



MEMORANDUM

November 15, 2019

To: Subcommittee on Environment and Climate Change Members and Staff

Fr: Committee on Energy and Commerce Staff

Re: Hearing on “Building a 100 Percent Clean Economy: The Challenges Facing Frontline Communities”

On **Wednesday, November 20, 2019, at 10 a.m. in the John D. Dingell Room, 2123 of the Rayburn House Office Building**, the Subcommittee on Environment and Climate Change will hold a hearing entitled, “Building a 100 Percent Clean Economy: The Challenges Facing Frontline Communities.” The hearing will examine environmental justice and the impact of climate change and extreme weather events on legacy toxic exposures.

I. Background

The U.S. Environmental Protection Agency (EPA) defines environmental justice as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.”¹ According to the EPA, achieving environmental justice requires equal protection from environmental health hazards and equal access to environmental decisions.²

Several mechanisms exist under federal law to promote environmental justice, including the National Environmental Policy Act (NEPA),³ Title VI of the Civil Rights Act of 1964 (Title VI),⁴ and Executive Order 12898.⁵ NEPA requires federal agencies to assess the environmental and related social and economic effects of their proposed actions prior to making decisions pertaining to permit applications, federal land management, and construction of highways and

¹ U.S. Environmental Protection Agency, *Environmental Justice* (epa.gov/environmentaljustice) (Nov. 12, 2019).

² *Id.*

³ U.S. Environmental Protection Agency, *Summary of the National Environmental Policy Act* (epa.gov/laws-regulations/summary-national-environmental-policy-act) (Aug. 15, 2019).

⁴ U.S. Department of Justice, *Title VI of the Civil Rights Act of 1964* (justice.gov/crt/fcs/TitleVI) (accessed Nov. 14, 2019).

⁵ Exec. Order No. 12898, 59 Fed. Reg. 7629 (Feb. 11, 1994).

other publicly-owned facilities. NEPA also provides opportunities for public review and comment. Title VI prohibits recipients of federal funding from discriminating based on race, color, or national origin. That statute provides an administrative complaint process to the federal departments and agencies that provide such assistance, including EPA.⁶

Executive Order 12898, signed by President Clinton in 1994, requires all 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 its programs, policies, and activities on minority populations and low-income populations.”⁷ The Executive Order also created an interagency working group on environmental justice, chaired by the Administrator of the EPA, which continues to meet.

Two recent reports have evaluated the continued implementation of Executive Order 12898. The first was the Statutory Enforcement Report published by the United States Commission on Civil Rights in 2016, entitled *Environmental Justice: Examining the Environmental Protection Agency’s Compliance and Enforcement of Title VI and Executive Order 12898*.⁸ The Commission found that while the EPA has taken steps toward making environmental justice part of its core mission, significant work remains to be done to meet the requirements of the Executive Order and Title VI.⁹ For example, the Commission noted significant delays in processing and addressing Title VI complaints, thereby limiting their effectiveness. The Commission also recommended steps particularly related to coal ash regulation, such as providing technical assistance for low-income communities, communities of color, and tribal communities to enforce the coal ash rule. It also recommended reclassifying coal ash as “special waste” requiring additional federal funding and research on health impacts.

The second report, published in September 2019 by the U.S. Government Accountability Office (GAO) in response to a Congressional request, is entitled *Environmental Justice: Federal Efforts Need Better Planning, Coordination, and Methods to Assess Progress*.¹⁰ In that report, GAO highlighted several points necessary for the interagency environmental justice working group to carry out Executive Order 12898. Specifically, GAO found that the group’s organizational documents should contain clear goals and strategic direction, along with commitments by individual agencies to implement, update, and enforce their environmental justice strategic plans.

⁶ See note 4.

⁷ See note 5.

⁸ U.S. Commission on Civil Rights, *Environmental Justice: Examining the Environmental Protection Agency’s Compliance and Enforcement of Title VI and Executive Order 12898* (Sept. 2016).

⁹ *Id.*

¹⁰ U.S. Government Accountability Office, *Environmental Justice: Federal Efforts Need Better Planning, Coordination, and Methods to Assess Progress* (Sept. 2019) (GAO-19-543).

II. WITNESSES

The following witnesses have been invited to testify:

Panel 1

Alfredo Gomez

Director, Natural Resources and Environment
U.S. Government Accountability Office (GAO)

Lilian Sotolongo Dorka, Esq.

Director, External Civil Rights Compliance Office
U.S. Environmental Protection Agency (EPA)

Helena Wooden-Aguilar

Deputy Associate Administrator, Office of Policy
U.S. Environmental Protection Agency (EPA)

Panel 2

Mustafa Santiago Ali

Vice President, Environmental Justice, Climate, and Community Revitalization
National Advocacy Center at the National Wildlife Federation

Melissa Cribbins

Commissioner
Coos County Board of Commissioners
On behalf of the National Association of Counties (NACo)

Patrick B. Ford

Executive Director
Lebanon/Marion County Industrial Foundation

Elsie Herring

Duplin County, North Carolina, Resident and Organizer
North Carolina Environmental Justice Network

Sharon Lavigne

Founder and President
RISE St. James

Ruth Santiago, J.D., LL.M

Attorney
Comité Diálogo Ambiental de Salinas