Written Statement of Wade T. Najjum
Assistant Inspector General for Program Evaluation
U.S. Environmental Protection Agency
Office of Inspector General
Before the
Subcommittee on Superfund and Environmental Health
Committee on Environment and Public Works
United States Senate
July 25, 2007

Good afternoon Madame Chairman and Members of the Subcommittee. I am Wade Najjum, Assistant Inspector General for Program Evaluation with the U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG). I am pleased to be here today to discuss the OIG's work on how EPA has incorporated environmental justice within its programs and activities. EPA has made some progress in these areas over the past five years. However our reports show that more could be done.

Environmental Justice at EPA

EPA defines environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental, and commercial operations or policies. Meaningful involvement means that: 1) people have an opportunity to participate in decisions about activities that may affect their environment and/or health; 2) the public's contribution can influence the regulatory agency's decision; 3) their concerns will be considered in the

decision making process; and 4) the decision makers seek out and facilitate the involvement of those potentially affected.

In February 1994, the president signed Executive Order 12898[1] (Order) focusing Federal attention on the environmental and human health conditions of minority and low-income populations with the goal of achieving environmental protection for all communities. This Order directed Federal agencies to develop environmental justice strategies to help them address disproportionately high and adverse human health or environmental effects of their programs on minority and low-income populations. The Order is also intended to promote nondiscrimination in Federal programs that affect human health and the environment. It aims to provide minority and low-income communities' access to public information and public participation in matters relating to human health and the environment. The Order established an Interagency Working Group on environmental justice chaired by the EPA Administrator and comprised of the heads of 11 departments or agencies and several White House offices.

At EPA, the Office of Environmental Justice (OEJ) within the Office of Enforcement and Compliance Assurance (OECA) coordinates EPA's efforts to integrate environmental justice into all policies, programs, and activities. Within each regional office there is at least one environmental justice coordinator who serves as the focal point within their organizations and as the liaison to OEJ. Among the coordinator's duties are to provide policy advice and to develop and implement programs within their regions.

[1] Executive Order 12898 "Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations," February 11, 1994.

There is no specific environmental justice statute to fund environmental justice activities at EPA. Consequently, OEJ performs activities using a general Environmental Program Management appropriation budget line item.

OIG Environmental Justice Work

For the past five years, the OIG has been examining EPA's environmental justice activities as part of our broader strategic plan to review how EPA fulfills its responsibilities to address environmental threats and their impact on ecosystems, communities, and susceptible populations. We have issued two reports focusing on EPA's implementation of Executive Order 12898 requirements.

Evaluation of EPA's Implementation of Executive Order

In a 2004 review[2], we reported on how EPA was integrating environmental justice into its operations. Specifically, we sought to answer the following questions: 1) how had EPA implemented the Order and integrated its concepts into its regional and program offices; and 2) how were environmental justice areas defined at the regional levels and what was the impact.

We concluded that EPA had not fully implemented the Order and was not consistently integrating environmental justice into its day-to-day operations at that time.

[2] "EPA Needs to Consistently Implement the Intent of the Executive Order on Environmental Justice," Report No. 2004-P-00007, March 1, 2004.

EPA had not identified minority and low-income communities, or defined the term "disproportionately impacted." Moreover, in 2001, EPA restated its commitment to environmental justice in a manner that did not emphasize minority and low-income populations which we believed was the intent of the Order. In the absence of environmental justice definitions, criteria, or standards from EPA, many regional and program offices individually took steps to implement environmental justice policies. The result was inconsistency in determining environmental justice communities across EPA regions and programs. For example, between the regions there was a wide array of approaches for identifying environmental justice communities. Thus, the implementation of environmental justice actions was dependent, in part, on where you lived.

We made 12 recommendations to EPA to address the issues we raised, which are listed in Attachment A. Four key recommendations were: 1) reaffirm the Executive Order as a priority; 2) establish specific timeframes for developing definitions, goals, and measurements; 3) develop a comprehensive strategic plan; and 4) determine if adequate resources are being applied to implement environmental justice. EPA disagreed with 11 of the 12 recommendations. EPA did agree to perform a comprehensive study of program and regional offices' funding and staffing for environmental justice to ensure that adequate resources are available to fully implement its environmental justice plans. In May 2004, EPA issued its report entitled "Environmental Justice Program Comprehensive Management Study" conducted by Tetra Tech EM Inc.

Evaluation of EPA Environmental Justice Reviews

In 2006, we completed our evaluation[3] of whether EPA program and regional offices have performed environmental justice reviews of their programs, policies, and activities as required by the Order. We specifically sought to determine if: 1) there had been clear direction from EPA senior management to perform environmental justice reviews of EPA programs, policies, and activities; 2) EPA had performed environmental justice reviews; and 3) EPA had adequate guidance to conduct these reviews or if there was a need for additional directions or protocols.

To determine the direction, frequency, and guidance for environmental justice reviews, we met with OECA, OEJ, and Office of Air and Radiation representatives. We then conducted an EPA-wide survey of each of the Deputy Assistant Administrators in EPA's 13 program offices and each of the 10 Deputy Regional Administrators on their experience conducting environmental justice reviews of their programs, policies, and activities. We also asked them to describe their satisfaction with available guidance and instructions for conducting these reviews, and whether they needed additional directions or protocols. We did not design our survey to draw inferences or project results. Rather we sought to obtain descriptive information on implementing environmental justice at EPA.

[3] "EPA Needs to Conduct Environmental Justice Reviews of Its Programs, Policies, and Activities," Report No. 2006-P-00034, September 18, 2006.

Our survey results showed that EPA program and regional offices have not routinely performed environmental justice reviews. Reasons for not performing these reviews included the absence of a specific directive from EPA management to conduct such reviews; a belief by some program offices that they are not subject to the Order since their programs do not lend themselves to reviewing impacts on minority and low-income populations; and confusion regarding how to perform the reviews. In addition, we found that program and regional offices lacked clear guidance to follow when conducting environmental justice reviews. Survey respondents stated that protocols, a framework, or additional directions would be useful for conducting environmental justice reviews. We concluded that EPA cannot determine whether its programs have a disproportionately high and adverse human health or environmental effect on minority and low-income populations without performing these types of reviews.

We made four recommendations to EPA to address these issues. We recommended that EPA: 1) require program and regional offices to determine where environmental justice reviews are needed and establish a plan to complete them; 2) ensure that environmental justice reviews determine whether EPA programs, policies, and activities may have a disproportionately high and adverse health or environmental impact on minority and low-income populations; 3) develop specific environmental justice review guidance that includes protocols, a framework, or directions; and 4) designate a responsible office to compile the results of environmental justice reviews and make recommendations to EPA senior leadership. EPA agreed with our recommendations and established milestones for completing those actions. For example,

in response to our third recommendation EPA convened an Agency-wide Environmental Justice workgroup in April 2007 to begin developing protocols to provide guidance for conducting reviews. Implementation of the protocols developed is scheduled for March 2008.

Noteworthy EPA Achievements

In the interest of objectivity I also should say that since the issuance of our reports, EPA has taken some steps to address environmental justice issues. In 2005, Administrator Stephen Johnson reaffirmed EPA's commitment to environmental justice by directing staff to establish measurable commitments that address environmental priorities such as: reducing asthma attacks, air toxics, and blood lead levels; ensuring that companies meet environmental laws; ensuring that fish and shellfish are safe to eat; and ensuring that water is safe to drink. EPA is also including language in the fiscal year 2008 National Program Guidance that each headquarters program office should use its environmental justice action plan and EPA's strategic plan to identify activities, initiatives, or strategies that address the integration of environmental justice. Finally, EPA is modifying its emergency management procedures in the wake of Hurricane Katrina to incorporate an environmental justice function and staffing support in the EPA's Incident Command Structure so that environmental justice issues are addressed in a timely manner.

These are all positive steps but EPA recognizes that more work needs to be done, particularly in its efforts to making environmental justice part of its mission by integrating environmental justice into its decision making, planning, and budgeting processes. EPA needs to be able to determine if their programs, policies, and actions have a disproportionate health or environmental impact on minority or low-income populations. EPA also still needs broad guidance on environmental justice program and policy reviews, which EPA acknowledges is not in place.

Conclusion

One of EPA's goals is to provide an environment where all people enjoy the same degree of protection from environmental and health hazards and equal access to the decision-making process to maintain a healthy environment in which to live and work. Our work has shown that EPA still needs to do more to integrate environmental justice into its programs and activities so that it may achieve this goal.

Thank you for the opportunity to testify before you today. I would be pleased to answer any questions you may have.

Attachment A

Recommendations from 2004 OIG Report "EPA Needs to Consistently Implement the Intent of the Executive Order on Environmental Justice"

1) Issue a memorandum that reaffirms that Executive Order 12898 is the Agency's priority and that minority and low-income populations that are disproportionately impacted will receive the intended actions of this Executive Order.

2) Clearly define the mission of the Office of Environmental Justice and provide Agency staff with an understanding of the roles and responsibilities of the office.

3) Establish specific time frames for the development of definitions, goals and measurements that will ensure that the 1994 Executive Order is complied with in the most expeditious manner.

4) Develop and articulate a clear vision on the Agency's approach to environmental justice. The vision should focus on environmental justice integration and provide objectives that are clear, precise, and focused on environmental results.

5) Develop a comprehensive strategic plan for environmental justice. The plan should include a comprehensive mission statement that discusses, among other things, the Agency's major functions and operations, a set of outcome-related goals and objectives, and a description of how the Agency intends to achieve and monitor the goals and objectives.

6) Provide the regions and program offices a standard and consistent definition for a minority and low-income community, with instructions on how the Agency will implement and operationalize environmental justice into the Agency's daily activities. This could be done through issuing guidance or a policy statement from the Administrator.

7) Ensure that the comprehensive training program currently under development includes standard and consistent definitions of the key environmental justice concepts (i.e., low-income, minority, disproportionately impacted) and instructions for implementation.

8) Perform a comprehensive study of program and regional offices' funding and staffing for environmental justice to ensure that adequate resources are available to fully implement the Agency's environmental justice plan.

9) Develop a systematic approach to gathering accurate and complete information relating to environmental justice that is usable for assessing whether progress is being made by the program and regional offices.

10) Develop a standard strategy that limits variations relating to Geographical Information System (GIS) applications, including use of census information, determination of minority status, income threshold, and all other criteria necessary to provide regions with information for environmental justice decisions.

11) Require that the selected strategy for determining an environmental justice community is consistent for all EPA program and regional offices.

12) Develop a clear and comprehensive policy on actions that will benefit and protect identified minority and low-income communities and strive to include in States' Performance Partnership Agreements and Performance Partnership Grants.