

EPA Region 10 Regional Implementation Plan¹ to Promote Meaningful Engagement of Overburdened Communities in Permitting Activities

Environmental Justice (EJ) & Permitting Background:

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* directs each federal agency to “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.” Plan EJ 2014 is EPA’s roadmap for integrating environmental justice into its programs, policies and activities. One focus area of the Plan is “Considering Environmental Justice in Permitting.” Environmental permits often contain measures to mitigate pollution from a source. Therefore, environmental permits play a key role in providing effective protection of public health and the environment in communities.

For this reason, Plan EJ 2014 calls upon EPA to: (1) enhance the ability of overburdened communities² to participate fully and meaningfully in the permitting process for EPA-issued permits; and (2) take steps to meaningfully address environmental justice issues in the permitting process for EPA-issued permits to the greatest extent practicable. US EPA Region 10 has developed this plan to implement this Agency-wide effort³.

Overburdened communities may experience disproportionate environmental harm and risk as a result of cumulative impacts, greater vulnerability to environmental hazards, or experience barriers that discourage active participation in the process, such as: lack of trust, awareness or information, limited access to technical and legal resources, and language barriers. Targeting outreach efforts to bring overburdened communities, particularly minority, low-income, and indigenous communities, into the permitting process can help reduce some of these barriers, and consequently help EPA address environmental justice concerns.

This plan provides a framework to help Region 10 conduct enhanced public outreach activities for permit applications and renewals to meaningfully engage overburdened communities or communities with a significant interest in the permitting process. The types of outreach activities as well as the number of permits for which Region 10 would conduct enhanced outreach depend on site-specific considerations and resource availability.

Consistent with the Agency-wide guidelines, EPA will consider prioritizing enhanced public involvement opportunities for those EPA-issued permits that may involve activities with significant public health or environmental impacts on already overburdened communities.

¹ This document identifies recommended internal procedures for EPA staff or managers developing or issuing a permit. This document is not a rule or regulation. This plan does not change or substitute for any law, regulation, or any other legally binding requirement and is not legally enforceable. It does not impose any legally binding requirements.

² The term “overburdened” describes minority, low-income, tribal and indigenous populations or communities in the United States that potentially experience disproportionate environmental harms and risks due to exposures or cumulative impacts or greater vulnerability to environmental hazards. This increased vulnerability may be attributable to an accumulation of negative and lack of positive environmental, health, economic, or social conditions within these populations or communities.

³ For additional information and background please see the Agency-wide guidelines (EPA Activities to Promote Environmental Justice in the Permit Application Process) available at www.epa.gov/environmentaljustice/plan-ej/permitting.html.

This plan is effective beginning April 1, 2013. Region 10 will periodically review its progress and share lessons learned in carrying out the enhanced outreach provided in this plan. The plan will be updated as needed. This plan is consistent with the “Proposed Regional Actions to Promote Public Participation in the Permitting Process” Agency-wide guidelines (available at www.epa.gov/environmentaljustice/plan-ej/permitting.html).

This implementation plan is also consistent with the EPA R10 2013-2014 Environmental Justice Strategic Roadmap. The actions within the Roadmap relevant to this implementation plan are:

- create and implement Regional guidance on how to evaluate potential EJ concerns⁴ for a given program and develop protocols for considering EJ during the development of that program’s actions;
- enhance Regional capacity to use tools and methods for EJ assessment and analysis; and
- develop integration guidance, training, and/or tools specific to programmatic functions, e.g. reviewing permit applications.

⁴ An “environmental justice concern” (EJ concern) is an actual or potential lack of fair treatment or meaningful involvement of minority, low-income, or indigenous populations or federally recognized tribal governments (tribes) in developing, implementing, or enforcing environmental laws, regulations, and policies. EJ concerns might also be related to disproportionate impacts resulting from a particular action.

STEP ONE: SCREEN ALL PERMIT APPLICATIONS TO HIGHLIGHT LOCATIONS WHERE ADDITIONAL REVIEW MAY BE WARRANTED

Permitting programs will screen all permit applications for the year by using EJSCREEN to identify which permits may warrant further analysis.

Preliminary Environmental Justice (EJ) Screening:

EJ screening is the use of available environmental and demographic information to highlight locations where additional review (e.g., information collection or analysis) may be warranted. EJ screening results in a preliminary characterization of potential impacts on the population, including low-income and/or minority populations, and potential environmental and health impacts that may fall disproportionately on them.

EPA is now beta-testing a nationally consistent screening tool, called EJSCREEN. EJSCREEN is a geospatial tool that contains demographic and environmental data for the United States at the census block group level. The environmental factors include: (1) PM 2.5 Level in Air; (2) Ozone Level in Air; (3) Diesel Particulate Matter Level in Air; (4) Air Toxics Cancer Risk; (5) Air Toxics Neurological Hazard Index; (6) Air Toxics Respiratory Hazard Index; (7) Traffic Proximity and Volume; (8) Lead Paint Indicator (% pre-1960); (9) Risk Management Plan Facility Proximity; (10) Superfund Site Proximity; (11) Treatment Storage Disposal Facility Proximity; and (12) Major Direct Dischargers to Water Proximity. In addition to environmental factors, the tool also uses two primary demographic factors, specifically, percentage of the population that is minority and percentage of population that is and low-income. EJSCREEN also includes information about linguistic isolation, population over age 64, population under age 5, and population with less than a high school education. EJSCREEN also creates indexes, which combine each environmental indicator with the two primary demographic factors, to provide a measure of how much each block group contributes to disparity between demographic groups nationwide.

Region 10 will use EJSCREEN and other readily available sources of information, including known community concerns, to perform initial EJ screening of permits. As a pre-decisional tool, EJSCREEN will be used to highlight candidates for additional review where enhanced outreach may be warranted. Additional review includes consideration of additional available information and data unique to an area and that may capture environmental and demographic factors more holistically. EJSCREEN is not designed to conclusively determine whether or not disproportionately high and adverse impacts in fact exist.

In cases where EJSCREEN is not appropriate for use in screening because the relevant data were not available for the area, the region will complete a similar screening by reviewing available demographic and environmental data. EPA expects that in most circumstances EJSCREEN will be the appropriate tool for initial screening.

Outreach to Tribal Communities and Tribal Consultation

Identification of communities with environmental justice concerns will, by necessity, often include tribal communities within Region 10. Section 6-606 of Executive Order 12898, Federal Actions for Addressing Environmental Justice in Minority Populations and Low-Income Populations, notes that each federal agency's responsibility set forth under the Order shall apply equally to Native American programs. EPA recognizes that the U.S. government has a unique legal relationship with federally

recognized tribes and works with tribes on a government to government basis. Thus, in accordance with the EPA Tribal Consultation and Coordination Policy with Indian Tribes (May 4, 2011) and the EPA Region 10 Tribal Consultation and Coordination Procedures (October 2012), EPA will consult with tribes on permitting activities identified that may affect tribes⁵. Per EO 12898, “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.” EPA is currently developing a policy that addresses working with tribal governments on addressing EJ issues. For assistance with addressing EJ issues as they relate to working with tribal governments, please consult the Tribal Trust and Assistance Unit Manager.

In some cases, both tribal consultation and enhanced outreach may need to be conducted where both a tribe may be affected and overburdened communities and environmental justice concerns are identified during the screening process. Tribal consultation is distinct from the EPA public participation and community involvement processes. Tribal consultation should ideally occur before any EPA public meeting or workshop, to offer EPA the opportunity to consider input from interested tribal governments prior to seeking public comment.

STEP TWO: Annual Planning Meeting – representatives of each permitting program will meet with representatives from the Ecosystems, Tribal, and Public Affairs Office to help determine the candidate permits that may be prioritized for enhanced outreach activities.

Internal Coordination & Annual Planning Meeting

Using the results from the preliminary screen, including any additional analysis conducted to determine potential for significant public health or environmental impacts, the permitting programs will conduct a joint annual planning meeting with the Office of Ecosystems Tribal and Public Affairs (ETPA), where the Regional EJ and Tribal programs reside. ETPA will provide information regarding the potentially affected communities, including any known EJ concerns, potential Limited English Proficiency (LEP)⁶ concerns and relevant information regarding tribal consultation and coordination considerations⁷. Preliminary screening results and additional information will be presented for discussion.

⁵ Note that permitting activities that may affect tribes do not necessarily need to be located on or near tribal lands. The nature of the activity and type of permit will dictate the extent of analysis needed to determine whether a tribe may be affected.

⁶ LEP areas may not be EJ areas or tribal areas of concern, however there is still a need to comply with the [LEP Policy](#) and provide for access, including translation services. The White House Executive Order 13166 entitled, "Improving Access to Services for Persons with Limited English Proficiency" led to EPA Order 1000.32, which states that EPA needs to examine the services the Agency provides, identify any need for services to those with limited English proficiency, and develop and implement a system to provide those services so non-English Speakers can have meaningful access to them. Region 10 started to assess its impact on non-English Speakers in 2012. For additional information regarding LEP, please contact the LEP Coordinator, who currently resides in the Public Affairs Unit.

⁷ Potentially impacted communities may also include tribal communities. For the purposes of this implementation plan, EPA will continue to consult with tribal governments on permitting actions that may affect them. Additionally there may be instances where in addition to tribal consultation there will also be enhanced community involvement and public participation efforts. It may be appropriate to consult with the tribal government about planned enhanced activities prior to implementing them. For example, EPA Region 10 would typically consult with a tribal government about holding a public meeting on tribal lands, particularly in Idaho, Oregon and Washington. Additionally, as part of the consultation and coordination process, there may be opportunities for information exchange (as outlined in the Region 10 Consultation and Coordination Procedures). The result of this information exchange may be that the permitting program has additional information to consider regarding unique exposure pathways.

The permitting program will provide information about the nature of the environmental impacts due to the discharges or emissions covered by the permit. The goal of this meeting is to identify any permits where there is a potential need for coordination among permitting programs and to identify resources needed (travel, public meeting costs, etc), including whether or not additional support resources are needed to assist the project manager (or permit writer) to implement the enhanced outreach activities.

During the planning meeting, the programs might find that there are multiple permits within a given area where enhanced outreach activities may be coordinated. While the timing for the permit development may differ, there may still be an opportunity to combine enhanced outreach activities between different media programs in order to maximize resources and reduce the burden on the community's participation in that effort. This early coordination can save resources and these opportunities should be identified during the annual planning meeting.

STEP THREE: Prioritization of permits for enhanced outreach activities – the permits identified with potential EJ implications and significant public health or environmental impacts will be prioritized for enhanced public participation activities.

Prioritization

In determining which permits to prioritize, the permitting programs may also consider a history of community concerns regarding permitted activities, the demographics of the community and the number of other facilities potentially impacting the community's health and environment.

Within Region 10, EPA will continue to implement the North Slope Communications Protocol for EPA-issued permits on the North Slope of Alaska. The Protocol outlines enhanced communication considerations for meaningful involvement and working effectively and efficiently with the North Slope communities. The enhanced outreach activities discussed in the Protocol are consistent with this implementation plan.

Finally, in considering which permits to prioritize for enhanced outreach, in addition to the information mentioned above, EPA Region 10 will also consider subsistence and cultural resource impacts of permitting actions that have the potential to affect the public health, cultural, traditional, or subsistence resources of a tribe or a tribe's traditional way of life⁸.

The permitting programs and ETPA will discuss applying enhanced outreach activities to permits with significant EJ concerns based on factors such as the scope of the permitted activity; the nature of the environmental issue; the extent of EJ concerns, including concerns raised by the community; the availability of resources; and any other applicable factors.

If significant EJ concerns related to the permits are identified during the planning meeting, the Region will implement enhanced outreach activities throughout the permitting process for those

⁸ See EPA Region 10 Tribal Consultation and Coordination Procedures (specifically the consultation trigger language) for additional information that will assist in determining the appropriate area of impact. There is also a tribal mapping tool that shows tribal reservations, tribal usual and accustomed areas (for tribal governments in Idaho, Oregon and Washington), and areas with treaty right implications. Tribal Coordinators can also be of assistance in helping to determine an area of potential impact for tribal governments in Alaska where these areas are not typically defined by boundaries on a map.

permits. To the extent that tribal interests are associated with a priority permit, the Region will include tribal consultation as a part of any enhanced outreach, consistent with the Agency's tribal consultation policy.

To the extent that resources are limited, the Region will prioritize permits for enhanced public participation based on significant public health or environmental impacts, whether these may be actual or perceived impacts to the community or their way of life. Examples of permits with the potential for significant public health or environmental impacts include, but are not limited to, the following:

- Construction permits under the Clean Air Act, especially new major sources (or major modifications of sources) of criteria pollutants;
- Significant Underground Injection Control (UIC) Program permits under the Safe Drinking Water Act. EPA issues all UIC permits in Alaska except for Class II wells⁹ and any permits on tribal land in Alaska¹⁰, Idaho, Oregon and Washington;
- "Major"¹¹ or "Non-Major" industrial National Pollutant Discharge Elimination System (NPDES) permits (as defined in 40 CFR 122.2) under the Clean Water Act that are for:
 - New sources or new dischargers, or
 - Existing sources with major modifications, including, but not limited to a new outfall, a new or changed process that results in the discharge of new pollutants, or an increase in production that results in an increased discharge of pollutants;
- RCRA permits which involve off-site impacts, including permitting of any new combustion facility; corrective action permits with potential off-site impacts; major RCRA permit modifications addressing new treatment processes/activities with potential offsite impacts; and
- EPA will consider prioritizing for enhanced public involvement activities both permit applications and renewals for which a community has expressed environmental justice concerns, and permit applications and renewals where EPA has other information indicating environmental justice concerns relate to the permit.

In recognition of EPA's limited capacity for enhanced public engagement, the Region may not prioritize every EPA issued permit with significant public health or environmental impacts on already overburdened communities. Additionally, there may be circumstances under which the Region finds enhanced public outreach appropriate irrespective of whether the permitting action has significant public health or environmental impacts on already overburdened communities.

For each permit that is identified during the annual planning meeting, the permitting program(s) will work to develop an enhanced outreach approach that is specific for each permit. The development of an approach will include a discussion about which office will contribute the resources (both FTE and dollars) that will be necessary for the enhanced outreach.

Additional resources that may be available to the permitting program include the EJ Core Team, EJ Integration Team members, Tribal Coordinators, Community Involvement Specialists, Tribal Specialists, and potentially resources within the Office of Environmental Assessment such as toxicologists, GIS experts, and others. The permitting program should determine if additional team members are needed in order to implement the enhanced outreach activities. The resources outside

⁹ The 1425 UIC Class II program is delegated to the Alaska Oil and Gas Conservation Commission (and EPA serves in an oversight role to the 1425 delegated program).

¹⁰ Within Alaska this includes any land within the reservation of the Metlakatla Tsimshian Tribe

¹¹ Means any NPDES "facility or activity" classified as such by the Regional Administrator, or, in the case of "approved State programs," the Regional Administrator in conjunction with the State Director.

of the permitting program may have extensive experience working with a particular community, developing fact sheets for public consumption, understanding potential exposure pathways and related human health or environmental impacts, and other experience that will improve the process for both EPA and the community.

Roles of Regional Programs

This plan applies to each permitting program in [EPA Region 10](#) that is responsible for direct implementation of the permitting programs. These programs are: the Federal and Delegated Air Programs Unit (CAA permits), the Groundwater Unit (UIC permits), the NPDES Permits Unit, and the RCRA Corrective Action and Permits Team (RCRA Permits). Each Unit Manager (or for RCRA - the Team Contact) is responsible for ensuring that his or her program takes the following actions: screening (once the transition to EJSCREEN is complete and permitting programs are trained to use it); planning for enhanced outreach when appropriate; providing enhanced outreach as planned; and providing information to the EJ Core Team necessary for tracking implementation of this plan.

The EJ Core Team is located in ETPA. The EJ Core Team also coordinates the EJ Integration Team (EJIT) which may be used for assistance in implementing enhanced public participation activities as well as tracking the implementation of this plan. The Community Engagement and Environmental Health Unit Manager (and delegated staff) is responsible for: providing training and direction on how to conduct screening and additional review, as needed; reviewing and commenting on plans to provide enhanced outreach, as requested; providing contact information for community and environmental justice groups, if available; providing support as needed to respond to community environmental justice concerns; and tracking implementation of this plan.

The Tribal Trust and Assistance Unit (TTAU) is located in ETPA. TTAU's Consultation Specialist is assigned to support and track consultation through the Region 10 Tribal Consultation and Coordination Procedures.

Additional roles for various program offices may be included as this plan is implemented and the Region periodically updates this plan.

STEP FOUR: Identify appropriate enhanced activities and determine if additional resources are needed to help implement the public participation aspect of the permitting process.

Enhanced Activities: Listed below are activities the Region could undertake at key junctures in the permitting process to promote greater involvement of overburdened communities. The permitting program may not implement all of the activities listed nor is this list meant to be comprehensive or exhaustive of all possible enhancements. Different situations will justify different responses. Many of the activities, especially those regarding information exchanges, are generally good practices that the Region strives to apply to all permits.

Enhanced communication efforts should elicit information about the permit terms and conditions needed to address specific environmental justice concerns. Currently, there is no specific guidance on addressing permit specific concerns; however the Region will work in the future to develop

examples and resources for permit writers, including tools for documenting EJ-related efforts and conducting EJ analysis. The EJ Legal Tools document is one resource that may be helpful for permit writers.

The lead for enhanced public participation activities is the permit writer (or Project Manager, if one has been identified) and it will be up to the permitting program to determine if they need additional support to implement the activities. There are various support program staff within the Region that may be very helpful in implementing these activities. Please consult Attachment A for additional information.

- **Increase coordination & oversight**
 - Ensure continued management oversight for the EPA-issued permit, including coordinating among affected offices within Region 10 throughout the permitting process for any EPA permits for the same facility or project that are pending in other programs.
 - Create an EPA team, when appropriate, that includes EJ and tribal and/or community involvement experts to assist throughout the permitting process.
 - Ensure coordination with the EJ Team, Tribal Coordinators, and as appropriate, the Limited English Proficiency Coordinator.
 - Coordinate with state, local, and/or tribal authorities in appropriate circumstances.

- **Plan & gather information**
 - Locate existing data and studies that are relevant to the particular community.
 - Explore ways to reach out to the affected community in coordination with relevant EPA staff, including permit writers, EJ Coordinators, Tribal Coordinators, Community Involvement Coordinators, the LEP Coordinator, the press office, and EPA's Conflict Prevention & Resolution Center.
 - Evaluate the appropriate length of the public comment period.
 - Identify the impacted community (e.g. local neighborhood and religious institutions; schools and other sensitive receptors such as day care centers, clinics and hospitals; local businesses, community-based and environmental organizations); identify the community's demographics including: age, income, language, population, race/ethnicity, education level, and economic status; identify environmental and public health concerns related to the permit, etc.).
 - Potential types of information that EPA may work with the community to gather:
 1. Identifying unique exposure pathways.
 2. Clarifying benefits to the community.
 3. Gaining a better understanding of potential disproportionate impacts.

- **Encourage enhanced activities by the permit applicant**
 - Encourage the applicant or permittee to provide EPA with a plain-language description of its need for a new/renewed permit (e.g. proposed project).
 - Encourage the applicant or permittee to consult EPA guidance on environmental justice, including the Promising Practices for Permit

Applicants Seeking EPA-Issued Permits: Ways to Engage Communities at the Fence-Line, and other resources developed under Plan EJ 2014.

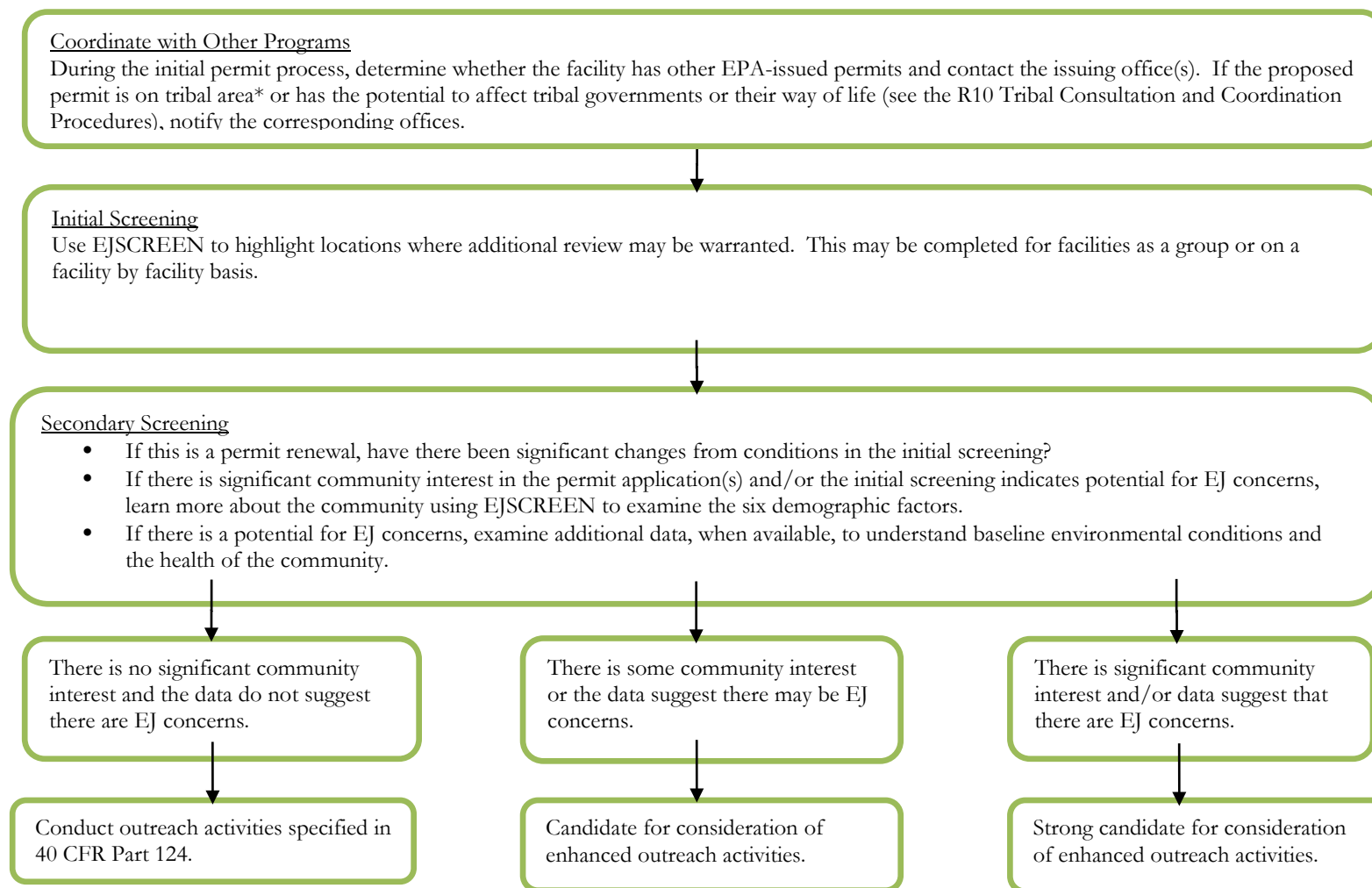
- **Provide the public with information regarding the proposed permit**
 - Designate EPA point(s) of contact that the community can contact to discuss environmental justice concerns or questions of a technical nature about the permit application.
 - Use informational materials to explain the permitting process.
 - Consider holding informational meetings with the community. Contact the LEP coordinator if interpreters or translated materials are needed. In planning for a public hearing and/or public meeting:
 1. Work with the community to hold meetings at times and places best designed to afford the public a meaningful chance to attend.
 2. Offer translation services for communities with multi-lingual populations (including interpreters at public meetings or translations of public documents)
 - Use plain language when communicating with the public in both written form as well as during meetings or conference calls. Ensure that public notices reach the impacted community. Ensure public documents are accessible to the community.
 - Use communication techniques the community values; examples might include: direct mailings, articles in local newspapers, emails to list serves.
 - Respond to community concerns, especially those related to the permit and about environmental justice.

- **Ensure appropriate follow-up with community stakeholders**
 - After the permit has been issued, give the community a summary of EPA's response to comments and provide information on where the community can find all the related documents (this may include EJ analysis and other technical support documents, as appropriate).

Progress Review

The EJ Coordinator will be responsible for tracking implementation of this plan. Region 10 will periodically review progress and share lessons learned with other regions and headquarters in carrying out the enhanced outreach provided in this plan.

Figure 1. Outreach Planning Process



*Tribal Areas – include tribal reservations, Usual and Accustomed Areas¹², Alaska Native Villages or has the potential to impact tribal traditional ways of life (see Region 10 Tribal Consultation Procedures for additional information regarding consultation triggers)

¹² There is a Bureau of Indian Affairs Map of Usual and Accustomed Areas that has been developed for the Pacific Northwest, please consult the TTAU for information regarding this map and the Region 10 Tribal Mapping Tool.

Attachment A: Resources

Limited English Proficiency Information:

EPA Headquarters Page: <http://www.epa.gov/ocrpage1/lepaccess.htm>

EPA Region 10 Tribal Consultation Home Page

<http://yosemite.epa.gov/R10/TRIBAL.NSF/Programs/Consultation>

EPA Region 10 North Slope Communications Protocol

<http://yosemite.epa.gov/R10/ECOCOMM.NSF/programs/nscp>

EPA Environmental Justice Home Page

<http://www.epa.gov/compliance/environmentaljustice/index.html>

Region 10 Environmental Justice Home Page

<http://yosemite.epa.gov/r10/ocrej.NSF/Homepage/EJ+Homepage/>

Potential Region 10 staff resources for permitting program:

While the permit writer will be the lead for implementing the enhanced public participation activities, they may choose to reach out to support programs (or specialists) for assistance. There may be other resources within the Region that are not identified below. Based on their expertise, for example, a permit writer may reach out to the Office of Environmental Assessment for a technical staff person to assist with addressing unique exposure pathways, or perhaps the Office of Regional Counsel to identify potential permit conditions that would be responsive to addressing environmental and human health impacts as appropriate. The support programs within the Region that may be of particular assistance are as follows:

EJ Core Team and EJ Integration Team: The Region 10 EJ Core Team is located in ETPA and is composed of two full time staff that focuses on EJ. They are the EJ contacts for each state in the region and have knowledge of communities and tribes. They also know their state EJ counterparts well and meet with them frequently. Another source of EJ expertise is the EJ Integration team. This is a staff level group drawn from the programs who serve as EJ points of contact in their respective offices. The current listing of these specialists is on the Region 10 intranet page under [EJ Specialists](#).

Tribal Coordinators serve as liaisons between EPA and the tribes, and also as project officers for certain grant programs that involve tribes. There is a Tribal Coordinator assigned to each tribe in Region 10. The Tribal Coordinators are generally familiar with each tribe's environmental concerns, political structure, and relationship with EPA. The appropriate Tribal Coordinator should be aware of, and often will assist with, the consultation process, and can be an invaluable resource because of his or her familiarity with each tribe. The Tribal Consultation Specialist will involve Tribal Coordinators when appropriate. A list of Tribal Coordinators is available at <http://yosemite.epa.gov/R10/tribal.NSF/webpage/tribal+coordinators>.

Alaska Resource Extraction Tribal Policy Advisor: Please consult the Alaska Resource Extraction Tribal Policy Advisor for EPA-issued permits that are related to oil, gas and energy or mining activities in Alaska. The Advisor provides support in implementing this plan, including development of approaches for conducting enhanced outreach efforts, Environmental Justice assessment or analysis and providing tribal policy support.

Tribal Specialists serve as program specific points-of-contact for tribal governments in Region 10 and as Region 10 Tribal Program points-of-contact for staff within their Regional and Headquarters program offices. Most Tribal Specialists serve in a part-time capacity, having various primary responsibilities within their program offices. The special expertise that may be of assistance to a permit writer in implementing enhanced outreach activities may be related to educational materials and/or special tribal expertise related to particular media issues. For Tribal Specialist contacts visit: <http://yosemite.epa.gov/R10/tribal.NSF/programs/tribal+specialists>.

LEP Coordinator: The LEP Coordinator is the liaison between the Region and EPA Headquarters in our national effort to comply with EPA Order No.1000.32, "Compliance with Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency". The Coordinator's initial task is to guide each regional office in assessing their program activities for LEP impacts. The function of the LEP Coordinator is to act as a point of contact for staff (Regional or Headquarters) to assist with LEP questions and clarifications that may arise in the Regional compliance effort, provide resources, such as lists of vendors for translation services, GIS mapping of census data, etc., as well as consult staff when procuring language services.

Attachment B: Region 10 Permitting Programs

EPA Permits Background

Facilities are required to obtain permits from EPA or designated permitting authorities to emit or discharge pollutants into the air or water, or manage or dispose of hazardous waste. This section provides a brief overview of some EPA-issued permits which could call for enhanced outreach, and specifies which of these permits are generally issued by EPA Region 10 in Alaska, Idaho, Oregon, Washington, and on Tribal Lands.

I. Clean Air Act

Air Permits

The Clean Air Act (CAA) gives EPA authority to regulate emissions of air pollutants. Two major CAA air permitting programs are: preconstruction permits (also known as New Source Review permits) and operating permits (also known as Title V permits). In addition to these two permit programs, Region 10 operates a unique permit program known as Federal Air Rules for Reservations Non-Title V Operating Permits Program (also known as FARR permits).¹³ For sources in Indian Country, these permits are issued by EPA, and may be issued by a tribal permitting authority upon EPA delegation. More information on the CAA permitting programs can be found at: <http://yosemite.epa.gov/R10/AIRPAGE.NSF/Permits/Permits/>

- A. New Source Review (NSR) Permitting Program: This program requires facilities to obtain an air permit before starting construction or making certain modifications to the facility. The permit specifies which air pollution control devices must be used, what emission limits must be met, and how the facility must be operated. NSR permits are generally issued by state or local permitting authorities according to programs approved by EPA. NSR permits are also issued by EPA Region 10 to sources in Indian country. In very limited situations, EPA may issue NSR permits rather than a state or local authority. Three types of permits can be obtained under this program:¹⁴
 - i. Prevention of Significant Deterioration (PSD) Permit – This permit is required for new major sources or major modifications to major sources in an air quality standard attainment area.
 - ii. Nonattainment NSR Permit – These permits are required for new major sources or major modifications to major sources in an air quality standard nonattainment area.
 - iii. Minor Source Permit – This permit is for pollutants from stationary sources that are emitted at certain thresholds that require a permit but do not require a PSD or nonattainment NSR permit.
- B. Operating Permit Program: This program requires facilities to obtain a permit that consolidates all of the applicable CAA requirements for a facility into one document. Operating permits are legally enforceable documents designed to improve compliance by clarifying what facilities must do to control air pollution. These permits may be issued by EPA

¹³ More information on the Clean Air Act air permitting programs is available at: <http://www.epa.gov/airquality/permjmp.html>.

¹⁴ More information on NSR Permitting Program is available at: <http://www.epa.gov/airquality/nsr/>.

Region 10 or state, local, or tribal permitting authorities.¹⁵ EPA Region 10 is the Operating Permit Program permitting authority for all sources in Indian country.

- C. Federal Air Rules for Reservations Non-Title V Operating Permits Program: This program allows owners or operators of air pollution sources that were not regulated previously within Indian Reservations covered by the FARR to seek an operating permit. The permit specifies which air pollution control devices must be used, what emission limits must be met, and how the facility must be operated.¹⁶ These permits are currently issued by EPA Region 10 but can be issued by a delegated tribal permitting authority.

II. Clean Water Act

National Pollutant Discharge Elimination System Permits

The federal Clean Water Act (CWA) requires all municipal, industrial, and commercial facilities that discharge wastewater or stormwater directly from a point source into a water of the United States to obtain a National Pollutant Discharge Elimination System (NPDES) permit. The NPDES permit program regulates point sources that discharge directly to surface waters. Two types of NPDES permits are provided for: individual permits and general permits. An individual permit is specifically tailored to an individual facility and is issued in response to an application from the permittee. A general permit covers several facilities that have the same type of discharge and are located in a specific geographic area, and individual dischargers request coverage under the permit. The NPDES program has several program areas, which are listed in Table 1 below.

EPA can authorize states, tribes, and territories to administer the NPDES program, though the Agency continues to perform oversight after program delegation is authorized. In Region 10, Washington, Oregon and Alaska have state NPDES permit programs for discharges in areas (other than Tribal lands) within those states. EPA Region 10 is the NPDES permitting authority for the State of Idaho, and all tribal lands in Washington, Oregon, Idaho, and Alaska; and any discharges into federal ocean waters beyond state boundaries. In 2008, EPA approved the State of Alaska's application to administer and enforce an Alaska version of the NPDES program under Section 402 of the Clean Water Act.

Table 1. NPDES Permit Program Areas

Source	Program Area
Municipal	Municipal publicly owned treatment works (POTWs) effluent discharges Indirect non-municipal discharges (Pretreatment) Biosolids (sewage sludge) use and disposal

¹⁵ More information on the Operating Permit Program is available at: <http://www.epa.gov/airquality/permits/>.

¹⁶ More information on the Operating Permit Program is available at: <http://yosemite.epa.gov/R10/tribal.nsf/programs/farr-outreach>

	<p>Combined sewer overflow (CSO) discharges</p> <p>Sanitary sewer overflow (SSO) discharges</p> <p>Municipal separate storm sewer systems (MS4) discharges</p>
Non-municipal (industrial)	<p>Process wastewater discharges</p> <p>Non-process wastewater discharges</p> <p>Stormwater discharges associated with industrial activity</p> <p>Stormwater discharges from large construction activities</p> <p>Cooling water intake structures</p> <p>Concentrated animal feeding operations</p> <p>Concentrated aquatic animal production facilities</p> <p>Vessel discharges</p>

Adapted from Exhibit 2-4 of the U.S. Environmental Protection Agency NPDES Permit Writers' Manual (September 2010). Available at: http://www.epa.gov/npdes/pubs/pwm_2010.pdf.

III. Safe Drinking Water Act

Underground Injection Well Permits

The Safe Drinking Water Act (SDWA) requires the EPA to develop minimum federal requirements for Underground Injection Control (UIC) programs and other safeguards to prevent injection wells from contaminating underground sources of drinking water. In Region 10, the UIC program has been fully delegated to Oregon, Washington and Idaho. Partial delegation has been granted to the Alaska Oil and Gas Conservation Commission for Class II wells uniquely associated with oil and natural gas production. EPA Region 10 directly implements the UIC program in Alaska, and on tribal lands in Alaska, Washington, Idaho, and Oregon. EPA's regulations group injection wells into six groups or classes (Classes I - VI):

- A. Class I Injection Wells inject hazardous and non-hazardous wastes into deep rock formations isolated below underground sources of drinking water. Class I wells are classified as either hazardous, non-hazardous industrial, municipal, or radioactive depending on the properties of the injected fluid.
- B. Class II Injection Wells inject fluids associated with oil and natural gas production. There are three types: enhanced recovery wells, disposal wells, and hydrocarbon storage wells.
- C. Class III Injection Wells inject fluids to dissolve and extract minerals (i.e., uranium, salt, copper, and sulfur) for mining.

- D. Class IV Injection Wells are used as part of EPA or state-authorized actions to clean up groundwater that is contaminated with hazardous chemicals.
- E. Class V Injection Wells inject non-hazardous waste fluids into or above underground sources of drinking water.
- F. Class VI Injection Wells inject carbon dioxide into subsurface rock formations for long-term storage, or geologic sequestration.

IV. Resource Conservation and Recovery Act

Hazardous Waste Permits

The Resource Conservation and Recovery Act (RCRA) Subtitle C establishes a federal program for cradle to grave management of hazardous wastes to ensure the hazardous waste is handled in a manner that protects human health and the environment. EPA has established regulations and procedures for the generation, transportation, storage and disposal of hazardous waste. EPA also has established technical standards for the design and safe operation of treatment, storage and disposal facilities to minimize the release of hazardous waste into the environment. These regulations serve as the basis for developing and issuing permits.

In Region 10, Oregon, Idaho, and Washington have been authorized to implement their own hazardous waste programs. EPA Region 10 issues RCRA permits in Alaska and on Tribal Lands.