



Testimony

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Environment and Climate Change,
Committee on Energy and Commerce,
House of Representatives

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ENVIRONMENTAL JUSTICE

Federal Agencies Could Benefit from a Strategic Approach to Assess Progress

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Chairman Tonko, Ranking Member Shimkus, and Members of the Subcommittee:

Thank you for the opportunity to discuss our report on federal environmental justice efforts.¹ Environmental justice seeks to address the disproportionately high distribution of health and environmental risks among low-income and minority communities by seeking their fair treatment and meaningful involvement in environmental policy.² In 1994, Executive Order 12898 directed 11 federal agencies to make achieving environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations.³ The executive order also directed the agencies to each establish an environmental justice strategy and create a working group of federal agencies to coordinate federal environmental justice efforts. In 2011, 16 federal agencies signed a memorandum of understanding (MOU) agreeing to participate in federal efforts in this area as members of the Interagency Working Group on Environmental Justice and to issue annual progress reports on their efforts.⁴

However, research continues to indicate a nationwide problem concerning how environmental and health risks disproportionately affect minority and low-income communities. For example, a 2018 study in the American Journal of Public Health found that minority and low-income

¹GAO, *Environmental Justice: Federal Efforts Need Better Planning, Coordination, and Methods to Assess Progress*, [GAO-19-543](#) (Washington, D.C.: Sept. 16, 2019).

²The Environmental Protection Agency describes environmental justice as seeking the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. In practice, this would mean that all communities enjoy the same degree of protection from environmental and health hazards and equal access to decision-making processes.

³Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (Feb. 11, 1994).

⁴The 16 agencies are the Environmental Protection Agency, General Services Administration, Small Business Administration, and Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, the Interior, Justice, Labor, Transportation, and Veterans Affairs. These include the 11 agencies originally named in the executive order and five additional agencies that opted to participate. The Council on Environmental Quality of the Executive Office of the President also signed the 2011 MOU.

communities in most states and counties across the country are disproportionately exposed to facilities that emit harmful air pollution (e.g., industrial or waste disposal facilities).⁵

My statement today will focus on (1) actions the working group agencies have taken to address environmental justice issues related to their missions, (2) the agencies' progress in identifying and addressing environmental justice issues related to their missions, and (3) interagency working group efforts to help agencies coordinate federal environmental justice efforts under the executive order.

My statement is based on the findings from our September 2019 report on federal efforts to carry out the 1994 Executive Order.⁶ To perform the work for our report, we reviewed the executive order and 2011 MOU, agency funding data, and agency and interagency working group documents; interviewed agency officials and environmental justice stakeholders; attended an environmental justice conference; and visited two sites with environmental justice issues (Oakland, California, and Richmond, California).⁷ Additional information on our scope and methodology can be found in the report.

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Together, Executive Order 12898 and the 2011 MOU include eight areas that agencies' environmental justice efforts should address, as appropriate, including promoting enforcement of all health and

⁵Ihab Mikati, Adam F. Benson, Thomas J. Luben, Jason D. Sacks, and Jennifer Richmond-Bryant, "Disparities in Distribution of Particulate Matter Emission Sources by Race and Poverty Status." *American Journal of Public Health* vol. 108, no. 4 (2018): 480-485.

⁶[GAO-19-543](#).

⁷We selected these sites because they had minority and low-income populations with environmental and health concerns.

environmental statutes in areas with minority populations and low-income populations and ensuring public participation.⁸

Executive Order 12898 did not create new authorities or programs to carry out federal environmental justice efforts. As a result, federal environmental justice efforts seek to use existing federal laws, programs, and funding to address environmental and health problems that disproportionately burden minority and low-income communities, such as exposure to environmental pollutants.

Such existing laws include the following:

- **Environmental laws.** Several environmental laws regulate pollutants in the air, water, or soil and generally require a regulated facility to obtain permits from EPA or a state. For example, under the Clean Air Act, EPA, along with state and local government units and other entities, regulates air emissions of various substances that harm human health. These laws also authorize the issuance of administrative orders, among other things, to require cleanup of contamination.
- **NEPA.** Under NEPA, federal agencies must evaluate the environmental impacts of their proposed major federal actions using an environmental assessment or a more detailed environmental impact statement, with some exceptions.
- **Civil Rights Act of 1964.** Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination based on race, color, or national origin in programs or activities that receive federal financial assistance. To carry out and enforce the provisions of the act, federal agencies have developed programs to receive and investigate allegations of discriminatory actions taken by recipients of federal funding.

⁸The other six areas are (1) improving research and data collection relating to the health of and environment of minority populations and low-income populations; (2) identifying differential patterns of consumption of natural resources among minority populations and low-income populations (e.g., subsistence fishing or hunting); (3) implementing the National Environmental Policy Act (NEPA); (4) implementing Title VI of the Civil Rights Act of 1964, as amended; (5) considering impacts from climate change; and (6) considering impacts from commercial transportation and supporting infrastructure (goods movement).

Working Group Agencies Reported Taking Some Environmental Justice Actions, with Limited Resources

Most working group member agencies reported planning and implementing some actions to identify and address environmental justice issues. Some examples of key activities include the following:

- **EPA mapping tool.** In 2015, EPA released its Environmental Justice Mapping and Screening Tool (EJSCREEN), a web-based mapping tool that includes environmental and demographic data at a local level. Users can identify potential exposure to environmental pollutants and related health risks across different communities. Officials from the Department of Justice told us they regularly use EJSCREEN to help determine whether cases involve environmental justice issues.
- **Incorporating environmental justice in NEPA analyses.** At least 13 agencies provided examples of efforts to consider environmental justice in their NEPA analyses. At the Department of the Interior (DOI), departmental policy requires all bureaus to include consideration of environmental justice in the NEPA process, and some bureaus have developed their own guidance for doing so. For example, DOI's 2015 National Park Service NEPA Handbook requires that the agency's environmental analyses discuss and evaluate the impact of proposals on minority and low-income populations and communities. The Department of Homeland Security also issued an agency-wide directive on NEPA implementation in 2014, and the accompanying 2014 NEPA instruction manual included public involvement requirements for populations with environmental justice issues.
- **Data initiative and reports on chemical exposure.** At the Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC) built a National Environmental Public Health Tracking Network, which brings together health and environmental data from national, state, and city sources. The CDC also developed a National Report on Human Exposure to Environmental Chemicals—a series of reports that uses biomonitoring to assess the U.S. population's exposure to environmental chemicals.

As we reported in September 2019, for fiscal years 2015 through 2018, 11 of the 16 member agencies of the working group reported supporting environmental justice efforts through existing related program funding and staffing resources (i.e., resources not specifically dedicated to environmental justice, such as for civil rights or environmental programs). EPA and the Department of Energy (DOE) dedicated resources specifically for environmental justice efforts in their budgets. In fiscal year

2018, EPA provided about \$6.7 million and DOE provided about \$1.6 million.

Progress toward Environmental Justice Is Difficult to Gauge

Agencies' progress in identifying and addressing environmental justice issues related to their missions is difficult to gauge because most of the agencies do not have updated strategic plans and have not reported annually on their progress or developed methods to assess progress.

Most Agencies Have Strategic Plans with Goals but Have Not Recently Updated Them

As we reported in September 2019, 14 of the 16 agencies issued environmental justice strategic plans after they signed the 2011 MOU agreeing to develop or update such plans. Of the 14 agencies that issued their plans, 12 established strategic goals in these plans. Six of the 14 agencies further updated their plans in 2016 or 2017, and another agency published updated priority areas on its website. The Department of Defense (DOD), which issued a plan in 1995, has not updated it since, and the Small Business Administration (SBA) has never issued a plan. DOD officials said that the agency has not prioritized environmental justice efforts. SBA officials said the agency is uncertain whether it has a role in implementing environmental justice and they were reviewing whether SBA should continue its membership in the working group.⁹

The 2011 MOU directs agencies to update their strategic plans periodically, and leading practices for strategic planning suggest that strategic plans should be updated every 4 years.¹⁰ We have previously reported that strategic planning serves as the starting point and foundation for defining what an agency seeks to accomplish, identifying the strategies it will use to achieve desired results, and then determining how well it succeeds in achieving goals and objectives.¹¹ In our

⁹Because SBA has never issued a strategic plan, in our September 2019 report, we recommended that SBA complete its assessment of whether to participate in the 1994 Executive Order and the 2011 Memorandum of Understanding, and, if appropriate, develop an environmental justice strategic plan.

¹⁰The Government Performance and Results Act Modernization Act of 2010 requires that federal agencies update their strategic plans every 4 years. We have previously reported that the act's requirements also can serve as leading practices for strategic planning at lower levels within federal agencies. See, for example, GAO, *Coast Guard: Actions Needed to Enhance Performance Information Transparency and Monitoring*, [GAO-18-13](#) (Washington, D.C.: Oct. 27, 2017).

¹¹GAO, *Agencies' Strategic Plans under GPRA: Key Questions to Facilitate Congressional Review*, [GAO/GGD-10.1.16](#) (Washington, D.C.: May 1, 1997).

September 2019 report, we recommended that eight agencies update their environmental justice strategic plans. Four agencies agreed, three did not state if they agreed or disagreed, and one disagreed. Education stated that it does not believe this is the most appropriate course of action for the department or an efficient use of resources, but we continue to believe they should implement the recommendation.

Most Agencies Have Not Consistently Issued Progress Reports and Do Not Have Methods to Assess Progress

As we reported in September 2019, 12 of the 16 agencies developed environmental justice strategic plans with strategic goals, but most of the agencies have not shown clear progress toward achieving these goals and the purpose of the executive order. It is difficult to gauge the agencies' progress for three primary reasons:

1. **The agencies have not comprehensively assessed how environmental justice fits with their overall missions.** Seven of the 14 agencies that developed environmental justice strategic plans assessed and discussed how their environmental justice efforts aligned with their overall missions after 2011. However, the other seven agencies did not clearly show how their efforts aligned with their missions. We recommended that EPA, as chair of the working group, should develop guidance for the agencies on what they should include in their environmental justice strategic plans. EPA agreed with this recommendation.
2. **The agencies have not consistently issued annual progress reports.** Fourteen agencies issued at least one progress report after 2011, but most have not issued such reports every year, as they agreed to do in the 2011 MOU. The departments of Homeland Security and Justice issued progress reports every year from 2012 through 2017. The General Services Administration issued progress reports every year through 2015 and then issued one progress report covering fiscal years 2016 through 2018. Several other agencies consistently reported in the first few years after 2011 but then stopped issuing reports. DOD and SBA have not issued any progress reports.

We have found that annual program performance reports can provide essential information needed to assess federal agencies' performance and hold agencies accountable for achieving results.¹² We recommended that 11 agencies report on their progress annually.

¹²GAO, *Managing For Results: Enhancing Agency Use of Performance Information for Management Decision Making*, [GAO-05-927](#) (Washington, D.C.: Sept. 9, 2005).

Five of the agencies agreed with this recommendation, one partially agreed, three did not state if they agreed or disagreed, and two said they did not agree. Education stated that it does not believe this is the most appropriate course of action for the department or an efficient use of resources, and DOD stated that it did not see a tangible benefit to additional reporting. We continue to believe that they should implement the recommendation.

3. **Most agencies have not established methods for assessing progress toward goals.** The agencies' progress reports generally describe the environmental justice activities they conducted but do not include any methods to assess progress (e.g., performance measures). For the 14 agencies that issued at least one progress report since 2011, we reviewed the most recent report and found that each report contained information on activities that agency undertook over the previous year. However, our analysis showed that most of the agencies had not established a method that would allow them to assess their progress toward their environmental justice goals, such as tracking performance measures or milestones.¹³ Of the 16 agencies that signed the 2011 MOU, four—the Departments of Agriculture (USDA), Health and Human Services (HHS), and DOI and EPA—have established performance measures or milestones for their environmental justice efforts. Of these four, HHS and EPA have reported on their progress toward achieving their performance measures or milestones. The other 12 agencies have not established any performance measures or milestones.

The executive order directs the working group to provide guidance to agencies in developing their environmental justice strategies. However, the working group has not provided such guidance on methods to assess and report on environmental justice progress, according to EPA officials. According to these officials, EPA is still pursuing its own agency-wide performance measures. We recommended that EPA, as chair of the working group, develop

¹³According to Office of Management and Budget (OMB) guidance, performance measures are a means of evaluating efficiency, effectiveness, and results. The guidance also describes different types of these measures, including outcome measures—indicating an agency's progress toward achieving the intended results of its efforts—and output measures—usually expressed quantitatively and describe the level of activities that will be provided over a period of time (e.g., the number of meetings held or the number of people trained). See Office of Management and Budget, Circular No. A-11, Part 6, Federal Performance Framework: Strategic Planning, Annual Performance Plans and Reports, Priority Goals, Performance Reviews, Customer Experience, and Program and Project Management (Washington, D.C.: June 2018).

guidance or create a committee of the working group to develop guidance on methods the agencies could use to assess progress toward their environmental goals. EPA agreed with this recommendation.

Working Group Has Coordinated to Some Extent but Does Not Have a Strategic Approach or Full Participation

We found that the interagency working group has coordinated to some extent but does not have a strategic focus or full participation by all the federal agencies. Executive Order 12898 directed the working group to coordinate in seven functions, including to assist in coordinating data collection and examine existing data and studies on environmental justice.¹⁴ In 2016, the working group released its *Framework for Collaboration*, which describes how it planned to provide guidance, leadership, and support to federal agencies in carrying out environmental justice efforts. The working group has collaborated to develop and issue guidance on several topics, participated in a variety of public meetings to provide information and opportunities for communities to discuss environmental justice issues, and coordinated ways in which the 16 member agencies and the Council on Environmental Quality (CEQ) could assist communities. For example, the working group created nine committees, including on Native American and Indigenous Peoples, Rural Communities, and Climate Change, based on the seven functions in the executive order and on public input, to help carry out its environmental justice responsibilities under the executive order.¹⁵ Officials from 13 member agencies agreed to either chair or become members of one or more committees.

¹⁴The other five functions are (1) provide guidance to federal agencies on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations, (2) coordinate with, provide guidance to, and serve as a clearinghouse for each federal agency as it develops an environmental justice strategy, in order to ensure consistent administration, interpretation, and enforcement of programs, activities, and policies, (3) assist in coordinating research by, and stimulating cooperation among, EPA, the Department of Health and Human Services (HHS), the Department of Housing and Urban Development (HUD), and other agencies conducting certain research, data collection, or analysis, (4) hold public meetings, and (5) develop interagency model projects on environmental justice that demonstrate cooperation among federal agencies.

¹⁵The nine committees are Public Participation, Regional Interagency Working Group, Strategy and Implementation Progress Report, Title VI of the Civil Rights Act, Native Americans/Indigenous Peoples, Rural Communities, Impacts from Climate Change, Impacts from Commercial Transportation, and National Environmental Policy Act.

Through these committees, among other things, the working group has released a number of documents to help guide federal efforts:

- A compendium on publicly available federal resources to assist communities impacted by goods movement activities, released in 2017.
- Guidance to help federal agencies incorporate environmental justice during their NEPA reviews, issued in March 2016, and guidance to communities about NEPA methods, issued in March 2019.
- A web page, which USDA compiled and launched in fiscal year 2017 with input and vetting from the Rural Communities committee, that provides links to community tools, funding opportunities, educational and training assistance, and case studies to support rural communities, according to USDA officials.

However, we found that the working group's organizational documents—the 2011 MOU, the working group's 2011 charter, and the 2016-2018 *Framework for Collaboration*—do not provide strategic goals with clear direction for the committees to carry out the functions as laid out in the executive order. In September 2012, based on a government-wide study, we reported that collaborative mechanisms such as working groups benefit from clear goals to establish organizational outcomes and accountability.¹⁶ We reported that participants may not have the same overall interests or may even have conflicting interests, but by establishing a goal based on common interests, a collaborative group can shape its own vision and define its purpose.

The working group has developed some documents with agreed-upon goals, which is beneficial to collaboration, but none of these documents address all seven functions of the executive order. In our September 2019 report, we compared the functions of the executive order to documented working group roles and responsibilities and found that coordinated data collection and examination of research and studies on environmental justice are not included in these documents or committee purposes and have not been a focus of the interagency working group since at least 2011.

¹⁶GAO, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012).

EPA officials said some agencies, such as HHS and EPA, have done work in environmental justice data collection and research. EPA officials told us that the 2011 MOU, committee groups, and *Framework for Collaboration* reflect the current priorities of the working group, based on public input. The officials were unsure whether a coordinated effort in the data collection, research, and studies areas was needed, but they said such an effort could be useful. They said that the most useful role of the working group in research might be as a forum for sharing information and providing training opportunities. In our September 2019 report, we recommended that EPA, as chair of the working group and in consultation with the working group, should clearly establish in its organizational documents strategic goals for the federal government's efforts to carry out the 1994 executive order. EPA disagreed with this recommendation because it believes that the recommendation should be combined with a different recommendation we made about updating the MOU. We believe that EPA misunderstood our recommendation and therefore did not combine it with our other recommendation.

We also found that member agencies' participation in working group activities has been mixed. In the 2011 MOU, the 16 signing agencies and CEQ agreed to participate as members of the working group, such as by chairing, co-chairing, or participating in committees. Eleven of the 16 agencies have not chaired or co-chaired one of the working group's committees, and four have not participated in any. Our government-wide work has shown that it is important to ensure the relevant participants have been included in a collaborative effort.¹⁷ EPA officials said it is difficult to characterize what specific opportunities are missed because of an agency's lack of representation. However, they said that nonparticipation limits the working group's ability to fulfill its mandates in a strategic, methodical way across the entire federal government. EPA officials also said that the limiting factor in the working group's efforts to address the executive order has always been the will of leadership across the federal government to make clear, measurable commitments to those priorities and ensure adequate resources.

We recommended that EPA, as chair of the working group and in consultation with the other working group members, update the 2011 MOU and renew the agencies' commitments to participate in the interagency collaborative effort and the working group. EPA disagreed

¹⁷[GAO-12-1022](#).

and said this recommendation could be combined with the recommendation to provide strategic direction for the working group. We continue to believe that EPA needs to update the MOU to address the matter of participation by the members who signed it but do not participate.

In conclusion, incorporating environmental justice into federal agencies' policies, programs, and activities is a long-term and wide-ranging effort. Federal agencies, led by EPA, have made some headway in developing tools and coordinated policies and have identified others that they need to pursue. Strategic planning and reporting, with meaningful measures, and collaboration across all agencies can help them make and track progress.

Chairman Tonko, Ranking Member Shimkus, and Members of the Subcommittee, this concludes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

GAO Contacts and Staff Acknowledgments

If you or your staff have any questions about this testimony, please contact Alfredo Gómez, Director, Natural Resources and Environment, at (202) 512-3841 or gomezj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. In addition to the contact named above, Susan Iott (Assistant Director), Allen Chan (Analyst in Charge), and Elise Vaughan Winfrey made key contributions to the testimony. Other staff who made contributions to this testimony or the report cited in the testimony were Peter Beck, Tara Congdon, Hannah Dodd, Juan Garay, Cindy Gilbert, Rich Johnson, Matthew Levie, Ben Licht, Cynthia Norris, Amber Sinclair, and Kiki Theodoropoulos.

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