



March 10, 2023

Administrator Richard Revesz
Office of Information and Regulatory Affairs (OIRA)
White House Office of Management and Budget
Executive Office Building
725 17th Street NW
Washington, DC 20503

Submitted via publicparticipation@omb.eop.gov

Dear Administrator Revesz,

RE: Feedback on OIRA recommendations on broadening public engagement in the Federal regulatory process

Thank you for your leadership and for the opportunity to provide input on OIRA's efforts and recommendations¹ to improve and facilitate inclusive public engagement in the federal regulatory process, including the listening session held on March 7, 2023.

WE ACT for Environmental Justice (WE ACT) is a Northern Manhattan community-based organization whose mission is to build healthy communities by assuring that people of color and/or low-income participate meaningfully in the creation of sound and fair environmental health and protection policies and practices. We also convene the Clean Air for the Long Haul Cohort, which is composed of environmental justice groups from across the country who are working together to move forward campaigns that center overburdened communities in federal rulemaking across the power and transportation sectors.

From our experience both with community engagement and with intervening in the rulemakings, we look forward to sharing the following insights on OIRA recommendations on broadening public participation in the federal regulatory process:

- 1. Which of the following recommendations would most effectively broaden public engagement in the Federal regulatory process, especially from members of underserved communities and those who do not typically participate in the regulatory process? Are there recommendations that are not helpful?*

¹ OIRA (2023), Broadening Public Engagement in the Federal Regulatory Process
<https://www.whitehouse.gov/omb/information-regulatory-affairs/broadening-public-engagement-in-the-federal-regulatory-process/>

Overarchingly, the recommendations put forward are a step in the right direction to effectively broadening public participation. With respect to each recommendation:

Recommendation 1: Help the public and agencies better understand the regulatory process and the role of OIRA, including identifying opportunities for engagement

We agree that there is a need to develop and disseminate accessible materials to explain the key steps in the regulatory process and why regulations matter. Specifically, these materials must be clear and understandable to the average person and must take care to explain why regulations affect and are relevant to communities and the general public. We support agencies leveraging trusted community-based organizations to assist in this dissemination. Importantly, agencies should not only demonstrate how public comments make a difference in rulemaking but also how they get incorporated into regulations and how those regulations ultimately improve the everyday lives of people.

Recommendation 2: Make regulatory material more accessible and useable by members of the public

We support and cannot underscore enough the importance of plain language void of jargon, abbreviations, etc to make regulatory materials more accessible and useable for the public. In addition to producing materials in easily accessible formats, like infographics, videos and short summaries, agencies should also use the full spectrum of social media. However, they should not disregard traditional forms of media like flyers, newspaper, radio, tv broadcasts and text messages that can reach other segments of the population, including those who may not be tech-savvy or have access to stable or any internet. We also endorse adapting materials to mobile-friendly formats, eg, alternatives to PDF. Additionally, ensure notices on the Federal Register and on agency websites are formatted in any easily digestible manner and as mentioned, highlight the key issues and questions that require public input. One should not have to read extensively to grasp the reason for and the components of the regulation that need feedback. Lastly, in providing “how to write comments” media, as recommended, agencies should include instructions on how to submit comments in multiple formats including written comments through snail mail, agency email, and through regulations.gov as well as recorded video and audio submissions.

Recommendation 3: Proactively engage communities early and throughout the regulatory process to efficiently use government and community time and resources

More than encouraging, agencies should be mandated to engage with stakeholders to facilitate public participation in the regulatory process. This engagement should go beyond virtual sessions, though convenient for some, they give limited time for input, are often at inconvenient times of the day, and require reliable internet connection or phone connectivity. Moreover, agencies should always conduct outreach to key communities and stakeholders, early and often, when formulating regulatory priorities, beyond the constraints of providing forthcoming regulatory activities for the publication of the Regulatory Agenda.²

² OIRA, Fall 2022 Unified Agenda of Regulatory and Deregulatory Actions, <https://www.reginfo.gov/public/do/eAgendaMain>

The necessary time should be taken to identify and have meaningful engagement with affected communities and relevant stakeholders to get robust input that influences the formulation of agency regulatory priorities. This means that agencies, as recommended, should communicate clearly, honestly, and plainly about policy problems, needs and alternatives and allow space for communities and stakeholders to do the same. Again, agencies should keep communities and stakeholders abreast as to how, if at all, their input were incorporated via written communication.

We also strongly encourage a variety of meeting and engagement formats, including virtual and in-person sessions, that address barriers to public participation and community engagement. In addition, agencies should review public engagement throughout the full scope of the rulemaking process to identify whether affected communities are participating in agency rulemaking opportunities. In our experience, these communities, environmental justice organizations and community-based organizations are typically under-represented in the listening sessions and written comments during the rulemaking process. Agencies should conduct outreach and provide accessible avenues to garner their input for the public record and ensure balanced regulations that address the policy issue and needs of affected communities. We also agree that agencies should study the effectiveness of their community engagement strategies and adopt protocols to change practices that might not be working.

2. *Are there obstacles or barriers to greater public participation, especially for underserved communities, that are not addressed by these recommendations? If so, are there other recommendations that we should consider?*

Many of the barriers to participation are addressed through these recommendations. Other considerations not addressed in OIRA's recommendations that were brought up during the March 7 Listening Session that we would like to reiterate and reinforce include:

- Utilizing accessible language and making materials relevant to different audiences/stakeholders and explaining why regulations are relevant to their lives
- Developing 'how-to-guides' for navigating the Federal Register, regulations.gov and other platforms as well as 'how-to-guides' to write and submit comments using a variety of formats like one-pagers, infographics, short-pithy videos, for example.
- Letting members of the public know how their feedback was incorporated in both setting regulatory activities and priorities and in final rulings via written communication
- Embedding specific questions on agency websites
- Addressing arbitrary delays to posting proposed rules on the Federal Register
- Making the formatting of Federal Register more reader friendly
- Standardizing guidance for public participation with timelines that start before release of rulemaking
- Considering the costs of public participation and the need for wrap-around services and compensation to remove barriers to participation and support garnering input from affected communities and other relevant stakeholders
- Ensuring that the OIRA's recommendations are durable and apply beyond this Administration
- Recognizing the connection and overlap between the regulatory review process and broadening public participation. The review process should be modernized, assessing costs and benefits in ways that are equitable and take into consideration long-term

benefits and data that have not been traditionally quantified, such as equity and environmental justice criteria, climate risks, etc.

3. *Are there existing materials, such as guides or tools, that would be especially effective in revising and potentially implementing these recommendations? What new tools or guidance are needed?*

The foundational principles of environmental justice and democratic organizing established in the Principles of Environmental Justice³ and Jemez Principles of Democratic Organizing⁴ must be the starting point for approaching community engagement. While designed for the implementation of the Justice40 Initiative, please see our Community Engagement Brief⁵ which gives guidance and best practices for meaningful public participation and robust analysis that yields tangible benefits and improvements for underserved and overburdened communities.

4. *How can intermediaries—such as trade associations or coalitions—be helpful in reaching individuals and small organizations or businesses, where have they been successful in doing so, and where might they be insufficient?*

We are supportive of leveraging community-based groups and environmental justice membership organizations for outreach since they interact with and understand the needs of community members. It should be noted that coalitions, trade associations or labor unions may not always be representative of affected communities, small businesses, and workers, respectively. For example, community groups may have limited capacity to participate in broad coalition actions, the voices of larger companies may be more reflected in trade associations rather than small businesses, while discrimination has traditionally been the reason for under-representation of people of color in unions.⁶ Therefore, as far as possible, there should be direct communication and outreach to affected communities and relevant stakeholders.

Thank you again for the opportunity to provide feedback and we look forward to working with OIRA and other agencies to facilitate broadening public participation in the regulatory process.

Respectfully,

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³ Principles of Environmental Justice (1991), <https://www.ejnet.org/ej/principles.pdf>

⁴ Jemez Principles of Democratic (1996), <https://www.ejnet.org/ej/jemez.pdf>

⁵ WE ACT Community Engagement Brief (2022), <https://www.weact.org/wp-content/uploads/2022/10/Community-Engagement-Brief-092322-FINAL.pdf>

⁶ Rosenfeld J, Kleykamp M. Organized Labor and Racial Wage Inequality in the United States. *AJS*. 2012 Mar;117(5):1460-1502. doi: 10.1086/663673. PMID: 25620802; PMCID: PMC4300995.