



**Achieving Health and  
Environmental  
Protection Through**

# **EPA's Meaningful Engagement Policy**



**August 2024**

This policy is intended for use by EPA. The public may choose to use or adapt the steps, model, and material for use for their own organizations if desired.

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# Introduction

EPA's "Achieving Health and Environmental Protection Through Meaningful Engagement Policy," referred to hereafter as "EPA's Meaningful Engagement Policy," updates and supersedes EPA's [2003 "Public Involvement Policy."](#) It builds on EPA's commitment to ensure that the public has timely, accessible, and accurate information about EPA programs. It also ensures that EPA teams provide opportunities for participation that foster mutual trust, confidence, and openness between EPA and the public.

EPA's Meaningful Engagement Policy highlights three steps. These steps improve decision-making and help EPA tailor meaningful engagement and public participation processes to meet different program or decision contexts. The accompanying "Resources and Best Practices" section reflects experience gained since the 2003 Public Involvement Policy. The Meaningful Engagement Policy will help EPA staff build and strengthen competencies necessary to reach and hear from members of the public on actions they are interested in or affected by, while accounting for Agency time and resource constraints.

The policy incorporates recommendations from public commenters and Tribal Consultations.

## Goals

Meaningful engagement is grounded in the acknowledgment that EPA actions are strengthened when they are informed by people with lived experience and expertise who participate in decision-making processes. Meaningful engagement helps make this possible, as EPA seeks out and considers a diverse set of voices. Historical injustices have prevented EPA from meaningfully engaging some communities. Some of these communities now face disproportionate health and environmental impacts and risks. Correcting these historical injustices through meaningful engagement now is essential. Meaningful engagement can also help prevent future injustices.

This policy aims to:

- Reaffirm EPA's commitment to early and frequent outreach, accessibility, and meaningful engagement.
- Establish a clear and effective process for providing meaningful engagement and public participation opportunities.
- Promote the use of a wide variety of practices to create early and continuing opportunities for public participation in EPA actions. This includes regulatory and non-regulatory decisions and activities, when appropriate.
- Ensure that EPA makes its decisions with an understanding of the interests and concerns of the interested and affected public.
- Improve the efficiency, equity, and transparency of EPA's decisions, consistent with applicable laws and regulations.

## Audience

The primary audience for this policy is the EPA teams involved in regulatory and non-regulatory processes with public participation expectations or requirements. These teams may include staff, managers, fellows, interns, appointees, senior executive service, contractors, and senior environmental enrollees. While laws or regulations often require EPA to conduct public participation, this document focuses on ensuring that those processes result in meaningful engagement opportunities. All individuals at EPA are expected to become familiar with the policy and help ensure meaningful engagement as appropriate for EPA actions. This is an internal policy intended for EPA, but others may choose to use or adapt the steps, model, and material for their own organizations.

## Policy Statement

[Meaningful engagement](#) describes EPA's commitment to public participation processes. This means:

- Providing timely opportunities for members of the public to share information or concerns and participate in decision-making processes.
- Considering public input provided as part of decision-making processes.
- Seeking out and encouraging the involvement of people and communities potentially affected by federal activities. EPA can do this by:
  - Sharing information in a way that is accessible to people with limited English proficiency and people with disabilities.
  - Providing notice and reaching out to communities or groups of people who are potentially affected. This is especially important for people who might not regularly participate in federal decision-making.
  - Addressing other barriers to participation that individuals may face, to the extent practicable and appropriate.
- Providing technical assistance, tools, and resources to help facilitate meaningful and informed public participation, whenever practicable and appropriate.

EPA will strive to achieve this vision for meaningful engagement. Through meaningful engagement, the public should have the necessary information and awareness to participate in EPA actions and related activities, when appropriate. EPA consults with federally recognized Tribes through processes consistent with the [EPA Policy on Consultation with Indian Tribes](#) and [Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments."](#) EPA's policy is to conduct government-to-government Tribal Consultations with federally recognized Tribes when EPA actions and decisions may affect Tribes. This is consistent with existing executive orders and EPA policies and guidance. Tribal Consultations are separate and distinct from EPA's statutory obligations to engage the public.

Meaningful engagement encourages inclusion in decision-making. The participation process itself can build relationships between EPA teams and the public. These relationships can lead to mutual benefits and learning opportunities. The engagement process can make EPA's work more effective, build public interest and support in EPA actions, and fulfill EPA's responsibilities where public participation processes are required by law.

Meaningful engagement takes time, effort, and resources. It does not always follow a straight path, and sometimes moves back and forth between stages. People’s interests and chances to participate in EPA actions or activities can vary. EPA teams can use their knowledge of an EPA action’s process and their own judgment to plan and provide opportunities for meaningful engagement. It is also possible to enhance the required public participation by ensuring the use of [plain language](#) in *Federal Register* notices, supporting technical documents, or other public documents associated with the EPA action or activity.

EPA’s Meaningful Engagement Policy outlines three steps described below. These steps can help EPA teams design an appropriate and effective process for meaningful engagement and public participation for a particular action or situation, where appropriate.

## **Step 1: Understand the EPA Action and Key Issues the Public Can Inform**

The first step is to understand the EPA action and how the process works, including any requirements for public participation. This means identifying opportunities to make decisions, knowing what decisions have already been made, and understanding the legal requirements. Understanding the EPA action and how the process works will help EPA teams explain technical information and share important questions and issues with the public. This understanding will also help EPA teams identify the required or most effective time in the process to ask for public input and share this input within EPA to help make decisions. In the next step, EPA teams can use this information to choose the appropriate level of public participation for a particular EPA action or activity.

## **Step 2: Identify the Expected Level of Participation Using EPA’s Public Participation Spectrum**

The second step is to use EPA’s Public Participation Spectrum (Table 1) to select an appropriate level of participation for planning purposes. This spectrum describes five levels of public participation to help EPA teams set and communicate clear expectations about how they intend to provide opportunities for meaningful engagement. EPA teams should communicate these opportunities using plain language in a form that is accessible to the public. This will help the public know how to get involved to inform decisions. For both Tribal Consultation and soliciting public comment for rulemaking proposals, critical docket materials that describe and support proposals should be clear, relevant, and organized for understanding by non-technical audiences. This is especially important because people often must read these documents without any additional input from EPA teams. In cases where there is no opportunity for the public to inform decision-making, EPA teams can make that clear and use the “inform and outreach” level to provide the public with the information they need to understand EPA’s action or activity.

To identify the appropriate level of public participation for a project, EPA teams should start by asking: can EPA make changes to the action if the public shares new facts, data, or information?<sup>1</sup> The Public Participation Spectrum (Table 1) below includes guiding questions like this one. EPA adapted this

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<sup>1</sup> EPA’s [Public Participation Guide: Selecting the Right Level of Public Participation](#).

spectrum from the [International Association for Public Participation](#) and EPA's [Conflict Prevention and Resolution Center](#).

The levels of participation in the Public Participation Spectrum are not intended to be ordered steps. There is no expectation that a public participation project must move from one level to the next. EPA teams can use various levels throughout the project in any order, making sure to clearly communicate if and how public input will be used. It is also important to consider potential limitations around statutory or regulatory requirements and resource constraints such as budget, staff capacity, timing, and competing priorities. When EPA teams are transparent about limitations, it helps the public understand what is needed and can encourage conversations on how to overcome the limitations through means such as partnerships and cost sharing arrangements.<sup>2</sup>

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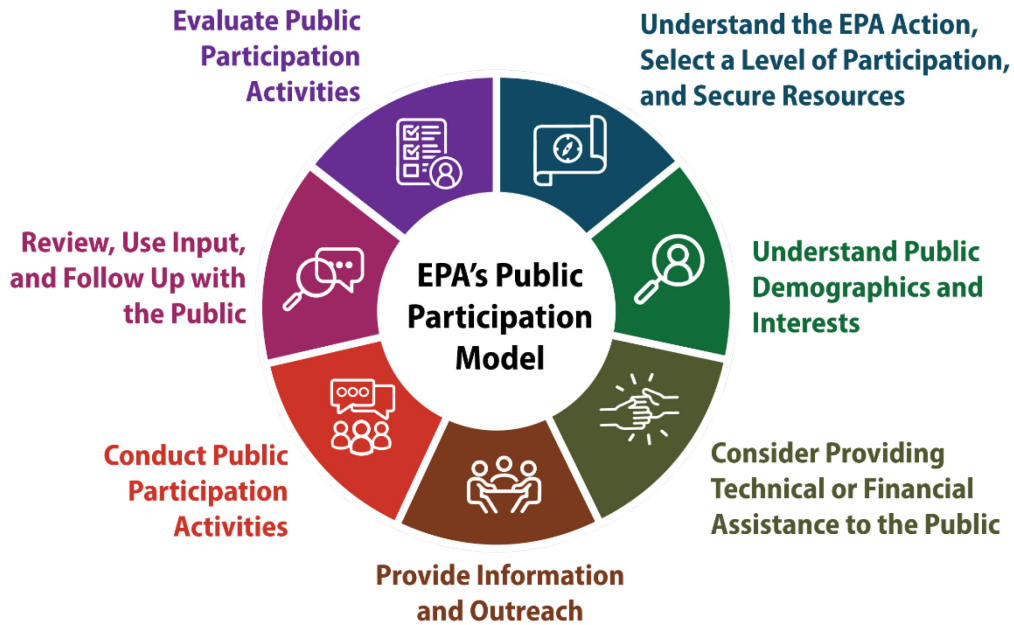
<sup>2</sup> EPA teams should check in with the Ethics team when considering partnerships and cost sharing.

**Table 1. EPA’s Public Participation Spectrum**

Level of Participation	Guiding Questions	Responses	Promise to the Public	Example Participation Activities
<b>Inform / Outreach</b> <i>Provide information to the public and clearly communicate so there is awareness and understanding of the program, policy, problem, solution, and/or decision-making process.</i>	Has a regulatory or policy decision already been made? Are you hosting a community event or activity that is not required by statute or regulation?	<b>Yes</b> , we want to inform the public but cannot incorporate public input at this time.	<i>“We will keep you informed in a timely manner and answer questions”</i>	<ul style="list-style-type: none"> <li>• <a href="#">Websites</a></li> <li>• <a href="#">Fact sheets</a></li> <li>• <a href="#">News releases</a></li> <li>• <a href="#">Federal Register notices</a></li> <li>• <a href="#">Public notices</a></li> <li>• Listserv</li> </ul>
		<b>No</b>	Move to <b>Consult / Info Exchange</b>	
<b>Consult / Info Exchange</b> <i>Consider additional data, opinions, and options during one or two instances.</i>  <i>The spectrum uses the term “consult” outside of the Tribal Consultation process.</i>	Are you required or willing to ask the public for data/information regarding the program, problem, or solution? Can the information be considered and used to inform decisions?	<b>Yes</b> , but we are unsure how this information can be used to inform decisions.	<i>“We will listen, acknowledge concerns, and provide feedback on your input at the appropriate time.”</i>	<ul style="list-style-type: none"> <li>• <a href="#">Meetings with individuals</a></li> <li>• <a href="#">Official public meetings or hearings</a></li> <li>• <a href="#">Workshops</a></li> <li>• <a href="#">Public information sessions or community meetings</a></li> <li>• <a href="#">Listening sessions</a></li> <li>• <a href="#">Phone hotlines</a></li> <li>• Public notice and comment period (sent via the <i>Federal Register</i> notice)</li> </ul>
		<b>Yes</b> , and we can use information to inform decisions.	Move to <b>Involve / Recommendations</b>	
		<b>No</b>	Revisit <b>Inform / Outreach</b>	
<b>Involve / Recommendations</b> <i>Obtain data, advice, and/or comments from the public over an extended period of time.</i>	Do you have the capacity and resources to obtain public input over an extended period of time? Can this input be used to inform decisions?	<b>Yes</b> , and we will let the public know how their input informed decisions.	<i>“We will take your advice or comments into account when making a decision and we will let the public know how the advice or comments informed our decision.”</i>	<ul style="list-style-type: none"> <li>• <a href="#">Community Advisory Groups</a></li> <li>• <a href="#">Policy dialogues</a></li> <li>• <a href="#">Small Business Advocacy Review panels</a></li> <li>• <a href="#">Request for public comment</a></li> </ul>
		<b>Yes</b> , and we want to collaborate with them to reach a decision together.	Move to <b>Collaborate / Agreements</b>	
		<b>No</b>	Revisit <b>Consult / Info Exchange</b>	
<b>Collaborate / Agreements</b> <i>Reach workable agreement, settlement, or decision together.</i>	Do you have the legal authority, capacity, and resources to develop a partnership with the public, engage them in all stages of the process, and reach a decision together?	<b>Yes</b>	<i>“We will work together in good faith to reach an understanding that we can all support and implement as agreed.”</i>	<ul style="list-style-type: none"> <li>• <a href="#">Superfund Jobs Training Initiative (SuperJTI); or SuperJTI fact sheet</a></li> <li>• <a href="#">Access agreements</a></li> <li>• <a href="#">Institutional controls</a></li> <li>• <a href="#">Certain settlement agreements</a></li> <li>• <a href="#">Negotiated rulemaking</a></li> <li>• <a href="#">Consensus permit</a></li> <li>• <a href="#">Statement of principles</a></li> </ul>
		Yes, and we want to help the public take action.	Move to <b>Empower</b>	
		<b>No</b>	Revisit <b>Involve / Recommendations</b>	
<b>Empower</b> <i>Create opportunities for autonomy in decision-making, development, and implementation.</i>	Do you have the capacity to provide tools and resources for the public to make decisions?	<b>Yes</b>	<i>“We will support your decision and assist in your implementation.”</i>	<ul style="list-style-type: none"> <li>• <a href="#">Voluntary programs</a></li> <li>• <a href="#">Good Samaritan Initiative</a></li> <li>• <a href="#">Redevelopment plans</a></li> <li>• <a href="#">Environmental Workforce Development and Job Training grants</a></li> <li>• <a href="#">Community Action for Renewed Environment</a></li> <li>• <a href="#">Sustainability forum</a></li> <li>• <a href="#">Participatory science</a></li> </ul>
		<b>No</b>	Revisit guiding questions and previous levels	

## Step 3: Identify the Appropriate Engagement Tools and Practices Using EPA’s Public Participation Model

After identifying the appropriate level of public participation, EPA teams can use EPA’s Public Participation Model to select tools and practices that help provide opportunities for meaningful engagement. The right tools and practices can help EPA teams meet the promise to the public identified in the Public Participation Spectrum (Table 1). This iterative model for helping achieve health and environmental protection includes seven stages. EPA teams can start or join the process at any stage (i.e., EPA teams may initiate a process from the beginning or join an ongoing effort). EPA teams can also move back and forth along the stages as new information becomes available. For example, EPA teams may have to adjust the budget after selecting additional outreach methods.<sup>3</sup> EPA teams do not need to use all seven stages. Tools and best practices will vary. EPA teams should adjust them to best fit the circumstances of each EPA action or group of actions and level of participation.



Details on the Public Participation Model can be found under “Resources and Best Practices.”

<sup>3</sup> See [EPA’s Environmental Justice Collaborative Problem-Solving Model](#) and [EPA’s Community Action for a Renewed Environment Roadmap](#) for alternative ways to organize and take action.



# Key Terms and Concepts

## Meaningful Engagement

EPA programs use many different terms to describe the process of public participation, such as “community engagement,” “meaningful involvement,” “public notice and comment period,” and “community involvement.” For example, EPA’s Superfund Program uses “community involvement,” the Resource Conservation and Recovery Program and the Office of International and Tribal Affairs use “public participation,” and the Office of Enforcement and Compliance Assurance uses “community engagement.” The terms used with the public may depend on applicable statutes, regulations, policies, and particular context. No matter what term EPA uses, though, the expectation is that EPA teams will offer public participation opportunities that provide information about the EPA action and allow people convey their concerns and share information in a way that can contribute to EPA’s decision-making process. This aligns with [Executive Order 14096, “Revitalizing Our Nation’s Commitment to Environmental Justice for All,”](#) which directs federal agencies to provide opportunities for the meaningful engagement of people and communities with environmental justice concerns who are potentially affected by federal activities.

## EPA Team

“EPA team” refers to the group of people in EPA providing opportunities for meaningful engagement in the development and implementation processes for EPA actions and activities. This group may include staff, managers, fellows, interns, appointees, senior executive service, contractors, and senior environmental enrollees. EPA teams can use this policy to inform performance work statements for contractors, grantees, or other groups conducting work on EPA’s behalf. All individuals at EPA are expected to become familiar with the policy and help provide opportunities for meaningful engagement as appropriate for EPA actions.

## EPA Actions

For purposes of this policy, “EPA actions” refer to regulatory and non-regulatory decisions and related activities EPA undertakes to achieve its mission. EPA actions include proposed and final rules and permits, policy or significant guidance documents, strategic documents and strategic plans, and development of EPA initiatives or programs (including financial assistance programs). Some statutes and implementing regulations specify public participation requirements that EPA must follow. (See “Applying the Policy” below.) This policy does not impose any new requirements on EPA actions. EPA teams can use this policy to improve the quality of meaningful engagement and public participation opportunities within the context of applicable statutory, regulatory, and related policy or guidance, with consideration of available resources.

## Public

The term “public” is used in the broadest sense in this policy and means the general population of the United States and territories. Many segments of the public may have a particular interest in or be

affected by EPA programs and decisions. For EPA teams involved with actions that are place-based or affect a particular region or entity, the Public Participation Model provides information on how to identify segments of the public that are most interested in or affected by the decision. EPA teams should work equitably with different groups of people, understanding that the public is not a homogenous group and that the power dynamics, potential level of resources, and access to EPA decision-makers are different.

**The public includes, but is not limited to:**

- Representatives of consumer, environmental, and other advocacy groups.
- Groups with environmental justice concerns.
- Indigenous Peoples, irrespective of affiliation with federally recognized Tribes.
- Historically marginalized groups and individuals with limited English proficiency, people with disabilities, caregivers, and youth under age 29.
- Business and industrial interests, including small businesses.
- Elected and appointed public officials.
- Residents and communities affected by EPA actions.
- Trade, news, industrial, agricultural, and labor organizations, as well as registered lobbyists.
- Public health, scientific, and professional representatives and societies.
- Civic and community associations.
- Faith-based organizations.
- Research, university, education, and governmental organizations and associations.
- Government agencies, including Tribal, federal, state, territorial, municipal, and local agencies.

## Applying the Policy

Limited public engagement could deny people access to the EPA decision-making process. Addressing other barriers to participation as feasible allows for more informed EPA actions. For example, researching past discriminatory land use practices and policies may be important. This research could help EPA teams understand the environmental, human health, and demographic factors experienced by affected communities when providing opportunities for meaningful engagement. To ensure broad public participation, the application of this policy elevates the following principles:<sup>4</sup>

- **Integrity.** Be transparent and clear about the scope and purpose of meaningful engagement and public participation opportunities.
- **Inclusiveness.** Be accessible and include diverse groups to capture a full range of values, perspectives, and experience.

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<sup>4</sup> Federal Infrastructure Task Force's [Community Engagement Strategy](#) for Tribal integrated waste management programs.

- **Dialogue.** Listen to community concerns and priorities, express respect and humility, and promote open and genuine discussion supported by timely and accurate information. Doing so will help EPA identify and weigh options and develop a shared understanding of concerns.
- **Accountability.** Use public input in decision-making where appropriate, make the impact of the public’s time and effort clear, and follow up on how solutions or outcomes are ultimately chosen.

These principles also apply in cases where the public initiates outreach to EPA. EPA teams should respond to unsolicited requests from the public, expect to receive information and concerns that may not be related to the EPA action, and be ready to share that information within EPA, with other federal agencies, or with the public for follow-up and resolution as appropriate and practicable.

Certain statutes and implementing regulations include public participation requirements for specified EPA activities. Examples include [40 Code of Federal Regulations \(CFR\) Part 25](#), “Public Participation in Programs Under the [Resource Conservation and Recovery Act](#), the [Safe Drinking Water Act](#), and the [Clean Water Act](#)”; [40 CFR 60 Subpart B](#), “[Adoption and Submittal of State Plans for Designated Facilities](#)”; the [Comprehensive Environmental Response, Compensation, and Liability Act \(CERCLA\)](#); EPA’s [National Environmental Policy Act](#) environmental review procedures; [40 CFR 300 Subpart E](#), “[Hazardous Substance Response](#)”; the [Clean Air Act \(CAA\) \(42 U.S.C. 7401 et seq.\)](#); the [Federal Advisory Committee Act \(FACA; 5 United States Code \[U.S.C.\] 10\)](#); the [Paperwork Reduction Act \(PRA; 44 U.S.C. Section 3501 et seq.\)](#); the [Federal Insecticide, Fungicide, and Rodenticide Act \(FIFRA section 3, 7 U.S.C. 136a\)](#); the [Toxic Substances Control Act \(TSCA section 6, 15 U.S.C. 2605\)](#); and the [Government in Sunshine Act \(Sunshine Act; 42 U.S.C. 2996\(g\)\)](#). **While the public participation requirements in these laws and regulations specify the minimum level of participation, this document is intended to provide guidance on making the required participation the best experience it can be for the public.** Where public participation is not required by law, EPA teams are encouraged to use the policy and the accompanying “Resources and Best Practices” to prepare and provide opportunities for meaningful engagement and public participation in EPA’s actions as appropriate and within time and resource constraints. Additionally, EPA has published “[Legal Tools to Advance Environmental Justice](#)”<sup>5</sup> to help decision-makers begin to understand EPA’s legal authorities to consider and address environmental justice and promote meaningful engagement.

The Agency will not release personally identifiable information, confidential business information, or privileged (attorney work product, attorney client, deliberative) material. In the context of enforcing environmental laws, EPA does not disclose information that will interfere with an ongoing investigation, settlement negotiation, or litigation. The inappropriate release of sensitive enforcement information can affect the outcome of litigation, jeopardize settlement negotiations, and compromise protection of public health and the environment. For more information, see the EPA memorandum “[Restrictions on Communicating with Outside Parties Regarding Enforcement Actions.](#)” EPA recognizes similar limits on disclosing information in the context of investigating external civil rights complaints. Consistent with these and any other legal limitations on information disclosure, EPA is committed to providing meaningful engagement opportunities in enforcement cases, including asking the public for information on health and environmental problems caused by violations of federal environmental laws.

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<sup>5</sup> See EPA’s definition for [environmental justice](#).

## Competencies

This policy reaffirms the importance of building the competencies of EPA teams to provide opportunities for meaningful engagement, including:

- Using the principles of integrity, inclusiveness, dialogue, and accountability to guide meaningful engagement.
- Using or considering data and information collected through [participatory science](#)<sup>6</sup> and Indigenous Knowledge<sup>7</sup> in decision-making.
- Using EPA's annual budget process to secure and use EPA resources to plan for the meaningful engagement process, make the process easy to access, and build the capacity of EPA teams to provide opportunities for meaningful engagement.
- Providing responses to public input in a timely manner, in [plain language](#), and in languages other than English, as appropriate, as well as providing the necessary reasonable modifications and auxiliary aids and services for people with disabilities.
- Providing clear, relevant, and necessary information about the EPA action, such as a proposed rulemaking in the *Federal Register* and supporting technical documents. EPA teams should recognize that, in many cases, the public only has 30 days to read, understand, and submit their comments for the record to EPA.
- Addressing public input requested by EPA, using applicable regulations, executive orders, and policies within the parameters of statutory authority; using EPA's tools and resources for identifying alternative approaches; and communicating the science EPA uses to calculate risk when addressing public concerns.
- Using risk communication as a two-way approach to provide the public with information they need to make informed, independent judgments about risks to safety and health and to provide EPA with appropriate information to assess risk.
- Using [Environmental Collaboration and Conflict Resolution](#) processes, such as mediation and facilitation, as needed.
- Demonstrating cultural competence and humility<sup>8</sup> when engaging with the public.
- Demonstrating transparency, sincerity, and a willingness to learn when engaging with the public.

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<sup>6</sup> [Participatory science](#) engages the public in advancing scientific knowledge by formulating research questions, collecting data, and interpreting results.

<sup>7</sup> If applicable to the action, EPA may develop an Indigenous Knowledge plan that identifies how EPA will seek input from Tribal Nations and Indigenous Peoples to determine how Indigenous Knowledge may inform an EPA action. "Indigenous Knowledge" means a body of observations, oral and written knowledge, innovations, practices, and beliefs developed by Tribes and Indigenous Peoples through direct contact and experience with the environment, as described by the White House Office of Science and Technology Policy's [Guidance for Federal Departments and Agencies on Indigenous Knowledge](#). While "Indigenous Knowledge" is used here, a variety of terms, including "Traditional Ecological Knowledge," "Traditional Knowledge, Indigenous Traditional Knowledge," "Native Science," and related terms, are used and preferred by different Tribes and Indigenous Peoples.

<sup>8</sup> Cultural competence is demonstrated by conveying humility and learning about key cultural practices before engaging with unfamiliar cultures. It includes avoiding cultural stereotypes, finding commonalities, accepting differences, and being aware of the impact of one's own culture(s) to work effectively in the context of cultural differences.

# Evaluating the Policy

EPA's Office of Environmental Justice and External Civil Rights will evaluate this policy regularly, at least every five years, to ensure EPA teams have the awareness, knowledge, and guidance needed to provide opportunities for meaningful engagement. The evaluation should use internal feedback from EPA teams to examine their access to resources, as well as their understanding, awareness, and use of the policy. This analysis will help identify gaps in how the policy is circulated within EPA and any needed training and support. EPA will continue to develop instructions on how the Agency will conduct the evaluation, including:

- Evaluating whether the National and Regional Program Offices are aware of and understand the policy.
- Evaluating whether the policy has been effectively circulated across EPA.
- Evaluating how EPA's Office of Environmental Justice and External Civil Rights can improve awareness and understanding of the policy across EPA.
- Evaluating the impact of the policy's approach to providing opportunities for meaningful engagement and public participation.
- Evaluating the usefulness of the proposed model and the resources included here.
- Considering any new or updated laws, regulations, or policies.

# Resources and Best Practices

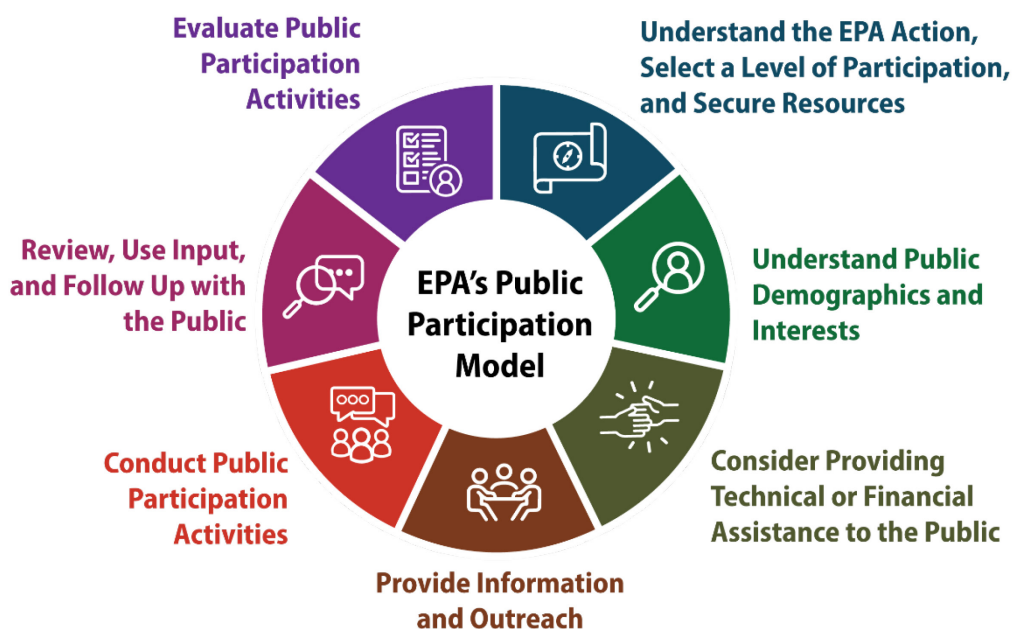


# EPA's Public Participation Model

As EPA teams plan and provide meaningful engagement opportunities for the public, they are encouraged to use EPA's Public Participation Model. The model highlights practices for different stages of participation, from identifying an action and level of participation to evaluating completed participation activities. It is designed to be iterative. EPA teams can move back and forth along the stages as new information becomes available or as plans change, to the extent consistent with any legally required processes.

Additionally, the way in which people receive information is continually changing. EPA teams should understand these changes and, where possible, identify the specific communication channels that may be used when providing information to the public. It is also important to keep in mind that EPA can and should respond to unsolicited requests from the public. EPA teams should be ready to receive this information and share it with the appropriate parties for follow-up and resolution.

The stages do not all have to be used. EPA teams should document their chosen level of participation and their work through the stages. EPA teams should share the reasons for their choice with affected and interested members of the public. The seven stages of the model are outlined below. Using this model to provide clear and accessible opportunities for public input will help EPA teams make informed and long-lasting decisions on health and environmental protection.



## Understand the EPA Action, Select a Level of Participation, and Secure Resources



**Goal:** *Facilitate effective public participation processes by mapping the EPA action decisions, selecting the appropriate level of participation, and securing the resources needed.*

### Identify Important Information to Share with the Public and Key Questions/Issues the Public Can Inform

EPA recognizes that many of its actions involve highly technical, complex issues. As the public may be interested in or affected by EPA actions, EPA teams can proactively identify and share the best times in the process for the public to provide input. As new activities begin and EPA teams learn about the EPA action, EPA teams may share the anticipated timeline for the overall process, clearly explain the action, and prepare the public to provide new facts, data, or information that can improve or enhance the EPA action.

### Select Anticipated Level of Participation

EPA's Public Participation Spectrum can help clarify the timing and role of public input in the decision-making process. The level of participation will depend on the context. The EPA team may plan for the appropriate level of public participation after using the Public Participation Spectrum (Table 1). In doing so, they should exercise their judgment wisely, be transparent with the public about areas in which EPA is seeking public participation, and make sure the EPA team and the public share a common understanding of how public input is expected to be used, including any follow-up steps. EPA teams should also clearly communicate to all involved how the selected level of participation was determined.

### Secure Resources

Securing resources is a crucial part of the process. EPA teams should clarify roles and work together to determine the level of public participation that can be supported for an EPA action, given the specifics of the EPA action, the anticipated level of public interest, the timing, and the resources available. It is important to identify the EPA staff, training, resources, partner organizations, and any contractors (including for language access and reasonable modifications and/or auxiliary aids services) that will be needed to conduct all aspects of the process and ensure the public knows about public participation opportunities. EPA teams may use the seven stages of the Public Participation Model to think through the costs of carrying out the selected public participation activities.

Creating awareness, conducting outreach, getting feedback, incorporating input, and evaluating methods are time- and money-intensive. Adequate resources and funding will need to be approved and allocated to support meaningful engagement activities.



## Self-Assessment Check

### Understand the EPA action

- Explained to the public the EPA action and any decisions that EPA can change given new information.
- Developed a timeline for the EPA action's process.
- Identified the best times in the process for the public to provide input.

### Select a level of participation

- Selected the level of participation EPA is seeking.
  - **Inform/outreach.** Clearly communicated information to the public so there is an understanding and/or awareness of the program, policy, problem, solution, and/or decision-making process.
  - **Consult/info exchange.** Considered additional data, opinions, and options during one or two instances.
  - **Involve/recommendations.** Obtained advice or comments from the public over an extended period of time.
  - **Collaborate/agreements.** Reached workable agreements, settlements, or decisions together within legal authority.
  - **Empower.** Created opportunities for autonomy in decision-making, development, and implementation.

### Secure resources

- Identified, requested, or allocated financial and EPA team resources (e.g., contractors, partner organizations) to provide opportunities for public participation.

## Understand Public Demographics and Interests



**Goal:** *Identify groups or members of the public who may have expressed an interest in or who, by the nature of their location, purposes, or activities, may be affected by an upcoming EPA activity or action.*

Given the diversity of the public that EPA serves, EPA teams are encouraged to begin by assessing whether the public is interested in or likely to be directly or indirectly affected by an EPA action and whether they might bear the burden of regulations aimed at, or in response to, actions by others. The public in this case can include community members and leaders, business owners, elected leaders, and Tribal, federal, state, or local government staff.

EPA teams can identify key, local, and diverse segments of the public that may have influence over, interest in, or be affected by the issues that the EPA action might address. Communities are diverse, and reaching a wide range of groups as the EPA action moves along can keep experience and problem solving up to date.

To understand the public and design an effective public participation process, EPA can use screening and mapping tools like [EJScreen](#),<sup>9</sup> engage with the potentially interested and affected public, and consider the following steps:

- Describe the interested and affected public.
- Summarize demographic information (key demographics are included below).
- Identify significant subgroups in the population, individuals with limited English proficiency (LEP), languages spoken or read, and other important characteristics of the interested and potentially affected public.
- Identify whether this group is a national, regional, or local audience, and identify approaches to strategize and connect across the private and public sectors.

Once the interested and affected public has been identified, EPA teams should consider asking the following questions and be prepared to manage or facilitate input from multiple parties that may hold different or competing interests and priorities:

- What are the vision and goals for addressing concerns?
- Does the identified public have differing viewpoints?
- What are the main interests and values regarding the issue at hand?
- Which of these interests are most important, and why?
- What resources (e.g., funding, teams, access to information, facilitation support) are available to assist with the public participation process?
- Are there specific areas or topics that the public has identified that should be considered in the public participation process?

Assessments should address whether any segment of the public might bear a disproportionate burden of exposure or environmental health effects from the EPA action with respect to race, national origin (including LEP), Tribal Affiliation, disability, or income, compared with other communities. Assessments should also identify any barriers to participation and ways to overcome those barriers. EPA teams should also consider the power dynamics among segments of the public, recognizing the differing levels of resources and access to established EPA communications channels.

For EPA decisions that are geography-based (i.e., the impacts of the decision would primarily affect a few communities in the same area), an assessment should include demographics, a demographic analysis to identify individuals with LEP, and other descriptive information to paint a picture of the community.

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<sup>9</sup> EJScreen is EPA's web-based geographic information systems tool for nationally consistent environmental justice screening and mapping.

Key demographics when assessing geography-based EPA decisions include, but are not limited to:<sup>10</sup>

- Population size
- Age distribution
- Race/ethnicity
- Income levels
- Percent of the population living below the poverty line
- Cumulative impacts
- Internet access
- Education levels
- Languages spoken and individuals with LEP and/or linguistic isolation
- Property ownership rates
- People with disabilities
- Indigenous characteristics<sup>11</sup>
- Transportation infrastructure

EPA teams are expected to understand government structures and nation-to-nation treaties, and identify key community-based organizations and nongovernmental organizations. The EPA team could consider developing a jurisdictional network map of the Tribal, local, state, and federal agencies or organizations/entities that may have interest in or jurisdiction in the affected area, including areas of overlap, and share it as appropriate. This assessment should identify how the community receives and shares information from or with this network.

Teams conducting assessments may also want to consider other existing environmental health concerns or stressors, such as nearby polluting facilities, rates of health conditions linked to environmental stressors (e.g., asthma), and availability and robustness of emergency services. Any developed assessments should be considered preliminary until confirmed by input from the affected public.

### Self-Assessment Check

#### Understand public demographics and interests

- Reached out to diverse groups and identified potential segments of the public who may be interested in or affected by the EPA action.
- Researched demographics, language, age, and other considerations to better identify affected segments of the public.
- Identified key community-based organizations and nongovernmental organizations.
- Considered existing environmental health concerns or stressors, such as nearby polluting facilities, health conditions, and robustness of emergency services.

<sup>10</sup> EJScreen provides nationally consistent data on many of these indicators.

<sup>11</sup> There are many community characteristics unique to Indigenous communities that should be considered here, such as use of subsistence resources in the area and nearby cultural resources.

## Methods of Obtaining Information

As part of this assessment, the EPA team should consider multiple ways to obtain information on the EPA action that comply with all applicable legal requirements, such as those contained in the Paperwork Reduction Act (PRA) and Federal Advisory Committee Act (FACA). EPA should also reference work that involves other agencies in the communities of concern to gain a comprehensive understanding of the area and build upon existing public participation efforts. Given that EPA actions can involve many regulatory actors, including state and local regulatory agencies, coordinating public participation efforts provides transparency and potentially a more effective outcome.

For example, for Superfund sites, the EPA team may conduct community interviews to assess the underlying interest and concerns of community members, levels of awareness regarding the issues at hand, and ways people obtain information. (This work is generally done under an Information Collection Request [ICR] approved by the Office of Management and Budget [OMB] if more than nine entities are interviewed.) The EPA team may also connect with other EPA staff or government partners about their experiences working with the specific community.

For each program, action, or project EPA is planning to undertake, EPA teams should consider developing an email contact list, a listserv, a U.S. Postal Service (USPS) mailing contact list, and a phone contact list,<sup>12</sup> as appropriate for the project. An organized and updated contact list that encompasses the community can be an important resource for communicating with that community. EPA should consider updating each contact list periodically. These contact lists will be most effective if categorized by area of interest or geographic location. Contact lists may be used to send various EPA announcements, which can include notices of public meetings, hearings, field trips, and other outreach and engagement events; notices of available information, reports, and documents; and communications with members of the public who may be considered for advisory group membership and other activities. EPA may use postal mail, social media, and other avenues to disseminate information, as appropriate. Examples include:

- **Email contact list.** Plans for an email contact list should include how to maintain the list (e.g., Microsoft Excel spreadsheet, a way for people to add or unsubscribe themselves, a strategy for how to advertise the email list, and a plan to manage personally identifiable information [PII]). Work email addresses may be subject to disclosure or release under the Freedom of Information Act (FOIA).
  - Plans for sending emails to people should protect individual email addresses.
  - Information in contact lists usually includes name, address, phone number, and email address. Additional fields can be added as necessary.

### Example methods of obtaining information

Interviews with key public officials

Focus groups

Screening and mapping tools

Social media

Public meetings

Questionnaires

Other survey options

<sup>12</sup> While preparing contact lists, EPA teams should be mindful of the Privacy Act. EPA teams may need to complete a Privacy Impact Assessment when collecting names and contact information, unless there is an existing System of Record Notices. For questions related to EPA implementation of the Privacy Act, EPA teams may contact the Agency Privacy Officer.

- **Listserv.** Some projects create a listserv that allows people to opt in and stay informed about the project. Planning for a listserv would include identifying EPA staff to set up, manage, and maintain the listserv, as well as manage awareness of the listserv.
- **USPS mailing contact list.** This list might be appropriate for smaller, place-based projects or places without access to high-speed internet. As of 2023, lists purchased from USPS are one-time-use lists.
  - Typically, EPA contractors can access mailing addresses for specific geographic areas to develop a base mailing list. A mailing contact list plan should include a mechanism to maintain the list (e.g., Microsoft Excel spreadsheet, GovDelivery), a plan for whether and how people can add themselves, and a plan to manage PII if the EPA team decides to include names along with mailing addresses.
- **Phone contact list.** This list can also be appropriate for smaller, place-based projects, or as an accompaniment to larger projects. A phone contact list plan should include a mechanism to maintain the list (e.g., Excel spreadsheet, GovDelivery), a way for people to add or unsubscribe themselves, and a plan to manage PII if the EPA team decides to include names along with phone numbers.

## Legal Considerations When Obtaining Information

### Personally Identifiable Information

EPA recognizes that efforts to obtain information raise privacy concerns and must comply with policies to protect PII. EPA is committed to protecting the privacy of individuals. Thus, it is EPA policy not to disclose an individual's name, email address, phone number, mailing address, or other contact information and not to use contact information collected for more than the intended purpose of disseminating information about that specific topic.

### Privacy Act

The [Privacy Act](#) mandates how federal agencies maintain records about individuals. The law strives to balance the government's need to maintain these records with the individual's right to be protected from unwarranted invasions of personal privacy. For [additional guidance](#) on the Privacy Act, EPA staff should consult with the Office of Regional Counsel or the Office of General Counsel and/or contact the Agency Privacy Officer.

### Paperwork Reduction Act

EPA teams need to comply with the [PRA](#), which is a law governing how federal agencies such as EPA collect information from the public to minimize the public's paperwork burden.

The PRA minimizes the paperwork burden for the public resulting from information collection by or for the federal government.

The PRA requires federal agencies to obtain approval from OMB before using identical questions to collect information from 10 or more persons. If EPA decides to gather information, it must submit an ICR to OMB that describes the information to be collected, gives the reason the information is needed, and estimates the time and cost for the public to answer the request. The process to receive OMB approval of an ICR generally lasts approximately six to nine months, and in some cases may take longer.

After reviewing the request, OMB may approve or disapprove the ICR, or define conditions for approval. Examples of information collections include surveys, permits, questionnaires, and reports.

**Customer Service Generic ICR (“Fast Track”).** EPA’s ICR Team has an existing ICR to obtain OMB clearance for low-burden customer service satisfaction surveys without the time and effort required to create a complete ICR package and follow the complete ICR process.

Only those surveys (i.e., “information collection”) that measure satisfaction with Agency services qualify to use this ICR. Therefore, the surveys are targeted to respondents who have experience with the program or may have experience with the program in the future. Additionally, to qualify for the customer service generic ICR, survey collection must be voluntary, low-burden, and noncontroversial; results should not be intended to be disseminated to the public; and information must not be used for the purpose of informing influential policy decisions. Some examples of “surveys” include evaluation questions after a community meeting, feedback on a public website or publication, community outreach and education programs, and community interviews or focus groups on a specific Agency program.

### **Freedom of Information Act**

FOIA exists to ensure an informed public and provides the public the right to request access to records from any federal agency unless it falls under one of the nine exemptions and there is a foreseeable harm that would result from disclosure. Members of the public can submit FOIA requests to obtain information provided to the Agency by individuals, organizations, and partners throughout the public participation process.

EPA staff should hold early, transparent discussions about FOIA with public participants prior to seeking public input, exchanging information, obtaining recommendations, entering into collaborations or agreements, conducting community-based participatory research, and working together. Sharing EPA’s limitations with participants allows communities to assess how they intend to share information or knowledge with the Agency prior to engagement, and it facilitates trust and relationship building. EPA staff should also be aware that a community may not wish to disclose information or may provide partial information to protect themselves.

For Tribal Consultation, EPA teams should understand what records may be required to be disclosed under FOIA and what legal protections, if any, might exist to withhold or protect sensitive information. EPA teams should be transparent with Tribes about the possibility of potential FOIA disclosure of any sensitive or confidential information, such as Indigenous Knowledge, and make such potential clear before soliciting or collecting information.

EPA is subject to the disclosure requirements provided by [FOIA \(5 U.S.C. § 552\)](#) and other applicable federal laws and regulations. Therefore, records created or exchanged during, or otherwise stemming from, Tribal Consultations and coordination may be disclosed under FOIA or other applicable federal laws and regulations. It is imperative that federal agencies be forthright with Tribes about the potential for disclosure of sensitive Indigenous Knowledge under FOIA and make these risks clear well in advance of receiving Indigenous Knowledge about sacred sites.

## How to Create Contact Lists

EPA teams can construct lists of contacts using various methods, including, but not limited to, “sign-up” or “sign-in” sheets for individuals participating in workshops, community meetings, public events, and other events at which EPA is sharing information with potentially interested groups and individuals. EPA teams can also allow those contacts to request additional information.<sup>13</sup>

Sign-up sheets can be a useful way to gather contact information. Contact list sign-ups can take many forms, including appearing in EPA documents (e.g., fact sheets, public notices, postcards, presentations, press releases), websites (e.g., project webpages, social media posts), and other material (e.g., sign-up sheets at meetings, community newsletters).

- Sign-in lists for public meetings can be subject to FOIA requests and releases. It is a best practice to manage these sign-in sheets after the meeting by having one list with PII and one without PII, or by noting or protecting any sheets with PII.
- The sign-up sheet should include a prominent notice at the top of each page informing those who sign it of how the list will be used.

Protecting PII on a sign-up list is critical. For example, EPA must be careful to not allow others to see information from other people. EPA contact lists should be organized by subject matter, program, or other activity and carefully managed to protect privacy. For additional protection, EPA could, for example, provide a QR code or a URL that links to a system that allows people to provide information on their own electronic devices.

### Self-Assessment Check

#### Obtaining information

- Considered various methods for obtaining information, including:
  - Public meetings, focus groups, interviews
    - Screening and mapping tools
    - Social media, questionnaires, and other survey options
  - Developed contact list(s) to disseminate information and announcements as appropriate.
  - Determined whether an ICR is needed to comply with the PRA.
    - Considered the timeline to develop a new ICR.
    - Decided to use or not use EPA's generic customer service ICR.
    - Worked under PRA exemptions.
  - Considered FOIA disclosure requirements as necessary during the Tribal Consultation process.

<sup>13</sup> EPA should ensure that the “sign-up” or “sign-in” is translated into appropriate languages (other than English) identified during the analysis. Also, EPA should add documents and outreach materials in the [Notice of Availability of Language Assistance and Reasonable Modifications in Twelve Languages](#).

## Consider Providing Technical or Financial Assistance to the Public



**Goals:** (1) Improve public participation opportunities through providing technical or financial assistance, when available and appropriate, to partners, local governments, and members of the public, and (2) build public capacity to understand complex technical issues and participate in EPA decision-making processes to the extent authorized by federal financial assistance statutes and regulations and consistent with EPA Order 5700.1, “Policy for Distinguishing Between Assistance and Acquisition,” and [EPA Order 5700.5A1, “Policy for Competition of Assistance Agreements.”](#)

Substantial time commitments from the public may be needed to study, research, analyze, and provide feedback and input to EPA on technical or complex elements of EPA’s work. EPA teams can flag any court or regulatory deadlines so the public understands time constraints and can raise the need for longer comment periods to ensure robust feedback that can inform the EPA action.

To engage interested audiences—who may not have a technical or subject matter understanding of the topics addressed in EPA processes or regulations—EPA should consider identifying the topics or areas where the interested public might lack the necessary knowledge or resources (for example, technical background) to provide effective input, or where EPA should consider obtaining the services of experts to help provide meaningful engagement opportunities for the public.

### Technical Assistance

There are many ways to help members of the public participate meaningfully when they are not subject matter experts in the topic addressed by the specific EPA action. EPA can help determine which assistance methods may be most appropriate to the situation, consistent with applicable legal requirements. **There is no one-size-fits-all approach or recommendation for every circumstance, and limitations may vary depending on availability of funds and resources.**

A [Technical Assistance Needs Assessment](#) can be a useful tool to identify whether a community may need additional support from EPA to understand technical information in order to enable meaningful engagement. A Technical Assistance Needs Assessment is strongly recommended whenever a community may require additional technical assistance so that EPA can tailor its assistance to the specific needs of the community.

### Financial Assistance

In limited circumstances, direct financial assistance in the form of cooperative agreements may be available for entities—such as community-based nonprofit organizations, Tribal Nations, local governments, and nonprofits that represent Tribal co-regulators—that are statutorily eligible to receive funding from EPA to enable them to participate in EPA’s decision-making processes.

For example, depending on available EPA appropriations, authorizations, and other priorities, EPA may have authority to provide funds for public participation activities associated with rules under development, such as through Section 138 of the Clean Air Act, which establishes the Environmental and Climate Justice Block Grant Program.



In limited situations, EPA could consider providing financial support for travel and per diem for people who may be providing information and advice directly to EPA officials, as well as compensation for meeting time spent as a member of a [Federal Advisory Committee](#) through invitational travel orders authorized by [5 U.S.C. 5703](#).

There are criteria for providing financial assistance. EPA teams should consider:

- The applicable statutory authority for the proposed activity.
- The availability of appropriations for the financial assistance agreement under consideration.
- Whether the applicant adequately represents the interests of the interested and affected public.
- The applicant's ability to match resources, if required.
- The applicant's qualifications to accomplish the work.
- The ability of the activity to further public participation objectives and benefit the public.

Funds for such purposes are generally limited. When EPA does provide funding, the primary purpose must be consistent with the [Federal Grant and Cooperative Agreement Act](#) (FGCAA), as interpreted in EPA Order 5700.1, and one or more of EPA's statutes must provide appropriate authority for the funded activities. EPA interprets the FGCAA to allow EPA to fund nonprofits that represent Tribal co-regulators to support and facilitate the involvement of Tribes in formulating EPA policies and programs that Tribes implement in Indian country. Additionally, EPA has determined that Clean Air Act Section 138(b)(2)(E) provides an exception to the FGCAA and authorizes EPA to fund cooperative agreements with community-based nonprofit organizations that facilitate the engagement of disadvantaged communities in EPA FACAs, rulemakings, workshops, and other public processes. Funding may include participant support for stipends and travel support, along with research and other professional services. These cooperative agreements may be awarded on a non-competitive basis in certain circumstances with approval from EPA's Office of Environmental Justice and External Civil Rights.

EPA may rely on certain authorities when covering costs associated with participating and considering compensation to the public for its time and expertise. Although EPA generally does not fund the public directly, EPA teams may use mechanisms such as contracts, grants, or cooperative agreements as a vehicle to provide financial assistance to or procure products or services for the benefit of eligible recipients.

When considering which funding mechanism is most appropriate for which compensation type, EPA may use existing and available mechanisms, such as grant funds already obligated to the administering program, to authorize recipients to pay for a public speaker, panelist, or presenter contributing key information during an event, provided the recipients rather than EPA select the individual providing the information. EPA may also consider existing legal authorities in determining whether the estimated costs for public compensation are eligible and classified correctly, such as differentiating between a sub-award and participant support costs. See Table 2 below for guidance on different compensation types. This table provides a list of the legal authorities that enable EPA to provide financial assistance to eligible entities to support public participation in certain scenarios.

**Table 2. EPA compensation types for public participation**

Compensation Type	Examples	Legal Authority, Directives, or Executive Orders	Guidance
<b>Invitational travel</b>	Any speaker, trainer, panelist, presenter, or person contributing key information to the event by providing a service to EPA (excludes non-federal meeting participants and EPA staff and management)	5 U.S.C. 5703	<ul style="list-style-type: none"> <li>• Resource Management Directive System 2550B</li> <li>• Official Travel (EPA Travel Manual)</li> </ul>
<b>Participant support costs</b>	Includes stipends and travel assistance for trainees, non-federal meeting participants, or research project participants (requires prior EPA approval)	2 CFR 1500.1; 2 CFR 200.456 when coupled with statutory authority for EPA to award a grant or cooperative agreement	<a href="#">EPA Guidance on Participant Support Costs</a>
<b>Meals and refreshments paid for by cooperative agreement recipients at a meeting co-sponsored with EPA</b>		2 CFR 200.432 when coupled with statutory authority for EPA to award a cooperative agreement	<a href="#">Selected Items of Cost Guidance</a> ; EPA cannot pay directly for meals and light refreshments at meetings
<b>Caretaking</b>	Childcare during public meetings (grants or cooperative agreements)	2 CFR 1500.1; 2 CFR 200.456 when coupled with statutory authority for EPA to award a grant or cooperative agreement	Questions i.1, i.2, and i.3 of <a href="#">EPA Subaward Frequent Questions</a> (grant recipients)
<b>Fellowship and internship programs</b>		2 CFR 200.456 and 2 CFR 200.466 when coupled with statutory authority for EPA to award a grant or cooperative agreement for a fellowship or internship program	<a href="#">National Programmatic Term and Condition for Fellowship, Internship Programs, and Similar Programs Supported by EPA Financial Assistance</a> (Participation Policy Term and Condition)

Compensation Type	Examples	Legal Authority, Directives, or Executive Orders	Guidance
<b>Subsidies and rebates</b>	Participant support costs for EPA-specific programs that provide rebates and subsidies for the purchase or installation of pollution abatement technologies	2 CFR 1500.1 when coupled with statutory authority to fund grants or cooperative agreements for environmental stewardship program	<a href="#">EPA Guidance on Participant Support Costs</a>
<b>Language Access Services</b>	Services for individuals with LEP	<a href="#">Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,”</a> <sup>14</sup> requires federal agencies to examine services they provide, identify need for LEP services, and develop and implement a system to provide services so persons with LEP can have meaningful access to Agency programs, activities, and services.	<a href="#">EPA Order 1000.32</a> provides Agency-wide guidance to ensure individuals with LEP have meaningful access to EPA programs, activities, and services in a timely and effective manner.  It requires that each of EPA’s program and regional offices implement program or regional specific plans to ensure that individuals with LEP have meaningful access to all EPA’s programs, activities, and services. The order includes support for the EPA LEP Language Access Contract, which is centrally funded through EPA’s Working Capital Fund.
<b>Disability Access Services</b>	Services for individuals with disabilities that provide equal access to EPA’s programs and activities	Section 504 of the Rehabilitation Act and EPA’s implementing regulation at 40 C.F.R. Part 12; Section 508 of the Rehabilitation Act and U.S. Access Board Standards <sup>15</sup>	EPA is currently building a national disability access program that includes an EPA order and corresponding Agency-wide contract and funding mechanisms to ensure persons with disabilities in the public have the reasonable

<sup>14</sup> See [Assisting People with Limited English Proficiency](#).

<sup>15</sup> Section 504 of the Rehabilitation Act (29 U.S.C. § 794), as amended, prohibits discrimination against persons with disabilities “under any program or activity...conducted by any Executive agency.” EPA’s implementing regulation at 40 C.F.R. Part 12 requires, in part, that EPA provide reasonable modifications and appropriate auxiliary aids and services so that persons with

Compensation Type	Examples	Legal Authority, Directives, or Executive Orders	Guidance
			modifications and services they need to access EPA programs and activities. Interpreter services for persons who are deaf or hard of hearing are available.

**Additional support EPA teams can provide to the public:**

Access to technical knowledge and staff through grants to universities.

Staff actions to connect community members or groups with other external networks that have relevant expertise.

Financial assistance (e.g., grants, cooperative agreements, notice of funding opportunities) from EPA and the federal government to community groups.

Contract support for technical assistance and capacity building (e.g., [Technical Assistance Services for Communities \(TASC\) Program](#) and [Technical Assistance Grant \(TAG\) Program](#)).

Use of online, in-person, and hybrid meeting tools and platforms.

Translation, interpretation, and other accessibility support.

Surplus computer equipment donations to parties who need internet access (see EPA's [Computers for Learning](#) program in response to [Executive Order 12999, "Educational Technology: Ensuring Opportunity for All Children in the Next Century"](#)).

Build relationships and partner with organizations and groups to share resources and expertise (e.g., local government, industry, advocacy groups, faith-based organizations).

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disabilities can equally participate in EPA programs and activities. Section 508 of the Rehabilitation Act (29 U.S.C. § 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), requires digital accessibility for federal agencies, and requires that all electronic and information technology purchased, developed, maintained, or used by federal agencies is accessible to individuals with disabilities. The U.S. Access Board established the Section 508 standards that implement the law and provide the requirements for accessibility.

## Self-Assessment Check

### Consider providing technical or financial assistance to the public

- Conducted a technical needs assessment to identify the topic areas where the interested or affected public may lack the necessary knowledge/resources **OR** where EPA should consider obtaining the services of experts to help provide meaningful engagement opportunities for the public.
- Considered whether financial compensation is appropriate for public participation activities.

### Questions this needs assessment can help address

- How is the community receiving information?
- What types of information are being received?
- Does the community need additional assistance and/or what types of assistance would benefit the community?
- Are there local experts/organizations that can act as an appropriate conduit for the technical or financial assistance service?

## Provide Information and Outreach



**Goals:** (1) Provide the public with access to accurate, understandable, pertinent, and timely information to facilitate effective public participation in EPA decision-making processes, and (2) assist the public in understanding the reasons for EPA actions, the legal framework for decision-making, and the significance of the related technical data so the public can provide meaningful comments.

EPA teams should strategize on the most effective ways to provide information and outreach to the identified public. In some cases, EPA is required to share the information, and the *Federal Register* serves as a main communication tool between EPA and the public. To enhance this communication, EPA teams should consider choosing from the following activities as applicable and appropriate:

- Provide the public with adequate and timely information concerning an upcoming action or decision.
- Engage the public proactively and early in the decision-making process to allow input before the decisions are made.
- An example is providing early outreach and sharing information before actions are proposed or public funding opportunities are announced using requests for information, pre-proposal listening sessions, or Advance Notices of Proposed Rulemaking.
- Provide policy, program, and technical information to the public, as appropriate, at the earliest practicable times (e.g., before issuing a permit, letting communities know when the permit will be up for renewal) to enable potentially affected or interested persons to make informed and constructive contributions to decision-making. This could include developing educational materials that help the public understand the regulatory constraints and technical intricacies of decisions, sharing the overall process timeline, and supporting the public in preparing their comments in a

way that most effectively addresses their concerns in relation to the EPA action and the upcoming decisions.

- If applicable to the action, develop an Indigenous Knowledge plan that identifies how EPA will engage with Tribal Nations and Indigenous Peoples to determine how Indigenous Knowledge may inform an EPA action.
- Provide access to relevant data and information at places and at times that are easily accessible to the public, including online and user-friendly access to health and environmental data. For virtual or hybrid events, inform people before any recording.
- Examples include project websites, news sources (e.g., community newspapers), listservs, religious networks, community centers or organizations, and the *Federal Register*.
- Develop information and educational programs so all levels of government and the public have an opportunity to become familiar with the issues, technical data, and relevant science behind the issues.
- Provide informational materials that clearly identify the role of the public in the specific decisions to be made. After identifying the key messages, create information in [plain language](#) that meets the intended audience's reading needs. As part of a plain language review, staff should also include graphics and other visuals to clearly communicate information.
- Share materials with partners that can help adapt technical information into plain language and create appropriate language translations. This process also gives EPA teams immediate feedback on what types of information a community finds most useful.
- Engage state and local government agencies and community-based organizations serving individuals with LEP, such as statewide or local Offices of New Americans and/or state refugee resettlement agencies. To ensure meaningful access for persons with LEP, EPA teams should provide information about programs, activities, and services that are accessible to English-speaking persons, consistent with [Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency"](#) (signed August 11, 2000) and [EPA Order 1000.32](#). This communication may include translating written texts such as fact sheets, press releases, and reports, as well as providing interpretation services.
- Ensure equal access for individuals with disabilities by providing reasonable modifications and auxiliary aids and services for persons with disabilities for public outreach events such as public hearings or webinars, public meetings, technical assistance, and events.
- Maintain ongoing communication and outreach with the public on particular EPA activities through periodic newsletters, listservs, or other means.
- Develop information in a way that makes it easy for external organizations and agencies to amplify EPA activities in their own way (if they choose to).
- Use interviews, focus groups, requests for information in the *Federal Register*, social media, questionnaires, or other survey options to find out levels of awareness, underlying interest and concerns, where people obtain information, and the need for tailored public education and outreach (in ways that comply with the PRA).
- Solicit interest through notices in the *Federal Register*; trade and trade association publications; local print, radio, cable, and television outlets; not-for-profit secular and religious publications; or the internet or other electronic means.

- Ask those who attend events what, if any, interested community members and/or topics are missing from the discussion.
- Use other creative means that consider the community structure, spoken languages, local communications preferences, and locations (e.g., libraries, churches, schools, and other centers) where the community regularly congregates.
- Tailor information and outreach activities to unique and culturally rich contexts by working with cultural informants, understanding relationships within and between community members and organizations, and respecting local and regional norms.
- Create external-facing webpages for the public to sign up for topics of interest to receive notifications regarding upcoming actions, webinars, or events.
- Create and maintain a separate inbox or email to receive “Contact Us” inquiries.
- Notify the public on how they can sign up to receive information from EPA via fact sheets, public notices, postcards, presentations, press releases, project webpages, social media posts, and other materials such as sign-up sheets at meetings or community newsletters.
- If meeting with the public, consider allotting time for questions and answers so that everyone in attendance can benefit from hearing the same response and get the needed clarity.

Information and outreach activities should use appropriate communication tools and be tailored based on the public’s familiarity with the subject and means of access. The following approaches, among many others, may be used to convey information to the public:

- Publications, fact sheets, technical summaries, bibliographies, resource guides, relevant supporting documents, project websites, EJScreens reports, and other printed and electronic materials.
- Multimedia platforms to share information with the public, including social networking platforms.
- Electronic communications such as webpages and listservs.
- Use of webpages, online dialogues, and chat rooms may need additional EPA approval and/or consultation with an information security officer.
- Public service announcements, articles, and news releases through local newspapers, radio, podcasts, and other media sources that reach the interested and affected public. EPA teams may include public affairs staff to assist with coordinating activities and communications.
- Educational publications, programs, or activities.
- Participation in conferences, fairs, festivals, workshops, meetings, community dialogues, or local study groups and tours of relevant sites and facilities.
- Telephone communications such as hotlines, clearinghouses, and toll-free comment lines.

### **Content for Outreach Materials**

Examples of content for outreach materials may include, but are not limited to:

- Background information (e.g., statutory basis, rationale, specific goals).
- A timetable of proposed actions.

- Summaries of lengthy documents or technical material, if relevant.
- Alternative courses of action EPA may have considered, or preliminary determinations EPA may have made.
- Information on whether an Environmental Impact Statement or Environmental Assessment is or will be available.
- Information on where and when there will be opportunities for public engagement and how to participate in the process.
- The name and contact information (e.g., postal address, email address, telephone number) to reach EPA contacts for further information.
- Information on the social, economic, and environmental consequences of proposed decisions and alternatives prepared in connection with the proposed decision, as well as final decisions.
- Technical evidence and research methodologies explained in nontechnical language.
- If available, a list of technical assistance sources, advice, or other publications that could be helpful to the public.

EPA may use fact sheets, news releases, summaries, and similar publications in print and digital formats to provide notice of availability of materials and to facilitate public understanding of more complex documents, but these resources should not be a substitute for public access to the complete documents.

When appropriate, EPA should provide information in more than one format and in multiple locations to match the public's needs. Formats can include printed documents, videos, infographics, and mobile-friendly applications. Some documents (e.g., confidential business information) are not available for public review. Before releasing certain documents that may be required to be protected from public disclosure, or for advice on whether a particular document must be protected from public disclosure, EPA staff and management should consult with the Office of Regional Counsel or the Office of General Counsel.

## **Notices to the Public**

EPA may use a variety of communication channels to distribute outreach materials, such as email lists, mailing lists, websites, social media, press releases, newspaper announcements, local media announcements, neighborhood bulletins, and local radio, as appropriate. The public should have adequate time and opportunity to receive and review the information before EPA conducts any additional public participation activities. Notices should include information about locations in the community (e.g., address, hours of operation) and information about how to access all the documents referred to in the notice (e.g. the name of a contact person when appropriate and translations into the languages spoken in the area so individuals with LEP can have equal access to the information related to the EPA action).

## **Timing of Public Outreach**

To enable effective and meaningful involvement, EPA should announce public events well in advance of the planned date. EPA should plan to have outreach materials available with enough time for the public to have the opportunity to review materials and meaningfully participate throughout the process. The



more complex the issue, the greater the need for clear information to be provided with adequate time for the public to provide informed input. Public outreach should be an iterative process to build trust and establish a relationship with the community. EPA often makes its materials available to the public by placing them in a public docket. Dockets are discussed in more detail below.

## Repositories or Dockets

EPA should consider providing one or more central repositories of documents, reports, studies, plans, and other materials relating to significant issues and decisions in a location or locations convenient to the public. In some instances, EPA officials should consider establishing repository sites within the community, which could include a local library or a municipal building. When choosing the site for a document repository, EPA officials should consider accessibility for persons with disabilities, travel time, parking, transit, and availability during off-work hours. Copying facilities should be available at repositories. EPA officials are encouraged to determine the accessibility to the interested public and feasibility of electronic repositories. If the public has reasonably convenient, well-advertised electronic repositories, this tactic can achieve significantly enhanced accessibility at a modest cost.

A docket is a collection of documents made available by an agency for public viewing. Often associated with an opportunity for public comment, EPA dockets consist of materials related to a rulemaking or other action. These materials may include documents specifically referenced in the *Federal Register*, public comments received, and other information used by EPA to explain or support its decisions. Dockets are categorized as being either rulemaking or non-rulemaking dockets.

Non-rulemaking dockets (also known as general dockets) contain information on an agency process or action not related to the development of a rule. Non-rulemaking dockets contain varied materials available to the public on agency actions. Examples include *Federal Register* documents seeking public comments on draft guidance, policy statements, ICRs under the PRA, and other non-rule activities.

The [EPA Docket Center](#), which has improved internal workflow processes and enhanced customer service and public access to information, also enables the public to access multiple program dockets and conduct cross-docket searches from one location. The EPA Docket Center features a Public Reading Room with the following services: computers for the public to access the Regulations.gov public docket and comment system, scanners, copiers, and telephone lines.

### Self-Assessment Check

#### Provide information and outreach

- Provided opportunities for meaningful engagement and public participation to allow for input before decisions are made.
- Tailored information and outreach to the interested and affected segments of the public.
- Developed educational materials in nontechnical language.
- Provided adequate time for the public to provide input.

## Conduct Public Participation Activities



**Goal:** Understand the interests and needs of the public and provide opportunities to exchange information and views and openly explore issues, alternatives, and consequences between the public and EPA teams responsible for the forthcoming EPA action or activity.

### Public Participation Activities

When conducting public participation activities, EPA teams should consider the following practices, as feasible and appropriate based on a range of factors, including the scope of the EPA action, budget, timing, and the identified public:

- Identify and select public participation activities appropriate for the scope of the decision and the time and resources available and ask members of the public whether the approaches selected accommodate their needs, preferences, and resources.
- Note that no one public participation activity will fit all situations. It is important to find activities that work for the EPA action and situation, acknowledging that the potential financial burdens to the public and lack of awareness about EPA’s language assistance services and reasonable accommodation services may influence the public’s decision to participate.
- Consider using participatory science to advance public participation when formulating research questions and collecting data (e.g., environmental monitoring), as well as when helping with emergency response actions, evaluating air quality sensor technologies, collecting data for specific communities, and providing environmental education. In cases where participatory science is used to formulate research questions or collect data, EPA teams should allow the participating public to have access to and benefit from the data collected.
- Notify the public of participation opportunities early enough so they have adequate time to obtain and understand the information; check their understanding with trusted sources and partners; and formulate and express their opinions, experiences, and suggestions prior to an EPA action. As part of the notification, include the timeline, steps involved in the EPA action, and how the input will be used.
- Join already-scheduled community meetings or events; if scheduling a new activity, do so at times and places that are culturally appropriate and facilitate attendance and public participation.
  - When possible, consider time zones and schedule around other important meetings, local school schedules, parking availability, child-friendliness of location, and events or holidays that might be important to the audience. After conducting this research, ask other EPA teams and

“One way that EPA can support meaningful engagement without placing an extra burden on members of the public is to be clear and transparent about the potential outcomes of their participation. In other words, members of the public should know how likely it is that their input will inform the agency’s activities and decisions, whether in the short term or the long term, what sorts of input will be considered, and what the possible outcomes of the agency’s activity might be. The agency can also list possible outcomes for each action or activity.”

— Public commenter

the public to review the meeting or event information and make changes to the scheduled activity as necessary.

- Consider a wide variety of public participation activities to provide people with different ways to participate. For example:
  - Schedule a series of the same meeting at different times or days of the week.
  - Issue a request for information or public comment in addition to meetings.
  - Provide a recorded presentation followed by a series of in-person and virtual Q&A sessions and provide language access and reasonable modifications services.
  - Host an online open house event that is available for a longer period of time.
  - Expand on the Q&A-style presentation to include opportunities for input into strategic direction and purpose. For example, more open-ended and fun community engagement exercises can be aligned with big picture goals, such as visioning.
- Provide guidance, resources, learning material, and professional assistance during public participation activities.
  - For example, include scientific and background information in a manner that allows the public and community members to understand the relevant information for the issues under discussion.
- Be prepared to receive information from the public that may appear to fall outside of the EPA action. Safety, noise, traffic, and other factors may affect the identified segment of the public. EPA teams should take note of these concerns and share them with the correct EPA office, federal agency, or local organizations if possible. This communication can support the public in identifying priorities, problems, and solutions for agencies to consider.
- Consider the appropriate use of third-party facilitators or mediators in developing and implementing programs, projects, and activities.
- Be knowledgeable about and ensure compliance with laws and regulations that could apply when consulting members of the public, such as FACA, the PRA, and EPA’s Public Participation Regulations.<sup>16</sup>
- Ensure compliance with the PRA when collecting information from the public, and ensure privileged information is not released.
- Ensure individuals with LEP and individuals with disabilities have and can request language assistance and reasonable accommodations and/or auxiliary aids and services (e.g., interpreters, access to a virtual or physical meeting venue, American Sign Language [ASL], Communication Across Realtime Translation [CART]) to attend public hearings, meetings, or other events, in compliance with the [Rehabilitation Act](#).
  - Provide the [Notice of Availability of Language Assistance and Reasonable Modifications in Twelve Languages](#), which includes the following statements:
    - If you cannot speak, read, write, or understand the English language, please email <insert appropriate EPA email address> to request interpretation or translation services free of charge.

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<sup>16</sup> EPA’s Public Participation Regulations specify minimum requirements and suggested program elements for public participation in agency activities under the Clean Water Act, Resource Conservation and Recovery Act, and Safe Drinking Water Act.

- If you are a person with disabilities and need reasonable modifications and/or auxiliary aids and services, please email <insert appropriate EPA email address> to request services free of charge.
- Understand that a significant amount of work may be required to prepare the EPA team for public participation activities. Work with key community leaders or other EPA staff and management who have worked in the community before or are currently engaged in an activity there, making sure to prioritize already-existing community events. Activities include creating an overarching communications strategy with key messages, a timeline of activities, a checklist of communications tools or materials needed to support activities, run-of-show documents with step-by-step instructions on how events will be structured (especially virtual webinars), and multiple dry runs of presentations, including practicing how to respond to tough questions or concerns. The EPA team should invest time in simplifying and clarifying messages to make them understandable to the key audience.
- Anticipate accommodation needs. Public participation activities may warrant translation or interpretation services to address language access needs, cultural considerations, and reasonable modifications and/or auxiliary aids and services for persons with disabilities. This preparation requires advance planning and corresponding timelines, especially for procuring resources and for reviewing and approving materials, including:
  - Ensuring that activity locations and hybrid meetings are accessible to people with disabilities and are accessible via public transportation.
  - Ensuring event spaces do not have loud noise such as car traffic, loud echoes, or loud fan noises.
  - Using microphones when speaking to more than 12 people and/or for hybrid events.
  - Offering printouts and hard copies.
  - Translating meeting materials into appropriate languages other than English, ensuring Section 508 compliance, and sharing these materials with the public before the meeting.
  - Securing reasonable modifications and/or auxiliary aids and services.
  - Securing interpretation services (in-person, virtual or hybrid).

## Purposes of Information Exchange

The purposes of information exchange are to:

- Enable the public and EPA to share data, ideas, views, and concerns.
- Allow EPA to obtain input from a wide range of segments of the public.
- Compile a knowledge base of the public's interests, ideas, views, and needs, allowing EPA to better understand and consider the issues related to a particular decision.

## Examples

- Input solicited from the public through public comment processes, meetings, or hearings.
- Interactive engagement that provides the public with opportunities to discuss their input with EPA in:<sup>17</sup>

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<sup>17</sup> Most of these information collection activities may be subject to requirements of the PRA.

- Public meetings.
  - Listening or availability sessions.
  - Workshops.
  - Interviews.
  - Focus groups or surveys.
  - Online dialogues.
  - Other methods.
  - Public hearings and meetings that provide an opportunity for formal or informal public participation.
- Public meetings and hearings should be part of an overall public participation process that offers the public additional opportunities to become informed and participate.
  - **Important:** Before EPA decides a meeting is appropriate, clear goals should be identified and a meeting should be found to be the best tool to achieve those goals.
  - Statutes and/or EPA regulations may require EPA to hold public hearings or meetings for the purpose of gathering public input on an EPA decision and govern how public hearings or meetings are to be conducted.
  - While public hearings and meetings are often organized in a prescribed manner (e.g., presenting information, providing an opportunity for questions and/or comments), EPA should be open to changing the sequence depending on the audience and should make the events as interactive as possible.
  - When the subject of a public hearing or meeting relates to conditions or facilities in a specific geographic area, EPA should hold the public hearing or meeting in that general geographic area. If the subject of a public hearing or meeting relates to conditions or facilities in multiple geographic areas, EPA should consider several events in a variety of locations, including online.

## Purposes of Recommendation Processes

Purposes of recommendation processes include:

- Soliciting input from the public to inform an EPA decision-making process, especially for decisions on complex topics that have far-reaching effects.
- Identifying and analyzing various options, receiving recommendations for creative solutions, and assessing commonalities and differences among varied points of view.
- Obtaining input from specific entities that can provide valuable technical expertise, information, or viewpoints that EPA should consider in making a sound decision.<sup>18</sup>

## Common Examples

- Federal Advisory Committees established by EPA under FACA or other statutory or executive authority.

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<sup>18</sup> Collecting information or seeking advice from the public could be subject to requirements of the PRA and/or FACA.

## Federal Advisory Committee Actions

EPA should work to maximize the use of existing resources for public consultation and participation processes. The 20-plus [EPA Federal Advisory Committees](#) are such a resource. EPA established each of its Federal Advisory Committees to provide advice on a different aspect of environmental science, policy, or management. These committees are part of the EPA decision-making process and include members who are scientists, public health officials, businesspeople, private citizens, and officials at all levels of government. Approximately 1,400 individuals sit on these committees, bringing a variety of perspectives and expertise to the environmental consensus-building process.

[Federal Advisory Committees](#) provide independent advice to EPA. Individuals are appointed to the committee to participate in building consensus and providing input and recommendations. The public may view Federal Advisory Committee proceedings, attend meetings, and submit comments to a committee, benefitting from an open and ongoing exchange of information. The individuals who participate on EPA's Federal Advisory Committees are experts in their respective fields (e.g., environmental, sociological, and technological sciences), represent a necessary point of view, or otherwise hold valuable knowledge and lived experience. Anyone, from business owners to public health officials to ecologists, can be subject matter experts in their respective issue areas, and more than 400 such members currently participate on EPA Federal Advisory Committees. If EPA seeks advice or recommendations from a group that includes one or more individuals who are not federal government employees, EPA should determine whether FACA, 5 U.S.C. §§ 1001–1014, applies. If so, EPA may need to formally charter the group as a Federal Advisory Committee and must comply with FACA requirements.<sup>19</sup>

- EPA may choose to adopt the recommendations of a Federal Advisory Committee, but FACA does not require EPA to adopt or implement a committee's recommendations.
- EPA Federal Advisory Committees must be balanced in terms of the points of view represented and the functions the committee is to perform, as required by FACA.
- Per FACA, every public meeting of a Federal Advisory Committee provides opportunity for oral or written public comments, which may be considered in deliberations of the committee members.
- EPA should include directly affected community members in a Federal Advisory Committee when appropriate.
- External technical committees (such as those conducted by the American Society for Testing and Materials) and various technical advisory groups, citizens' advisory groups, or panels that EPA does not establish, manage, or control, may provide recommendations to EPA.

## Conflict Prevention and Resolution

[Environmental Collaboration and Conflict Resolution \(ECCR\)](#) or alternative dispute resolution (ADR) tools, such as facilitation, support EPA's efforts to convene and conduct meaningful involvement activities or to resolve differences among various segments of the public during information exchange and collaborative processes. To conduct ECCR or ADR activities, EPA obtains the services of neutral, trained facilitators and mediators who manage discussions between EPA and identified partners. ECCR

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<sup>19</sup> FACA requirements include those found in the statute and in the General Services Administration regulations implementing FACA at 41 CFR Parts 101-6 and 102-3.

or ADR is most effective when there are a few highly involved and informed groups who agree to participate in a dialogue through which they raise their concerns and seek to resolve a particular issue by consensus. EPA can use ECCR or ADR processes to encourage conflict prevention or resolution at any time during a decision-making process.

### **Content of Public Participation Activities**

- EPA officials should clearly, and in plain language, identify the issues for discussion, negotiation, or decision before and during a public participation process. EPA should always be clear about how the public's input can inform a decision. For more information, please refer to EPA's Public Participation Spectrum (Table 1), which identifies the EPA team's promise to the public.
- EPA officials should clearly describe:
  - The type of public participation process planned.
  - The timeline of the process.
  - EPA's expectations for the outcomes of the process and the type of feedback EPA will provide.
- When possible, EPA should involve the public in determining the design of the public participation process.

### **Notices to the Public**

- As feasible, early in the decision-making process, EPA should notify the public and, when appropriate, the news media of opportunities to participate in the public participation process, as well as provide them with relevant information.
- In addition to legal notices and/or *Federal Register* notices, EPA officials should consider using other outreach methods to publicize public participation opportunities.
- Notices should, at a minimum, include:
  - A description of the proposed action and the corresponding timeline.
  - The time and date of the public participation activity.
  - The location of the activity.
  - EPA staff contact information.
  - How the public will be involved in the EPA action (Table 1).
- Notices should also include requests for language access services (translation and interpretation) and reasonable modifications and/or auxiliary aids and services such as an ASL interpreter, CART writer,<sup>20</sup> captioners for external events,<sup>21</sup> or a cued language transliterator (CLT).<sup>22</sup>

### **Timing of Public Participation Activities**

- EPA officials should provide early advance notice of public participation processes, so the public has adequate time to obtain relevant information, formulate their needs and interests, and obtain expert assistance if necessary.

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<sup>20</sup> Provides real-time written transcript of spoken words.

<sup>21</sup> Provides real-time written transcript of spoken words.

<sup>22</sup> On-camera service provider.

- Minimum time frames for notification of public hearings and public meetings will vary according to any applicable regulations and the complexity of the issue.
- For example, for non-adjudicatory public hearings held under 40 CFR Part 25, regulations require EPA to provide at least 45 days' notice prior to the date of the hearing (unless other governing EPA regulations require more advanced notice), but that time may be reduced to 30 days if EPA determines that there are no substantial documents to be reviewed and no complex or controversial matters to be addressed at the hearing (40 CFR Section 25.5).
  - EPA may further reduce or waive the hearing notice requirement in an emergency in which EPA determines there is an imminent danger to public health (40 CFR Section 25.5).
- If the issues are unusually complex or involve review of lengthy documents, EPA teams should consider providing additional time to review and provide comments, commensurate with the time and effort it would take the public to read and provide meaningful comments.
  - The public can also ask for the comment period to be longer or to extend the comment period if it has already begun.
- When EPA holds a public comment period or Tribal consultation, EPA officials should make the relevant materials available and accessible to the public and/or Tribes at the beginning of the comment period or consultation process.
- A minimum public comment period may be specified in a statute or regulation; however, EPA typically allows at least 30 days for public comment (or longer for complex issues or lengthy documents).
- Program-specific notice requirements may apply. For example, the Comprehensive Environmental Response, Compensation, and Liability Act requires that, regardless of complexity, EPA allow the public a minimum of 30 days to submit comments on proposed remedies and, upon a timely request, that EPA extend the public comment period by a minimum of at least 30 days (40 CFR Section 300.430(f)(3)).

### **Public Participation Activity Summaries**

- FACA requires EPA to prepare detailed minutes of advisory committee meetings.
- Some statutes also require a transcript of public comments in a public hearing or meeting.
  - Even when not required, EPA should generally make summaries of public hearings and public meetings available to participants and other interested parties.
- When appropriate and practicable, EPA should consider including additions or corrections that participants submit to the summary.
  - Project leaders should build time for such revisions into the planning process.
- In rulemaking proceedings, EPA policy is to include in the docket a summary of significant new factual information received during informal meetings or conversations with outside parties concerning a proposed rule.
- In non-rulemaking situations, it may be appropriate to document discussions that contribute information useful to EPA decision-making and ensure that information is available to the public.



## Self-Assessment Check

### Conduct public participation activities

- Engaged with the affected public to determine whether public participation activities and communication messages are appropriate.
- Considered using [participatory science](#) to advance public participation when formulating research questions and collecting data.
- Developed a timeline for outreach activities that gives adequate time for engagement ahead of the EPA action.
- Considered the most effective ways to reach the intended audience (e.g., website, fact sheet, infographic, newspaper, listserv, social media), the frequented locations (e.g., community center, existing public meeting, places of worship, libraries, schools) and best times of day (e.g., weekday; weekend; daytime; evening; school break; federal, religious, cultural holidays) that are tailored to the identified public.
- Implemented inclusive meeting practices (in-person, virtual, different times and days of week) and diverse options for gathering information from the public (public comment, in-person follow-up, virtual Q&A, open house).

## Review, Use Input, and Follow Up with the Public



**Goal:** *Consistently earn and retain the public's trust as well as credibility for EPA's actions and public participation processes by evaluating and incorporating public viewpoints and preferences, where appropriate and possible, and by communicating to the public the decisions made and how public input informed those decisions.*

Gathering and using public viewpoints and preferences involves examining and analyzing public input related to scientific and other information relevant to the decision, considering if and how to incorporate that input into final program decisions, and carefully considering public views when making or modifying decisions. For each decision, EPA teams should consider information expressed by the public in determining how to best protect the public's health and the environment. EPA should demonstrate, in its decisions and actions, that it has appropriately considered public comments. Finally, when providing responses to solicited public input, EPA should communicate the decision to the public and discuss how the public's input informed the final decision.

### Reviewing and Using Public Input and Following Up

**Review and use the information.** EPA teams should briefly and clearly document consideration of the public's views in responsiveness summaries, regulatory preambles, Environmental Impact Statements, response to comment documents, or other appropriate documents. This should occur at key decision points. Unless inappropriate or otherwise precluded by law or regulations, such responses should:

- Briefly describe the action EPA initially proposed and why EPA determined such an action was needed.

- Include a statement of the action that EPA took.
- Briefly explain the public participation activity that EPA conducted.
- Generally identify those who participated and their affiliation (either individually or as groups).
- Describe the matters on which EPA consulted with the public.
- Summarize the public's views, significant comments, criticisms, and suggestions.
- Explain EPA's reasoning for the decision.
- Indicate how public comments informed the EPA action. For example, did anything change?
  - When feasible, provide EPA's specific responses to each comment or group of comments; otherwise, discuss specific responses to significant issues raised in the comments. These responses should discuss how the comments resulted in EPA modifying the proposed action or explain why EPA did not accept comments made by the public.
  - Translate the responsiveness summary, response to comment, or similar document that responds to public input into the appropriate languages other than English.

**Follow up with the public.** EPA should provide an explanation to participants and interested parties about the outcome of the public's participation, such as how the EPA team considered the information and/or substantive responses to issues raised by the public. Opportunities for follow-up could also include sharing public information regarding the status of the EPA action, the overall process, and next steps. If the public expressed concerns outside of the specific EPA action, EPA teams may consider providing a general courtesy response to each concern as appropriate under the circumstance. Some statutes and regulations contain requirements for responding to comments EPA receives on actions such as rules, permits, and cleanup plans.

### Self-Assessment Check

#### **Review, use input, and follow up with the public**

- Reviewed, considered, and/or used the public's input.
- Clearly communicated how the public's input was used.
- Provided opportunities to discuss how the input was used.

Where practicable and where resources allow, EPA should mail or email a copy of the response, or information on how to easily obtain the response, to those who participated in the public participation processes, those who submitted comments, and others on the contact list. EPA can use press briefings and news releases where the number of commenters is so large that individual contact is not practical (e.g., where mass mailings have been received in response to a proposed nationwide rule). In appropriate cases, EPA can provide direct feedback in public meetings; EPA should document this feedback. Appropriate feedback techniques will vary depending on the circumstances but will share the common goal of ensuring that people who contributed input to EPA's decision-making process receive a meaningful acknowledgment from EPA where practicable.

## Evaluate Public Participation Activities



**Goal:** Evaluate the effectiveness of public participation activities to ensure EPA is providing opportunities for public participation in its actions and public satisfaction with those opportunities in relation to EPA actions.

Evaluating the effectiveness of public participation activities and public satisfaction can be challenging. When there are opportunities to offer evaluation forms to participants, EPA teams should make sure to follow the PRA and keep in mind that the public satisfaction described here relates to meaningful engagement activities and how they were implemented, not to the outcome of the EPA action. The following guiding questions can help EPA teams determine if the selected and implemented activities provided the public with meaningful opportunities to participate.

### Self-Assessment Check

#### Evaluate public participation activities

- How were EPA teams transparent about the EPA action (e.g., the level of participation and how public input will be used)?
- When were responses provided?
- Were responses provided in plain language?
- How has EPA made meaningful engagement and public participation opportunities accessible (e.g., translation, interpretation, and other accessibility support for reasonable modification and/or auxiliary aids and services)?
- How was public input used in decision-making?
- How have diverse groups been included in public participation activities?
- How have EPA teams demonstrated a willingness to learn, listen, and show respect throughout the meaningful engagement and public participation activities?
- How have EPA teams demonstrated cultural competence?
- How have EPA teams considered data and information collected via participatory science and Indigenous Knowledge in decision-making?
- Have EPA teams researched and identified technical or financial resources available for the public?
- What resources did the EPA team provide to support the public's capacity to participate?
- How have EPA teams communicated the science used to calculate risk? Has this communication addressed public concerns?
- Does the information about risk allow the public to make informed, independent judgements about health and safety?
- Were opportunities provided to the public to inform the science EPA used to assess risk?
- Would Environmental Collaboration and Conflict Resolution services have been useful in the meaningful engagement and public participation activities?

# Resources

The following is a list of available resources, such as already existing public participation models, guides, toolkits, and manuals. It is not intended to be a complete list of all EPA or federal government resources that staff may find useful. It is provided for informational purposes and for the reader's convenience. The summaries below come from each linked document and are provided for informational purposes to describe the document's contents.

## [Broadening Public Participation and Community Engagement in the Regulatory Process – 2023](#)

This Office of Information and Regulatory Affairs memorandum provides guidance to federal agencies on how to promote equitable and meaningful participation by a range of interested or affected parties, including members of underserved communities, during the regulatory process to the extent practicable and consistent with applicable law. It also establishes guidance for agencies to implement [Executive Order 14094, "Modernizing Regulatory Review,"](#) which calls for proactive engagement to inform the development of regulatory agendas and plans with a focus on encouraging early engagement in agency priority-setting.

## [EPA Order 1000.32 – 2023](#)

Compliance with [Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency"](#) that outlines the necessary steps that the Agency needs to take to provide meaningful language access to individuals with LEP.

## [Policy Guidelines and Checklist for Participatory Science Projects – 2023](#)

This resource identifies existing policies that may be relevant to participatory science activities within EPA, although each policy identified in the guidelines may not be applicable to every project or activity. The document helps EPA staff and managers understand key requirements and design considerations for EPA participatory science projects. EPA staff are encouraged to use the content of this document as they design, fund, and manage EPA participatory science projects.

## [Promising Practices for Meaningful Public Involvement in Transportation Decision-Making – 2023](#)

This document offers a set of promising practices to help address barriers to inclusion in transportation decision-making.

## [Environmental Justice and Civil Rights in Permitting Frequently Asked Questions, Questions 15 and 16 – 2022](#)

These questions provide information to federal, state, and local environmental permitting programs to help them meet their responsibilities to integrate environmental justice and civil rights into relevant environmental permitting processes. Relevant questions include:

- **Question 15.** When and how should permitting programs conduct community engagement?

- **Question 16.** How does Tribal Consultation differ from community engagement?

### **Modernizing Public Notice for RCRA Hazardous Waste Permitting and Other Actions – 2021**

This *Federal Register* notice provides EPA’s interpretation that the Resource Conservation and Recovery Act (RCRA) and EPA regulatory provisions that require newspaper notice for certain actions (e.g., permit issuance) can be satisfied by notice in qualifying online newspapers, as well as print newspapers. This notice further explains EPA’s view that the Agency in appropriate cases can authorize state regulations that provide for equivalent notice mechanisms other than newspaper publication for actions other than permit issuance (permit modifications, for example). See 86 Fed Reg 71482 (December 16, 2021).

### **EPA Community–Port Collaboration Toolkit (Environmental Justice Primer for Ports) – 2020**

The Community–Port Collaboration Toolkit is designed to help communities and ports develop collaboration skills and to enhance understanding of stakeholders’ priorities and challenges associated with port-related activities. The Toolkit includes the Ports Primer for Communities, the Community Action Roadmap, and the Environmental Justice Primer for Ports, along with associated training materials and worksheets.

### **EPA Guidance on Participant Support Costs – 2020**

EPA regulations at 2 CFR 1500.1 that took effect in November 2020 codify EPA’s policies on characterizing payments made to encourage participation in rebate, subsidy, and similar programs that promote environmental stewardship as participant support costs.

### **Modernizing Public Hearings for Water Quality Standard Decisions Consistent with 40 CFR 25.5 – 2019**

This document provides suggestions for interested states and Water Quality Standards (WQS)-authorized Tribes on how they could modernize—that is, incorporate technologies into—their WQS public hearing process consistent with federal public hearing requirements at 40 CFR 25.5. This document does not impose any requirements on states or WQS-authorized Tribes. This document does not constitute a regulation, nor does it change or substitute for any Clean Water Act provision or EPA regulations.

### **National Programmatic Term and Condition for Fellowship, Internship Programs and Similar Programs Supported by EPA Financial Assistance – 2019**

EPA established this policy on Participation in Fellowship, Internship, Scholarship and Similar Programs Funded by EPA Assistance Agreements (Participation Policy).

### **Community Action for a Renewed Environment Model (CARE) – 2018**

The CARE Roadmap outlines a 10-step plan to improve community environment and health by looking at risk from a community perspective. It encourages communities to take action to reduce risk as soon as possible. The 10 steps are:

- Build a partnership
- Identify community concerns
- Identify community vulnerabilities
- Identify community assets
- Identify concerns for immediate action
- Collect and organize information
- Rank risks and impacts
- Identify potential solutions
- Set priorities for action and begin work
- Evaluate results and become self-sustaining

### **Community Engagement Strategy: Issues to Consider When Planning and Designing Community Engagement Approaches for Tribal Integrated Waste Management Programs – 2017**

The Infrastructure Task Force Waste Programs Sub-Workgroup Community Engagement Strategy provides guidance on the issues to consider when planning and designing community engagement approaches for Tribal integrated waste management programs. It focuses on quality, effectiveness, process, and planning when designing engagement tailored to Tribal integrated waste management and the range of stakeholders affected.

### **EPA Policy on Environmental Justice for Working with Federally-Recognized Tribes and Indigenous Peoples – 2017**

This resource includes the sections:

- Overview of EPA's "[Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples.](#)"
- EJ Webinar Series for Tribes and Indigenous Peoples.
- Implementation of the Policy.
- EJ Tribal and Indigenous Peoples Advisors.
- Development of the Policy.

### **Brownfields Stakeholder Forum Kit – 2016**

EPA developed this Brownfields Stakeholder Forum Kit to enable communities to plan and sponsor effective brownfields stakeholder forums. It is intended to help localities and nonprofit organizations engage stakeholders and establish partnerships to address brownfields and community revitalization issues.

## **EJ IWG Promising Practices for EJ Methodologies in NEPA Reviews (Meaningful Engagement on Pages 8–11) – 2016**

The Promising Practices Report is a compilation of methodologies gleaned from existing Agency practices identified by the National Environmental Policy Act (NEPA) Committee concerning the interface of environmental justice considerations through NEPA processes.

## **National Pollutant Discharge Elimination System (NPDES): Applications and Program Updates – 2016**

These final revisions modernize the NPDES regulations, promote submission of complete permit applications, and clarify regulatory requirements to allow more timely development of NPDES permits that protect human health and the environment.

## **RCRA Public Participation Manual – 2016**

The 2016 edition of the RCRA Public Participation Manual emphasizes public participation as a two-way dialogue. Public participation involves both getting information to interested partners and getting feedback from them in the form of ideas, issues, and concerns. The toolkit can help you think through questions as part of the process, such as: what do you want to accomplish? What is the appropriate level of public participation? What tools can be used? Which participants should be your target audience?

## **Community Culture and the Environment – 2015**

This guide explores the concepts of community and culture and provides tools for identifying, assessing, and working cooperatively within the social dynamics and local values connected to environmental protection.

## **Engaging Stakeholders in Your Watershed – 2013**

This guide is intended for federal, state, Tribal, and local agency personnel, as well as nongovernmental organizations, which are involved in watershed management activities and are building a stakeholder group. The guide can also help private organizations interested in recruiting stakeholders and involving stakeholders in local or regional watershed efforts.

## **Model Guidelines for Public Participation – 2013**

This is an update to the 1996 National Environmental Justice Advisory Council (NEJAC) Model Plan for Public Participation. It is expected that this document will serve as a guide for not only federal agencies, but for all stakeholders who are engaged in public participation efforts and who seek to meaningfully engage environmental justice stakeholders in decision-making processes. Agencies should look to this document as a model when engaging communities, while also recognizing that not all communities are the same. The recommendations presented are not intended to be universally applied; rather, they should be customized for application based on the priorities and characteristics of each unique community.

## **How to Get to Know Communities and Cultures: Methods for Remediation, Removal, and Redevelopment Projects – 2012**

This report details an anthropologically informed methodology for getting to know community characteristics to carry out culturally informed cleanups. It is based on interview and survey data, and an analysis of EPA materials on this topic. It contains an explanation of how culture relates to cleanups, key community characteristics, and steps to gather and analyze quantitative and qualitative data sources to get to know communities. This methodology may be of interest to EPA, state, or Tribal environmental agency personnel who do remediation and removal work as part of Superfund, brownfields, emergency response, or other contaminated sites. It is intended to be used flexibly and includes pointers for prioritizing steps and sources depending on the situation and on planning for long-term cultural learning.

## **Environmental Justice Collaborative Problem-Solving Model (CPS) – 2008**

The CPS model outlines seven elements that are intended to be used iteratively. “Determining which elements to undertake, and in what order, can vary greatly depending upon the unique facts and circumstances surrounding each environmental and/or public health issue. Not all the elements are required to be used in every situation. Rather, the CPS model and its seven elements can be viewed as a ‘toolbox’ filled with different tools that can be used as needed.”<sup>23</sup> The seven elements are:

- Issue identification, community vision, and strategic goal setting
- Community capacity-building and leadership development
- Consensus building and dispute resolution
- Multi-stakeholder partnerships and leveraging resources
- Constructive engagement by relevant stakeholders
- Sound management and implementation
- Evaluation, lessons learned, and replication of best practices

## **Restrictions on Communicating with Outside Parties Regarding Enforcement Actions – 2006**

This EPA memorandum reiterates earlier guidance and memoranda outlining restrictions on communicating with parties external to the Environmental Protection Agency (EPA) about enforcement actions.

## **Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs (Recipient Guidance) – 2006**

**Section C.** Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs (Recipient Guidance) applies to recipients of EPA financial

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<sup>23</sup> CPS Model, page 5.



assistance pursuant to the prohibition in Title VI of the Civil Rights Act of 1964 against exclusion from participation in the recipient's programs and activities.

### **Stakeholder Involvement and Public Participation at the U.S. EPA – 2001**

In the 1990s, EPA increased its efforts to involve the public by giving citizens, industry, environmental groups, and academics a much greater opportunity to play key roles in environmental decision-making.

With this report, EPA has taken a fresh look at Agency efforts to involve the public by reviewing formal evaluations and informal summaries from across the Agency that identify, describe, and/or evaluate Agency stakeholder involvement and public participation activities.

### **Federal Grant and Cooperative Agreement Act – 1977**

The Federal Grant and Cooperative Agreement Act set out to guide government agencies in their use of federal funds—particularly by distinguishing between contracts, cooperative agreements, and grants.

### **Community Action Roadmap**

The Community Action Roadmap outlines six key steps for effectively engaging in local decision-making.

### **Disability Access Services**

As required by law, EPA provides reasonable modifications such that persons with disabilities—including applicants, participants, personnel of other federal agencies, and members of the public—can equally access and participate in EPA-sponsored programs and activities. This includes providing any necessary auxiliary and services as well as taking appropriate steps to ensure effective communication to provide equal access and participation. EPA also ensures that EPA facilities, as well as facilities used by EPA in carrying out EPA programs, activities, and services, are physically accessible to persons with disabilities.

### **EPA Docket Center**

A docket is a collection of documents made available by an agency for public viewing, often in association with an opportunity for public comment regarding a rule or other agency action. EPA also creates dockets when engaging in non-rulemaking activities, such as issuing guidance or other non-rulemaking documents. These are called “general dockets.”

### **EPA's “Environmental Collaboration and Conflict Resolution (ECCR): Alternative Dispute Resolution (ADR)” Website**

The Conflict Prevention and Resolution Center (CPRC) supports EPA’s regulatory, enforcement, and voluntary programs by providing ECCR services to the entire Agency. ECCR is ADR focused on environmental conflicts.

### **EPA’s “Learn About Risk Communication” Website**

EPA developed the SALT Framework as a tool to help ensure EPA’s risk communication activities follow best practices and strategically align with the needs of the Agency and the American public.

## **[EPA's Public Participation Guide](#)**

EPA's Public Participation Guide provides tools for public participation and public outreach in environmental decision-making. This guide is organized to provide a clear overview of important considerations in the design and implementation of a meaningful public participation program, while incorporating fair treatment and meaningful involvement of all people regardless of race, color, national origin, sexual orientation, or income. It includes best practices in planning, skills, and behaviors that government agencies can use to design and implement meaningful public participation. It will also help users recognize the difference between meaningful public participation and less valuable forms of public engagement. Most importantly, it will help users select and design public participation programs to best meet the needs of the project and the public they wish to engage. The guide is organized to provide basic information and ideas as well as useful links and a self-study guide.

## **[EPA Superfund Community Involvement Toolkit](#)**

The Superfund Community Involvement Toolkit provides Superfund Regional site teams, community involvement staff, and others with a practical, easy-to-use aid for designing and enhancing community involvement activities. Resources include:

## **[Federal Advisory Committees at EPA](#)**

This page contains information on EPA's Federal Advisory Committees program.

## **Limited English Proficiency Language Assistance**

To further EPA's compliance with [Executive Order 13166](#), "[Improving Access to Services for Persons with Limited English Proficiency](#)" and [EPA Order 1000.32](#), the Office of Environmental Justice and External Civil Rights has established an Agency-wide contract vehicle for document translation, in-person interpretation, and telephonic interpretation services that is available for all EPA offices in meeting their responsibilities to provide meaningful access to EPA programs, services, and activities for individuals with LEP. In carrying out EPA's mission of protecting human health and the environment, EPA offices will use this centralized process to communicate effectively with individuals with LEP in the United States, U.S. territories, and Tribal Nations; and ensure access to EPA programs, activities, and services which are accessible to English-speaking persons.

## **[Opportunities for Public Engagement in Actions Conducted Under the Clean Air Act in EPA Region 3](#)**

Opportunities for public engagement under the Clean Air Act (CAA) occur at both the state and federal levels. The information here focuses on public engagement opportunities for those Clean Air Act actions conducted at EPA Region 3.

## **[Plain Language Action and Information Network \(PLAIN\)](#)**

PLAIN is a working group of federal employees from different agencies and specialties who support the use of clear communication in government writing. Their goal is to promote the use of plain language for all government communications. The group believes that using plain language saves federal agencies time and money and provides better service to the American public.

- [Community Involvement Toolkit](#)
- [Community Involvement Handbook](#)
- [Community Guides](#)
- [Other Resources](#)

## **RCRA Public Participation Toolkit**

The RCRA Public Participation Toolkit is an online resource guide that presents a broad range of activities that RCRA site teams, community involvement staff, permitting agencies, public interest groups, community leaders, and facility owners/operators can use to design and promote public participation. The toolkit was designed to help users identify opportunities and methods for engagement throughout the RCRA public participation process. The variety of activities in the toolkit should fit any situation: from the formal regulatory process that EPA follows, to community-based discussion of RCRA issues, to events held by the facility owner or operator.

## **Technical Assistance Needs Assessments (TANAs)**

The Technical Assistance Needs Assessment (TANA) is an EPA site-specific process that identifies whether a community requires additional support from EPA to understand technical information and to enable meaningful community involvement in the Superfund decision-making process.

# **Guidance, Executive Orders, Statutes, and Regulations**

## **Introduction**

EPA's Meaningful Engagement Policy complements and is consistent with recent executive orders (e.g., Executive Orders [13985](#), [13990](#), [14008](#), and [14096](#)), the [Administrator's Message on Transparency and Earning Public Trust \(2021\)](#), the [FY2022–26 EPA Strategic Plan](#), the [EPA Equity Action Plan](#), the [Deputy Administrator's Message on Participatory Science](#), and previous executive orders (e.g., Executive Orders [12898](#), [13132](#), [13175](#), and [13166](#)).

The purpose of this section is to provide a list of EPA guidance documents, executive orders, federal statutes, and regulations that are relevant to conducting public participation. It is not intended to be a comprehensive list. EPA staff should not treat it as a substitute for reading the relevant statute, regulation, executive order, or guidance document or for consulting EPA attorneys in the relevant EPA legal office, such as the Offices of General Counsel or Regional Counsel. It is provided for the reader's convenience and for informational purposes.

## Guidance

### EPA's Intergovernmental Partners: A Key Public Constituency

The Office of Intergovernmental Relations employs the following methods and approaches to ensure that state and local government officials have opportunities to provide meaningful, substantive input into Agency decisions, processes, and actions.

### Office of the Municipal Ombudsman

Established by statute in 2019, EPA's Office of the Municipal Ombudsman is an *independent, impartial, and confidential* resource to assist municipalities and utilities in navigating clean water programs—including support in identifying sources of technical assistance, federal funding, holistic and integrated water planning assistance, potential Clean Water Act flexibilities, and more. The Municipal Ombudsman also serves internally as a liaison across the Agency, advocates for fair processes on municipal issues (i.e., on rulemakings and guidance), provides an impartial perspective, acts in an advisory capacity on Agency activities, and helps to promote innovative Agency policies. The Ombudsman can assist in brainstorming federal funding options, facilitating discussions, sharing relevant contacts, and working to address systemic concerns on behalf of municipalities. Learn more about the Municipal Ombudsman [here](#).

### Local Government Advisory Committee (LGAC)

The LGAC is an independent, policy-oriented advisory committee of locally elected and appointed officials that provide advice and recommendations to the EPA Administrator to assist the Agency in ensuring that its regulations, policies, guidance, and technical assistance support and improve the capacity of local governments to carry out critical programs. Specifically, the LGAC advises the EPA Administrator on:

- How EPA's policies, procedures, and practices affect local government and how effective intergovernmental partnerships can help further the Agency's mission in priority areas, including climate change, environmental justice, water quality and water infrastructure, innovation, energy, air quality, and community revitalization.
- Ways to improve performance measurement and disseminate new environmental protection techniques and technologies among local governments.
- Improvements to program management and regulatory planning and development processes to involve local governments more effectively as partners in environmental management.
- Ways in which EPA and states can help local governments strengthen their capacity to promote environmental quality.
- Projects to help local governments deal with the challenge of financing environmental protection infrastructure.
- Any changes needed to allow flexibility and innovation and to accommodate local needs without compromising environmental performance, accountability, or fairness. The LGAC also has a standing Small Community Advisory Subcommittee whose mission is to strengthen the capacity of

small communities throughout the United States to improve and protect the health of their people and the environment.

## **Local Government Liaison**

EPA's Local Government Liaison operation coordinates direct engagement between key EPA teams and local government officials, both elected and unelected, representing demographically diverse cities, towns, and villages of all sizes and populations. Each year, hundreds of elected local government officials, including mayors, councilmembers, and county officials, as well as career environmental and public health practitioners, request and are provided opportunities to meet in person and via videoconference with EPA policy leadership to discuss a vast range of concerns and issue interests. These officials often represent overburdened and underserved communities that are seeking both funding and technical resources to support their priorities and, at times, guidance on pursuing environmental and public health policies that may be even more protective than federal "baseline" requirements for some programs. Local government principals who meet with EPA to discuss potential solutions to their immediate concerns regularly avail themselves of opportunities to build on these newly established relationships, and often re-engage both Headquarters and EPA Regional staff to present case studies, secure funding and technical support, and explore ways to work most effectively with their respective state agencies. EPA's local government liaisons also serve as the main points of contact between the Agency and national intergovernmental associations such as the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the African-American Mayors Association, the National Association of Latino Elected Officials, and the National Association of Regional Councils, effectively coordinating Agency participation in these groups' national conference events that bring together thousands of local government officials several times annually.

## **[EPA Policy on Consultation with Indian Tribes: Guidance for Discussing Tribal Treaty or Similar Rights](#) – December 2023**

The purpose of this guidance is to enhance EPA's consultations under the EPA Policy on Consultation with Indian Tribes in situations where rights reserved or held by Tribes, either expressly or implicitly, through federal laws such as treaties, statues, or executive orders, may be affected by a proposed EPA action.

## **[Memorandum on Uniform Standards for Tribal Consultation](#) – November 2022**

The purpose of this memorandum is to establish uniform minimum standards to be implemented across all agencies regarding how Tribal Consultations are to be conducted. This memorandum is designed to respond to the input received from Tribal Nations regarding Tribal Consultations, improve and streamline the consultation process for both Tribes and federal participants, and ensure more consistency in how agencies initiate, provide notice for, conduct, record, and report on Tribal Consultations. These are baseline standards; agencies are encouraged to build upon these standards to fulfill the goals and purposes of [Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments."](#)

## **[EPA Vision for Participatory Science](#) – June 2022**

EPA will strive to achieve a balanced approach in support of the full spectrum of participatory science projects. EPA plans to provide additional scientific support for community projects, increase the

diversity of project participants, and address equity in project design. Through these actions, EPA will encourage co-created projects where scientists and communities work together. EPA will work to advance community-based participatory science for all residents, focusing on local priorities and local perspectives where communities are engaged in identifying concerns, project design and management, and follow-up actions.

## **FY 2022–2026 EPA Strategic Plan – March 2022**

How EPA conducts its work is critical to achieving the goals in EPA’s Strategic Plan. EPA will renew its Tribal government-to-government relationships, expand its intergovernmental collaboration with state and local government partners, and reach out to the regulated community and key stakeholders. EPA is committed to improving on-the-ground community engagement, enhancing EPA collaboration with the business community, delivering high-impact environmental education programs, and increasing public trust and transparency. Under Strategic Plan Goal 2.2, EPA has a long-term performance goal requiring that, by FY 2026, all program and regional offices will have program- and region-specific Language Access Plans in place.

## **Environmental Justice and Civil Rights in Permitting: Frequently Asked Questions – 2022**

EPA’s FAQs provide information to federal, state, and local environmental permitting programs to help them meet their responsibilities to integrate environmental justice (EJ) and civil rights into relevant environmental permitting processes.

### **When and how should permitting programs conduct community engagement?**

- Community engagement should occur as soon as possible and should go far beyond simply posting public notices. With respect to permitting actions that could result in significant health, environmental, and quality of life impacts, the stakes are often that much higher for communities with EJ concerns. The goal of community engagement is to ensure that the people most affected by the permit have input into the decisions that will impact their lives. Community engagement is an active process that requires permitting programs to be proactive in outreach to the public. While some of these activities are required to satisfy statutory obligations and comply with environmental justice directives, going beyond such requirements when called for is good government practice. Among other benefits, it builds ongoing relationships with community leaders necessary for a deeper level of engagement. Robust community engagement is crucial for making informed permitting decisions that meaningfully consider the site-specific circumstances of the permitting action.
- In addition, it is important that states and other recipients ensure that community engagement and other public participation actions be conducted in a manner that is consistent with federal civil rights law, which requires that no person shall be excluded on the basis of race, color, national origin, or other prohibited grounds from participation in any program or activity receiving EPA financial assistance.

### **How does Tribal Consultation differ from community engagement?**

- Government-to-government Tribal Consultation is separate and distinct from EPA’s obligations to involve the public as required by environmental laws. [Executive Order 13175, “Consultation and](#)

[Coordination with Indian Tribal Governments](#)” (November 6, 2000) calls for federal agencies to have an accountable process to ensure meaningful and timely input by Tribal officials in the development of certain regulatory actions and policies that have Tribal implications and describes important elements of consultation for certain regulations that have Tribal implications.

- The [EPA Policy on Consultation with Indian Tribes](#) calls for EPA to consult on a government-to-government basis with federally recognized Tribes on a broad range of EPA actions and decisions that may affect Tribal interests. Tribal Consultation is an important element of the federal government’s relationship with federally recognized Tribes that arises from treaties, statutes, executive orders, and the historical relations between the United States and Tribes.

## **White House Commits to Elevating Indigenous Knowledge in Federal Policy Decisions – November 2021**

This new memorandum formally recognizes Indigenous Traditional Ecological Knowledge as one of the many important bodies of knowledge that contribute to the scientific, technical, social, and economic advancements of the United States and the collective understanding of the natural world.

## **Administrator Michael Regan’s Message to EPA Employees on Transparency and Earning Public Trust in EPA Operations – April 2021**

### **General Principles**

In all its programs, EPA will provide for the fullest possible public participation in decision-making. This requires not only that EPA remain open and accessible to those representing all points of view, but also that EPA offices responsible for decisions take affirmative steps to solicit the views of those who will be affected by these decisions. This includes communities of color; Native Americans; rural communities; low-income communities; small businesses; local governments, Tribes, and states; and those who have been historically underrepresented in EPA decision-making. Consistent with the goals laid out by President Biden in [Executive Order 13985, “Advancing Racial Equality and Support for Underserved Communities Through the Federal Government,”](#) EPA will also continually assess whether, and to what extent, our approach to public transparency perpetuates barriers to opportunities and benefits to people of color and other underserved groups, with a goal of delivering resources, benefits, and opportunities equitably to all. EPA will not accord privileged status to any special interest, nor will it accept any recommendation or proposal without careful, critical, and independent examination.

### **Rulemaking Proceedings**

Public participation in agency rulemaking proceedings may take a variety of forms, including public hearings and meetings, workshops, forums, focus groups, surveys, roundtables, consultation, *Federal Register* notice-and-comment procedures, advisory committee meetings, informal meetings with interested parties, internet-based dialogues, and other opportunities for informal dialogue, consistent with applicable legal requirements. Consistent with President Biden’s direction in Executive Order [13985](#), EPA will continuously evaluate opportunities, consistent with applicable law, to increase coordination, communication, and engagement with community-based organizations, civil rights organizations, and other communities or groups that have been historically underserved by, underrepresented in, or subjected to discrimination by the federal government. Staff should be creative and innovative in the tools EPA uses to engage the public in its decision-making.



## **Strengthening Enforcement in Communities with Environmental Justice Concerns – April 2021**

In his message to employees on Wednesday, April 7, 2021, the Administrator directed all EPA offices to “strengthen enforcement of violations of cornerstone environmental statutes” in communities overburdened by pollution.

## **Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships – January 2021**

This memorandum reaffirms the Presidential Memorandum of November 5, 2009 (Tribal Consultation), which requires each agency to prepare and periodically update a detailed plan of action to implement the policies and directives of [Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.”](#) Relatedly, the policy for Tribal Consultations under Executive Order 13175 strengthens the nation-to-nation relationship between the United States and Tribal Nations and charges all executive departments and agencies with engaging in regular, meaningful, and robust consultation with Tribal officials in the development of federal policies that have Tribal implications.

## **EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples – July 2014**

This policy affirms EPA’s commitment to provide to Tribal Nations and Indigenous Peoples in all areas of the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands, as well as others living in Indian country, fair treatment and meaningful involvement in EPA decisions that may affect their health or environment.

## **Partnership for Sustainable Communities – 2009**

The Obama Administration's Partnership for Sustainable Communities is a federal interagency partnership between EPA, the U.S. Department of Housing and Urban Development, and the U.S. Department of Transportation, with the goal of ensuring that housing and transportation goals are met while simultaneously protecting the environment, promoting equitable development, and helping to address the challenges of climate change.

The Partnership makes sure agency programs are fair and inclusive. The Partnership for Sustainable Communities recognizes that effective decision-making about how and where growth occurs depends on understanding and properly addressing the unique needs of different socioeconomic groups. The partnership ensures the full and fair participation in its activities and programs by all potentially affected communities.



## Executive Orders

### [Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All – April 2023](#)

Executive Order 14096 builds upon, but does not replace, prior environmental justice executive orders, including [Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.”](#) It directs the federal government to build upon and strengthen its commitment to deliver environmental justice to all communities across the United States through an approach that is informed by scientific research, high-quality data, and meaningful federal engagement with communities with environmental justice concerns. It defines “environmental justice,” “federal activity,” and “Tribal Nation.”

### [Executive Order 14091: Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government – February 2023](#)

This executive order targets specific barriers still faced by underserved communities by requiring federal agencies to integrate equity into planning and decision-making. It builds upon other executive orders and directives concerning equity and environmental justice.

#### **Sec. 5. Delivering Equitable Outcomes in Partnership with Underserved Communities**

Agencies must increase engagement with underserved communities by identifying and applying innovative approaches to improve the quality, frequency, and accessibility of engagement. Agencies shall, consistent with applicable law:

- Conduct proactive engagement, as appropriate, with members of underserved communities—for example, through culturally and linguistically appropriate listening sessions, outreach events, or requests for information—during development and implementation of agencies' respective annual Equity Action Plans, annual budget submissions, grants and funding opportunities, and other actions, including those outlined in section 3(d) of this order.
- Collaborate with OMB, as appropriate, to identify and develop tools and methods for engagement with underserved communities, including those related to agency budget development and rulemaking.
- Create more flexibilities, incentives, and guidelines for recipients of federal funding and permits to proactively engage with underserved communities as projects are designed and implemented.
- Identify funding opportunities for community- and faith-based organizations working in and with underserved communities to improve access to benefits and services for members of underserved communities.
- Identify and address barriers for individuals with disabilities, as well as older adults, to participate in the engagement process, including barriers to the accessibility of physical spaces, virtual platforms, presentations, systems, training, and documents.

Executive Order 14091 also further defined equity-related terms for the purposes of the order:

- “Equity” means the consistent and systematic treatment of all individuals in a fair, just, and impartial manner, including individuals who belong to communities that often have been denied such treatment, such as Black, Latino, Indigenous and Native American, Asian American, Native Hawaiian, and Pacific Islander persons and other persons of color; members of religious minorities; women and girls; LGBTQI+ persons; persons with disabilities; persons who live in rural areas; persons who live in United States Territories; persons otherwise adversely affected by persistent poverty or inequality; and individuals who belong to multiple such communities.
- “Underserved communities” refers to those populations as well as geographic communities that have been systematically denied the opportunity to participate fully in aspects of economic, social, and civic life, as defined in Executive Orders [13985](#) and [14020](#).

The Executive Order also directs federal agencies to evaluate their policies and programs to ensure they do not perpetuate barriers for underserved communities, including individuals with LEP and disabilities.<sup>24</sup>

Executive Order 14091 builds upon Executive Order [13985](#), which pursues a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Because advancing equity requires a systematic approach to embedding fairness in decision-making processes, executive departments and agencies (agencies) must recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity.

### **[Executive Order 14008: Tackling the Climate Crisis at Home and Abroad](#) – January 2021**

This order focuses on securing environmental justice and spurring economic opportunity.

#### **Sec. 219. Policy**

To secure an equitable economic future, the United States must ensure that environmental and economic justice are key considerations in how we govern. That means investing and building a clean energy economy that creates well-paying union jobs, turning disadvantaged communities—historically marginalized and overburdened—into healthy, thriving communities, and undertaking robust actions to mitigate climate change while preparing for the impacts of climate change across rural, urban, and Tribal areas. Agencies shall make achieving environmental justice part of their missions by developing programs, policies, and activities to address the disproportionately high and adverse human health, environmental, climate-related, and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts.

### **[Executive Order 13990: Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis](#) – January 2021**

This order declared the Administration’s policy to listen to science; to improve public health and protect our environment; to ensure access to clean air and water; to reduce greenhouse gas emissions; to

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<sup>24</sup> See [Federal Register](#).

bolster resilience to the impacts of climate change; and to prioritize both environmental justice and the creation of the well-paying union jobs necessary to deliver on these goals.

### **Executive Order 13985: Advancing Racial Equity and Support for Underserved Communities Through the Federal Government – January 2021**

This order directs federal agencies to assess whether underserved communities and their members face systemic barriers in accessing benefits and opportunities available pursuant to their policies and programs.

#### **Sec. 8. Engagement with Members of Underserved Communities**

In carrying out this order, agencies shall consult with members of communities that have been historically underrepresented in the federal government and underserved by, or subject to discrimination in, federal policies and programs. The head of each agency shall evaluate opportunities, consistent with applicable law, to increase coordination, communication, and engagement with community-based organizations and civil rights organizations.

EPA's 2022 Equity Action Plan, Priority 3, includes the following goal: "Develop EPA's internal capacity to engage underserved communities and implement clear and accountable processes to act based on communities' input." The Equity Plan specifically requires EPA to develop and improve its capacity and ability to engage meaningfully with stakeholders in underserved communities and strengthen EPA's language assistance and other services to ensure access for people with LEP, including by developing and implementing language assistance plans for each program and region and providing EPA-wide training on meaningful access.<sup>25</sup>

### **Executive Order 13790: Promoting Agriculture and Rural Prosperity in America – April 2017**

This executive order established the Interagency Task Force on Agriculture and Rural Prosperity. The purpose and function of this Task Force have been to identify legislative, regulatory, and policy changes to promote agriculture, economic development, job growth, infrastructure improvements, technological innovation, energy security, and quality of life in rural America.

### **Executive Order 13352: Facilitation of Cooperative Conservation – August 2004**

This executive order requires that the Secretaries of the Interior, Agriculture, Commerce, and Defense and the Administrator of the EPA shall, to the extent permitted by law and subject to the availability of appropriations, carry out the programs, projects, and activities of the Agency that they respectively head that implement laws relating to the environment and natural resources in a manner that:

- Facilitates cooperative conservation.
- Takes appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land and other natural resources.

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<sup>25</sup> See EPA's [Equity Action Plan \(April 2022\)](#) and EPA's [Equity Action Plan \(February 2024\)](#).

- Properly accommodates local participation in federal decision-making.
- Provides that the programs, projects, and activities are consistent with protecting public health and safety.

### **Executive Order 13175: Consultation and Coordination with Indian Tribal Governments – November 2000**

Executive Order 13175 directs federal agencies to establish regular and meaningful consultation and collaboration with Tribal officials in the development of federal policies that have Tribal implications.

In addition, the executive order establishes specific procedures for consultation with Tribal officials if a rule has Tribal implications and imposes unfunded mandates on Tribes or preempts Tribal law.

### **Executive Order 13166: Improving Access to Services for Persons With Limited English Proficiency – August 2000**

This executive order requires federal agencies to examine the services they provide and develop and implement a system by which individuals with LEP can meaningfully access those services. It is expected that the agency system will provide for such meaningful access consistent with, and without unduly burdening, the fundamental mission of the agency. The executive order also requires that the federal agencies work to ensure that recipients of federal financial assistance provide meaningful access to their applicants and beneficiaries with LEP.

### **Executive Order 13132: Federalism – August 1999**

Issued by President Clinton in August 1999, Executive Order 13132, “Federalism,” embodies principles similar to those put forth in the Unfunded Mandates Reform Act (UMRA) and stresses meaningful engagement with EPA’s state and local government partners, especially in the context of rule development. EPA has a well-established process for conducting pre-proposal consultation with state and local governments through their representative national organizations when crafting regulations and policies potentially having Federalism implications (FI), defined as imposing substantial compliance costs on state and/or local governments or having preemptive effects on state and/or local law or policy. In fact, in 2008 EPA significantly lowered the economic impact trigger for determining FI, departing from UMRA’s \$100 million threshold in intergovernmental costs and setting it at \$25 million nationally, in the aggregate, in gross (not net) state and local compliance or implementation costs in any given year. This change has had the intended effect of requiring the Agency to engage its intergovernmental partners more frequently in the development of regulatory actions for which they have compliance or implementation responsibilities. It should be noted that Executive Order 13132 also requires the Agency to develop a Federalism Summary Impact Statement (FSIS) to include with final actions determined to have FI. The FSIS is, essentially, an audit trail containing a substantive recounting of the most significant concerns raised by state and local governments during the course of rule development, both pre- and post-proposal, as well as a description of how the Agency addressed those concerns in the final rule.

In implementing Executive Order 13132, EPA consults with state and local government officials early in the rulemaking process for rules with FI, substantial direct compliance costs on state and local governments and not required by statute, and rules with FI and that preempt state law. EPA provides

state and local officials with opportunities to provide meaningful and timely input in the development of regulatory policies that have FI, defined as regulations and other policy statements that have substantial direct effects on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

EPA maintains close working relationships with the “Federalism Big 10 associations,” which include the National Governors Association, the National Conference of State Legislatures, the National League of Cities, the National Association of Counties, the United States Conference of Mayors, the County Executives of America, the International City/County Management Association, the National Association of Towns and Townships, the Council of State Governments, and the Environmental Council of the States. EPA also works closely with associations representing career state and local government professionals, such as the Association of State Drinking Water Administrators, the National Association of Clean Air Agencies, the Association of State and Territorial Solid Waste Management Officials, the National Int Water Association, and numerous others. These groups, in turn, work to ensure that their members’ perspectives, concerns, and recommendations are received by EPA decision-makers early enough in the federal rulemaking process to meaningfully inform regulatory and policy outcomes.

### **Sec. 3 Government-Wide Approach to Environmental Justice**

Each agency shall, as appropriate and consistent with applicable law, provide opportunities for the meaningful engagement of persons and communities with environmental justice concerns who are potentially affected by federal activities, including by providing timely opportunities for members of the public to share information or concerns and participate in decision-making processes and fully considering public input provided as part of decision-making processes. Agencies should seek out and encourage the involvement of persons and communities potentially affected by federal activities by:

- Ensuring that agencies offer or provide information on a federal activity in a manner that provides meaningful access to individuals with LEP and is accessible to individuals with disabilities.
- Providing notice of and engaging in outreach to communities or groups of people who are potentially affected and who are not regular participants in federal decision-making.
- Addressing, to the extent practicable and appropriate, other barriers to participation that individuals may face.

Each agency should provide technical assistance, tools, and resources to assist in facilitating meaningful and informed public participation, whenever practicable and appropriate.

### **Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations – February 1994**

This order lays a foundation for federal environmental justice and equity policies, directing each federal agency, to the greatest extent practicable and permitted by law, 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 on minority populations and low-income populations.”

It directs federal agencies to:

- Identify and address the disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations, to the greatest extent practicable and permitted by law.
- Develop a strategy for implementing environmental justice.
- Promote nondiscrimination in federal programs that affect human health and the environment, as well as provide minority and low-income communities access to public information and public participation.

### **Executive Order 13990: Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis – January 2021**

This order declared the Administration’s policy to listen to science; to improve public health and protect our environment; to ensure access to clean air and water; to reduce greenhouse gas emissions; to bolster resilience to the impacts of climate change; and to prioritize both environmental justice and the creation of the well-paying union jobs necessary to deliver on these goals.

## **Federal Statutes**

### **Crowdsourcing and Citizen Science Act of 2016 – December 2016**

This statute encourages the use of crowdsourcing and citizen science methods within the federal government to advance and accelerate scientific research, literacy, and diplomacy, and for other purposes.

### **Plain Writing Act of 2010 – October 2010**

The [Plain Writing Act of 2010](#) requires that federal agencies use clear government communication that the public can understand and use. While the Act does not cover regulations, three separate executive orders emphasize the need for plain language: [12866](#), [12988](#), and [13563](#).

### **Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) – 1996**

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) is the federal statute that governs the registration, distribution, sale, and use of pesticides in the United States. EPA [reviews](#) each registered pesticide at least every 15 years to ensure that each pesticide can carry out its intended function(s) without creating unreasonable adverse effects to human health and the environment. EPA publishes a notice in the *Federal Register* announcing the availability of the docket and providing the public with a comment period. Anyone may submit data or information to the public docket. EPA considers the information received during the comment period and then develops a Final Work Plan.

### **Paperwork Reduction Act – 1995**

One purpose of the PRA of 1995 is to minimize the paperwork burden for the public resulting from information collection by or for the federal government. It requires federal agencies to obtain approval

from OMB before collecting information from 10 or more persons through identical questions or identical recordkeeping or disclosure requirements. If EPA determined an information collection is subject to the Act, it must prepare an ICR that describes the information to be collected, gives the reason the information is needed, and estimates the time and cost for the public to answer the information collection. After reviewing the request, OMB may approve or disapprove the ICR or define conditions for approval. Examples of information collections that are generally subject to the Act include surveys, forms, program evaluations, and applications for benefits or grants.

### **Unfunded Mandates Reform Act – 1995**

The Unfunded Mandates Reform Act requires federal agencies to prepare a written statement, including a cost-benefit analysis, for proposed and final rules that may result in expenditures by state, local, and Tribal governments (SLTG), in the aggregate, of \$100 million or more (adjusted for inflation annually) in any one year. Each agency shall, to the extent permitted by law, develop a process to consult with elected officers of SLTG, or their designated employees, to provide meaningful and timely input in the development of proposed rules containing significant federal intergovernmental mandates. The Act also requires agencies to identify and consider a reasonable number of alternatives and adopt the least costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule, unless the head of the agency publishes an explanation of why that alternative was not adopted or adopting that alternative is inconsistent with law.

Section 203 of UMRA applies to all regulatory requirements that might significantly or uniquely affect small governments. Before establishing a requirement that might significantly or uniquely affect small governments, §203 requires federal agencies to develop a plan to:

- Provide notice of the requirements to potentially affected small governments.
- Enable officials of small governments to provide meaningful and timely input for any proposal containing significant federal intergovernmental mandates.
- Inform, educate, and advise small governments on compliance with the requirements.

### **Emergency Planning and Community Right-to-Know Act (EPCRA) – 1986 (Broadened in 2018)**

Requirements in this statute cover emergency planning and “Community Right-to-Know” reporting on hazardous and toxic chemicals. The Community Right-to-Know provisions help increase the public's knowledge and access to information on chemicals at individual facilities, their uses, and releases into the environment. States and communities, working with facilities, can use the information to improve chemical safety and protect public health and the environment.

Section 2018 of the America's Water Infrastructure Act, enacted on October 23, 2018, amended the emergency release notification and the hazardous chemical inventory reporting requirements of EPCRA. This new legislation requires state and Tribal emergency response commissions to notify the applicable state agency (i.e., the drinking water primacy agency) of any reportable releases and provide community water systems with hazardous chemical inventory data. These requirements went into effect immediately upon the President signing the law.



## **Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act – 1980/1996**

The purpose of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act, is to ensure that small businesses, organizations, and governmental jurisdictions (“small entities”) have a voice in the development of regulations that directly affect them, and that agencies consider how to fit regulatory requirements to the scale of the impacted small entities. The RFA requires that agencies determine, to the extent feasible, the rule's economic impact on regulated small entities, explore regulatory options for reducing any significant economic impact on a substantial number of such entities, and explain their ultimate choice of regulatory approach.

## **Government in the Sunshine Act (Sunshine Act) – 1976**

One of several FOIAs, this federal law ensures greater transparency in government, specifically stating that meetings of government agencies should be open to the public.

## **Federal Advisory Committee Act (FACA) – 1972**

The Federal Advisory Committee Act prescribes procedural requirements that agencies must follow when seeking collective advice from groups outside the federal government. Among other things, the statute directs agencies to hold meetings that are announced in advance and open to the public, formally charter its advisory committees, have balanced membership, and follow various reporting and recordkeeping requirements.

## **Coastal Zone Management Act (CZMA) – 1972**

The major public participation requirements of this act include the following:

- Each state coastal management program must provide opportunities for public participation in all aspects of the program (i.e., public notices, opportunities for comment, nomination procedures, public hearings, technical and financial assistance, and public education).
- Public hearings must be announced at least 30 days in advance, and all relevant agency materials must be made available to the public for review beforehand.

## **National Environmental Policy Act (NEPA) – 1970**

Under NEPA, federal agencies are required to prepare a detailed environmental impact statement (EIS) for all proposals that are “major Federal actions significantly affecting the quality of the human environment.” If an EPA action requires an EIS, the agency must in accordance with the NEPA, the Council on Environmental Quality NEPA implementing regulations (40 CFR Parts 1500–1508), and its own NEPA implementation procedures (40 CFR Part 6):

- Publish a notice of intent in the *Federal Register* to inform the public that an EIS will be prepared and to formally announce the beginning of the scoping process and ensure that the scoping process for an EIS allows a minimum of 30 days for the receipt of public comments.
- Prepare and publish the draft EIS.



- Respond to public comments on the draft EIS.
- Prepare and publish the final EIS, which contains the Agency’s responses to comments received, as well as the preferred alternative.

EPA may conduct one or more public meetings or hearings on the draft EIS as part of the public involvement process. If meetings or hearings are held, the draft EIS must be made available to the public at least 30 days before any meeting or hearing.

### **Administrative Procedure Act (APA) – 1946**

The APA is the principal statute governing public participation in federal agency decision making, including the development of agency regulations via informal (i.e., notice and comment) rulemaking. The APA defines “rulemaking” as the process by which a rule is formulated, amended, or repealed.

To formulate, amend, or repeal a rule via informal rulemaking, the APA requires an agency to:

- Develop a general notice of the proposed rule, including the time, location, and nature of public rulemaking proceedings, the legal authority under which it is proposed, and either the terms or substance of the proposed rule or a description of the subjects and issues involved.
- Publish the proposed rule in the *Federal Register*.
- Allow the public to submit written comments on the proposed rule.
- Consider all relevant matters presented.
- Publish the final rule in the *Federal Register*.

The APA also imposes requirements for engaging in formal rulemaking, which occurs when a statute requires a rule to be made on the record after the opportunity for an agency hearing. In addition, the APA includes the provisions of FOIA, the Privacy Act, and the Government in the Sunshine Act.

### **Due Process Clause of the U.S. Constitution – 1791**

The Due Process Clause of the Fifth Amendment of the U.S. Constitution, as interpreted by courts, requires the federal government to practice equal protection.

## **Title 40 of the CFR – Protection of Environment**

### **EPA Implementing Regulations of Section 504 of the Rehabilitation Act of 1973, at 40 C.F.R. Part 12: “Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Environmental Protection Agency” – 1973**

Part 12 of EPA’s regulation prohibits EPA from discriminating against persons on the basis of disability in programs and activities conducted by EPA and provides that qualified persons with disabilities may not be “excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.” Thus, EPA must provide equal access to its services, programs, and activities for persons with disabilities, including during public involvement.

## **National Oil and Hazardous Substances Pollution Contingency Plan (NCP): Community Relations – 1968 (Broadened in later years)**

The Comprehensive Environmental Response, Compensation, and Liability Act NCP has a number of provisions related to community involvement in response actions. For example, Subpart E – Hazardous Substance Response, Section 300.430 – Remedial Investigation / Feasibility Study and Selection of Remedy states:

The lead agency shall provide for the conduct of the following community relations activities, to the extent practicable, prior to commencing field work for the remedial investigation:

(i) Conducting interviews with local officials, community residents, public interest groups, or other interested or affected parties, as appropriate, to solicit their concerns and information needs, and to learn how and when citizens would like to be involved in the Superfund process.

(ii) Preparing a formal community relations plan (CRP), based on the community interviews and other relevant information, specifying the community relations activities that the lead agency expects to undertake during the remedial response. The purpose of the CRP is to:

- (A) Ensure the public appropriate opportunities for involvement in a wide variety of site-related decisions, including site analysis and characterization, alternatives analysis, and selection of remedy;
- (B) Determine, based on community interviews, appropriate activities to ensure such public involvement, and
- (C) Provide appropriate opportunities for the community to learn about the site.

Other examples include 40 CFR 300.155 (“Public Information and Community Relations”); 300.415(n) (relating to community relations for removal actions); and 300.435(c) (relating to community relations for the remedial/design/remedial action and operation and maintenance stages of a remedial action).

### **40 CFR Part 124: Procedures for Decision-Making**

**Authority:** Resource Conservation and Recovery Act, [42 U.S.C. 6901 et seq.](#); Safe Drinking Water Act, [42 U.S.C. 300f et seq.](#); Clean Water Act, [33 U.S.C. 1251 et seq.](#); Clean Air Act, [42 U.S.C. 7401 et seq.](#)

This part includes requirements that EPA issue public notice, invite public comment, and hold public hearings on certain draft permits. EPA will also assemble an administrative record, respond to comments, issue a final permit decision, and allow for administrative appeal of the final permit decisions. There are public participation requirements applicable to all RCRA hazardous waste management facilities.

### **40 CFR Part 25: Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act**

**Authority:** Sec. 101(e), Clean Water Act, as amended ([33 U.S.C. 1251\(e\)](#)); sec. 7004(b), Resource Conservation and Recovery Act ([42 U.S.C. 6974\(b\)](#)); sec. 1450(a)(1), Safe Drinking Water Act, as amended ([42 U.S.C. 300j-9](#)).

This part sets forth minimum requirements and suggested program elements for public participation in activities under the Clean Water Act (Pub. L. 95–217), the Resource Conservation and Recovery Act (Pub. L. 94–580), and the Safe Drinking Water Act (Pub. L. 93–523).

It includes the sub-sections:

- § 25.4 Information, notification, and consultation responsibilities.
- § 25.5 Public hearings.
- § 25.6 Public meetings.
- § 25.7 Advisory groups.
- § 25.8 Responsiveness summaries.
- § 25.9 Permit enforcement.
- § 25.10 Rulemaking.
- § 25.11 Work elements in financial assistance agreements.
- § 25.12 Assuring compliance with public participation requirements.