

Environmental Justice Analysis
for proposed Outer Continental Shelf
Permit No. R10OCS030000
Kulluk Drilling Unit

This document contains the Environmental Protection Agency (EPA) Region 10's Environmental Justice Analysis for a Clean Air Act (CAA) permit authorizing exploratory drilling in the Outer Continental Shelf (OCS) in the Beaufort Sea. Pursuant to CAA section 328, 42 U.S.C. § 7627, Region 10 is reviewing an application for an OCS minor source permit and two OCS Title V¹ permits for Shell Offshore, Inc. (Shell) for operations of the Kulluk drill rig in the Beaufort Sea.

Shell's proposal is subject to the air quality permitting requirements under the OCS provisions of Title 40, Code of Federal Regulations (C.F.R.), Part 55 (Part 55). Under these regulations, the applicable requirements depend on the source's relative location to shore. OCS sources located within 25 miles of a State's seaward boundary are subject to the Federal, and to the State and local requirements of the Corresponding Onshore Area (COA), which have been incorporated into EPA's OCS regulations at Part 55. OCS sources located beyond 25 miles of a State's seaward boundary are subject to only Federal requirements – i.e., COA requirements do not apply. In Shell's case, the State of Alaska is the designated corresponding onshore area and the air quality permitting requirements of the Alaska Department of Environmental Conservation (ADEC), which have been incorporated into Part 55 apply. See 40 C.F.R. 55.15 Appendix A.

Shell requested that Region 10 impose emission limits for operation on lease blocks that are both within and beyond 25 miles of Alaska's seaward boundary. For operations within 25 miles of Alaska's seaward boundary, Shell submitted a minor permit application pursuant to the COA's minor permit program in Title 18 of the Alaska Administrative Code, Chapter 50 (18 AAC 50). For operations beyond 25 miles of Alaska's seaward boundary, Shell submitted a Title V operating permit application under 40 C.F.R. Part 71 (Part 71). Shell is also requesting that EPA issue a Title V operating permit under 40 C.F.R. Part 70 for continued operation within 25 miles of the seaward boundary. These permits will be collectively known as the "Title V Permit."

¹ Shell's project is permitted as "synthetic minor" source, with enforceable limits restricting potential to emit (PTE) to below major source thresholds. EPA's rules applying to sources of air pollution on the OCS (40 CFR Part 55) do not include provisions requiring construction permits for minor sources. Because of this, Shell has applied for the required Title V air quality operating permit in advance of construction.

As discussed in more detail below, based on available information, Region 10 concludes that the activities proposed to be authorized under the Title V permit will not have disproportionately high and adverse human health or environmental effects with respect to air pollutants authorized under these permits on minority or low-income populations residing in the North Slope. In reaching this conclusion, Region 10 considered the impact on communities while engaging in subsistence activities in areas where such activities are regularly conducted.

It is important to note that the extent of an environmental justice analysis will vary according to the unique circumstances of each case. The permit at issue here is a Title V permit for a Title V temporary source that must assure compliance with the National Ambient Air Quality Standards (NAAQS) and that also establishes limits on the potential to emit of the source so as to avoid PSD review. The scope of the Environmental Justice Analysis conducted in this case is shaped by the type of permit at issue, the fact that Region 10 has received several OCS permit applications for operation in the OCS off the North Slope of Alaska, and the unique characteristics of the potentially affected communities, including the importance of subsistence activities to their lifestyle and cultural identity.

Environmental Justice in Permitting

Executive Order 12898 entitled “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations” states in relevant part that “each Federal agency shall make achieving Environmental Justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” Section 1-101 of Exec. Order 12898, 59 Fed. Reg. 7629, (Feb. 16, 1994). “Federal agencies are required to implement this order consistent with, and to the extent permitted by, existing law.” *Id.* at 7632.

The Title V operating permit program does not generally impose new substantive air quality control requirements. Rather, the Title V operating permit program is generally a vehicle for ensuring that existing air quality control requirements are appropriately applied to facility emission units and that compliance with these requirements is assured. Accordingly, the primary means of addressing environmental justice issues in the Title V program is through increased public participation and review by permitting agencies, and conditions to assure compliance with applicable requirements. As discussed above, the Title V permit at issue in this case is unusual in that it requires the source, as a Title V temporary source, to meet the NAAQS and also establishes limits on the potential to emit. Region 10 has considered environmental justice concerns in this permitting action where possible in the context of assuring compliance with applicable requirements for the source, in particular assuring compliance with the NAAQS as a Title V temporary source and establishing PSD avoidance limits.

As the Environmental Appeals Board recently observed “[i]n the context of an environmental justice analysis, compliance with the NAAQS is emblematic of achieving a level of public health protection that, based on the level of protection afforded by the NAAQS, demonstrates that

minority or low-income populations will not experience disproportionately high and adverse human health or environmental effects due to exposure to relevant criteria pollutants.” See. e.g., *Order Denying Review in Part and Remanding Permits, Shell Gulf of Mexico, Inc and Shell Offshore, Inc., Frontier Discoverer Drilling Units*, OCS Appeal Nos. 10-01 through 10-04, Slip. Op. 74 (December 30, 2010); see also *In re Shell Offshore Inc.*, 13 E.A.D. 357, 404-5 (EAB 2007) (Shell I); *In re Knauf Fiber Glass, GmbH*, 9 E.A.D 1, 15-17 (EAB 2000) (Knauf II); *In re AES Puerto Rico, L.P.*, 8 E.A.D. 324, 351 (EAB 1999). This is because the NAAQS are health-based standards, designed to protect public health with an adequate margin of safety, including sensitive populations such as children, the elderly, and asthmatics. This is supported by the fact that “[t]he Agency sets the NAAQS using technical and scientific expertise, ensuring that the primary NAAQS protects the public health with an adequate margin of safety.” *Id.*

The studies assessed by EPA in setting NAAQS and the integration of the scientific evidence presented therein have undergone extensive critical review by EPA, the Clean Air Scientific Advisory Committee (CASAC), and the public. Final Rule, 75 Fed. Reg. 6474, 6478 (Feb. 9, 2010). “The rigor of the review makes these studies, and their integrative assessment, the most reliable source of scientific information on which to base decisions on the NAAQS.” *Id.* When setting the NAAQS, “[t]he Administrator’s final decisions draw upon scientific information and analysis related to health effects, population exposures, and risks; judgments about the appropriate response to the range of uncertainties that are inherent in scientific evidence and analyses; and comment received from CASAC and the public.” The NAAQS are also the underpinning for the State Implementation Plan process, which requires states to adopt rules and programs that will reduce emissions causing air pollution.

Operations Authorized Under the Title V Permit

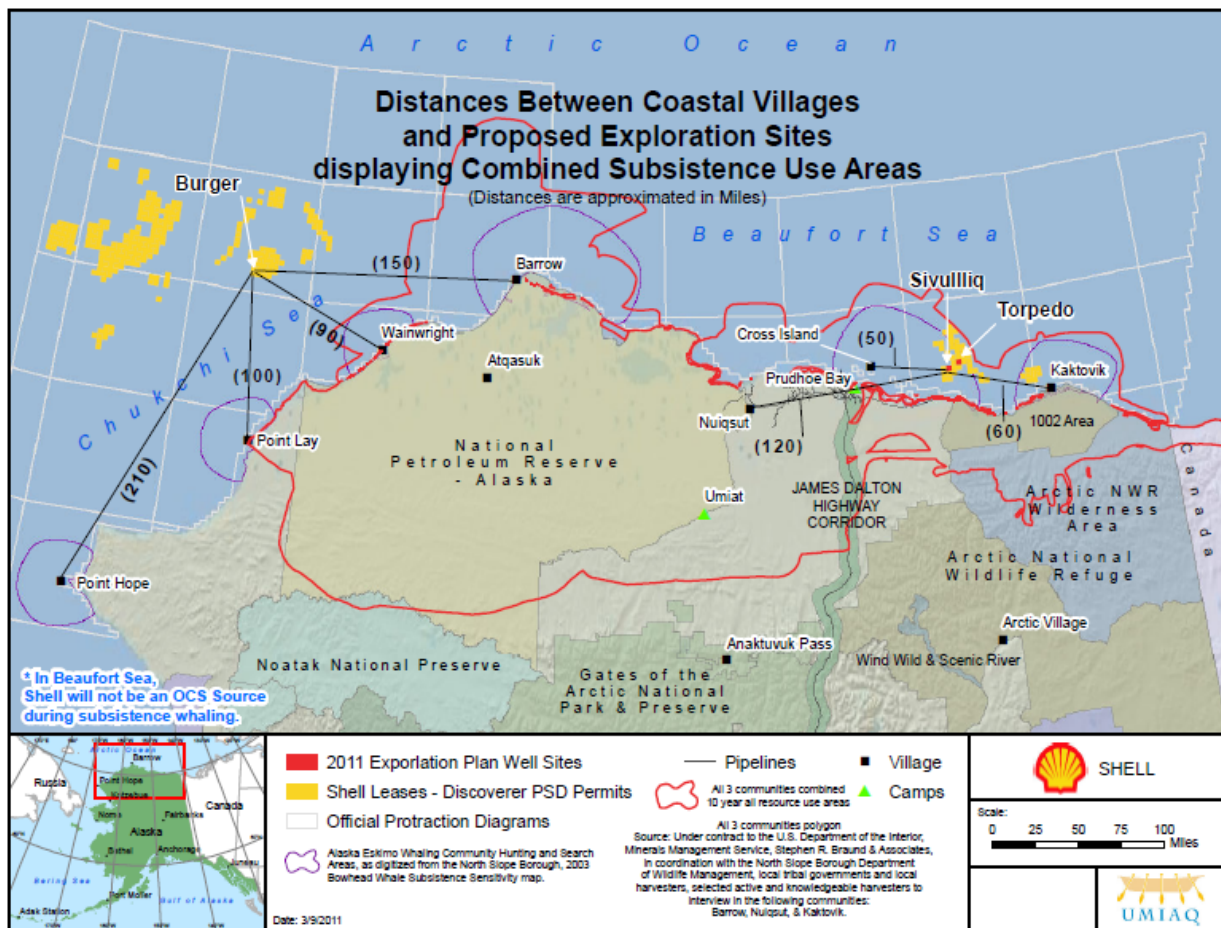
The Title V permit authorizes the operation of the Kulluk drilling unit to conduct air pollutant emitting activities for the purpose of oil exploration on select lease blocks in the Beaufort Sea off the North Slope of Alaska as authorized by the BOEMRE. All of the lease blocks are located in federal OCS waters. The Title V permit also provide for the use of an associated fleet of support ships (Associated Fleet), such as icebreakers, a supply ship, and an oil spill response fleet, in addition to the Kulluk drilling unit. Exploratory operations under the permit are authorized from July through November each year, and limit operation of the OCS source to 120 days.

Leases to be authorized under the permit include all current lease blocks in lease sales 186 and 202 and within a majority of current lease blocks in lease sale 195 on the Beaufort Sea. The lease blocks are within 25 miles of Alaska’s seaward boundary and beyond 25 miles of Alaska’s seaward boundary. The nearest towns or villages are Kaktovik, Deadhorse and Nuiqsut, which are located 14, 44, 37 kilometers (8, 27 and 22 miles), respectively, from the closest lease block in the Beaufort Sea. Figure 1 depicts subsistence use areas in the Beaufort Sea.

The primary generators on board the Kulluk drilling unit will be equipped with selective catalytic reduction (SCR) and oxidation catalyst (OxyCat) emission control devices, to reduce nitrogen

dioxide (NO_x), carbon monoxide (CO), volatile organic compounds (VOC), and particulate matter (PM). In addition to these emission controls, the Kulluk drilling unit will use ultra low sulfur diesel fuel (ULSD) to reduce emissions of sulfur dioxide (SO₂). To further reduce impacts on the ambient air, the Associated Fleet will be fueled by ULSD and be subject to operational restrictions, and some units will be equipped with controls, including OxyCat and SRC. Emissions from the Associated Fleet when located within 25 miles of the Kulluk, together with emissions from the Kulluk, are considered in conducting an ambient air quality analysis to determine whether emissions from the project will cause or contribute to a violation of the NAAQS.

Figure 1 Subsistence Use Areas Mapped Over Exploration Sites



Northern Inupiat Communities²

² The demographic and health factors have been chosen because EPA commonly associates them with vulnerability or susceptibility to adverse health effects from air pollution. In 40 CFR Parts 50 and 58 Primary National Ambient Air Quality Standards for Nitrogen Dioxide it states, “The term susceptibility generally encompasses innate (*e.g.*, genetic or developmental) and/or acquired (*e.g.*, age or disease) factors that make individuals more likely to

The North Slope is bordered by the Arctic Ocean to the north and the Brooks Mountain Range to the south. In all it encompasses approximately 89,000 square miles of northern Alaska. The incorporated villages of the North Slope Borough (NSB) include Point Hope, Point Lay, Wainwright, Atkasuk, Barrow, Nuiqsut, Kaktovik and Anaktuvuk Pass. These communities are situated completely above the Arctic Circle and are considered remote villages, with no roads between them. Most of the communities are coastal villages located near the Chukchi and Beaufort Seas.

The nearest towns or villages to Shell's exploratory operations in the Beaufort Sea are Kaktovik, Deadhorse, and Nuiqsut, which are located 14, 44, and 37 kilometers (8, 27, and 22 miles), respectively, from the closest lease block in the Beaufort Sea.

As discussed below, a review of demographic characteristics shows that these communities have a significantly high percentage of Alaska Natives, who are considered a minority under EO 12898, and a significant percentage of individuals who speak a language other than English at home.

Subsistence foods from traditional practices such as hunting (marine mammals, terrestrial and birds), fishing, and whaling are an important component of the Iñupiat diet.³ In 2004, the Alaska Department of Fish and Game reported that over a 25 year period residents in the North Slope Borough harvested an average of 434 pounds of subsistence food per capita.⁴

Subsistence activities also play an important cultural role. In the words of the Environmental Director of the Iñupiat Community of the Arctic Slope (ICAS), speaking at the Environmental Justice Session held during the 2011 Alaska Forum on the Environment, "For thousands of years, our people have depended on a subsistence lifestyle for a large majority of our food, and also for our cultural and spiritual health. Through the subsistence hunt, we not only provide food for our families, but we also carry on the ancient traditions that have been passed down to us by our parents and grandparents. Our subsistence activities define who we are and bind us together as a community. We therefore depend on the land and sea for our survival and we hold the deepest and most profound respect for the natural resources that have sustained us for so many years.

experience effects with exposure to pollutants. The severity of health effects experienced by a susceptible subgroup may be much greater than that experienced by the population at large. Factors that may influence susceptibility to the effects of air pollution include age (*e.g.*, infants, children, elderly); gender; race/ethnicity; genetic factors; and preexisting disease/condition (*e.g.*, obesity, diabetes, respiratory disease, asthma, chronic obstructive pulmonary disease (COPD), cardiovascular disease, airway hyperresponsiveness, respiratory infection, adverse birth outcome) (ISA, sections 4.3.1, 4.3.5, and 5.3.2.8). Factors that may influence susceptibility and vulnerability to air pollution include socioeconomic status (SES), education level, air conditioning use, proximity to roadways, geographic location, level of physical activity, and work environment (*e.g.*, indoor versus outdoor) (ISA, section 4.3.5)" <http://www.epa.gov/ttnnaqs/standards/nox/fr/20100209.pdf>

³ Wernham, Inupiat Health and Proposed Alaskan Oil Development: Results of the First Intergrated Health Impact Assessment/Environmental Impact Statement for Proposed Oil Development on Alaska's North Slope, 2007.

⁴ Wolfe, R. J. 2004. Local traditions and subsistence: a synopsis of twenty-five years of research in Alaska. Technical Paper No. 284. Alaska Department of Fish and Game, Division of Subsistence, Juneau, Alaska.

Our very survival as a people depends on our ability to safeguard and protect the resources that have provided for us for thousands of years.”

Nuiqsut residents have reported traveling up to 96 kilometers (60 miles) offshore to the north and as far east as Camden Bay to hunt for bowhead whale. Subsistence use areas extend to the west to Cape Halkett for seal. Kaktovik residents reported offshore subsistence use of 56 kilometers (35 miles) out for bowhead and walrus; along the coast their use extends as far east as the Mackenzie River Delta in Canada (fish and waterfowl) and to the west as far as the Return Islands near the Kuparuk River Delta (waterfowl).⁵ As discussed in more detail below, available information and analysis of the emissions from the Kulluk and the Associated Fleet, in conjunction with background air quality data, show that the NAAQS will continue to be met in all areas more than 500 meters from the Kulluk drill ship, and will be below the NAAQS in the on-shore communities in the Beaufort Sea.

Demographics⁶

In an effort to assess the potential for disproportionate impacts on minority and low-income populations in vicinity of the activities proposed to be authorized under the Title V permit, Region 10 has considered available demographic information for the North Slope Borough with respect to two reference populations--the state of Alaska and the United States of America.

Table 1 Population, Age and Race

Location	Total Population	Under 5	Over 65	American Indian or Alaska Native	Asian	White	African American	Hispanic or Latino
North Slope Borough	7,385	9.50%	4.20%	68.40%	5.90%	17.10%	0.70%	2.20%
State of Alaska	626,932	7.60%	5.70%	15.60%	4.00%	69.30%	3.50%	4.10%
United States	3.1B	6.80%	12.40%	0.90%	3.60%	75.10%	12.30%	12.50%

(2000 US Census)

In total, the eight villages in the North Slope Borough are comprised of 7,385 people. The populations range in size from 228 to 4,581 residents. In comparison to the rest of the Alaska, these eight villages have a slightly higher number of children under 5 yet a slightly lower number

⁵ Stephen R. Braund & Associates. Report of Traditional Knowledge Workshops – Point Lay, Barrow, Nuiqsut, and Kaktovik. Chukchi and Beaufort Seas National Pollutant Discharge Elimination System Exploration General Permits Reissuance. 2011.

⁶ Data was gathered from the 2000 US Census via American Fact Finder at http://factfinder.census.gov/home/saff/main.html?_lang=en

of people 65 and older. EPA’s Final Report Integrated Science Assessment for Oxides of Nitrogen – Health Criteria (ISA)⁷ specifically identified children⁸ (defined here as under 18 years old) and older adults (65+ years) as being particularly vulnerable to NO₂ impacts.⁹ Sixty-eight percent of all people classify themselves as Alaskan Natives, making them the majority population in the North Slope Borough. This number is significantly higher than the Alaskan Native/ Native American population in both the State of Alaska and the United States as a whole. Asians comprise the second largest minority group in this area making up nearly 6% of the total populace.

Table 2 Social Characteristics

Location	Total Population	Population 25 & Over	High School or Higher	Associate's Degree	Bachelor's Degree or Higher	Speak a language other than English at home
North Slope Borough	7,385	52.58%	77.40%	3.90%	17.00%	49.90%
State of Alaska	626,932	60.54%	88.30%	7.20%	24.70%	14.30%
United States	3.1B	63.45%	80.40%	6.30%	24.40%	17.90%

(2000 US Census)

A little more than half of the population in the North Slope is over 25 year of age. Within this group, 77.40% of residents report earning at least a high school diploma. This number is slightly lower than both reference populations. Education level is a factor that may influence susceptibility and vulnerability to air pollution. Limited formal education is a barrier to employment, health care and social resources, and can increase the risk of poverty, stress, and

⁷ Integrated Science Assessment for Oxides of Nitrogen – Health Criteria (Final Report), Section 4.3, U.S. Environmental Protection Agency, Washington DC, EPA/600/R-08/071, 2008

⁸ *Children are particularly vulnerable to adverse health effects from air pollution because:*

- Children’s lungs are still developing. This period of growth and development of the lungs is a critical time period for health effects from exposure to air pollution. Exposures to air pollutants during this time can have life-long effects on the lungs, including lung capacity, the diameter of the airways, and the number and types of cells that line the airways. It is important to note that airways develop through adolescence.
- Children breathe in more air than adults compared to their body weight, leading to a higher dose of air pollution.
- Children’s airways are narrower than adults, making them more susceptible to air pollution.

⁹ U.S. Environmental Protection Agency, Supplemental Statement of Basis PSD Permit Application for Avenal Energy Project, 2011. <http://www.epa.gov/region9/air/permit/avenal/Avenal-SuppStatemtBasisEjAnalysisApdxFinal-Eng3-2-11.pdf>

impacts from environmental stressors.¹⁰ Over 20% of people over 25 have earned at least an Associate’s degree. Nearly half the people who reside in the North Slope speak a language other than English at home, which is significantly higher than those in the State of Alaska and the United States of America.

Table 3 Economic Characteristics

Location	Total Population	Population In Labor Force	Individuals Below Poverty	Children 5-17 Below Poverty
North Slope Borough	7,385	72.20%	9.10%	9.00%
State of Alaska	626,932	71.30%	9.40%	10.30%
United States	3.1B	63.90%	12.40%	15.40%

(2000 US Census)

Seventy-two percent of those 16 and older are reported as being in the labor force. This indicates that there are employment opportunities for residents within the Borough. Less than 10% of all North Slope residents live in poverty, a number that is somewhat less in proportion to those in the United States. The percent of children 5-17 living below poverty in the North Slope is 9% which is less than the number of children of the same age living in poverty in both the state of Alaska and the United States.

Health¹¹

The 2009 Alaska Native Health Status Report issued by the Alaska Native Tribal Health Consortium provides an overview of health conditions in this region.

Between 2004-2007, the leading causes of death in Alaskan Natives living in the Arctic Slope were cancer, heart disease, suicide, unintentional injury and chronic obstructive pulmonary disease (COPD). This is fairly consistent with the death rates of Alaskan Natives across the state. Cancer is the leading cause of death for Alaska Native people, accounting for 1 out of

¹⁰ U.S. Environmental Protection Agency, Supplemental Statement of Basis PSD Permit Application for Avenal Energy Project, 2011. <http://www.epa.gov/region9/air/permit/avenal/Avenal-SuppStatemtBasisEjAnalysisApdxFinal-Eng3-2-11.pdf>

¹¹ Alaska Native Tribal Health Consortium: Alaska Native Epidemiology Center. Alaska Native Health Status Report 2009 http://www.anthc.org/chs/epicenter/upload/01_HSRintro.pdf

The Arctic Slope Service area as defined by Alaska Native Tribal Health Consortium covers the North Slope Borough with the exception of Point Hope, which falls under the Northwest Arctic service area. Point Hope is located the furthest distance from the activities proposed for authorization under the permits. The health statistics for the Northwest Arctic Service Area do not differ significantly in most respects from the statistics presented here for villages that are located much closer to the proposed activities. Please visit the Alaska Native Health Status Report for more details.

every 5 deaths. The Alaska Native cancer death rate was 30% greater than for U.S. Whites. Heart disease is the second leading cause of death for Alaska Native people.¹²

Over the 2 year period 2005-2007, more than 30% of adults in the North Slope area were classified as obese. There are nearly three times (58% vs. 20%) as many Alaska Native people in this area who are current smokers than that of Alaska non-Natives.

More than 30% of pregnant Alaskan Native women in the area had access to adequate prenatal care between 2006-2007. However these numbers are lower than the state average of 46%. In the Arctic Slope, 6% of children were born with a low birth weight compared to a statewide average of 5%.

Overall, from 1990 to 2007, there has been a large increase in the prevalence of diabetes for Alaskan Natives statewide. The percent of rate increase has jumped to 117% over the 17 year time frame. This increase is present in Arctic Slope region, with a 158% increase.

Infrastructure development has been a health concern for Alaskans. The percent of housing units with water and sewer service varies by major rural regional health corporation, from 58% to 98%. In 2008 it was reported that 94% of the Alaskan Natives in the Arctic Slope region had access to water and sewer service. This is well above the percentages of Alaskan Natives statewide.

There is a higher incidence of outpatient visits for upper respiratory problems in the Arctic Slope service area than in the rest of Alaska. In fact, in 2006 diseases of the respiratory system were the leading cause for inpatient hospitalization at Samuel Simmons Memorial Hospital in Barrow. Respiratory issues range from the common cold (acute) to pneumonia (severe).¹³

EPA has identified people with respiratory problems to be potentially at greater risk of experiencing adverse health effects from NO₂ and SO₂. This was taken into consideration when setting the new NAAQS standards. 75 Fed. Reg. 6481 (February 9, 2010); 75 Fed. Reg. 35527 (June 22, 2010).

Table 4 Health Overview

Health Indicators	Arctic Slope	Alaskan Natives Statewide	Year
Obese (BMI 30+)	37%	31%	2005-2007

¹² Id.

¹³ Alaska Native Tribal Health Consortium: Alaska Native Epidemiology Center. Regional Health Profile: Arctic Slope, 2009. http://www.anthc.org/chs/epicenter/upload/Regional_Health_Profile_ASNA_1109.pdf

Health indicators presented are for villages that are located closer to the proposed activities. Please visit the Alaska Native Health Status Report for more details.

Current Smokers	58%	41%	2005-2007
Adequate Prenatal Care	37%	46%	2006-2007
Low Birth Weight	6%	5%	2006-2007
Diabetes: % Rate of Increase since 1990	158%	117%	2007
Outpatient Visit for Upper Respiratory Problems	12%	8%	2005

(ANTHC 2009)

Community Outreach

Oil and gas operations in the Chukchi and Beaufort Seas are of great interest to the Northern Inupiat communities. Region 10 has taken several measures to provide meaningful involvement for the communities of concern potentially impacted by the draft Title V permit. Recognizing the challenges and special considerations that are required in communicating with people in more than one culture for whom English is a second language, in May 2009, Region 10 issued the North Slope Communications Protocol establishing communications guidelines to specifically support meaningful involvement of North Slope communities in Region 10 decision-making. The goal of the protocol is to improve the agency's effectiveness in working with North Slope communities.

Early public information meetings were held in Kaktovik and Barrow during the week of June 13, 2011. Invitations went out to communities across the North Slope to encourage participation in the centrally located Barrow meeting. Those who could not travel to the meeting were able to participate via teleconference. Region 10 is holding a comment period on the draft Title V permit and, in anticipation of a significant degree of public interest in the draft permit, the agency is also scheduling a public hearing on the North Slope with a teleconference line available for other communities to call in. Region 10 will consider all comments received at the hearings or during the public comment period prior to taking final action on the draft Title V permit. Region 10 specifically solicits public comment on this Environmental Justice Analysis.

Note that the draft Title V permit requires Shell to have a plan for communicating to the North Slope communities on a periodic basis regarding when exploration activities are expected to begin and end at a drill site, the location of the drill site, and applicable restrictions on activities in the vicinity of Shell's exploration operations.

Air Impacts Analysis

Pursuant to Section 328 of the CAA, 42 U.S.C. § 7627, EPA promulgated air quality regulations applicable to OCS sources, which regulations are set forth in Part 55. Under these regulations, Shell must obtain an OCS permit for these projects prior to conducting exploratory drilling in the OCS and has applied for Title V permits and a COA minor source construction permit, which is referred to here as a Title V permit. This section addresses Region 10's consideration of environmental justice impacts directly related to air quality, focusing on whether the issuance of the draft Title V permit would have disproportionately high and adverse human health or environmental effects on Alaska's northern Iñupiat communities along the Beaufort Sea living and engaging in subsistence activities in areas closest to the activities proposed to be permitted.

NAAQS

National Ambient Air Quality Standards or NAAQS are health-based standards that have been set at a level such that their attainment and maintenance will protect public health, including sensitive individuals, with an adequate margin of safety.¹⁴ See Section 109(b) of the CAA. As required by the applicable OCS, COA, and Title V regulations, the terms and conditions of any final permit issued must ensure that activities authorized by this permit will not cause or contribute to a violation of the NAAQS standards. See 40 C.F.R. §§ 55.13(f), 71.2 (definition of applicable requirement), and 71.6(e).

EPA generally uses two NAAQS designation categories as outlined in 40 CFR part 81, attainment/unclassifiable or nonattainment. The North Slope Borough is in an area currently designated as attainment/unclassifiable for all of the NAAQS. This means that the North Slope has sufficient data to determine that the area is meeting the NAAQS or that due to no data or insufficient data, EPA cannot make a determination.¹⁵

¹⁴ Sensitive individuals include children, the elderly and people with respiratory disease

¹⁵ CAA 107(d) Designations

(1) Designations generally

(A) Submission by Governors of initial designations following promulgation of new or revised standards

By such date as the Administrator may reasonably require, but not later than 1 year after promulgation of a new or revised national ambient air quality standard for any pollutant under section 7409 of this title, the Governor of each State shall (and at any other time the Governor of a State deems appropriate the Governor may) submit to the Administrator a list of all areas (or portions thereof) in the State, designating as—

- (i) nonattainment, any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant,
- (ii) attainment, any area (other than an area identified in clause (i)) that meets the national primary or secondary ambient air quality standard for the pollutant, or
- (iii) unclassifiable, any area that cannot be classified on the basis of available information as meeting or not meeting the national primary or secondary ambient air quality standard for the pollutant.

In 2010 EPA promulgated new 1-hour standards for NO₂ and SO₂. In issuing the new standards EPA specifically considered the exposure of sensitive subpopulations, including the Alaskan Natives that reside on the North Slope. 75 Fed. Reg. 6482 (February 9, 2010). 75 Fed Reg. 35527 (June 22, 2010).

On Shore Impacts

As discussed in more detail in Region 10’s ambient air quality analysis, Shell used the American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD) system to model the impacts of the emissions proposed to be authorized under the permit. Region 10 has reviewed Shell’s analysis and concluded that it is consistent with EPA OCS and Title V permitting requirements.

Emissions from the Kulluk and the Associated Fleet were modeled for concentration levels along the Beaufort Sea. Maximum modeled concentrations from the Kulluk occur 500 meters from the hull and decline rapidly from that point. The maximum modeled concentration in the local communities of Nuiqsut, Deadhorse and Kaktovik are minimal as shown in Table 5 below. Note that EPA has established Significant Impact Levels or SILs under the PSD “major source” preconstruction program to characterize air quality impacts from sources that undergo PSD review. The SILs are threshold levels for the ambient concentration resulting from a source’s emissions for a given pollutant and averaging period below which the source is considered too small to cause or contribute to a violation of the NAAQS. Although this source is not subject to PSD review, a comparison of the impact of emissions to be authorized under the draft Title V permit in comparison to the SILs is instructive. The modeled concentrations from the Kulluk and the Associated Fleet are well below the SILs in all three communities.

Table 5 Modeled Impacts at Nearest Communities

(considering impacts from the Kulluk only)

Pollutant	Averaging Period	Kulluk Impacts (µg/m ³) at			SIL (µg/m ³)
		Nuiqsut	Deadhorse	Kaktovik	
NO ₂	1-hour	0.04	0.02	0.3	8
	Annual	0.03	0.02	0.1	1
PM-2.5	24-hour	0.2	0.1	0.5	1.2
	Annual	0.004	0.004	0.01	0.3
PM-10	24-hour	0.3	0.2	0.5	5
SO ₂	1-hour	0.4	0.5	0.7	8

	3-hour	0.2	0.2	0.3	25
	24-hour	0.05	0.03	0.1	5
	Annual	0.001	0.001	0.002	1

Total Concentrations

The total modeled concentrations include monitored background concentrations and maximum concentration from the Kulluk and the Associated Fleet. These modeled impacts are based on conservative assumptions, such as Shell accounting for the potential overlap of drilling plumes by assuming all four wells are drilled at the same location, when in actuality, the drilling of four wells at a fixed location, and the overlap of plumes, will not occur. For the background values, Shell used monitoring data from Prudhoe Bay, Deadhorse and Edicott near the Beaufort Sea. Results of the modeling indicate the total modeled impacts under the draft Title V permit, including consideration of background air quality data, are well below the NAAQS. Table 6 below shows the total modeled concentrations for each of the nearest communities while the source is in operation, as compared to the NAAQS.

Table 6 Total Modeled Impacts at Nearest Communities

(Includes background concentrations)

Pollutant	Averaging Period	Total Impacts ($\mu\text{g}/\text{m}^3$) at			NAAQS ($\mu\text{g}/\text{m}^3$)
		Nuiqsut	Deadhorse	Kaktovik	
NO ₂	1-hour	94	94	21	188
	Annual	11	11	1	100
PM-2.5	24-hour	17	17	7	35
	Annual	4	4	3	15
PM-10	24-hour	53	53	53	150
SO ₂	1-hour	14	29	10	196
	3-hour	180	29	11	1,300
	24-hour	25	22	4	365
	Annual	4	4	2	80

CO	1-hour	1,943	1,924	2,075	40,000
	8-hour	1,211	1,199	1,274	10,000

The pollutants and averaging periods closest to the NAAQS are 1-hour NO₂ emissions, 24-hour PM₁₀ and PM_{2.5} emissions and annual PM_{2.5} emission. At Kaktovik, located 14 km (8 miles) from the closest lease block, the total maximum modeled concentrations (with Shell’s Discoverer in operation and considering background concentrations) are—as a percentage of the NAAQS—11% for the 1-hour NO₂ NAAQS, 20% for the 24-hour PM_{2.5} NAAQS, 35% for the 24-hour PM₁₀ NAAQS, and 20% for the annual PM_{2.5} NAAQS. At Nuiqsut, located 37 km (33 miles) from the closest lease block, the total maximum modeled concentrations are, 50% for the 1-hour NO₂ standard, 48% for the 24-hour PM_{2.5} standard, 35% for the 24-hour PM₁₀ standard, and 26% for the annual PM_{2.5} NAAQS. It should be noted that a majority of the total impacts are a result of background concentrations.

The total maximum modeled concentrations demonstrate that the NAAQS will be attained at all locations beyond the 500 meter boundary and will be below the standard in the Beaufort Sea North Slope communities and in the areas where the communities conduct subsistence activities.

U.S. Department of Interior Environmental Justice Analysis

The U.S. Department of Interior’s Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) conducted an environmental justice assessment related to oil and gas lease sales 183, 195 and 202 within the Beaufort Sea. This analysis looked at the broader range of potential impacts from oil and gas activities. In a final Environmental Impact Statement (EIS) for these lease sales, BOEMRE stated the following impacts could occur from routine permitted activities:

Chronic disruptions to sociocultural systems likely would occur, but these disruptions are not likely to cause permanent displacement of ongoing traditional activities of harvesting, sharing, and processing subsistence resources. No “disproportionately high adverse effects” as defined by the Environmental Justice Executive Order would likely occur from planned and permitted activities associated with any of the three [lease blocks 186, 195 & 202] proposed OCS lease sales evaluated in this EIS.¹⁶

¹⁶ U.S. Department of the Interior, Materials Management Service, Beaufort Sea Planning Area, Oil and Gas Lease Sales 186, 195, and 202, Final Environmental Impact Statement, OCS EIS/EA, MMS 2003-001, at www.mms.gov/alaska/ref/EIS%20EA/BeaufortMultiSaleFEIS186_195_202/2003_001vol1.pdf.

BOEMRE also noted the potential impact to subsistence harvest resources but concluded that no resource or harvest area would likely become unavailable or experience an overall decrease as a result permitted activities.

Conclusion

As indicated above, there is a significantly high population of Alaskan Natives in the North Slope, as well as a high population of individuals that speak a language other than English at home. These characteristics combined with the health profile of residents may increase vulnerability or sensitivity to air emissions as compared to the reference populations.

Based on available information, Region 10 concludes that the activities proposed to be authorized under the draft Title V Permit will not cause or contribute to air quality levels in excess of health-based standards for SO₂, CO, PM₁₀, PM_{2.5}, Ozone or NO₂. Region 10 therefore concludes that there will not be disproportionately high and adverse human health or environmental effects with respect to these air pollutants on minority or low-income populations residing in the coastal communities closest to the proposed operations. In reaching this conclusion, Region 10 has also considered the impact on these communities while engaging in subsistence activities in areas where such activities are regularly conducted.

Presidential Documents

Title 3—**Executive Order 12898 of February 11, 1994****The President****Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations**

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1-1. Implementation.

1-101. Agency Responsibilities. To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.

1-102. Creation of an Interagency Working Group on Environmental Justice.

(a) Within 3 months of the date of this order, the Administrator of the Environmental Protection Agency ("Administrator") or the Administrator's designee shall convene an interagency Federal Working Group on Environmental Justice ("Working Group"). The Working Group shall comprise the heads of the following executive agencies and offices, or their designees: (a) Department of Defense; (b) Department of Health and Human Services; (c) Department of Housing and Urban Development; (d) Department of Labor; (e) Department of Agriculture; (f) Department of Transportation; (g) Department of Justice; (h) Department of the Interior; (i) Department of Commerce; (j) Department of Energy; (k) Environmental Protection Agency; (l) Office of Management and Budget; (m) Office of Science and Technology Policy; (n) Office of the Deputy Assistant to the President for Environmental Policy; (o) Office of the Assistant to the President for Domestic Policy; (p) National Economic Council; (q) Council of Economic Advisers; and (r) such other Government officials as the President may designate. The Working Group shall report to the President through the Deputy Assistant to the President for Environmental Policy and the Assistant to the President for Domestic Policy.

(b) The Working Group shall: (1) provide guidance to Federal agencies on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(2) coordinate with, provide guidance to, and serve as a clearinghouse for, each Federal agency as it develops an environmental justice strategy as required by section 1-103 of this order, in order to ensure that the administration, interpretation and enforcement of programs, activities and policies are undertaken in a consistent manner;

(3) assist in coordinating research by, and stimulating cooperation among, the Environmental Protection Agency, the Department of Health and Human Services, the Department of Housing and Urban Development, and other agencies conducting research or other activities in accordance with section 3-3 of this order;

(4) assist in coordinating data collection, required by this order;

(5) examine existing data and studies on environmental justice;

(6) hold public meetings as required in section 5-502(d) of this order; and

(7) develop interagency model projects on environmental justice that evidence cooperation among Federal agencies.

1-103. *Development of Agency Strategies.* (a) Except as provided in section 6-605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)-(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

(b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process.

(c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy.

(d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy.

(e) Within 12 months of the date of this order, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. During the 12 month period from the date of this order, each Federal agency, as part of its environmental justice strategy, shall identify several specific projects that can be promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy, and a schedule for implementing those projects.

(f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy.

(g) Federal agencies shall provide additional periodic reports to the Working Group as requested by the Working Group.

1-104. *Reports to the President.* Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1-103(e) of this order.

Sec. 2-2. *Federal Agency Responsibilities for Federal Programs.* Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

Sec. 3-3. Research, Data Collection, and Analysis.

3-301. Human Health and Environmental Research and Analysis. (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.

(b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.

(c) Federal agencies shall provide minority populations and low-income populations the opportunity to comment on the development and design of research strategies undertaken pursuant to this order.

3-302. Human Health and Environmental Data Collection and Analysis. To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(b) In connection with the development and implementation of agency strategies in section 1-103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law; and

(c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001-11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public, unless prohibited by law.

(d) In carrying out the responsibilities in this section, each Federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and tribal governments.

Sec. 4-4. Subsistence Consumption of Fish and Wildlife.

4-401. Consumption Patterns. In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.

4-402. Guidance. Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or

wildlife. Agencies shall consider such guidance in developing their policies and rules.

Sec. 5-5. *Public Participation and Access to Information.* (a) The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group.

(b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.

(c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the comments and recommendations discussed at the public meetings.

Sec. 6-6. *General Provisions.*

6-601. *Responsibility for Agency Implementation.* The head of each Federal agency shall be responsible for ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6-602. *Executive Order No. 12250.* This Executive order is intended to supplement but not supersede Executive Order No. 12250, which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6-603. *Executive Order No. 12875.* This Executive order is not intended to limit the effect or mandate of Executive Order No. 12875.

6-604. *Scope.* For purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6-605. *Petitions for Exemptions.* The head of a Federal agency may petition the President for an exemption from the requirements of this order on the grounds that all or some of the petitioning agency's programs or activities should not be subject to the requirements of this order.

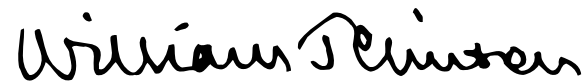
6-606. *Native American Programs.* Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

6-607. *Costs.* Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

6-608. *General.* Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6-609. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance

of the United States, its agencies, its officers, or any other person with this order.

A handwritten signature in black ink that reads "William J. Clinton". The signature is written in a cursive style with a large, prominent "W" and "C".

THE WHITE HOUSE,
February 11, 1994.

[FR Citation 59 FR 7629]

Dec. 1, 2000

MEMORANDUM

SUBJECT: EPA Statutory and Regulatory Authorities Under Which Environmental Justice Issues May Be Addressed in Permitting

FROM: Gary S. Guzy //signed//
General Counsel
Office of General Counsel (2310A)

TO: Steven A. Herman
Assistant Administrator
Office of Enforcement and Compliance Assistance (2201A)

Robert Perciasepe
Assistant Administrator
Office of Air and Radiation (6101A)

Timothy Fields, Jr.
Assistant Administrator
Office of Solid Waste and Emergency Response (5101)

J. Charles Fox
Assistant Administrator
Office of Water (4101)

This memorandum analyzes a significant number of statutory and regulatory authorities under the Resource Conservation and Recovery Act, the Clean Water Act, the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act, and the Clean Air Act that the Office of General Counsel believes are available to address environmental justice issues during permitting. The use of EPA's statutory authorities, as discussed herein, may in some cases involve new legal and policy interpretations that could require further Agency regulatory or interpretive action. Although the memorandum presents interpretations of EPA's statutory authority and regulations that we believe are legally permissible, it does not suggest that such actions would be uniformly practical or feasible given policy or resource considerations or that there are not important considerations of legal risk that would need to be evaluated. Nor do we assess the relative priority among these various avenues for addressing environmental justice concerns. We look forward to working with all your offices to explore these matters in greater detail.

I. Resource Conservation and Recovery Act (RCRA)

RCRA authorizes EPA to regulate the generation, transportation, treatment, storage, and disposal of hazardous wastes and the management and disposal of solid waste. EPA issues guidelines and recommendations to State solid waste permitting programs under RCRA sections 1008(a), 4002, or 4004 and may employ this vehicle to address environmental justice concerns. The primary area where environmental justice issues have surfaced, however, is in the permitting of hazardous waste treatment, storage, and disposal facilities (e.g., incinerators, fuel blenders, landfills). Pursuant to RCRA section 3005, EPA is authorized to grant permits to such facilities if they demonstrate compliance with EPA regulations.

Upon application by a State, EPA may authorize a State's hazardous waste program to operate in lieu of the Federal program, and to issue and enforce permits. The State's program must be equivalent to the Federal program to obtain and retain authorization. When EPA adopts more stringent RCRA regulations (including permit requirements), authorized States are required to revise their programs within one year after the change in the Federal program or within two years if the change will necessitate a State statutory amendment. 40 CFR § 271.21(e). EPA and most authorized States have so-called "permit shield" regulations, providing that, once a facility obtains a hazardous waste permit, it generally cannot be compelled to comply with additional requirements during the permit's term.

The scope of EPA's authority to address environmental justice issues in RCRA hazardous waste permits was directly addressed by the Environmental Appeals Board (EAB) in Chemical Waste Management, Inc., 6 E.A.D. 66, 1995 WL 395962 (1995) <<http://www.epa.gov/eab/disk11/cwmii.pdf>> The Board found "that when the Region has a basis to believe that operation of the facility may have a disproportionate impact on a minority or low-income segment of the affected community, the Region should, as a matter of policy, exercise its discretion to assure early and ongoing opportunities for public involvement in the permitting process." Id. at 73. It also found that RCRA allows the Agency to "tak[e] a more refined look at its health and environmental impacts assessment in light of allegations that operation of the facility would have a disproportionately adverse effect on the health or environment of low-income or minority populations." Id. at 74. Such a close evaluation could, in turn, justify permit conditions or denials based on disproportionately high and adverse human health or environmental effects, while "a broad analysis might mask the effects of the facility on a disparately affected minority or low-income segment of the community." Id. However, while acknowledging the relevance of disparities in health and environmental impacts, the Board also cautioned that "there is no legal basis for rejecting a RCRA permit application based solely upon alleged social or economic impacts upon the community." Id. at 73.

Consistent with this interpretation, there are several RCRA authorities under which EPA could address environmental justice issues in permitting:

A. **Hazardous Waste Treatment, Storage and Disposal**

1. RCRA section 3005(c)(3) provides that "[e]ach permit issued under this section shall contain such terms and conditions as the Administrator (or the State) determines necessary to protect human health and the environment." EPA has interpreted this provision to authorize denial of a permit to a facility if EPA determines that operation of the facility would pose an unacceptable risk to human health and the environment and that there are no additional permit terms or conditions that would address such risk. This "omnibus" authority may be applicable on a permit-by-permit basis where appropriate to address the following health concerns in connection with hazardous waste management facilities that may affect low-income communities or minority communities:
 - a. Cumulative risks due to exposure from pollution sources in addition to the applicant facility;
 - b. Unique exposure pathways and scenarios (e.g., subsistence fishers, farming communities); or
 - c. Sensitive populations (e.g., children with levels of lead in their blood, individuals with poor diets).
2. RCRA section 3013 provides that if the Administrator determines that "the presence of any hazardous waste at a facility or site at which hazardous waste is, or has been, stored, treated, or disposed of, or the release of any such waste from such facility or site may present a substantial hazard to human health or the environment," she may order a facility owner or operator to conduct reasonable monitoring, testing, analysis, and reporting to ascertain the nature and extent of such hazard. EPA may require a permittee or an applicant to submit information to establish permit conditions necessary to protect human health and the environment. 40 CFR § 270.10(k). In appropriate circumstances, EPA could use the authority under section 3013 or 40 CFR § 270.10(k) to compel a facility owner or operator to carry out necessary studies, so that, pursuant to the "omnibus" authority, EPA can establish permit terms or conditions necessary to protect human health and the environment.
3. RCRA provides EPA with authority to consider environmental justice issues in establishing priorities for facilities under RCRA section 3005(e), and for facilities engaged in cleaning up contaminated areas under the RCRA corrective action program, RCRA sections 3004(u), 3004(v), and 3008(h). For example, EPA could consider factors such as cumulative risk, unique exposure pathways, or sensitive populations in establishing permitting or clean-up priorities.
4. EPA adopted the "RCRA Expanded Public Participation" rule on December 11, 1995. See 60 Fed. Reg. 63417. RCRA authorizes EPA to explore further whether the RCRA

permit public participation process could better address environmental justice concerns by expanding public participation in the permitting process (including at hazardous waste management facilities to be located in or near low-income communities or minority communities).

5. In expanding the public participation procedures applicable to RCRA facilities, EPA also would have authority to expand the application of those procedures to the permitting of: (a) publicly owned treatment works, which are regulated under the Clean Water Act; (b) underground injection wells, which are regulated under the Safe Drinking Water Act; and (c) ocean disposal barges or vessels, which are regulated under the Marine Protection Research and Sanctuaries Act. These facilities are subject to RCRA's permit by rule regulations, 40 CFR § 270.60, and are deemed to have a RCRA permit if they meet certain conditions set out in the regulations. 40 CFR § 270.60.
6. EPA's review of State-issued permits provides additional opportunities for consideration of environmental justice concerns. Where the process for a State-issued permit does not adequately address sensitive population risks or other factors in violation of the authorized State program, under the regulations EPA could provide comments on these factors (in appropriate cases) during the comment period on the State's proposed permit on a facility-by-facility basis. 40 CFR § 271.19(a). Where the State itself is authorized for RCRA "omnibus" authority and does not address factors identified in EPA comments as necessary to protect human health and the environment, EPA may seek to enforce the authorized State program requirement. 40 CFR § 271.19(e). Alternatively, if the State is not authorized for "omnibus" authority, EPA may superimpose any necessary additional conditions under the "omnibus" authority in the federal portion of the permit. These conditions become part of the facility's RCRA permit and are enforceable by the United States under RCRA section 3008 and citizens through RCRA section 7002.
7. RCRA section 3019 provides EPA with authority to increase requirements for applicants for land disposal permits to provide exposure information and to request that the Agency for Toxic Substances and Disease Registry conduct health assessments at such land disposal facilities.
8. RCRA section 3004(o)(7) provides EPA with authority to issue location standards as necessary to protect human health and the environment. Using this authority, EPA could, for example, establish minimum buffer zones between hazardous waste management facilities and sensitive areas (e.g., schools, areas already with several hazardous waste management facilities, residential areas). Facilities seeking permits would need to comply with these requirements to receive a permit.
9. RCRA-permitted facilities are required under RCRA section 3004(a) to maintain "contingency plans for effective action to minimize unanticipated damage from any treatment, storage, or disposal of . . . hazardous waste." Under this authority, EPA could require facilities to prepare and/or modify their contingency plans to reflect the needs of

environmental justice communities that have limited resources to prepare and/or respond to emergency situations.

10. RCRA additionally provides EPA with authority to amend its regulations to incorporate some of the options described in 1 through 6 above so they become part of the more stringent federal program that authorized States must adopt.

II. Clean Water Act (CWA)

The CWA was adopted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." To achieve this goal, Congress prohibited the discharge from a point source of any pollutant into a water of the United States unless that discharge complies with specific requirements of the Act. Compliance is achieved by obtaining and adhering to the terms of an NPDES permit issued by EPA or an authorized State pursuant to section 402, or a dredge and fill permit issued by the Army Corps of Engineers or an authorized State pursuant to section 404.

NPDES permits must contain: (1) technology-based limitations that reflect the pollution reduction achieved through particular equipment or process changes, without reference to the effect on the receiving water and (2) where necessary, more stringent limitations representing that level of control necessary to ensure that the receiving waters achieve water quality standards. Water quality standards consist of (1) designated uses of the water (e.g., public water supply, propagation of fish, or recreation); (2) criteria to protect those uses including criteria based on protecting human health and aquatic life; and (3) an antidegradation policy. EPA requires that States designate all waters for "fishable/swimmable" uses unless such uses are not attainable. EPA issues water quality criteria guidance to the States pursuant to CWA section 304(a).

Permits issued under CWA section 404 authorize the discharge of "dredged or fill material" to waters of the United States. The types of activities regulated under section 404 include filling of wetlands to create dry land for development, construction of berms or dams to create water impoundments, and discharges of material dredged from waterways to maintain or improve navigation. Section 404 permits issued by the Corps of Engineers must satisfy two sets of standards: the Corps' "public interest review" and the section 404(b)(1) guidelines promulgated by EPA. The public interest review is a balancing test that requires the Corps to consider a number of factors, including economics, fish and wildlife values, safety, food and fiber production and, public needs and welfare in general. 33 CFR § 320.4(a). The section 404(b)(1) guidelines provide that no permit shall issue if: (1) there are practicable, environmentally less damaging alternatives, (2) the discharge would violate water quality standards or jeopardize threatened or endangered species, (3) the discharge would cause significant degradation to the aquatic ecosystem, or (4) if all reasonable steps have not been taken to minimize adverse effects of the discharge. 40 CFR § 230.10.

There are several CWA authorities under which EPA could address environmental justice issues in permitting:

A. State Water Quality Standards

States are required to review their water quality standards every three years and to submit the results of their review to EPA. CWA section 303(c)(1). EPA Regional offices must approve or disapprove all new or revised State water quality standards pursuant to section 303(c)(3). EPA will approve State standards if they are scientifically defensible and protective of designated uses. 40 CFR § 131.11. If a State does not revise a disapproved standard, EPA is required to propose and promulgate a revised standard for the State. Section 303(c)(4)(A). The Administrator is also required to propose and promulgate a new or revised standard for a State whenever she determines that such a standard is necessary to meet the requirements of the Act and the State does not act to adopt an appropriate standard. CWA section 303(c)(4)(B).

1. State water quality standards currently are required to provide for the protection of "existing uses." 40 CFR § 131.12(a)(1). These are defined as uses actually attained in the water body on or after November 28, 1975. 40 CFR § 131.3(e). To the extent that minority or low-income populations are, or at any time since 1975 have been, using the waters for recreational or subsistence fishing, EPA could reinterpret the current regulations to require that such uses, if actually attained, must be maintained and protected. The CWA provides EPA with authority to require, through appropriate means, that high rates of fish consumption by these populations be considered an "existing use" to be protected by State water quality standards. Under the current regulations, existing uses cannot be removed.
2. EPA regulations provide that all waters must be designated for the protection and propagation of fish, shellfish, and wildlife and for recreation in and on the water ("fishable/swimmable") unless the State documents to EPA's satisfaction that such uses are not attainable. 40 CFR §§ 131.6(a), 131.10(j).

EPA interprets "fishable" uses under section 101(a) of the CWA to include, at a minimum, designated uses providing for the protection of aquatic communities and human health related to consumption of fish and shellfish. In other words, EPA views "fishable" to mean that not only can fish and shellfish thrive in a waterbody, but when caught, can also be safely eaten by humans (stated in 10/24/00 "Dear Colleague" letter from Geoffrey H. Grubbs, Director Office of Science and Technology, and Robert H. Wayland, III, Director Office of Wetlands, Oceans and Watersheds). Therefore, EPA currently recommends that in setting criteria to protect "fishable" uses, that the State/Tribe adjust the fish consumption values used to develop criteria to protect the "fishable" use, including fish consumption by subsistence fishers (USEPA 2000, Methodology

for Deriving Ambient Water Quality Criteria for the Protection of Human Health, EPA-822-B-00-004, Chapter 2.1). For example, in deriving such criteria, states or tribes could select their fish consumption value based on site-specific information or a national default value for subsistence fishing (Chapter 4).

In the future, EPA could reinterpret its regulations to mean that any human health use must have a criterion that would protect consumption by subsistence fishers unless there is a showing that water is not used for subsistence fishing.

3. The CWA provides EPA with authority to recommend that State CWA section 303(c)(1) triennial reviews of water quality standards consider the extent to which State criteria provide for protection of human health where there exists subsistence fishing. EPA Regional offices may disapprove a criterion that does not provide protection to highly-exposed populations. The Administrator further has the discretionary authority to determine that such criteria are necessary to meet the requirements of the CWA and then must promptly propose and promulgate such criteria.
4. Consistent with CWA section 101(e), EPA could encourage States to improve public participation processes in the development of State water quality standards through greater outreach and by translating notices for limited English speaking populations consistent with Executive Order 12898 on environmental justice.

B. Issuance of NPDES Permits

1. Assuming EPA adopts the interpretation described in paragraph A.1., above, NPDES permits issued for discharge to waters where a high level of fish consumption is an "existing use" should contain limitations appropriate to protect that use. The CWA provides EPA authority to take this approach when it issues NPDES permits in States not authorized to run the NPDES program, and to object to or ultimately veto State-issued permits that are not based on these considerations. CWA section 402(d).
2. Consistent with CWA section 101(e), where EPA issues NPDES permits, environmental justice concerns can also be taken into account in setting permitting priorities and improving public participation in the permitting process (greater outreach to minority communities and low-income communities including translating notices for limited English speaking populations consistent with Executive Order 12898 on environmental justice).
3. CWA section 302 authorizes EPA to propose and adopt effluent limitations for one or more point sources if the applicable technology-based or water quality-based requirements will not assure protection of public health and other concerns. This determination requires findings of economic capability and a reasonable relationship between costs and benefits. The Agency has never used this authority, but could evaluate whether this authority could be used with respect to pollutants of concern to minorities or

low-income communities. Prior to adopting such limitations by regulation, EPA could use its authority under CWA section 402(a)(1) to incorporate such limitations in specific NPDES permits issued by EPA. The Clean Water Act does not appear to provide any general authority to impose conditions on or deny permits based on environmental justice considerations that are unconnected to water quality impacts or technology-based limitations.

4. Pursuant to CWA section 104 and other authorities, EPA may provide technical assistance to Indian Tribes, where appropriate, in the development of water quality standards and the issuance of NPDES permits.

C. CWA Section 404

1. The broadest potential authority to consider environmental justice concerns in the CWA section 404 program rests with the Corps of Engineers, which conducts a broad "public interest review" in determining whether to issue a section 404 permit. In evaluating the "probable impacts . . . of the proposed activity and its intended use on the public interest," the Corps is authorized to consider, among other things, aesthetics, general environmental concerns, safety, and the needs and welfare of the people. 33 CFR § 320.4(a). This public interest review could include environmental justice concerns.
2. EPA has discretionary oversight authority over the Corps' administration of the section 404 program (i.e., EPA comments on permit applications, can elevate Corps permit decisions to the Washington, D.C. level, and can "veto" Corps permit decisions under section 404(c) that would have an unacceptable adverse effect on "municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational areas"). The CWA thus authorizes EPA to use these authorities to prevent degradation of these public resources that may have a disproportionately high and adverse health or environmental effect on a minority community or low-income community. Such effects can be addressed when they result directly from a discharge of dredged or fill material (e.g., the filling of a waterbody), or are the indirect result of the permitted activity (e.g., the fill will allow construction of an industrial facility that will cause water pollution due to runoff).

III. Safe Drinking Water Act (SDWA)

The SDWA includes two separate regulatory programs. The Public Water Supply program establishes requirements for the quality of drinking water supplied by public water systems. This program contains no federal permitting. The Underground Injection Control (UIC) program establishes controls on the underground injection of fluids to protect underground sources of drinking water.

Under the UIC program, the Administrator must establish requirements for State UIC programs that will prevent the endangerment of drinking water sources by underground injection.

EPA has promulgated a series of such requirements beginning in 1980. The SDWA also provides that States may apply to EPA for primary responsibility to administer the UIC program. EPA must establish a UIC permitting program in States that do not seek this responsibility or that fail to meet the minimum requirements established by EPA.

There are several SDWA authorities under which EPA could address environmental justice issues in UIC permitting:

A. EPA-issued Permits

Underground injection must be authorized by permit or rule. The SDWA provides that EPA can deny or establish permit limits where such injection may “endanger” public health. “Endangerment” is defined to include any injection that may result in the presence of a contaminant in a drinking water supply that “may...adversely affect the health of persons.” 40 CFR § 144.52(b)(1). As a result, in those States where EPA issues permits and an injection activity poses a special health risk to minority or low-income populations, the SDWA provides EPA with authority to establish special permit requirements to address the endangerment or deny the permit if the endangerment cannot otherwise be eliminated. As in its Chemical Waste Management RCRA permit appeal decision discussed in Part I above, the EAB has addressed EPA’s authority to expand public participation and to consider disproportionate impacts in the UIC permitting program. Envotech, 6 E.A.D. 260, 281, 1996 WL 66307 (1996) <<http://www.epa.gov/eab/disk10/envotech.pdf>>.

B. Pending regulatory action

The Office of Water is currently revising the regulations under this program governing "Class V" injection wells (i.e., shallow wells where nonhazardous waste is injected). In determining which wells to regulate and the standards for those where EPA determines regulations are necessary to prevent "endangerment," the SDWA provides EPA with authority to take into account environmental justice issues such as cumulative risk and sensitive populations.

C. Other regulatory actions

Likewise, the SDWA provides EPA with authority to address environmental justice issues related to potential endangerment of drinking water supplies by injection for all types of wells. For example, EPA could revise its regulatory requirements for siting Class 1 (hazardous waste) wells to address cumulative risk and other risk-related environmental justice issues.

IV. Marine Protection, Research, and Sanctuaries Act (MPRSA)

The MPRSA, commonly known as the Ocean Dumping Act, 33 USC § 1401 ff., establishes a permitting program that covers the dumping of material into ocean waters. The ocean disposal of a variety of materials, including sewage sludge, industrial waste, chemical and biological warfare agents, and high level radioactive waste, is expressly prohibited.

EPA issues permits for the dumping of all material other than dredged material. 33 U.S.C. § 1412(a). The Army Corps of Engineers issues permits for the dumping of dredged material, subject to EPA review and concurrence. 33 U.S.C. § 1413(a). (As a practical matter, EPA issues very few ocean dumping permits because the vast majority of material disposed of at sea is dredged material.) EPA also is charged with designating sites at which permitted disposal may take place; these sites are to be located wherever feasible beyond the edge of the Continental Shelf. 33 U.S.C. § 1412(c)(1).

When issuing MPRSA permits and designating ocean dumping sites, EPA is to determine whether the proposed dumping will "unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities." 33 USC § 1412(a), (c)(1). EPA also is to take into account "the effect of... dumping on human health and welfare, including economic, esthetic, and recreational values." 33 U.S.C. § 1412(a)(B), (c)(1). Thus, in permitting and site designation, EPA has ample authority to consider such factors as impacts on minority or low-income communities and on subsistence consumers of sea food that would result from the proposed dumping. In addition, the MPRSA provides specifically that EPA is to consider land-based alternatives to ocean dumping and the probable impact of requiring use of these alternatives "upon considerations affecting the public interest." 33 U.S.C. § 1412(a)(G). This authorizes EPA to take impacts on minority populations or low-income populations into account in evaluating alternative locations and methods of disposal of the material that is proposed to be dumped at sea.

V. Clean Air Act (CAA)

There are several CAA authorities under which EPA could address environmental justice issues in permitting:

A. New Source Review (NSR)

NSR is a preconstruction permitting program. If new construction or making a major modification will increase emissions by an amount large enough to trigger NSR requirements, then the source must obtain a permit before it can begin construction. The NSR provisions are set forth in sections 110(a)(2)(C), 165(a) (PSD permits), 172(c)(5) and 173 (NSR permits) of the Clean Air Act.

Under the Clean Air Act, states have primary responsibility for issuing permits, and they can customize their NSR programs within the limits of EPA regulations. EPA's role is to

approve State programs, to review, comment on, and take any other necessary actions on draft permits, and to assure consistency with EPA's rules, the state's implementation plan, and the Clean Air Act. Citizens also play a role in the permitting decision, and must be afforded an opportunity to comment on each construction permit before it is issued.

The NSR permit program for major sources has two different components—one for areas where the air is dirty or unhealthy, and the other for areas where the air is cleaner. Under the Clean Air Act, geographic areas (e.g., counties or metropolitan statistical areas) are designated as “attainment” or “nonattainment” with the National Ambient Air Quality Standards (NAAQS)—the air quality standards which are set to protect human health and the environment. Permits for sources located in attainment (or unclassifiable) areas are called Prevention of Significant Deterioration (PSD) permits and those for sources located in nonattainment areas are called NSR permits.

A major difference in the two programs is that the control technology requirement is more stringent in nonattainment areas and is called the Lowest Achievable Emission Rate (LAER). On the other hand, in attainment or PSD areas, a source must apply Best Available Control Technology (BACT) and the statute allows the consideration of cost in weighing BACT options. Also, in keeping with the goal of progress toward attaining the national air quality standards, sources in nonattainment areas must always provide or purchase “offsets”—decreases in emissions which compensate for the increases from the new source or modification. In attainment areas, PSD sources typically do not need to obtain offsets. However, PSD does require an air quality modeling analysis of pollution that exceeds allowable levels; this impact must be mitigated. Sometimes, these mitigation measures can include offsets in PSD areas.

1. Under the Clean Air Act, section 173(a)(5) provides that a nonattainment NSR permit may be issued only if: "an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification." For example, this provision authorizes consideration of siting issues. Section 165(a)(2) provides that a PSD permit may be issued only after an opportunity for a public hearing at which the public can appear and provide comment on the proposed source, including "alternatives thereto" and "other appropriate considerations." This authority could allow EPA to take action to address the proper role of environmental justice considerations in PSD/NSR permitting.
2. In addition to these statutory provisions, EPA directly issues PSD/NSR permits in certain situations (e.g., in Indian country and Outer Continental Shelf areas) and, through the EAB, adjudicates appeals of PSD permits issued by States and local districts with delegated federal programs. In such permit and appeal decisions, it is possible to consider environmental justice issues on a case-by-case basis, without waiting to issue a generally applicable rule or guidance document. EPA already considers environmental

justice issues on a case-by-case basis in issuing PSD permits consistent with its legal authority.

3. The EPA Environmental Appeals Board (EAB) has addressed environmental justice issues in connection with PSD permit appeals on several occasions. The EAB first addressed environmental justice issues under the CAA in the original decision in Genessee Power (September 8, 1993). In that decision the EAB stated that the CAA did not allow for consideration of environmental justice and siting issues in air permitting decisions. In response, the Office of General Counsel filed a motion for clarification on behalf of the Office of Air and Radiation (OAR) and Region V. OGC pointed out, among other things, that the CAA requirement to consider alternatives to the proposed source, and the broad statutory definition of “best available control technology” (BACT), provided ample opportunity for consideration of environmental justice in PSD permitting. In an amended opinion and order issued on October 22, 1993, the EAB deleted the controversial language but did not decide whether it is permissible to address environmental justice concerns under the PSD program. 4 E.A.D. 832, 1993 WL 484880, <<http://www.epa.gov/eab/disk4/genessee.pdf>>. However, in subsequent decisions, Ecoeléctrica, 7 E.A.D. 56, 1997 WL 160751 (1997) <<http://www.epa.gov/eab/disk11/ecoelect.pdf>>, and Puerto Rico Electric Power Authority, 6 E.A.D. 253, 1995 WL 794466 (1995) <<http://www.epa.gov/eab/disk9/prepa.pdf>>, the EAB stated that notwithstanding the lack of formal rules or guidance on environmental justice, EPA could address environmental justice issues. In 1999 in Knauf Fiber Glass, 8 E.A.D. PSD Appeal Nos. 98-3 through 98-20, 1999 WL 64235 (Feb. 4, 1999) <<http://www.epa.gov/eab/disk11/knauf.pdf>>, the EAB remanded a PSD permit to the delegated permitting authority (the Shasta County Air Quality Management District) for failure to provide an environmental justice analysis in the administrative record in response to comments raising the issue.
4. In the 1990 CAA Amendments, Congress provided that the PSD provisions of the Act do not apply to hazardous air pollutants (HAPs), see CAA section 112(b)(6), so the role of hazardous air pollutant impacts as environmental justice issues in PSD permitting is not straightforward. Thus, BACT limits are not required to be set for HAPs in PSD permits. However, the Administrator ruled prior to the 1990 Amendments that in establishing BACT for criteria pollutants, alternative technologies for criteria pollutants could be analyzed based on their relative ability to control emissions of pollutants not directly regulated under PSD. EPA believes that the 1990 Amendments did not change this limited authority, and EPA believes it could be a basis for addressing environmental justice concerns. In addition, EPA may have authority to take into account – and to require States to do so in their PSD permitting – effects of HAPs that are also criteria pollutants, such as VOCs.

B. Title V

Title V of the CAA requires operating permits for stationary sources of air pollutants and prescribes public participation procedures for the issuance, significant modification, and renewal of Title V operating permits. Unlike PSD/NSR permitting, Title V generally does not impose substantive emission control requirements, but rather requires all applicable requirements to be included in the Title V operating permit. Other permitting programs may co-exist under the authority of the CAA, such as those in State implementation plans (SIPs) approved by EPA.

1. Because Title V does not directly impose substantive emission control requirements, it is not clear whether or how EPA could take environmental justice issues into account in Title V permitting – other than to allow public participation to serve as a motivating factor for applying closer scrutiny to a Title V permit’s compliance with applicable CAA requirements. EPA believes, however, that in this indirect way, Title V can, by providing significant public participation opportunities, serve as a vehicle by which citizens can address environmental justice concerns that arise under other provisions of the CAA.
2. Under the 40 CFR Part 70/71 permitting process, EPA has exercised its CAA authority to require extensive opportunities for public participation in permitting actions. State permitting authorities also have the flexibility to provide additional public participation.
3. Other permitting processes under the CAA such as SIP permitting programs can include appropriate public participation measures, and these can be used to promote consideration of environmental justice issues. For example, EPA regulations require that “minor NSR programs” in SIPs provide an opportunity for public comment prior to issuance of a permit (40 CFR § 51.161(b)(2)). (Note, however, that many state programs do not at present meet this requirement.)

C. Solid Waste Incinerator Siting Requirements

The CAA provides specific authority to EPA to establish siting requirements for solid waste incinerators that could include consideration of environmental justice issues. CAA section 129(a)(3) provides that standards for new solid waste incinerators include "siting requirements that minimize, on a site specific basis, to the maximum extent practicable, potential risks to public health or the environment." These would be applicable requirements for Title V purposes. The new source performance standards (NSPS) for large municipal waste combustors (40 CFR part 60, subpart Eb) and hospital/medical/infectious waste incinerators (40 CFR part 60, subpart Ec) both currently contain such requirements. In the large municipal waste combustor NSPS, the specific requirement in section 129(a)(3) was incorporated and requirements for public notice, a public meeting and consideration of and response to public comments were added. However, to reduce the burden on the much smaller entities which typically own and operate hospital/medical/infectious waste incinerators, that NSPS only incorporates the specific section 129(a)(3) requirement. EPA is subject to a court ordered deadline for

taking final action on NSPS for commercial/industrial waste incinerators, and has proposed to follow the approach to the siting analysis adopted in the hospital/medical/infectious waste NSPS in that rule.

D. 40 CFR Part 71 Tribal Air Rule

The Part 71 federal operating permit rule establishes EPA's Title V operating permits program in Indian country. Where sources are operating within Indian country, and Tribes do not seek authorization to implement Title V programs, the Part 71 rule clarifies that EPA will continue to implement federal operating permit programs. These Title V permit programs are limited to Title V and other applicable federal CAA requirements and are not comprehensive air pollution control programs. Thus, the opportunities for addressing environmental justice issues may be similar to those discussed in section B above.

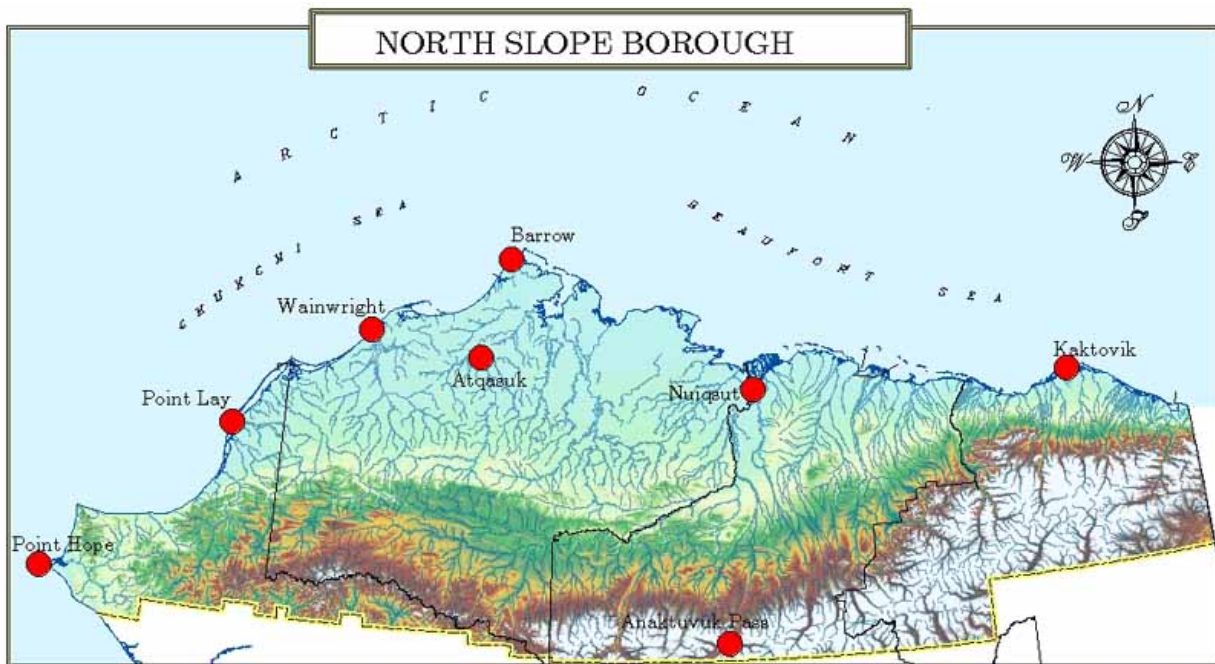
cc: Michael McCabe
Barry Hill
Lisa Friedman
Susan Lepow
Alan Eckert
James Nelson

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North Slope Communications Protocol

**Communication Guidelines
to Support Meaningful Involvement
of the North Slope Communities
in EPA Decision-Making**



May 2009

Message from the Acting Regional Administrator:

In Region 10 of the U.S. Environmental Protection Agency (EPA), communication through community involvement is a cornerstone of much of the work we do.

This document represents a tailored approach for the Region's communications in Alaska with communities of the North Slope. Because of the area's unique geography, culture, and environmental issues, we need to take extra care to ensure our efforts to involve communities on the North Slope meet their needs, as well as comply with our Agency's public involvement requirements.

Communication is a two-way street, and most successful when built on a foundation of knowledge, trust, solid relationships, basic courtesy, and the right resources. The North Slope Communications Protocol (Protocol) seeks to lay out sensible processes, practical tools, and helpful background information to prepare Region 10 employees for successful community involvement on the North Slope. The goal for this Protocol is to improve the agency's effectiveness in working with North Slope communities. By adhering to the guidelines in this Protocol, you will work more effectively and fairly in these communities.

The Region will implement this Protocol beginning in May 2009. It is intended to be a living document which will be revised as we learn over time. This document is expected to be a well-used, hands-on guide for EPA staff and managers who are working on issues which may affect the communities of the North Slope. Close adherence to this communication guidance should enable North Slope communities to have meaningful involvement in EPA actions that can potentially affect them which is an important goal of our environmental justice program.

Sometimes we must look beyond minimum regulatory requirements, and go the extra step, or mile or two, to truly have meaningful involvement of the public in our decision-making. At the same time, we must comply with all federal laws, regulations, and policies, including environmental justice and tribal consultation. I am committed to open, fair, and timely processes and expect that all employees of EPA Region 10 share that commitment.

Sincerely,

Michelle L. Pirzadeh
Acting Regional Administrator

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1.0 Introduction

This document is intended to be used by all EPA Region 10 personnel who conduct public meetings and public hearings, process permits, organize and carry out inspections, or any other action representing EPA and Region 10 on the North Slope of Alaska. It is the responsibility of each program to determine specifically how it will implement the Protocol for its work. Some projects may warrant an intensive, comprehensive communications effort. For others, a more abbreviated effort may be in the best interest of the agency, the communities, and the project proponent.

To facilitate using this document it is organized as follows:

- It begins with the statement of the Region 10 communications protocol.
- Presented next are general principles for successful communications with communities; these are provided to be used in implementing the Protocol.
- A brief description of the North Slope communities follows and provides some of the context needed to move forward with implementation.
- The document concludes with appendices that provide more detail on the North Slope communities and resources for implementing the Protocol.

The Protocol encourages and assumes that Region 10 program staff will be routinely communicating with one another and will actively seek guidance and advice from program area specialists, including the appropriate tribal coordinators, environmental justice coordinator, community involvement coordinator, and communications staff.

While this document is not intended to cover communities outside of the North Slope, the principles of communication and community involvement described here are applicable anywhere. Specific conditions and the steps taken to account for them may vary greatly across the state of Alaska and will need to be included in any effort to apply the Protocol elsewhere.

The Protocol will be amended, as appropriate, over time, to reflect changes in our responsibilities and authorities and to capture what we learn as we work to communicate better with our partners and the communities on the North Slope.

Questions about implementing the protocol or updates to the protocol should be directed to the Community Involvement Coordinator of the Oil and Gas Sector team.

2.0 Communication with North Slope Communities

Region 10 Protocol Statement:

Region 10 will:

- Maintain and improve our working relationships with communities on the North Slope of Alaska,
- Use communication strategies that take into account the cultural context of the North Slope communities,
- Communicate early both internally and with North Slope communities as soon as Region 10 staff learn of a proposed project or issue.

Implementing the Protocol:

Region 10 will use communication strategies that take into account the cultural context of the North Slope communities by adapting our communications to the values and practices of those communities. In this way, Region 10 will practice culturally appropriate communications for each project related to the North Slope. For each project (or project category) related to the North Slope, there must be a deliberate consideration of whether there is a need to prepare and implement a formal communications strategy. If a formal strategy is not deemed necessary, the Protocol must still be implemented by the program.

Communication with North Slope communities can begin as soon as EPA learns of a project (perhaps even before an application is received, for example). This requires EPA program staff to communicate regularly with each other concerning their activities on the North Slope. Development of a communication strategy can also begin as soon as EPA learns of a project. Routine and open communication with the communities is an integral part of the entire project process, beginning at project inception, not from the start of the comment period. The type and frequency of communication will be in alignment with the expressed needs of the communities.

Region 10 will routinely plan for a 60-day window for public comment opportunity. This does not mean we will routinely offer 60-day comment periods. Rather, we will set aside a timeframe of 60 days, to provide for any comment period extension requests, to accommodate any scheduling changes that might be necessary after consideration of the subsistence year activities (described Section 5), or changes due to logistical complications, and to build flexibility into our schedules to account for other unforeseen delays.

Part of conducting meaningful public involvement with communities of the North Slope includes applying cultural competence. Cultural competence refers to the ability to interact effectively with people of different cultures. It is the responsibility of each program to determine specifically how implementation of the Protocol be done for a given project. The Protocol is a guide to considerations that each staff member will confront and provides a general framework

within which each program can determine how it will implement the Protocol. A toolbox is provided later in this document to help staff think through the process of developing an appropriate communications plan (see Appendix D).

General principles for successful communications

Because communication involves the two-way exchange of information, effective communication requires an understanding of those with whom you are communicating. With increased understanding we will have more effective communication and a better working relationship. By following these principles, you will be taking steps to implement the Protocol.

Do your homework. Contact the tribal coordinator to learn as much as you can about the community's surroundings, geography, and pertinent history that can have a bearing on the outcome of your work. Learn about related past issues before beginning work with communities. At the same time, avoid making assumptions about current needs and perspectives.

Avoid beginning communications and community involvement during whaling season. This is a critical point. Whaling occurs in both spring and fall for North Slope communities. Other important subsistence harvesting times must be considered, as well (see Section 5).

Allow more time! Start early. Communication on the North Slope simply takes more time than in other areas of Region 10. Mail is slower and the internet is generally less reliable. Community members like to have plenty of time to consider information and consult with each other. Requests for extensions to comment periods are likely.

Invite the communities to help plan and set up the public involvement process, where possible. Communicate with communities about their needs, and work with them to schedule comment periods and meetings and/or hearings.

Give clear, flexible (yet predictable) schedules. Clearly outline the steps, milestones (key opportunities for public input) and timeframes in our decision-making process.

Be transparent in decision-making. Be clear who is making decisions, how they will be made, and what information will be considered. Educate people about the legal mandates and constraints of the agency. Be clear about how community input can influence the decision-making process. Engage communities in discussions to identify both the type and timing of information the agency can use and the flexibility associated with both. Provide information to help communities prepare their comments so that they are effectively communicating with the Region about our pending actions. Inform communities on opportunities to appeal Agency decisions with which they may not agree and be clear about the process used to determine the validity of appeals.

Communicate early and often. We strive for a working relationship with communities in which there are no, or very few, surprises. This is accomplished by keeping all parties informed of how the process is proceeding and making revisions, within the possible range of discretion, to respond to changing conditions and needs. Striving for no surprises does not mean that there is no room for disagreement. A working relationship with few surprises allows for the easier identification of disagreement without the accompanying issues of trust. This also provides the most time to address those disagreements and seek resolution.

Know who you are talking with.

- 1) There are limited numbers of people in the villages and there are many roles to be filled. Roles and leadership are fluid and change from time to time. It is important that you identify who you are talking with and in what capacity they are talking with you. For example, is the person speaking as a whaling captain, as an officer in the Alaska Eskimo Whaling Commission, as the President of the Village for-profit corporation, or as an elder?
- 2) Note that the same person may have varied roles in the community; the officer in the for-profit corporation might be a member of the whaling commission, or an elected member of the North Slope Borough (NSB) assembly.

In Alaskan communities there are three entities that co-exist and are loosely related, but have official differences. These are:

- 1) Borough/municipality/city--this entity is recognized and draws its authority from the laws of the State of Alaska and its Constitution. This is equivalent to any city/village/county in the lower 48 states.
- 2) Native Village--this entity is a federally recognized tribe and is afforded all of the considerations that are required of federal agencies; for example formal government-to-government consultation can take place between EPA and a Native Village.
- 3) Regional and Village Corporations--this entity is unique to Alaska and is a for-profit corporation, created by the Alaska Native Claims Settlement Act (ANCSA), whose shareholders are Alaska Natives. These corporations are the same as any other corporation and are subject to the laws of commerce with no special standing under federal law.

It can become confusing to sort out who is representing which interest, but this understanding is paramount to effectively communicating and being able to respond appropriately to comments.

Ensure the message you sent is received. It goes without saying that communication requires both transmitting and receiving a message. Do not assume that any communications have occurred if you have only sent (transmitted) a message. Just because you sent an e-mail does not mean that your message was received and read. Depending upon the importance of the message, you may need to follow-up with phone calls until you actually speak with the person to whom you sent the message to verify receipt. This also allows you to provide any needed clarity or additional information that the person may need.

Get meaningful information to people in the communities before beginning a comment period. Again, mail can be slow! Verify receipt. Again, you may need to follow-up with phone calls.

Provide general summary information and make details available. Keep information at the appropriate level of complexity, communicated in a culturally appropriate manner. Provide summaries. At the same time, more complicated details, technical references, and background information should be made available for those who want them.

Honor basic communication courtesies. Listen. Let people know they have been heard. Close the feedback loop. Address comments specifically. Say how you will solve issues. Talk with the Region's tribal coordinator, become aware of culturally appropriate communication courtesies and apply them.

Value cultural differences. The indigenous people of the North Slope have successfully lived sustainably in their environment. They have a great accumulation of knowledge and much to teach and share. They are experts in their own lives in their environment.

Ensure that the material you are sending is likely to be relevant to the receiver. Some community leaders have noted that they often get so many materials from agencies that they cannot distinguish those that require their direct or immediate attention. Consequently, it may be easy to overlook relevant documents which do warrant attention. At the same time, we must ensure that mailing lists and contact lists are complete and current. Follow up with communities to ensure that the materials were received and that the recipient is the appropriate contact.

Be inclusive. An inclusive effort is one where decision-making includes information and perspectives from diverse points of view and experiences. Recognize that there are many different perspectives within any community. The opinions of a few individuals do not necessarily represent the views of the wider community.

Provide an EPA e-mail address and a physical address for receiving comments.
As a back-up to hard copy on-site information, work with the Region 10 webteam and consider establishing a website or other internet component for your project. If developed, consolidate all available information on the webpage and include contact information. Keep it up to date. Include both simple summary information and access to more detailed information. Although internet access is limited, a webpage still needs to be considered as an option for people to get information. Remember to also provide the information in hard copy form in one or more central locations within the community.

Evaluate Your Efforts. Along the way, and when your project is concluding, evaluate your community involvement efforts. Remember to request feedback from the communities about

what worked, how it worked, what did not work, how it did not work, and what the agency could do better next time.

Communication Limitations

Internet access is generally limited and expensive, with variable service. Many people do not have easy, cheap access to internet information. Put all information on the website, but also provide hard copies at locations in the community.

Telephone service is not always reliable. Additionally, be aware that you may need to call people multiple times, at different times of day, in order to reach them.

Teleconference capabilities vary and are not always reliable. Equipment is not always compatible and service can be sporadic. Always test a teleconference system before committing to having a teleconference. Work directly with the teleconference person in the village/city. Even with the best of planning you can encounter a failure of the teleconferencing system. Never rely solely on teleconferencing as your only official public comment collection mechanism, and always have a contingency plan. Teleconference rooms are available in all of the villages. Do not publicize the teleconference call-in number or you could have a single telephone problem take down the entire teleconference. Instead, publicize the village teleconference public meeting *location* and encourage people to attend.

Mail can take a very long time. It is a good idea to call ahead to make sure your project material has arrived at its destination. As noted above, make sure project material is available in the communities before starting a comment period. Material should be sent to a variety of locations in the same community.

Some communities do not have libraries or information repositories available for documents. Sometimes city, tribal, school, and post office buildings are used for these purposes. Call and find out. While there is no single source of this information, it is often most efficient to talk with someone in Region 10 who has experience in your area of interest.

Translation may be required. Check in advance with the communities to find out what their translation preferences are, and make needed arrangements. Local translators may be available. Simultaneous translation equipment is available for checkout from the Region 10 Public Environmental Resource Center (PERC). Bring the equipment even if you think you may not need it.

3.0 Tribal Consultation

EPA has tribal consultation responsibilities outside of the public participation process. EPA's tribal consultation process is required and supported by the 1984 EPA Policy for the Administration of Environmental Programs on Indian reservations (a.k.a. the "Indian Policy"), Executive Order 13175: Consultation and Coordination with Indian Tribal Governments, and the EPA Region 10 Tribal Consultation Framework.

"Consultation" means the process of seeking, discussing, and considering the views of federally recognized Tribal governments at the earliest time in EPA Region 10's decision-making. Consultation generally means more than simply providing information about what the agency is planning to do and allowing comment. Rather, Region 10's commitment to tribal consultation means respectful, meaningful, and effective two-way communication that works toward a consensus reflecting the concerns of the affected federally recognized Tribe(s) before EPA makes its decision or moves forward with its action. The Region will maintain government-to-government communications with North Slope federally recognized tribal governments.

Tribal consultation, while a requirement of its own, must be considered a part of the overall communications Protocol and planned for accordingly. Both the EPA and the Tribe should work together to arrange tribal consultation. Communication with tribal governments on the North Slope does not constitute tribal consultation unless it is specifically designated as such.

Contact the North Slope Tribal Coordinator, the Alaska Resource Extraction Tribal Policy Advisor or the Region 10 Tribal Consultation Specialist and refer to existing regional guidance on tribal consultation for assistance in developing individual tribal consultation plans. In addition, some tribes have their own tribal consultation policy; please request this from the tribal government. Consultation policies developed by affected tribes should be considered when developing tribal consultation plans and to determine a mutual understanding of what tribal consultation means to both parties.

Here are websites to help you get started with your research about tribal consultation requirements:

Executive Order 13175 - Consultation and Coordination with Indian Tribal Governments:
<http://www.epa.gov/fedrgstr/eo/eo13175.htm>

Region 10 Tribal Consultation Framework and Guiding Principles:
<http://yosemite.epa.gov/R10/TRIBAL.NSF/Programs/Consultation>

Tribal Programs in the Pacific Northwest and Alaska: <http://yosemite.epa.gov/r10/tribal.NSF/>

4.0 Environmental Justice

Ensuring environmental justice for all people, including vulnerable populations and communities disproportionately impacted by various governmental and industrial activities, is a national priority of EPA. EPA's environmental justice practices are required and supported by Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. The overarching goal of the Agency is to integrate environmental justice principles and practices into all the activities of every Program and of Program staff. This will be achieved, in part, through staff completion of both the introductory and advanced environmental justice training courses offered in Region 10.

Application of this Protocol should enable you to achieve our environmental justice goal of ensuring the meaningful involvement of North Slope communities in EPA actions that affect them. Achieving the environmental justice goals of avoiding and mitigating disproportionate impacts and ensuring fair and equitable environmental decisions for everyone are the subjects of extensive guidance and training (see below). However, implementation of this Protocol should be a big step forward to integrating environmental justice into our program work.

Environmental justice considerations are also an important part of our work on air and water permits, enforcement and compliance, contaminated sites cleanup, grants review and management, and National Environmental Policy Act (NEPA) project reviews. EPA staff can use discretion in implementing program policies and guidance to ensure that environmental justice issues are considered and addressed.

Contact the Region 10 environmental justice program manager and the environmental justice coordinator in your program office. They can help you identify environmental justice issues at your project site or activity, including use of environmental justice assessment tools.

Listed below are resources to help you get started with your research about our Environmental Justice requirements:

Environmental Justice Policies and Guidance:

<http://www.epa.gov/compliance/resources/policies/ej/index.html>

Environmental Justice Contacts in Region 10:

<http://yosemite.epa.gov/r10/ocrej.nsf/Environmental+Justice/EJ-Contacts>

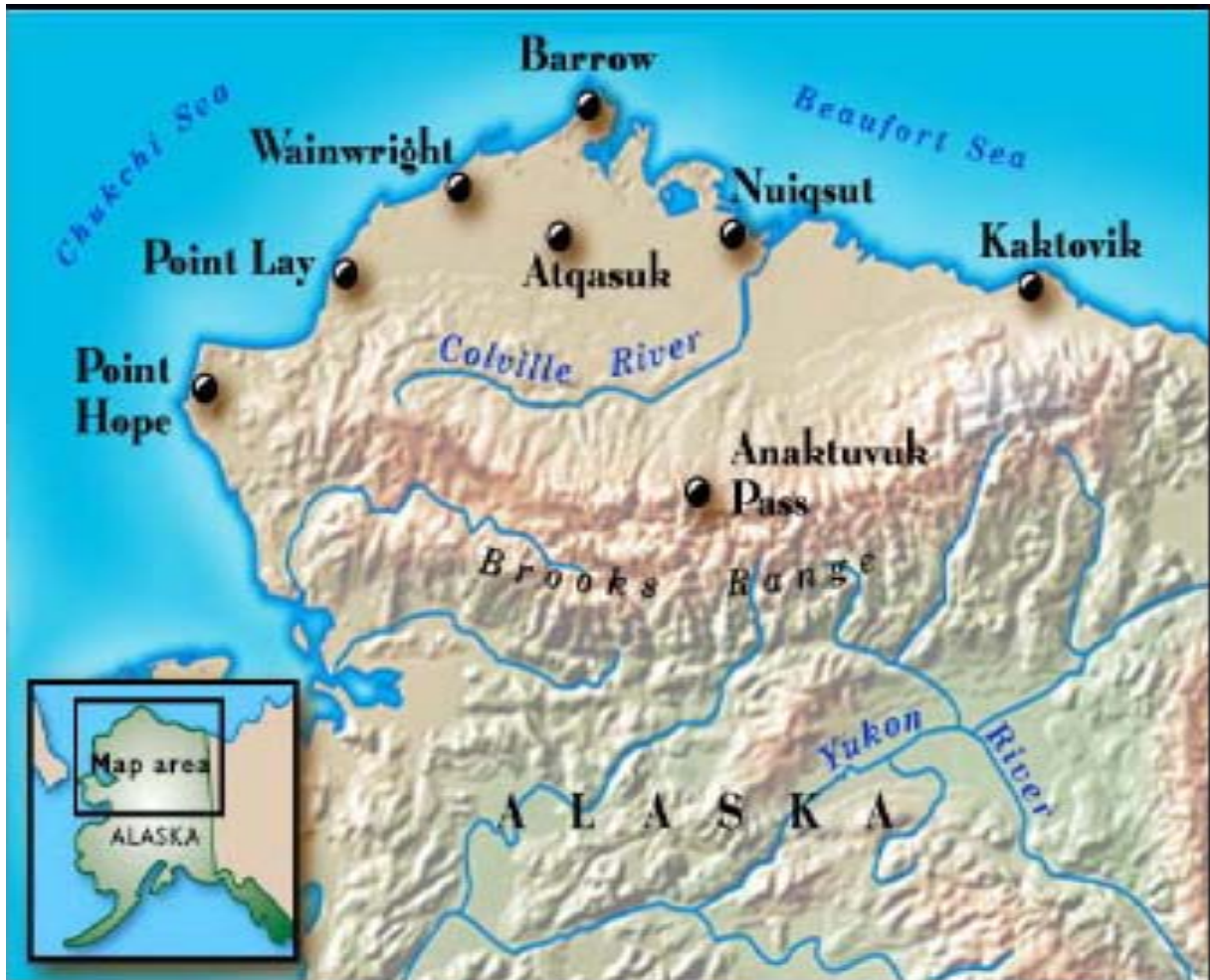
Environmental Justice Training in Region 10:

<http://yosemite.epa.gov/R10/ocrej.nsf/environmental+justice/training>

5.0 About the North Slope

Geography

The North Slope (NS) is located along the northern-most portion of Alaska. It includes eight distinct communities.



<u>Community</u>	<u>Approximate Population (<i>numbers are changeable</i>)</u>
Point Hope	764
Point Lay	260
Wainwright	556
Barrow	4500
Atkasuk	260
Nuiqsut	416
Kaktovik	286
Anaktuvuk Pass	358

These communities are within a county-level political subdivision called the North Slope Borough (NSB). The NSB covers a very large geographical area and is comparable in size to the state of Minnesota. It is located completely above the Arctic Circle. These communities are remote arctic villages, with no roads between them. Agency access to the villages generally occurs by bush plane.

Cultural Information

These villages are home to native Inupiat residents. About 69 percent of the residents are all or part Alaska native. Whaling is central to the culture.

This is a culture with an oral (spoken) and aural (listening) tradition. Inupiaq is spoken and translation services may be needed in some cases. English is widely spoken, but in many cases it is a second language.

In this traditional society, elders hold special status, as do whaling captains and their wives.

For more detailed discussion about each native village, see Appendix E.

An Example Subsistence Year

The following, adapted from work done by Molly Pederson of the North Slope Borough, is a generalized example of activities that take place throughout the year in the subsistence life of the villagers on the North Slope. This is not a rigid schedule, but is an attempt to put the yearly flow of work and life of the villagers onto the twelve month calendar that we are all familiar with. There is variability from time to time and from village to village, which is one reason that, for us to serve the North Slope communities, it is so important to communicate with the villages to ascertain what is happening and what is anticipated.

As the example on the following page illustrates, there is no perfect, ideal time to begin a community involvement effort. The protocol sets out a process for determining the best way to proceed, working directly with the communities.

An Example Subsistence Year in the North Slope Borough Area

January

- Trapping continues
- Seal hunting
- Seal skins prepared for bleaching
- Polar bear hunting
- Build/repair skin boats

February

- Trapping continues
- Caribou skins drying outside
- Seal and ugruk skins also drying/bleaching
- Continue build/repair skin boats

March

- Some polar bear hunting
- Seal hunting
- Trapping continues for fox, wolf and wolverine
- Women sew ugruk skins for skin boats
- New skins put on boat frames
- Hunting tools repaired
- Female polar bears bring out their young

April

- End of trapping season
- Whaling season begins
- Caribou and ground squirrel hunting inland
- Time to clean cellars if not done during winter
- Birth of young seals

May

- Whaling continues
- Geese/ptarmigan hunting inland
- Duck hunting on ice
- Ice breakup on rivers
- Seals on ice at Qaaktugvik
- Ugruk have their young

June

- Nalukataq in the whaling communities (Kaktovik, Nuiqsut, Barrow, Am, Point Hope)
- Going off to Summer camps
- Fishing on rivers and lakes begins
- Seal hunting
- Fish in Qaaktugvik

July

- Fish continues
- Caribou hunting
- Gathering eggs in Pt. Hope
- Ugruk and walrus hunting
- Drying meat and making seal oil
- Preparing ugruk skins for boats

August

- Caribou hunting by boats, some by snow machines
- Ugruk and aiviq hunting continues
- Ugruk skins prepared for boats/boot bottoms
- Duck hunting at Pigniq
- Boat frames build
- Geese hunting at Wainwright
- Tuktaq making time
- Fish on rivers
- Berry picking inland

September

- Panmaksrak coming through
- Some duck hunting
- Beginning of fall bowhead whale hunt
- Moose hunting
- Whaling in Kaktovik/Nuiqsut/Barrow

October

- Fall whaling continues
- Ice fishing on rivers and lakes
- Caribou hunting first part of the month
- Ice fishing along coastline for cod fish

November

- Polar bear hunting on the coastline
- Seal hunting
- Some hunters still at fish camps
- Traditional Thanksgiving Feast

December

- Trapping season for fox, wolf, wolverine
- Seal hunting
- Polar bear hunting
- Traditional Christmas Feasts
- Traditional games of skill and endurance

APPENDICES

Appendix A: Abbreviations

AEWC: Alaska Eskimo Whaling Commission

ANCSA: Alaska Native Claims Settlement Act

ANILCA: Alaska National Interest Lands Conservation Act

AOO: Alaska Operations Office, in Anchorage

EJ: Environmental Justice

G2G: Government to Government

ICAS: Inupiat Community of the Arctic Slope

NS: North Slope

NSB: North Slope Borough

NSCP: North Slope Communication Protocol

Appendix B: North Slope Communication Protocol Guide

Process Guide

The following information is designed to serve as a helpful guide for you, taking you through some steps for fulfilling requirements of the Protocol. Optional sample worksheets are included as well.

1. Early Communications

1.1 The public communications process begins as soon as EPA learns of a project (perhaps even before a permit application is submitted, for example).

1.2 Identify potentially affected and interested parties, including EPA programs.

Make initial contact with all NS communities, as well as ICAS, AEWC, and the NSB, to determine the level of involvement that each community desires and what type(s) of communications might be most useful. The intent is to not add work beyond the capacity of the community; rather, we need to keep from inundating people with non-relevant notices and requests for their time.

1.3 To be completed by: Program staff person communicates with NS contacts by telephone.

2. Communications Strategy

2.1 Determine the communications required by the involved program.

2.2 Determine the range of program discretion within which communications can be conducted. Determine what is required by law or regulation, what is policy, what is general practice.

2.3 Determine whether a formal communications strategy should be prepared.

The answer will likely be “yes” if regulatory decisions will be made, permits will be processed, or other formal agency actions will occur.

2.4 Internal: Perform internal review, revision, and obtain appropriate approval of communications strategy, if written.

2.5 If no formal communications strategy is deemed necessary, then the Protocol and its principles of communication should still be followed.

2.6 To be completed by: Program staff person communicates with program manager, Alaska Operations Office contact, Community Involvement Coordinator, and Tribal Program contact.

Begin with telephone and email and establish conference meetings as necessary.

3. Community Input

3.1 Inform the North Slope community contacts about how the region plans to communicate, making sure it is in alignment with the needs of the community.

3.2 Establish the frequency at which communications can be expected; establish a routine if possible.

3.3 To be completed by: Program staff person by the agreed upon methods.

4. Implementation

4.1 Implement the communications strategy

4.2 To be completed by: Program staff person and Community Involvement Coordinator, as identified in the communications strategy.

- Integrate program requirements with project specific considerations.
- Be vigilant to identify potentially changing conditions.
- Communicate regularly with AOO staff.
- Read local Alaska newspapers.
- Keep your project on the minds of those you work with in case they have information useful to you.
- Return telephone calls and e-mail messages, being open to the discovery of something new.

5. Adaptive Management

5.1 Make a change:

To the “action process”

EXAMPLE: process halted to acquire new information

To the communications process

EXAMPLE: The publicly noticed 30-day comment period is extended because a public meeting held at day 15 of the comment period reveals that required agency documents will not be physically available in the communities for another 2 weeks. Since the EPA program requires that the public have 30 days access to these documents prior to the public hearing, the hearing will need to be rescheduled. Thus, in this case, the hearing is now likely to be at least 44 days from the date of the public meeting assuming that EPA is able to prepare and publish the necessary public notice of the rescheduled hearing during the 2 week wait for document arrival.

Example comment period timeline:

1 July –Beginning of 30 day comment period
15 July –Public Meeting held – document problem identified
29 July –Documents in communities

MOST RAPID RESPONSE – LEAST CHANGE IN SCHEDULE:

15 July to 29 July –EPA prepares and publishes Public Notice of rescheduled Public Hearing for 30 days following 29 July
28 August –Public Hearing can be held

Comment Period could end after the Public Hearing – however, good public participation practices would allow at least 5 days of comment period after a Public Hearing

Original comment period = 1 July to 30 July
Revised comment period = 1 July to 2 September

This example demonstrates the importance of planning for at least a 60-day window for comment periods so that neither the public nor the applicant is misled about the action schedule.

5.2 Make and communicate the change

As soon as possible talk with all involved parties explaining the situation and the action that has been taken. This must include communicating with other involved EPA program offices.

Establish a renewed (revised if necessary) routine and follow it.

Sample Work Sheets – These are meant to help guide you in your work; do not be limited by the space available for any component and provide as much detail as is appropriate for your particular project.

NORTH SLOPE COMMUNICATIONS PROTOCOL

DATE _____
PROJECT/ACTIVITY: _____ Location _____
EPA Program-Primary/Lead _____ Secondary _____
Region 10 Person – Primary _____ Secondary _____
Is this project/activity linked to another project/activity past, current, or future Y _ N _
Name of related project _____
Nature of linkage _____
Other Region 10 Program(s) involved _____

EXTERNAL COMMUNICATIONS

CONTACT at North Slope Borough –
OFFICE _____
PERSON _____ PHONE NUMBER _____
CONTACT at City –
OFFICE _____
PERSON _____ PHONE NUMBER _____
CONTACT at Tribal Entity –
TRIBAL ENTITY _____
OFFICE _____
PERSON _____ PHONE NUMBER _____
CONTACT at State of Alaska –
OFFICE _____
PERSON _____ PHONE NUMBER _____

INTERNAL COMMUNICATIONS

CONTACT with Sector(s) –
SECTOR _____
PERSON _____ PHONE NUMBER _____
G2G
OFFICE _____
PERSON _____ PHONE NUMBER _____
CONTACT with Alaska Operations Office –
OFFICE-PROGRAM _____
PERSON _____ PHONE NUMBER _____
OFFICE-TRIBAL LIAISON _____
PERSON _____ PHONE NUMBER _____

PROTOCOL ACTION(S)

TRIBAL Government-to-Government Consultation Notification Sent Y ___ N ___

Government to Government Letter sent to:

OFFICE _____ ADDRESS _____

PERSON _____ PHONE NUMBER _____

G2G Activity – Separate File Created Y ___ N ___

Person Responsible for G2G _____

PUBLIC COMMENT PERIOD – Required Y ___ N ___

Public Comment Period Dates:

Begins: _____

Ends: _____

Response to Comments Due: _____

DOES REGION 10 NEED TO SOLICIT PUBLIC COMMENT FOR MORE THAN ONE PROGRAM, PROJECT, OR ACTIVITY? Y ___ N ___

If yes, then, describe the coordination taking place and accommodations to limit the demands on the communities for their engagement on multiple issues:

SUBSISTENCE/CULTURAL CONSIDERATIONS

When will EPA’s action take place? _____

What subsistence activities occur during this time of year? _____

What considerations are necessary to accommodate the subsistence/cultural needs of the residents? _____

What limitations does Region 10 have to work within? _____

Has the public comment period been established to best accommodate the limitations of the region and the needs of the residents? Y ___ N ___

If not, explain why not: _____

Who made the decision: _____

COORDINATION WITH EPA PROGRAMS

OFFICE _____ ADDRESS _____

PERSON _____ PHONE NUMBER _____

OFFICE _____ ADDRESS _____

PERSON _____ PHONE NUMBER _____

OFFICE _____ ADDRESS _____

PERSON _____ PHONE NUMBER _____

MILEPOSTS – TIMELINE for Project/Activity

1. Region 10 becomes aware of project or activity. DATE: _____
2. Program has communication with external party regarding the project.
3. Program communicates internally with other programs to provide early notification and increase Regional awareness.
4. Program provides regular update to North Slope residents [perhaps through monthly teleconference with ICAS or Village Voice program if either or both are implemented] This is both informal sharing of information and formal notice of pending work or action.
5. Program receives documents that trigger the beginning of Region 10’s official involvement (ie, permit application). DATE: _____
6. Coordination within Region 10 formalized.
7. Communications plan developed in collaboration with communities and implemented. DATE: _____
8. Continuing interaction with applicant, residents, government agencies, and programs as Region proceeds with project/activity.
9. Provide close-out update summarizing the project/activity history, the comments received from residents, and Region 10’s responses to those comments.
10. Evaluate your communication efforts and lessons learned.

Appendix C: Travel to the North Slope - What You Need to Know

Traveling to the North Slope (NS) presents some unique challenges.

Flights are less reliable. For example, planes will not fly in white-out conditions or temperatures below 45 degrees below zero F. NS flights are limited, as planes may fly in to and out of certain villages only on certain days of the week, and usually only once per day, requiring at least an overnight stay. Realize these are small bush planes, with limited seating. Reserve flights early. Build flexibility into your schedule. Watch the weather forecast for the villages before you go (www.weather.com is one resource; NOAA's Alaska Regional Office website is also recommended www.arh.noaa.gov). Make contingency planning a priority.

Airlines which fly to NS communities include Alaska Airlines (only to Barrow), Frontier Flying, and Bering Air.

Lodging: Arranging lodging in certain NS communities can be a challenge. In Barrow, the largest community on the NS, there are somewhat limited public accommodations. In other villages there are even fewer public accommodations. For example, you may need to sleep in the gym or perhaps on the floor of the community center. To find out, discuss arrangements with the villages during your early communications.

Getting Around: As with lodging, call to find out how to manage local transportation. There are no rental cars, and in many cases no taxis.

Dining: Dining options are extremely limited and those that exist may have limited hours. You may need to bring your own food. Check in advance with your community contacts to find out what your available options are at that time. Plan ahead, remembering that flights do not have food and can be long.

Money: There are only two ATMs on the entire NS. Bring plenty of cash and personal checks as many places cannot process credit or debit cards.

Packing: Plan your packing with layering in mind. Also, it's in your best interest to pack as lightly as possible—you have to carry it, sometimes a long way, and in the cold. Consider time of year, and pack accordingly.

Personal Gear to Bring with You:

- sunglasses (in winter, too)
- insect repellent
- snacks (plenty of them, as certain villages offer few amenities)
- casual clothes and tough footwear (no suits and ties)

- sleeping gear depending on your lodging arrangements
- clothing with pockets near the body to hold things you do not want to freeze (like eye drops, lip balm, moisturizer, camera, small flashlight, hand wipes, water bottle, etc.)
- sturdy boots (well insulated with no steel toes in winter; insulated mud-boots in summer)
- wool socks and pants (wool is better than cotton)
- thermal underwear
- warm (down) jacket with hood
- hat that covers ears, scarf, gloves
- flashlight
- sleeping mask for eyes (accommodations in the villages do not always have curtains on the windows to block out the light in the summer)
- flip-flops (bathrooms may be communal at some village accommodations)
- ear plugs for sleeping (you may be sharing a room with someone who snores)

Note: In winter, put on your warm wear before you exit the plane. The walk into a building can be a long one if you are not prepared for the cold. The plane can be cold, too!

Agency Equipment and Meeting Supplies

Each trip will have a particular purpose(s). Consequently, it is important that you give early, thoughtful consideration to the equipment and supplies that you will need to bring so that your trip is effective and productive. It is not possible to compile a complete list of equipment and supplies that may be required, but you should consider the fact that there are not office supply stores in the villages.

Suggestions:

- Visual aids (graphics) for your discussion are very valuable – they help to bridge the cultural and language differences that you will be working with and, if done well, convey a great deal of information in a small space. Remember that when dealing with different languages, a table with numbers and words is often meaningless; instead use graphics, drawings, pictures, maps.
- Consider the possible need for a flip chart or white dry erase board. If you are going to be outdoors, markers freeze and are unusable.
- Do you need a projector? Does your location have electricity? Do you need to bring long extension cords, etc.?
- If there will be a formal hearing, bring sign-in sheets, pencils, etc.

Other considerations:

There may be electricity, indoor plumbing, and land-line telephones; however, cell phone and Wi-Fi coverage is minimal to non-existent. Limited internet service, mostly by dial-up, may be available. Note that buildings are kept quite warm, usually 75 degrees or more --- the temperature differential between inside and outside can be extreme. Layer up! So you can layer down inside.

Appendix D: Tool Box

Internal EPA Contacts

The following staff have direct experience working with North Slope (NS) communities and are available for consultation:

- Tribal Coordinator located in AOO working the NS (contact Tribal Program Unit manager for contact information)
- Resource Extraction Tribal Coordinator located in AOO

The following staff have program area specialty experience and are available for consultation:

- Community Involvement Coordinator (contact Community Involvement and Public Information Unit, Seattle)
- Environmental Justice Program Manager located in Seattle

The Region 10 Public Environmental Resource Center (PERC) has simultaneous translation equipment available for checkout, as well as educational materials for use at public meetings.

Community Contacts

The following contacts work with and/or live in NS communities and may be available as a resource. For a particular project, always contact the office to determine current personnel and their contact information.

North Slope Borough
Office of the Mayor
P.O. Box 69
Barrow, AK 99723
(907) 852-0200

Native Village of Barrow
Office of the Tribal Council President
P.O. Box 1130
Barrow, AK 99723
(907) 852-4411/4412

Inupiat Community of the Arctic Slope
(ICAS)
IRA Tribal Organization
Office of the President
P.O. Box 934
Barrow, AK 99723
(907) 852-4227

City of Anaktuvuk Pass
Office of the Mayor
P.O. Box 21030
Anaktuvuk Pass, AK 99721
(907) 661-3612

City of Barrow
Office of the Mayor
P.O. Box 629
Barrow, AK 99723
(907) 852-5211

Native Village of Anaktuvuk Pass
(Nagsragmiut Tribal Council)
Office of the Tribal Council President
P.O. Box 21065
Anaktuvuk Pass, AK 99721
(907) 661-2535

City of Atqasuk
Office of the Mayor
P.O. Box 91119
Atqasuk, AK 99791
(907) 633-6811

Native Village of Atqasuk
Office of the Tribal Council President
P.O. Box 91108
Atqasuk, AK 99791
(907) 633-2575

City of Kaktovik
Office of the Mayor
P.O. Box 27
Kaktovik, AK 99747
(907) 640-6313

Native Village of Kaktovik
Office of the Tribal Council President
P.O. Box 73
Kaktovik, AK 99747
(907) 640-2042/2043

City of Nuiqsut
Office of the Mayor
PO Box 148
Nuiqsut, AK 99789
(907) 480-6727

Native Village of Nuiqsut
Office of the Tribal Council President
P.O. Box 89169
Nuiqsut, AK 99789
(907) 480-3010

City of Point Hope
Office of the Mayor
P.O. Box 169
Point Hope, AK 99766
(907) 368-2537

Native Village of Point Hope
Office of the Tribal Council President
P.O. Box 109
Point Hope, AK 99766
(907) 368-2330

City of Point Lay
Office of the Mayor
P.O. Box 59
Point Lay, AK 99759
(907) 833-2428

Native Village of Point Lay
Office of the Tribal Council President
P.O. Box 59
Point Lay, AK 99759
(907) 833-2775

City of Wainwright
Office of the Mayor
P.O. Box 9
Wainwright, AK 99782
(907) 763-2815

Wainwright Traditional Council
Office of the Tribal Council President
P.O. Box 143
Wainwright, AK 99782
(907) 763-2535

Alaska Eskimo Whaling Commission
Office of the Chairman
P.O. Box 570
Barrow, AK 99723
(907) 852-2392

Post Offices

All current contact information is available through the North Slope Borough website at: North Slope Borough Information, North Slope Borough Directory
<http://www.north-slope.org/departments/mayorsoffice/downloads/NSBDirectory>

Websites

Here is a sampling of websites. Note that not all communities or organizations have websites.

ARLIS, Alaska Resource Library and Information Services (“The mother lode of Alaska resources information”): www.arlis.org
North Slope Borough: www.north-slope.org
Arctic Slope Regional Corporation: www.arsc.com
Kuukpik Corporation: www.kuukpik.com
City of Barrow: www.cityofbarrow.org
City of Nuiqsut: www.nuiqsutalaska.com
City of Kaktovik: www.kaktovik.com

News Outlets

Here is a list of publications which may be appropriate for running press releases, display ads, and/or public notices.

Anchorage Daily News: (907) 257-4300
Petroleum News: (907) 522-9469
Arctic Sounder: (907) 852-2531
Daily News Miner: (907) 459-7548
North Slope News: (907) 852-2611

For Public Service Announcement or to offer interviews:

KBRW Radio: (907) 852-6811
KOTZ Radio (only if western villages may be interested): (907) 442-3434
GCI, the local television station (you may be able to request a scrolling message be placed on the screen)—check locally to get contact information

Ask for your public notices to be posted in post offices, city offices, and village offices. (Send those notices to multiple locations within the community.)

Note: An informal CB radio network exists among the villages. When there are visitors or events, it is likely that the local residents will hear about it through this CB system. While it is not an official means to get information distributed, it could be worthwhile to ask your community contacts about this option.

Translation Services

Talk with the community and determine the need for a translator. It is important to respect the wishes of the community with regard to the selection of a translator; a village may have a very strong opinion regarding the accuracy or bias of a translator that they have had experience with in the past. You need to work with the tribal coordinator and the community to effectively address this need. Simultaneous translation equipment is available for checkout from the Region 10 Public Environmental Resource Center (PERC).

Court Reporters

Generally check for companies located in Anchorage. It is common practice for the quote to include the travel costs.

Mailing Lists

Once again, contact the community, the Alaska Operations Office, and the Tribal program and work together to determine the extent of your mailing list. Appropriate mailing lists are built on a project-by-project basis. Although other mailing lists may exist in the Region and may be a useful reference, they are not likely the right mailing list for your project. It is not acceptable to merely add contacts to that an existing mailing list. We have heard repeatedly that we (the government) are flooding the people with so much paper that they cannot read it all, and they cannot easily determine if the notice they received is relevant to them or not. We need to work to refine our contact lists *for each project*, rather than using an existing list and adding to it.

Whaling Season

Call the Alaska Eskimo Whaling Commission to learn the specifics about the current whaling season plans. In general, spring season runs from late March through the end of May. Fall season runs from the beginning of August through the end of September. However, dates vary, and it is necessary to check. Call the executive director at (907) 852-2303.

As the Example Subsistence Year (see Section 5) demonstrates, however, there is never a time when there is nothing that needs to be done. It is important to remember that in order to go whaling, there has to be sufficient other food available, caribou, fish, birds, to sustain the community and the whalers while they are engaged in whaling. Check with your community contacts to design a community involvement effort that makes sense given current subsistence activities.

Appendix E: About Each Native Village

On the following pages, you will find summary background information about each of the North Slope villages. This information was copied verbatim on April 28, 2008, from the NS Borough website at www.north-slope.org.

Please note that this information may not be current in every case. Also, because of its introductory nature, it may not tell the whole story. For example, the hotel referenced in the Nuiqsut section actually refers to a work camp that is open only at certain times of the year. Please check all details with your village contact before making any final arrangements.

BARROW

The Community

Barrow is the economic, transportation and administrative center for the North Slope Borough. Located on the Chukchi Sea coast, Barrow is the northernmost community in the United States. The community is traditionally known as Ukpeagvik, “place where snowy owls are hunted.” Barrow was incorporated as a first-class city in 1959.

Barrow takes its modern name from Point Barrow, named in 1825 by Captain Beechey of the Royal Navy for Sir John Barrow of the British Admiralty. Beechey was plotting the Arctic coastline of North America at the time.

An important historical site in the area is the Birnick archaeological site which contains 16 dwelling mounds of a culture believed to have existed from 500-900 AD. The archaeological findings are considered a key link between the prehistoric cultures of Alaska and Canada. Another interesting site is the Cape Smythe Whaling and Trading Station in nearby Browerville. Cape Smythe was built as a whaling station in 1893 and is the oldest frame building in the Arctic.

During the 1940s and 1950s, the military played an influential role in the area. Construction of the Distant Early Warning (DEW) line and exploration in the National Petroleum Reserve brought new people to the region. During the same time, the Naval Arctic Research Lab (NARL) was built near Barrow. Visitors to Barrow will arrive at the Wiley Post-Will Rogers Memorial Airport. This airport was named to commemorate the famous pilot and the American humorist who died in an airplane crash just 15 miles south of Barrow in 1935. Across from the airport sits the Will Rogers and Wiley Post Monument.

Population/Economy

The largest city in the North Slope Borough, Barrow has 4,429 residents, of which approximately 61 percent are Iñupiat Eskimo. Although Barrow is a modern community, subsistence hunting, fishing and whaling are still very important to the local economy. Many residents who work full- or part-time continue to hunt and fish for much of their food

In 2003, approximately one-third of the working population of 1,935 was employed in the private sector. Only a few work for oil companies at Prudhoe Bay. The borough employs 46 percent of the work force and the NSB School District employs another 19 percent.

Quality of Life

Most Barrow homes are heated by natural gas from nearby gas fields, and have modern water and sewer systems. Utilities are available through Barrow Utilities and Electric Cooperative, a member-owned cooperative, which offers electricity, natural gas and water/sewer services. Water is also delivered by truck to homes beyond the piped distribution system. The NSB provides trash pick-up.

As the seat of the North Slope Borough, Barrow is home to many regional health and social services. These public facilities include: a hospital, senior citizen center, women's shelter, children & youth services center, library, and job training and assistance center. Public safety and fire protection are also provided.

The community is served by seven churches, elementary, middle and high schools and a post-secondary education center, Ilisagvik College. On evenings and weekends, the high school's swimming pool, weight room and gym are open to the public. Residents also use Barrow's recreation center, which boasts a gym, racquetball courts, weight room and sauna. The City operates an inflatable dome for ice skating and hockey in the winter and soccer during the summer.

Communications in Barrow include phone, mail, a public radio station, Internet capability and cable TV. The community also has four hotels, eight restaurants, a dry cleaner, fur shop and a bank. Barrow has a large grocery/merchandise store and three convenience stores. Barrow bans the sale of alcoholic beverages. Major repair services are available for marine, auto and aircraft engines. Diesel, propane, marine gas, aviation fuel and all grades of auto gas are available.

During the summer months, tour operators offer package tours of Barrow and the surrounding area. Visitors learn about the North Slope's traditional culture at the Inupiat Heritage Center, where they can also purchase arts and crafts such as baleen boats, etched baleen, carved ivory, masks, parkas and fur mittens.

Barrow is served by passenger jet service from Anchorage and Fairbanks. Freight arrives by barge in the summer and air cargo year-round.

For more information contact:

City of Barrow
PO Box 629
Barrow, Alaska 99723
(907) 852-5211
cityofbarrow.org

ANAKTUVUK PASS

The Community

Anaktuvuk Pass is located on a divide between the Anaktuvuk and John Rivers in the central Brooks Range. The village lies about 250 miles northwest of Fairbanks and about the same distance southeast of Barrow. Anaktuvuk Pass is one of the most scenic villages on the North Slope, surrounded by tall mountains and near rivers and lakes. The community is located in the Gates of the Arctic National Parks and Preserve.

Anaktuvuk Pass, a historic caribou migration route, is the last remaining settlement of the inland Iñupiat Eskimo, the Nunamiut. The original nomadic Nunamiut left the Brooks Range and scattered in the early 1900s, mostly due to the collapse of the caribou population. By the 1940s, several Nunamiut families returned to the area and settled at the broad, treeless Anaktuvuk Pass, “the place of caribou droppings.” The community was incorporated as a fourth-class city in 1959 and upgraded to a second-class city in 1971.

There is a year-round museum in Anaktuvuk Pass that celebrates the early natural, geological and cultural history of the area, including the migration of people across the Bering Land Bridge. The museum also displays Nunamiut clothing, household goods and hunting implements used around the time of the first contact with Westerners.

Population and Economy

As of 2003, there were 346 people living in Anaktuvuk Pass and a work force of 157. The Nunamiut make up 88 percent of the population. Anaktuvuk’s economy is largely based on subsistence hunting of caribou, which migrate through the pass in the spring and fall. Fish, birds and berries are also important subsistence foods.

The private sector employs close to one-quarter of the labor force, the North Slope Borough employs 39 percent, and the School District employs another 23 percent. Through the museum, residents sell carvings and the caribou skin masks for which the village is widely known.

Quality of Life

The North Slope Borough provides Anaktuvuk Pass with public electricity and piped water and sewer services. The NSB also provides trash pick-up free of charge. A health clinic, staffed by community health aides, is open during the day and available at all times for emergencies. Anaktuvuk has a public safety building and a fire station, equipped with a fire engine and an ambulance.

Public education is provided by the Nunamiut School, with classes from pre-school through grade 12. Vocational education and adult basic education is also available.

The local village corporation, Nunamiut Corporation, owns a hotel, a grocery and merchandise store, and also sells propane fuel and gasoline. The sale, possession or importation of alcoholic beverages is prohibited by law.

Transportation to Anaktuvuk Pass is available via scheduled and chartered flights from Fairbanks or Barrow. Cargo arrives by air transport. Communications in the village include phone, mail, public radio and cable television.

[For more information contact:](#)

City of Anaktuvuk Pass
PO Box 21030
Anaktuvuk Pass, Alaska 99721
(907) 661-3612

ATQASUK

[The Community](#)

Atqasuk is located inland from the Arctic Ocean on the Meade River, about 60 miles southwest of Barrow. Atqasuk has long been established as a hunting and fishing ground. Abandoned sod houses, an old cellar and gravesite near the village provide evidence of an early settlement here.

During World War II, coal was mined in the community and freighted to Barrow. During the next 10 years, the village existed under the name of Meade River. Although the population dwindled in the 1960s, former residents from Barrow moved to the community in the 1970s and re-established the village under the name of Atqasuk. The village was incorporated as a second-class city in 1982.

[Population and Economy](#)

Atqasuk has a population of 250 residents and a work force of 72 as of 2003. Inupiat Eskimos comprise 91 percent of the population. Atqasuk's economy is largely based on subsistence caribou hunting and fishing. Fish in the Meade River include grayling, burbot, salmon and whitefish. Local game includes ptarmigan, ducks and geese. Residents also travel to the coast to participate in whaling and hunting other marine mammals.

The North Slope Borough employs close to 28 percent of the working population and the School District employs another 28 percent. Forty-three percent of the labor force works for the private sector or corporations. Some residents also produce arts and crafts for sale including masks, mittens, dolls, yo-yos, ulus and parkas.

[Quality Of Life](#)

The North Slope Borough provides Atqasuk with public electricity and piped water and sewer services. The NSB also provides trash pick-up. Atqasuk has a public safety building and a fire station equipped with a fire engine and an ambulance. A health clinic staffed by community health aides is open during the day and is available for emergencies around the clock.

The Meade River School offers public education from pre-school to grade 12 and adult basic education. Communications include phone, mail, public radio and cable television.

The village corporation, Atqasuk Corporation, owns a grocery and merchandise store which sells food, clothing, first-aid supplies, cameras, film and hardware. Propane, gas, diesel and motor oil are also available. Atqasuk bans the sale and importation of alcoholic beverages.

A scheduled airline and air taxi service from Barrow provides passenger and cargo service to Atqasuk.

For more information contact:

City of Atqasuk
P.O. Box 91119
Atqasuk, AK 99791
(907) 633-6811

KAKTOVIK

The Community

Kaktovik is 90 miles west of the Canadian border and 280 miles southeast of Barrow. The village is on the northern shore of Barter Island and the edge of the 20-million-acre Arctic National Wildlife Refuge. The ruins of old Kaktovik can be seen from the road linking the village to the airport. The community incorporated as a second class city in 1971.

Population and Economy

In 2003, there were 286 residents in Kaktovik and a labor force of 98. Eighty-eight percent of residents are Inupiat Eskimo. Thirty-two percent of the working residents are employed by the North Slope Borough, and another 25 percent work for the School District. Thirty-seven percent of the work force is employed in the private sector, primarily by Native corporations and their affiliates. Like other communities in the region, subsistence hunting, fishing and whaling play a major role in the local economy. Hunting in the nearby area is for Dall sheep, moose, caribou, and fox. The community also produces arts and crafts for sale such as etched baleen, carved ivory and masks.

The community also produces arts and crafts for sale such as etched baleen, carved ivory and masks. About one in every five household heads in Kaktovik receives monies from craft income.

Quality of Life

The Borough provides Kaktovik with public electricity and delivers piped water and sewer services. The NSB also provides trash pick-up.

The Harold Kaveolook School offers education from pre-school through grade 12 and adult basic education. Communications include phones, mail, public radio and cable TV.

A health clinic, staffed by community health aides, is open during the day and available around the clock for emergencies. Kaktovik has a public safety building and a fire station equipped with fire engines and an ambulance.

The Kaktovik Inupiat Corporation operates a hotel and runs the local store, which provides groceries, clothing, first-aid supplies, hardware, camera film and sporting goods. Fishing and hunting licenses and guide services are available in the community. Available fuel includes marine gas, diesel, propane, unleaded and regular. There are repair services for autos and aircrafts, and charter aircraft service is available.

Transportation to the village is provided by scheduled airlines and air taxi service from Barrow and Fairbanks. Freight arrives by cargo plane and barge. Kaktovik is a “dry” village in which the sale and possession of alcoholic beverages is prohibited.

For more information contact:

City of Kaktovik
PO Box 27
Kaktovik, AK 99747
(907) 640-6313

NUIQSUT

The Community

Nuiqsut is located about 18 miles south of the Colville River headwaters at the Beaufort Sea, and 135 miles southeast of Barrow. The Colville River Delta has traditionally been a gathering and trading place for the Inupiat, and a good source for hunting and fishing. After 27 Barrow families moved overland to the area, the Arctic Slope Regional Corporation funded construction of the village in 1974. The new residents lived in a tent city for 18 months before permanent housing could be built. Nuiqsut was incorporated as a second class city in 1975.

Population and Economy

In 2003, there were 416 residents in Nuiqsut and a labor force of 169. Approximately 92 percent of residents are Inupiat Eskimo. Like all North Slope villages, Nuiqsut’s economy is based primarily on subsistence hunting, fishing and whaling. Nearby subsistence species include bowhead whales, caribou, seals, moose and waterfowl; fish include whitefish, burbot, arctic char and grayling.

More than 55 percent of the work force is employed in the private sector, mostly by the Kuukpik village corporation and the construction industry. The North Slope Borough employs 30 percent of the local labor force and the School District employs another nine percent.

Some residents sell local arts and crafts, including skin masks and boats, fur mittens, parkas and carved ivory.

Quality of Life

The borough provides public electricity and water/wastewater services. Trash pick-up is also provided by the borough.

Trapper School holds classes from pre-school to grade 12 and offers adult basic education. A health clinic, staffed by community health aides, is open each day and is available 24 hours a day for emergencies. Nuiqsut has a public safety building and fire station equipped with a fire engine and an ambulance. Communications include phones, mail, public radio and cable TV.

Kuukpik Corporation operates a local hotel. Supplies available in town include groceries, clothing, first-aid supplies, hardware, camera film and sporting goods. Available fuel includes marine gas, diesel, propane, white gas kerosene and regular gasoline. The City of Nuiqsut bans the possession, sale and importation of alcoholic beverages.

Residents and visitors enjoy such activities as snowmobile rides, bingo and activities at the Kisik Community Center. Traditional dances are performed on the Fourth of July and at other celebrations. The community is served by a Presbyterian Church. Nuiqsut also has a softball field.

Nuiqsut is served by scheduled and chartered flights from Barrow. Freight arrives year-round by air cargo.

Nuiqsut residents have access to the Dalton Highway four months of the year. It is Alaska's northernmost town with road access.

[For more information contact:](#)

City of Nuiqsut
PO Box 148
Nuiqsut, AK 99789
(907) 480-6727

POINT HOPE

[The Community](#)

Point Hope is located near the end of a triangular spit jutting 15 miles into the Chukchi Sea 250 miles southwest of Barrow. This peninsula is one of the longest continually inhabited areas in North America. Some of the earliest residents came here for bowhead whaling some 2,000 years ago after crossing the Siberian land bridge.

Visitors to the area can see the remains of Old Tigara Village, a prehistoric site with the remains of sod houses. There is an even earlier site with about 800 house pits known as Ipiutak, occupied from about 500 BC to 100 AD. Ipiutak and the surrounding archaeological district are on the National Register of Historic Places. In addition to the prehistoric village sites, there are old burial grounds in the area including a cemetery marked by large whale bones standing on end.

Point Hope was incorporated in 1966 and six years later became a second-class city. Erosion and a threat of storm flooding from the Chukchi Sea led to its relocation to higher ground in the mid-1970s

Population and Economy

Point Hope is the second largest city on the North Slope with a population of 764 and a labor force of 293. As of 2003, Inupiat Eskimos make up 91 percent of Point Hope's population. The local economy is largely based on subsistence hunting, fishing and whaling. The Borough employs more than 18 percent of the working population and the school district employs 26 percent. Close to forty percent of the labor force works in the private sector.

Residents produce a wide array of arts and crafts for sale including carved ivory, baleen baskets, whale bone, masks, caribou skin masks, etched baleen, Eskimo parkas, ivory-tipped harpoons and bird spears.

Quality of Life

The North Slope Borough provides public electricity and piped water/sewer services, as well as trash pick-up. A health clinic, staffed by community health aides, is open each day and is available at all times for emergencies. Other public facilities include the city hall, public safety building, fire station, senior citizen center and day care center.

Tikigaaq School provides education from pre-school to grade 12 and offers adult basic education classes. Communications in town include phones, mail, public radio and cable TV.

Tikigaaq Corporation, Point Hope's village corporation, runs the Native store and sells groceries, clothing, first-aid supplies, hardware, camera film and sporting goods. City law prohibits the sale or possession of alcohol. Fuel in town includes marine gas, diesel, propane, unleaded, regular and supreme.

The community comes together to celebrate the Fourth of July, Thanksgiving, Christmas and Nalukataq, the feast at the end of a successful whaling season. Other activities include boating, wildlife viewing and bingo. Churches in the community include an Episcopal Church, Assembly of God and Church of Christ.

Point Hope is served by scheduled and chartered flights from Barrow and Kotzebue.

For more information contact:

City of Point Hope
PO Box 169
Point Hope, AK 99766
(907) 368-2537

POINT LAY

The Community

Perched on the Chukchi Sea coast 150 miles southwest of Barrow, Point Lay is protected from the open ocean by the Kasugaluk Lagoon. The Eskimo name for the village is Kali, which means "mound" and refers to the elevated ground on which it stands. It is probably the last remaining village of the Kuukpaagruk people. The deeply indented shoreline prevented effective bowhead whaling and the village never fully participated in the whaling culture.

The village's traditional hunt of the beluga whales is similar to the bowhead whaling culture in other North Slope villages. .

Point Lay is incorporated as a Native village by the Bureau of Indian Affairs under the Indian Reorganization Act. The village is not incorporated under state law as a municipality.

Population and Economy

Point Lay had a population of 260 residents in 2003, with a work force of 98. Eighty-six percent of residents are Inupiat Eskimo. Point Lay's economy is primarily based on subsistence hunting, fishing and whaling. The North Slope Borough employs 29 percent of the labor force and the School District employs another 34 percent. Twenty-nine percent of workers are in the private sector, mostly for the village and regional Native corporations.

Quality of Life

As in other villages, the North Slope Borough provides public electricity and piped water/wastewater services. Trash pick-up is also provided by the borough.

A health clinic, staffed by community health aides, is open daily and is accessible for emergencies around the clock. Other public facilities include a cultural center, construction camp, and a fire station equipped with a fire engine and an ambulance. Point Lay's Cully School provides education from pre-school through grade 12, as well as adult basic education.

The Native Village of Point Lay owns the local store, which sells groceries and clothing. Available fuel in town includes propane, diesel and regular gasoline. Point Lay bans the sale, possession and importation of alcoholic beverages.

Passenger service to Point Lay is available by scheduled airline flights and charters from Barrow. Freight is delivered by air and barge. Communications in the village include phones, mail, public radio and cable TV.

For recreation, residents enjoy snowmobiling, hunting, fishing and trapping.

For more information contact:

Native Village of Point Lay
P.O. Box 59
Point Lay, Alaska 99759
(907) 833-2428

WAINWRIGHT

The Community

Wainwright sits on a wave-eroded coastal bluff of a narrow peninsula which separates Wainwright Inlet from the Chukchi Sea. Wainwright is about 70 miles southwest of Barrow.

The inlet was named in 1826 by Captain F.W. Beechey for his officer, Lt. John Wainwright. The present village was established in 1904 when the Alaska Native Service built a school there. The community was incorporated as a second-class city in 1962.

Population and Economy

Wainwright is the third largest village in the North Slope Borough, and in 2003 had a population of 556 and work force of 221. Ninety-four percent of the residents are Inupiat Eskimo. Wainwright has a larger private sector than most villages: 38 percent of the work force is employed by private businesses, primarily the village and regional corporations. The Borough employs 30 percent of the work force and the School District provides jobs for another 25 percent.

Wainwright's subsistence hunting revolves primarily around whales and caribou. Local arts and crafts include carved ivory figurines and jewelry, baleen boats, whale bone carvings, clocks, knitted caps and gloves.

Quality Of life

The North Slope Borough delivers electricity and piped water/wastewater services, and hauls residential trash.

A health clinic, staffed by community health aides, is open daily and handles emergencies around the clock. Other public facilities include the public safety office, fire station, vehicle maintenance facility and teacher housing.

Wainwright's children attend Alak School from pre-school to grade 12. The community also offers adult basic education and vocational education. The school has a swimming pool and gymnasium which are also used by the public.

Olgoonik Corporation, Wainwright's village corporation, sells groceries, clothing, first-aid supplies, hardware, camera film and sporting goods through the community store. Fuel in town includes marine gas, diesel, propane, unleaded, regular and supreme. City law prohibits the possession, sale or importation of alcohol.

Visitors to Wainwright will find a hotel, restaurant and several recreational activities. In the spring, the community gathers for Nalukataq, the feast after a successful whaling season. At this and other occasions, Eskimo dances are performed by the villagers. Recreational activities include boating, snowmobiling and smelt fishing in the spring.

Wainwright is served by scheduled and chartered air service from Barrow. Freight arrives by cargo plane and barge. Communications include phones, mail, public radio and cable TV.

For more information contact:

City of Wainwright
PO Box 9
Wainwright, AK 99782
(907) 763-2815

Appendix F: Communication Strategy Template

On the following page is a communication strategy template which can be used for EPA projects affecting the North Slope. This template is provided as a reference and general guide.

Each communication strategy will be different, because each will be tailored to the project at hand, factoring in the expressed needs of the local communities.

Not all projects may warrant preparation of a formal communication strategy. It is the responsibility of the program to prepare a communication strategy. If assistance is required, contact the Community Involvement and Public Information Unit.

When preparing a communication strategy, it will be helpful to review the section called “Implementing the Protocol” presented earlier in this document.

Are other EPA projects taking place related to the North Slope or your specific project during this time? Yes___ No___ (If yes, describe, and explain how coordination is taking place.)

Communication Goals:

-
-
-
-

Key Messages: (The 2 to 4 primary points you want people to remember. State in bullets or sound-bites.)

-
-
-

Name, Affiliation, Phone, Email, Who Calls, When-

Note How You Will Establish and Maintain Contact with North Slope Communities:

-
-
-
-

Audiences/Interested Groups:

- Local Officials
- Other North Slope Community Contacts
- Environmental Groups
- Industry Groups
- Media (work with EPA Press Officer)
- Congressionals/Governor's Office (work with EPA Congressional Liaison)
- State Agencies
- Federal Agencies
- Others: List

Anticipated Reactions:

-
-
-
-

Recommended Outreach Activities (check those that apply):

- News Release or Other Media Activity (work with Press Officer)
- Congressional Work (work with Congressional Liaison)
- Telephone Notifications (e.g. community contacts, state and local officials, permittee, other key stakeholders, etc)
- Fact Sheet
- Public Comment Period (allow 60-day timeframe even if 30-day comment period)
- Formal Public Hearings
- Public Meetings
- Public Site Tour
- Workshops
- Postings in Community Locations
- Display Ads in Papers
- Documents to Information Repository
- Creation of a Tailored Mailing List
- Check-in with Community on Translation Needs
- Use of Local Informal CB Network
- EPA Letter
- Internal Talking Points Paper
- Webpage Creation and/or Maintenance
- Brochure
- Other

Note Environmental Justice Considerations Here:

Note Government-to-Government Consultation Considerations Here:

Other Important Considerations:

Lessons Learned:

Appendix G: List of Preparers

This Protocol document was prepared by the NSCP team, with input from representatives and residents of North Slope communities and EPA Region 10 programs.

Members of the EPA team include:

Ted Rockwell, Team Leader, Senior Advisor, Oil & Gas Sector, Anchorage

Cathy Villa, Alaska Tribal Coordinator, Anchorage

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