

**EPN Comments on EPA's Draft Office of Land and  
Emergency Management Environmental Justice Plan**

May 6, 2022

Founded in 2017, the [Environmental Protection Network](https://www.environmentalprotectionnetwork.org) (EPN) harnesses the expertise of more than 550 former Environmental Protection Agency (EPA) career staff and confirmation-level appointees from Democratic and Republican administrations to provide the unique perspective of former regulators with decades of historical knowledge and subject matter expertise.

EPN appreciates the opportunity to offer comments on the Office of Land and Emergency Management (OLEM) Environmental Justice Action Plan that was released in December 2021. EPN fully supports EPA's and OLEM's goal to promote and work toward proactively achieving environmental justice. OLEM is to be commended for building on its past work with an eye towards enhancing the focus on and benefits to under-served communities. The comments are presented in two parts: 1) overall observations on the Draft Plan, and 2) comments on particular elements presented in the draft plan.

**OVERALL OBSERVATIONS**

- 1) Timeline: Because this draft plan was released earlier this year, in several sections of the plan, the dates presented have already passed. In other action items, the timeline only provides a broad date such as FY 2022. EPN encourages OLEM to update the status of all actions throughout the document and provide greater granularity, at least on a fiscal year and quarter basis. In addition, EPN recommends providing a final planned completion date at a minimum of fiscal year and quarter.
- 2) There are several proposed and ongoing actions that may have applicability beyond the particular OLEM program office responsible for a given action. EPN encourages OLEM to review the individual actions and look for broader applicability across all of OLEM's portfolio. In addition, some of these actions may also be readily transferable to other EPA programs. Those opportunities should be examined as well.
- 3) EPN encourages OLEM to look for opportunities to partner with the private sector in promoting and implementing its EJ plan. For example, facility owners/operators, potentially responsible parties, developers, and others could potentially greatly augment OLEM's efforts. The same comment applies to other federal agencies that have programmatic responsibilities such as DOD, DOE, HHS, DOI, etc.
- 4) EPN believes it would be useful for OLEM to provide a summary table of the actions, the responsible OLEM office(s) and some key implementation dates so the public, especially interested or disadvantaged communities, can find and see these actions in one document.
- 5) Related to the above, EPN notes that OLEM programs typically operate in a stove-piped manner. This makes it difficult to achieve synergies across programs. Frequently impacted communities are affected by multiple releases/sites that fall under different regulatory regimes. EPN strongly encourages OLEM to create a stand-alone OLEM EJ Action Plan web page, perhaps associated with its "Cleanups in My Communities" web site, such that community-related information can be easily discovered in one location. There are likely additional opportunities to look beyond OLEM's program areas, to other EPA (and federal) programs to build a more holistic approach to help environmental justice/disadvantaged communities.

6) EPN suggests that OLEM reexamine its current Superfund Technical Assistance Grant (TAG) regulations and increase the amount of initial funding available to at least \$100,000 (vs. the current \$50,000). The current value was put in place more than 30 years ago and has not been adjusted for inflation since that time. Section 117 does provide that the President can waive the \$50,000 statutory limitation “in any case where such waiver is necessary to carry out the purposes of this subsection.” EPN also suggests that OLEM evaluate the possibility of providing more than one TAG per site. There are reasons for having a single TAG per National Priorities List (NPL) site, but at this juncture, such a restriction may be contrary to EPA or OLEM goals. Section 117(e) (1) does not limit the number of TAGs for a NPL facility, rather it states that the President “may make grants available to any group of individuals which may be affected by a release of threatened release...” Limiting the number of TAGs to a single group at a NPL site may unnecessarily constrain or restrict community engagement activities for environmental justice/disadvantaged communities contrary to purposes of OLEM Environmental Justice Plan.

7) EPN finds it very useful that each action item has a call-out box for the Environmental Justice Benefits.

#### INDIVIDUAL ACTION ITEM COMMENTS

1.1 Good Governance Referral Lists – This particular action item only references the Resource Conservation and Recovery Act (RCRA) program staff. EPN recommends that it is expanded to include staff from Superfund, Underground Storage Tank (UST), and Emergency Planning and Community Right-to-Know Act.

1.2 Strengthen Risk Management Plan (RMP) Prevention... – This action item is an example of one where there may be opportunities to partner with particular facilities or corporations to leverage resources.

1.3 and 1.4 SPCC and FRP Inspections... – EPN recommends that these two action items also consider Toxic Release Inventory (TRI) data and other readily available environmental releases information to obtain a better comprehensive assessment of cumulative impacts on environmental justice and disadvantaged communities.

1.5 Use of ASPECT... – While this action item specifically mentions collecting air data, the Office of Air and Radiation (OAR) is not mentioned among organizations involved. Relatedly, it is not clear how data collected through these efforts would differ from data collected by federal, state, local air pollution programs.

1.6 Enhanced Tribal Oil Spill... – There could be opportunities to combine this action with the UST and LUST programs – see item 1.7. And there may be opportunities to engage with DOI and the Indian Health Service as well.

1.7 Facility-Specific Compliance... – This is an example of an action that appears to have started in 2021.

2.1 RCRA Treatment, Storage... – A good example of stove-piping across OLEM and the agency. EPN recommends that these data be combined with other environmental release data such that a community has comprehensive understanding of all potential and actual sources of exposures.

2.2 Strengthened Community Resiliency... – Suggest adding tribes to the list of organizations involved. This

could be an item where OLEM could partner with the private sector.

2.3 EPA's National Recycling... – EPN recommends that OLEM consider the challenge of siting recycling facilities as part of this effort. Frequently, such facilities are located in disadvantaged communities. This is noted in the Benefits statement but not called out in the action item description.

2.4 Coal Combustion Residuals (CCR) – OLEM may want to consider more proactive measures to engage with disadvantaged communities. Providing access to information is a good first step, but EPN recommends that OLEM go beyond that to bring in environmental justice/disadvantaged communities actively to the permitting process.

2.5 SEMS EJ Flag... – Several action dates have passed, and OLEM may want to update their implementation status. Superfund information/data are particularly opaque when it comes to identifying environmental justice communities. Someone living on or near a Superfund site cannot easily find out whether they are in an area that is considered an environmental justice or disadvantaged community. This action item is a good first step, but as indicated in the overall comment section, EPN recommends that OLEM consider how it can improve access, understanding, and presentation of such information on its public-facing websites. OLEM may also want to be careful to recognize that boundaries of sites/releases are changeable and that the effects from releases extend beyond any given boundary.

2.6 Advancing Support to Underserved Communities... – Does the action item apply only to “active” sites/releases or does OLEM plan to re-examine previously No Further Remedial Action Planned sites or deferred to other authorities sites?

2.7 Consideration of Environmental Justice... – Action item with timeline dates in the past. EPN encourages OLEM to share policy with the general public. This appears to be another action that could have broader applicability than Superfund.

2.9 Provision of Funding to... – EPA is not the lead agency at NPL federal facilities. EPN recommends that this effort be integrated into other federal agency efforts at these sites.

2.10 Documentation/White Paper... – Action with project dates in the past. EPN recommends that it be made clear that OSRTI, ORCR and OEM are also included. Then there is the challenge of cumulative risk assessment, which would include ORD at a minimum and CDC/ATSDR and other federal and state agencies.

2.11 Tips and Tools... – This tool could apply to non-federal sites/releases and may be useful to On Scene Coordinators (OSCs) and Site Assessors and Community Involvement Coordinators (CICs) as well. There also may be a role for the Office of Public Affairs. This could be useful for state environmental programs, too. EPN can see a potential role for ASTSWMO or ECOS.

2.12 Development of Enhanced Criteria... – Suggest OLEM consider such an award for multiple program areas, not simply federal facilities. For example, RCRA facilities, Brownfields, Superfund NPL and non-NPL response sites, UST and Leaky UST facilities, Risk Management Plans. And consider having multiple awardees in any given area.

2.13 Training Resources for Regional OSCs – OLEM’s Draft EJ Action Plan has multiple action items relating to training EPA HQ and Regional staff on EJSCREEN. EPN suggests they be combined into one item.

2.14 Promoting EJSCREEN... – Another training item.

2.15 Development of Data Tools... – As noted in the overall comments, these data (this might be a longer term item) should be combined with other program office data to provide communities with a comprehensive picture of potential exposures.

2.16 Pilot EJ Analysis... – Another item that may have broader applications. Project dates in the past. There may be a role for the Office of Mission Support/Office of Environmental Information in this.

2.17 Development of OUST-Specific... – Another training action.

2.18 Environmental Indicators with UST... – EPN suggests OLEM consider a role for OMS/OEI in this action. OLEM may also consider whether it is scalable to other OLEM programs.

3.1 Technical Support and Engagement... – It is not clear whether this will be a new contract vehicle or whether Technical Assistance Services for Communities (TASC) is expected to be the vehicle of choice. Does OLEM also intend to assist communities in forming Community Advisory Groups (CAGs)? That is, does it plan to proactively engage in efforts to facilitate the initial creation stages for communities? The action item speaks only to “active” CAGs. There are other support channels such as the Superfund Research Program (SRP) in NIEHS that could be of use.

3.2 RCRA Environmental Justice... – This too could have broader application across all OLEM programs. There may be a role for the Office of Environmental Justice.

3.3 EPA/HUD Proximity Analysis... – This effort has been ongoing for a number of years. It is also one where it can go beyond the Superfund universe of releases/sites to other releases/sites and facilities in the OLEM universe of sites and releases. As a next stage, OLEM could evaluate releases that were deferred to state programs and work with ASTSWMO/ECOS and HUD and evaluate those properties.

3.4 Pilot Superfund Community... – Suggest evaluating or integrating this action as part of the redevelopment action (2.8).

3.5 Superfund Site Profile... – See comments on action 2.5. Many site profile pages lack current site documents that should be available to the public. EPN recommends that OLEM implement a policy that requires such information be made available within 2 weeks of release/production. Also, finding documents via the site profile page is challenging at best. It is not “easy access.” It is doubly difficult for under-served and disadvantaged communities. OLEM/OSRTI needs to re-evaluate the site profile pages as the engagement tool for communities.

3.6 TASC Program Funding... – Is there a role for other federal agencies to provide funding to TASC via an interagency agreement? EPN recommends that there be a role for state programs as well.

3.7 Technical Assistance Outreach... – We see a potential for expanding this concept to other OLEM programs.

4.1 New Grant Solicitation... – OLEM may want to consider a role for states or tribes.

4.2 Exploration of Potential Revisions... – This is a good action item. Looking more broadly, EPN suggests that OLEM consider a way that states could get “credit” for “in-kind services” that are related to environmental justice as part of Superfund State Contracts at a given site.

4.3 Analytical Needs Assessment – Could this item be shared with the public?

Again, thank you for the opportunity to comment. If you or any of the OLEM offices have questions, please feel free to contact EPN. We would be happy to discuss our comments in greater detail.