPs typically take time to form and to establish themselves as operating advisory groups.

The Long Road to “Promising Practices”

After publishing Plan EJ 2014 in 2011, the EPA embarked on a series of listening sessions, conference calls, and meetings with a wide variety of stakeholders, including the business community; advocacy groups representing environmental and social justice organizations; other nongovernmental organizations; state, local, and tribal governments and communities; and others who wished to weigh in on how to address EJ and, especially, on how to engage communities and diverse populations. The EPA also received
permitting action may not be feasible (Forrest, 2013). Certainly, neither CAPs nor any other single outreach activity constitutes “a silver bullet” in all situations.

Ultimately, the EPA hit upon a far more flexible and comprehensive approach to public engagement; this approach appears in its “promising practices” document.

“Promising Practices” Are Voluntary for Permit Applicants

“Promising Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Neighboring Communities” (EPA, 2013) does not change existing regulations or guidance regarding public participation in permitting actions, nor does it require permit applicants to engage the public on their own. As the EPA states:

EPA is issuing Promising Practices to encourage permit applicants to strategically plan and conduct enhanced outreach to overburdened communities in the permitting process.

...EPA is not requiring permit applicants to adopt the Promising Practices. Promising Practices are simply that: Good ideas in the form of suggestions to permit applicants. EPA believes permit applicants may benefit from applying these Promising Practices. The EPA hopes that when permit applicants practice early and meaningful dialogue with community members, they can help build trust, promote a better understanding in neighboring communities of the facility’s environmental impact, and build strong relationships that will lead to better results for both the permit applicant and the community. (EPA, 2013, pp. 27221–27222)

Pre-Application Dialogues

The EPA makes a strong case for beginning dialogues with neighboring populations early in the permitting process, preferably before the permit application is completed. This allows stakeholders to provide input at a time when changes can be readily incorporated into the application.

In my own two decades of experience with permitting and other public involvement activities, I can confirm that stakeholders prefer to be consulted at a time when their questions and/or concerns will actually be considered and could make a difference. Anger at being “shut out” of the process when their comments could have had some impact on the permit application can often far outweigh actual concerns.

As the EPA compellingly states:

Some communities at the very least want the assurance that, through appropriate permit terms and conditions, the permit applicant accepts responsibility for appropriately controlling its pollutant releases and keeps a community informed of its control successes (and failures)…. Conversations between the permit application and community members before the permit application is filed can help launch the permit process in a way that achieves all of these interests, with minimum conflict and delay. This could result in a more expeditious permitting process. (EPA, 2013)

The Engagement Process as Outlined in “Promising Practices”

Exhibit 2 shows my rough depiction of public engagement using the “promising practices”
The second and third steps, “engage effectively” and “communicate effectively,” may appear to overlap. This is because they address both the process of communication and engagement (how to do it) as well as ensuring that information and feedback (the information itself) continues to flow as the engagement process moves forward.

Public engagement is an extremely dynamic process, especially over time. The ability to respond quickly and effectively to changing needs for information or to accommodate additional stakeholders who want or need to be involved is vital to the success of the process.

Finally, the exhibit includes “follow-up” as a formal activity. This, too, is extremely important to permit applicants, whether they recognize it initially or not. Especially in cases of past,
current, or potential environmental injustice, engagement regarding permitting should not be viewed as a one-time event. The ability to ensure that remaining issues are addressed and to maintain a dialogue—even if this involves only the occasional phone call or meeting to maintain ties—is a step toward healing some of the wounds left by environmental injustice and promoting a healthy environment for community residents.

Community Assessment and Information Gathering to Support Meaningful Engagement

The EPA had this to say about the importance of doing some homework prior to designing or implementing a community engagement effort:

Before deciding whether to undertake special efforts to reach out to the neighboring community regarding a permit application, a permit applicant may want to ask itself the following types of questions. The answers to these questions may help a permit applicant decide what kind of community engagement will be most appropriate under the circumstances. (EPA, 2013, p. 27228)

The questions include (presented here verbatim):

- What are the geographic boundaries of the neighboring community?
- What are the demographics of the neighboring community?
- Who in the community may be affected by the proposed permit?
- Has the facility successfully worked with the neighboring community in the past?
- Are there other facilities or major pollution sources (e.g., highways, landfills) in the neighboring community? Do community members have a history of engaging with those facilities?
- Would the new permit introduce new or additional pollutants to the neighboring community?
- Is the neighboring community already exposed to pollutants originating from other facilities?
- How will changes at the facility site affect the quality of life in the neighboring community, independent of the pollutants released?
- Is the proposed pollutant release—or associated activity—likely to cause concern among community members?
- If a risk assessment has been performed for the neighboring community, what does it say? What have community members said about it?
- What direction do the permit applicant’s published core values offer? (EPA, 2013, p. 27228)

The “promising practices” do not delve much beyond this into the concept of community assessment, which involves identifying stakeholders and analyzing how they interact to share power (or not), how information flows to and among stakeholder groups (or not), what issues may have an effect on perceptions of the permitting process, what questions stakeholders are likely to ask, and the like (Forrest, 1998, 2010).

Technical Data

EPA’s Science Advisory Board is working on a tool called EJSCREEN, which will help EPA staff identify potential “EJ communities.”

The availability of online databases and other resources makes it possible for permit applicants, advocacy groups, consultants, and others to...
Engaging Community Leaders

This step involves identifying and engaging persons who are involved in or understand the needs and aspirations of local stakeholders. These persons include elected and unelected leaders, including government staff, school district staff, and the like; advocacy group leaders; informal leaders (e.g., neighborhood association leaders); and others who have knowledge of the community, including academics. On tribal lands, tribal government and other contacts should be consulted to identify tribal community leaders to commence outreach and assistance to tribal communities.

“Promising practices” emphasizes the importance of consulting those who are involved locally or have local perspectives. This is indeed important. Consulting primarily state or even, in some large urban areas, only citywide leaders, or countywide leaders in rural areas, may not bring the truly local perspectives required for meaningful engagement. It is important to dig deeper and find those who are most likely to be affected to ensure that their very immediate views are heard and understood.

The EPA also advises that permit applicants should seek to work with stakeholders who possess strong interpersonal skills and are willing to seek common interests and cultivate trusting relationships (EPA, 2013, p. 27229). I will add that permit applicants should not avoid those who are critical or “against” the permit. Combativeness is often a sign that a person or group has been denied access to decision-making processes in the past. When these folks are able to come to the table and be heard, they are often willing to engage with others and add substantive comments to the dialogue.

“Promising practices” lists the following examples of persons who should be invited proactively into the discussion of permitting and permit applications:

- Grassroots organizations and leaders,
- Faith community leaders,
- Tribal government and community representatives,
- Academic institutions,
- State, county, or local governments,
- Environmental groups,
- Health organizations, and
- Permittees, including, ideally, the facilities in the neighborhood that engage in activities that generate pollution. (EPA, 2013, p. 27229)

One excellent publication that organizations or persons can consult to get an idea of how one might go about the process of identifying potential environmental injustice in a given area is EPA’s “Toolkit for Assessing Potential Allegations of Environmental Injustice” (EPA, 2004). This document walks the reader through the process of performing an EJ assessment. Although it is a bit light when it comes to examining the types of “community dynamics” analyses that my coworkers and I perform during the community assessment process, overall, the document provides a great deal of useful information on what permit applicants, consultants, and others should look for.
Engaging Overburdened Communities in Permitting Actions

Under “Engage Effectively,” in addition to suggesting pre-application meetings, “early engagement,” and engagement throughout the permitting process at regularly scheduled meetings, this section of “promising practices” lists the following advice that permit applicants should consider for their stakeholder engagement programs (list provided verbatim from “promising practices”):

- Foster sustained involvement by the participants; relationships are created between individuals, not the positions they hold.
- If a public participation plan or policy describing outreach activities was developed, make it available to the public as a sign of the permit applicant’s intention to engage meaningfully with community members.
- Invite community members and leaders to comment on community outreach plans and processes, and give feedback on what is working and lessons learned.
- Discuss project plans and potential impacts as early in the planning process as possible, even if the permit applicant can speak only in general terms.
  - If the permit applicant is unsure about potential impacts, it is better to acknowledge this fact: denying the potential for impacts can undermine credibility and trust.
  - Encourage input from community members on their concerns about particular impacts early in the planning stages.
- Provide progress or status reports.
- Invite members of the community and community leaders for regular tours of the facility, especially when the facility is planning to change a process that might affect the community.
- Consider investing time in public education, for example by hosting one- or two-day public information sessions with posters and kiosks dedicated to specific topics, with discussions led by facility personnel who are both familiar with the subject and capable of effective discussion with the public (using a conversational tone, not being defensive, using clear and non-technical language, etc.). (EPA, 2013, p. 27229)

Communicate Effectively

In “promising practices,” the EPA acknowledges that both stakeholders and permit applicants have limited time and resources, and that establishing practices that effectively allow for two-way communication is vital. Permit applicants will need to identify the best methods to provide information to and receive input from the community. Depending on the community, this may include identifying language barriers or addressing literacy issues and coming up with methods to deal with them in addition to identifying effective media outlets and outreach methods.

Examples and advice to promote effective communication cited in the “promising practices” document include (quoted verbatim from the document):

- Set up a hotline for community members to report a problem or concern about the proposed project.
Identify a single person within the facility to be the liaison that community members can call to report concerns or problems.

Institute regular meetings among all stakeholders.

Consider organizing citizen advisory councils or community environmental partnerships.

Select meeting locations and times that are convenient and comfortable for the community.

Follow advice from community leaders to communicate in ways most effective for the community you are trying to reach.

Use language and terminology that community members understand, including providing technical data in everyday terms.

Consider alternate methods of obtaining input from community members who may be interested but unable to attend public meetings (e.g., allow submission of comments and surveys in writing, online, or through a designated point of contact).

Build in mechanisms for meeting attendees to ask questions, express concerns and propose solutions.

During the meeting, talk about participants’ concerns and questions (rather than simply “taking note” of them).

Recognize that community members may be concerned about a variety of things—within and outside the permit applicant’s control—including matters that do not relate to the permit under discussion (e.g., truck routes and delivery times).

Careful listening and an effort to understanding the underlying interests behind related and seemingly unrelated complaints might yield a solution that addresses community member’s true concerns at a reasonable (or even minimal) cost to the facility.

Considering the use of a neutral facilitator to assist in designing the public engagement process and conduct meetings to encourage all participants (permit applicant and community) to listen effectively, focus on interests rather than initial positions, and identify potential solutions. (EPA, 2013, p. 27230)

**Follow-Up**

This step in the public engagement process can easily fall by the wayside, wasting the goodwill, open-mindedness, and willingness to listen that stakeholders have graciously granted by attending meetings, reading literature, and the like. This is not necessarily a deliberate act on the part of permit applicants, but I have seen facility managers lose enthusiasm for continuing their engagement activities toward the end of the permitting process, both out of exhaustion and due to the pull of other duties that may have been sidelined during the permitting activities.

However, the EPA states correctly, “When a permit applicant delivers on commitments made during meetings (e.g., to provide additional information) a permit applicant demonstrates responsibility, integrity and commitment to the process” (EPA, 2013, p. 27230).
Failing to see the engagement process all the way through can rob both the facility and the community of the sort of ongoing dialogue that can make it much easier to address future issues in a positive and collaborative fashion.

The EPA has hit some very important points in its recommendations regarding follow-up activities. They are cited here verbatim from the text:

- If the public is invited to comment on plans, discuss the comments with community members after considering them.
  - If a comment is not clear, ask for clarification; do not ignore a suggestion due to lack of understanding.
  - Report back to let community members know how their comments affected the permit applicant’s planning or operation.
  - Explain when comments cannot be incorporated into the permit applicant’s planned actions.

- Consider using a good neighborhood agreement to memorialize agreements between permit applicants and communities.
- Make environmental performance records available to community members without being asked, especially regarding pollution matters that are important to some communities.
- Keep the conversation going even after the permit has been issued; maintaining a collaborative relationship with some communities can pay benefits at unexpected times. (EPA, 2013, p. 27230)

Finally, the EPA adds to these recommendations, “Provide opportunities for communities to give feedback on the public engagement strategy, through a formal evaluation or informally through questionnaires, interviews, comment boxes, or debriefs” (EPA, 2013, p. 27230).

**Conclusion**

Although “promising practices” is a short document, the process it presents will definitely help permit applicants engage in meaningful involvement with their communities and the populations within them. Actual messaging, documents, venues, and formats for discussion will have to be tailored to the specific community or populations, but this is true in any case.

One of the most useful suggestions the EPA included in “promising practices” was to work with stakeholders to prepare a community engagement plan, or present a draft plan to them and incorporate their suggestions. Not only does this process enlist stakeholders—quite literally—and give them a vested interest in the engagement process, it will help the permit applicant reach groups or populations that it might not otherwise reach and demonstrate that, indeed, the input of residents and other local stakeholders is valued.

The EPA makes the following comments regarding the “promising practices,” which bear considering here:

Although enhanced engagement of overburdened communities in the permitting process may not necessarily change the permit outcome, EPA believes that meaningful involvement of overburdened communities is a desirable end in and of itself. This is because, in some cases, overburdened communities have significantly
been impacted by a permitted activity but have not been able to access or participate in the permitting process. By expanding a community’s participation in the permitting process, EPA can promote their understanding of the permitted activity, acquire important information about their concerns, and foster a community’s sense of connection to government and business actions.

Additionally, engagement of permit applicants and communities earlier in the permitting process can lead to a more informed permitting process that allows for resolution of issues earlier that could otherwise delay the issuance of a permit. EPA further believes that every time enhanced outreach leads to a feasible solution to an issue of interest to a community, all stakeholders benefit. (EPA, 2013, pp. 27226–27227)

These are important words, and anyone who has worked in public involvement/community relations for a significant period of time can attest that a proactive and forthright approach can go a very long way to resolving differences. Ultimately, permit applicants need to remember that approaching their neighbors and asking for their input is an act of respect and a show of regard for their questions, concerns, and opinions. Failure to do this can result in pushback that can make a facility’s continued operation in a given community rather dicey.

Note
1. Editor’s note: Beginning with the 2010 Census, the United States Census Bureau is no longer using the “long form” to collect data. Instead, the Census Bureau is using a “short form,” augmented with yearly surveys of representative samples of the population. These data are then incorporated into the “American Community Survey,” which reports data collected over a five-year period (each new year’s data are added to the five-year data, replacing the oldest year’s data). Although the American Community Survey does not represent data from every resident in the United States, the Census Bureau bases its samples on the data it gathers every ten years, ensuring sample sets that are highly representative. Moreover, the timeliness of the American Community Survey data (as opposed to data that can be ten years old), and the regularity of the updates (yearly), yields current data. Current data are important in cases in which efforts are being made to identify current populations that may require additional engagement efforts to ensure meaningful involvement. For more information on the American Community Survey and to retrieve data, go to www.census.gov.

References
EPA. (2013, May 9). Promising practices for permit applicants seeking EPA-issued permits: Ways to engage neighboring...


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