

# **U.S. DEPARTMENT OF HOMELAND SECURITY**



## **ENVIRONMENTAL JUSTICE ANNUAL IMPLEMENTATION REPORT**

FY2019

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## I. Introduction

The Department of Homeland Security (DHS) continues to achieve meaningful results in ensuring environmental justice is 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,” as required in Executive Order (EO) 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*. In addition, EO 12898 required the EPA to establish a Federal Environmental Justice Interagency Working Group (EJIWG) and named executive agencies and offices required to participate. A Memorandum of Understanding (MOU) on Environmental Justice and EO 12898 (EJ MOU)<sup>1</sup> was created and signed by covered agencies. Although DHS did not exist in 1994 and is thus not an agency expressly included in the EO, the Department joined 16 other federal agencies by signing the EJ MOU in August 2011.

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*The U.S. Environmental Protection Agency (EPA) currently 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. These goals will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process in order to have a healthy environment in which to live, learn, and work.”*

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Environmental justice considerations are also required by the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.* and the Council on Environmental Quality (CEQ) implementing regulations at 40 C.F.R. Parts 1500-1508. The CEQ has provided specific guidance for considering environmental justice in analyses under NEPA through the *CEQ Environmental Justice Guidance Under the National Environmental Policy Act*.<sup>2</sup> DHS also has a responsibility through Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.* and the DHS implementing regulations at 6 C.F.R. Part 21 and 44 C.F.R. Part 7 to ensure nondiscrimination in the Department’s federally assisted programs, including those that affect human health or the environment.

The following report serves as the Department’s Annual Implementation Report for the fiscal year 2019 (FY2019). While this report is not all inclusive of Departmental environmental justice efforts, it shows a commitment toward achieving the goals set forth in EO 12898, the EJ MOU, and DHS policy.

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<sup>1</sup> The EJ MOU is available at <https://www.epa.gov/sites/production/files/2015-02/documents/ej-mou-2011-08.pdf>. Concurrently with the MOU, the participating agencies issued a *Charter for the Interagency Working Group on Environmental Justice*, available at <http://www.epa.gov/environmentaljustice/resources/publications/interagency/iwg-charter-2011.pdf>.

<sup>2</sup> <https://ceq.doe.gov/docs/ceq-regulations-and-guidance/regs/ej/justice.pdf>

## II. The Department of Homeland Security

Established in 2002 in response to the September 11, 2001 terrorist attack, the Department is headed by the Secretary of Homeland Security. DHS is comprised of fourteen Operational and Headquarter Support Components each with a vital mission to secure the nation from the many threats it faces. This requires the dedication of more than 240,000 employees in jobs that range from aviation and border security and emergency response, to cybersecurity and infrastructure protection. The duties are wide-ranging with a clear goal - keeping America safe.

### DHS Operational and Support Components

DHS Operational and Headquarter Support Components include: Cybersecurity and Infrastructure Security Agency, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, U.S. Coast Guard, Federal Emergency Management Agency, Federal Law Enforcement Training Centers, U.S. Immigration and Customs Enforcement, Transportation Security Administration, U.S. Secret Service, Science and Technology Directorate, Countering Weapons of Mass Destruction Office, Management Directorate, Office of Intelligence and Analysis, and Office of Operations Coordination.



**COUNTERING  
WEAPONS OF  
MASS  
DESTRUCTION  
OFFICE**

**MANAGEMENT  
DIRECTORATE**

**OFFICE OF  
INTELLIGENCE AND  
ANALYSIS**

**OFFICE OF  
OPERATIONS  
COORDINATION**

## DHS and Environmental Justice

As explained more fully in the agency-wide Environmental Justice Strategy<sup>3</sup> (DHS EJ Strategy), the Department approaches environmental justice through the missions and general strategic framework set forth in the Quadrennial Homeland Security Review<sup>4</sup> (QHSR). The QHSR establishes the Department's six missions: Counter Terrorism and Homeland Security Threats; Secure U.S. Borders and Approaches; Secure Cyberspace and Critical Infrastructure; Preserve and Uphold the Nation's Prosperity and Economic Security; Strengthen Preparedness and Resilience; and Champion the DHS Workforce and Strengthen the Department. Environmental justice considerations can arise within all areas.

DHS has undertaken several commitments to further the aims of environmental justice, including the DHS EJ Strategy, the annual progress reports on its implementation<sup>5</sup>, and DHS Directive 023-04, *Environmental Justice*. DHS also co-chairs an intra-agency Working Group on Environmental Justice (DHS EJWG) through the Office of the Chief Readiness Support Officer (OCRSO), Sustainability and Environmental Programs office (SEP), and the Office for Civil Rights and Civil Liberties (CRCL). These offices have been delegated by the Secretary to: serve as lead for Departmental environmental programs, including but not limited to policies and matters related to environmental compliance, sustainability, environmental planning, natural resources, historic preservation, and cultural resources (OCRSO); and establish and implement policy to ensure that all federally assisted programs or activities of the Department comply with various civil rights requirements (CRCL).

### III. Implementing Commitments of the EJ MOU

In FY2019, DHS, as an active member of the EJIWG, worked to advance the integration of environmental justice principles throughout the enterprise and at all levels of government. Chaired by the EPA and representatives from 16 federal agencies and the White House, the EJIWG strives to engage and support local communities in addressing environmental and human health impacts of federal programs, policies, and activities by promoting comprehensive solutions for addressing environmental justice. In FY2019, Department environmental justice efforts focused on expanding program awareness and increasing interagency engagement with an emphasis on the focus areas discussed below.

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<sup>3</sup> Department of Homeland Security, *Environmental Justice Strategy* (February 2012), available at <http://www.dhs.gov/xlibrary/assets/mgmt/dhs-environmental-justice-strategy.pdf>.

<sup>4</sup> Department of Homeland Security, *Quadrennial Homeland Security Review Report: A Strategic Framework for a Secure Homeland* (June 2014), available at <http://www.dhs.gov/publication/2014-quadrennial-homeland-security-review-qhsr>.

<sup>5</sup> Department of Homeland Security, *Environmental Justice Annual Implementation Progress Report* for the periods FY 2011 through FY2018 are available at <https://www.dhs.gov/dhs-environmental-justice-strategy>.

## Focus Area 1: Implementation of the National Environmental Policy Act (NEPA)

Under NEPA, DHS considers potential environmental effects of proposed actions on the human and natural environment. The NEPA analysis includes identifying and addressing environmental justice concerns, including human health, economic and social effects, and effects on minority and low-income communities. OCRSO, under its delegated authority, provides governance and oversight of the environmental planning and historic preservation program for the Department. Authored by OCRSO's Sustainability and Environmental Programs, DHS Directive 023-01, rev. 01, *Implementation of the National Environmental Policy Act*,<sup>6</sup> complies with the CEQ regulations and requires the consideration of potential environmental justice issues for proposed actions. In addition to implementing the Department's NEPA policy, OCRSO actively participates in the NEPA Committee of the EJIWG. The NEPA Committee seeks to improve the effective, efficient, and consistent consideration of environmental justice issues in the NEPA process through the sharing of best practices, lessons learned, research, analysis, training, consultation, and other experiences of federal NEPA practitioners.

In FY2019, DHS Components undertook the following specific efforts for implementing environmental justice considerations and NEPA in agency actions:

### **Federal Emergency Management Agency (FEMA) – Environmental Assessments**

During the reporting period, DHS completed nine (9) Environmental Assessments (EA) with Findings of No Significant Impacts and added the documents to the FEMA website for public access. All analyses and decisions took EO 12898 into consideration and no adverse or disproportionate impacts to low-income or minority populations were identified. The published documents were compliant with Section 508 of the Rehabilitation Act of 1973.

### **U.S. Coast Guard (USCG) – NEPA Warrant Program and Training**

The USCG environmental planning warrant program (EPWP) for NEPA document reviewers requires all Level II and Level III warrant holders to have a minimum of one hour of training on EO 12898. CG-47 approved 47 new environmental planning warrants (EP warrants) in FY2019. Environmental staff must sign all final NEPA documentation and must hold a warrant. The EPWP reduces the risk of incomplete considerations under EO 12898 and NEPA and ensures that USCG environmental staff receive environmental justice training. This environmental justice training module is one hour in length and covers the history of environmental justice, the purpose and objectives of EO 12898, the principles for considering environmental justice under NEPA, NEPA's public involvement requirements and the different levels of collaboration, the objectives of EO 13045 (*Protection of Children from Environmental Health Risks and Safety Risks*), the role of a Clean Air Act Section 309 review, and an understanding of the applicability of Title VI of the Civil Rights Act of 1964. The USCG's EPWP has increased the total number

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<sup>6</sup> Department of Homeland Security Directive 023-01, *Implementation of the National Environmental Policy Act* and DHS NEPA Instruction Manual 023-01-001-01, Rev. 01 are available online at <http://www.dhs.gov/national-environmental-policy-act>.

of trainees and experienced staff authorized to review and sign NEPA compliance documents thereby increasing the number of reviewers that are trained in the requirements of EO 12898.

### **USCG – NEPA policy**

The USCG finalized its revised NEPA policy, the *Environmental Planning Policy*, USCG Instruction (COMDTINST) 5090.1 (EP CI), and the *Environmental Planning Implementing Procedures* (EP IP) and published both in April 2019. The EP CI and IP contain more specific policy and procedures for addressing environmental justice considerations in USCG NEPA documents.

### **U.S. Customs and Border Protection (CBP) – Bog Creek Environmental Impact Statement**

CBP released the Final Environmental Impact Statement (FEIS) and Draft Record of Decision for the Bog Creek Road Project to the public in FY2019. In coordination with the U.S. Forest Service as a joint preparer of the FEIS, CBP frequently engaged the local community, the Kootenai Tribe of Idaho, and the Kalispel Tribe to incorporate their concerns and consider any impacts on their ability to access parts of the Idaho Panhandle National Forests for recreational and cultural purposes. Due to the nature of the proposed action, the lack of proximity to communities (low-income, minority, or otherwise), and the lack of any direct, indirect, or cumulative human health and safety impacts, or impacts to access for the purpose of subsistence hunting, fishing, or other food gathering, analysis within the FEIS did not find potential environmental justice impacts requiring detailed analysis and discussion.

## **Focus Area 2: Implementation of Title VI of the Civil Rights Act of 1964, as amended**

Title VI of the Civil Rights Act of 1964 (“Title VI”) prohibits race, color, or national origin discrimination by recipients of financial assistance from DHS. Environmental justice issues may arise in programs and activities supported through federal financial assistance. In this context, Title VI is an important tool for addressing those concerns. By delegation from the Secretary and through regulations at 6 C.F.R Part 21, CRCL leads the Department’s compliance efforts to assure that its federally assisted programs, including those that affect human health or the environment, do not discriminate based on race, color, or national origin, and comply with the affirmative requirements of Title VI and the Department’s implementing regulations.

In order to ensure adherence to Title VI, and specifically its prohibition against national origin discrimination, recipients of DHS financial assistance should take reasonable steps to provide meaningful access to its programs and activities for limited English proficient (LEP) persons.<sup>7</sup> LEP persons (i.e., those who have a limited ability to speak, read, write, or understand English) may also be a part of low-income or minority communities that are subject to disproportionately high and adverse environmental effects. In carrying out enforcement of Title VI, it is critical for DHS to identify the intersection with environmental justice as well as to

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<sup>7</sup> See, e.g., “Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.” 76 Fed. Reg. 21755 (April 18, 2011).

educate recipients on fulfilling their language access obligations. To that end, integrating LEP persons into environmental justice efforts, such as through multilingual outreach and the regular use of competent interpreters at meetings and in other interactions, supports environmental justice goals and Title VI compliance.

In FY2019, CRCL continued to implement the DHS-wide Title VI compliance program. Major accomplishments include:

1. **DHS Civil Rights Evaluation Tool.** In FY2019, CRCL, in coordination with the Federal Emergency Management Agency (FEMA) and other DHS Components, continued to review information submitted from recipients of DHS financial assistance (e.g., grantees, etc.) via the DHS Civil Rights Evaluation Tool, which includes data on civil rights complaints, and information on policies and procedures required to fulfill various civil rights obligations. The DHS Civil Rights Evaluation Tool assists grantees and other recipients of DHS financial assistance in understanding and meeting their requirements under civil rights laws and regulations. Based on the information received, CRCL and FEMA provided technical assistance and resources to recipients to address gaps in their programs and strengthen accessibility for persons with disabilities and persons with limited English proficiency.
2. **Technical Assistance to Recipients.** CRCL published new resources to assist recipients in understanding their civil rights requirements related to meeting the needs of persons with disabilities, including:
  - a. *Reasonable Accommodation Guidance for DHS Recipients*; and
  - b. *Sample Notice and FAQs on Reasonable Accommodations for Individuals with Disabilities*.

CRCL publishes resources on its webpage targeted at recipients of DHS financial assistance. For more information, visit: <https://www.dhs.gov/resources-recipients-dhs-financial-assistance>.

### **FEMA – Equal Rights Advisors**

FEMA's Office of Equal Rights deploys a cadre of Civil Rights Advisors (CRADs) to disaster locations to support compliance with civil rights. In this context, CRADs provide technical assistance and guidance on Title VI and environmental justice issues under E.O. 12898. CRADs engage with FEMA program staff, community-based stakeholders, and recipients to support environmental justice compliance activities. In FY2019, FEMA's Office of Equal Rights strengthened its partnership with FEMA's Office of Environmental Planning and Historic Preservation at the headquarters and field levels to facilitate meaningful involvement of communities of color and low-income populations in the development and implementation of policy decisions impacting the environment during response and recovery. The two offices also worked to ensure decisions such as debris removal are undertaken in an equitable manner to prevent a disproportionate environmental impact on communities of color and low-income populations.



### Focus Area 3: Impacts from Climate Change

DHS identified climate change as a strategic priority in its mission to prevent, protect against, mitigate, respond to, and recover from threats and hazards, as well as to build in security, ensure resilience, and facilitate customs and exchange. The Department is strategically positioned to demonstrate the inseparability of security and resilience. In FY2017, DHS formed a team led by OCRSO in collaboration with the Office of Operations, Continuity Division as a follow-on to the Department's issuance of its Climate Resilience Directive 023-03 in July 2016. The tiger team developed the "DHS Resilience Framework", which was signed by the DHS Under Secretary for Management in August 2018. The Framework focuses on critical infrastructure areas: energy and water, facilities, information and communication technology, and transportation. The Framework also establishes guidelines for implementing, monitoring, and identifying DHS resilience readiness. Phases of resilience readiness include man-made and natural disaster emergency response, continuity of operations, devolution, recovery and reconstitution. The Framework also mandated each Operational Component to submit a "Plan for Resilience" by August 30, 2019; the deadline was met.

In FY2019, the tiger team officially formed into the Critical Infrastructure Security and Resilience (CISR) Working Group, whose membership consists of each Operational Component, DHS Headquarters offices and Management Lines of Business, led by the OCRSO and the Office of Operations. Points of contact for each focus area within Components is included in the CISR Working Group. The CISR Working Group continues the activities of implementing the Resilience Framework within the Department.

DHS Component-specific efforts to address impacts from climate change in FY2019 included:

#### *USCG – Arctic Strategy*

Satellite imagery from 2006 to 2018 shows the twelve lowest annual Arctic ice extents on record.<sup>8</sup> Warming of the Arctic has led to longer and larger windows of reduced ice conditions. Changing terrain and subsistence food patterns, as well as the impacts of increasingly frequent and intense winter storms, continue to challenge local communities and increase risk in the maritime domain.

The USCG is charged with providing maritime safety and security to all Americans, including the hundreds of Alaskan Native villages and thousands of seasonal workers in the U.S. Arctic. Search and rescue, law enforcement, marine safety, waterways management, and other USCG missions are complicated by the Arctic's dynamic and remote operating environment. Increased accessibility and activity will create more demand for USCG services in the Arctic maritime domain. While long-term trends point to a more consistently navigable and competitive region, other environmental and economic factors make it difficult to predict the scope and pace of

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<sup>8</sup> 2018 Arctic Report Card, National Oceanographic and Atmospheric Administration, <https://arctic.noaa.gov/Report-Card/Report-Card-2018>

change. In April 2019, with a greater understanding of the Arctic’s changing conditions, the USCG updated its Arctic Strategy to provide a strategic outlook of the USCG’s effort to succeed in the new Arctic. The updated Strategy addresses, among other topics, innovating and adapting to promote resilience and prosperity.

#### **USCG – Cutter *HEALY***

The USCG also recognizes the significance of climate change, particularly to minority and low-income communities in Alaska. During FY2019, the Coast Guard Cutter *HEALY* supported the Office of Naval Research (ONR) and National Oceanic and Atmospheric Administration (NOAA) research efforts in the Arctic to help the Federal government gain additional knowledge of the changing environment in the region resulting from climate change, which may impact areas such as tribal subsistence and maritime commerce.

#### **USCG – *Kivalina Evacuation Bridge***

The USCG Bridge Program assisted efforts to improve accessibility to, and by, a remote community affected by impacts related to climate change. As a cooperating agency in the NEPA process, the USCG Bridge Program issued a permit for the construction of the Kivalina Evacuation Bridge across Kivalina Lagoon in Alaska. The primary purpose of this bridge is to provide a safe and reliable evacuation route in the event of a catastrophic event for a remote Alaskan coastal community already experiencing negative impacts associated with increased severity and frequency of storms and ocean surges.

### **Focus Area 4: Impacts from Commercial Transportation and Supporting Infrastructure**

DHS is instrumental in the movement of goods through mission activities that occur at ports of entry and centralized examination stations along the nation’s borders, emergency response efforts, and as the grantor of certain permits for bridges. In FY2019, OCRSO and the DHS Office of General Counsel actively participated in the EJIWG Goods Movement Committee.<sup>9</sup> The EJIWG identified goods movement as one of four areas of focus in the EJ MOU in an effort to coordinate between federal agencies the appropriate consideration of potential adverse environmental and human health effects from the commercial transportation of freight (goods movement) and supporting infrastructure on minority, low-income, and tribal/indigenous populations.

On December 4, 2015, the Fixing America’s Surface Transportation (FAST) Act was signed into law. Title 41 of the FAST Act, 42 U.S.C. § 4370m *et seq.*, referred to as “FAST-41,” created a new governance structure, set of procedures, and funding authorities to improve the federal

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<sup>9</sup> Environmental Protection Agency, *EPA’s Response to the National Environmental Justice Advisory Council Report: Reducing Air Emissions Associated with Goods Movement: Working Toward Environmental Justice* (June 28, 2010).

environmental review and authorization process for covered infrastructure projects. FAST-41 also established the Federal Permitting Improvement Steering Council (Permitting Council). The Permitting Council consists of members from 14 federal agencies, the CEQ, and the Office of Management and Budget. DHS is an active member of the Permitting Council. Additionally, in 2017, the President issued EO 13807, *Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*, also known as One Federal Decision, to streamline federal permitting environmental analysis.

Infrastructure projects covered by FAST-41 lead to increased commercial freight transportation activity and supporting infrastructure (i.e., goods movement), fostered by the USCG Bridge Permit program and Office of Operating and Environmental Standards (CG-OES) deepwater port licenses. Goods movement includes the distribution of freight (raw materials, parts and finished products) by all means of transportation including marine, air, rail, and truck. Goods movement facilities include seaports, inland ports, airports and land ports of entry (border crossings), rail yards, and rail lines, highways, highway truck traffic roads, pipelines, and warehouse and distribution centers. The EJIWG Goods Movement Committee is principally focused on addressing the issues and concerns of overburdened communities impacted by goods movement.

DHS Component-specific efforts related to goods movement in FY2019 included:

#### **USCG – Arctic Strategy, Arctic Maritime Transportation System**

As mentioned in Focus Area 3: Impacts from Climate Change, the USCG updated its Arctic Strategy in April 2019. The Arctic's role in geostrategic competition is growing, in large part because reductions in permanent sea ice have exposed coastal borders and facilitated increased human and economic activity, and greater access through Arctic shipping routes. While the near-term future of these routes is uncertain, a polar route has the potential to reduce transit times of traditional shipping routes by up to two weeks. The USCG will continue to assess the changing conditions of the Arctic and will advance and modernize the Arctic Marine Transportation System. The Arctic Marine Transportation System is an inter-agency effort to coordinate policies for the growing network of ports, waterways, navigable channels, marine terminals, and inter-modal connections that allow for the transportation of people and goods to, from, and on the water. Proposed projects resulting from the USCG 2019 Arctic Strategy may require NEPA analysis, which would entail consideration of environmental justice for such actions.

#### **USCG – Bridge Permits**

During FY2019, the USCG Bridge Program considered environmental justice in its NEPA analysis for issuance of 33 bridge permits across the nation.

## IV. Implementation of the DHS Environmental Justice Strategy

The DHS Environmental Justice strategy integrated environmental justice principles into the Department's everyday operations in FY2019 through a variety of methods. The following provides several examples of DHS FY2019 implementation efforts that were not previously addressed in Section III of this report.

**Creating a Directive and Instruction on Environmental Justice.** In FY2019, DHS furthered implementation of the DHS Directive 023-04, *Environmental Justice*, at the Headquarter and Component levels.

### USCG

In FY2019, the USCG finalized its Environmental Planning Commandant Instruction and Implementing Procedures, which make environmental justice a required component of the NEPA compliance process. In addition, the USCG Bridge Program continued efforts in FY2019 to review and revise two of its governing policy and guidance documents to address environmental justice. Revisions were made to policy, the *Bridge Administration Manual*, and supporting guidance document, the *Bridge Program Environmental Documentation Tactics, Techniques, and Procedures*.

### FEMA

FEMA's Environmental and Historic Preservation office maintains an internal resource library for its cadre members. In FY2019, FEMA added to the resource library by creating, *Overview of Executive Order 12898: Environmental Justice*. The resource guidance document provides information on environmental justice policy, key definitions, approaches to analyzing environmental justice, documentation requirements, and resources and tools such as EJSCREEN.

In FY2019, FEMA's Federal Preservation Officer led a group in the drafting of a National Historic Preservation Act, Section 106 Tribal Consultation Guide (Guide). The objective of the Guide is to explain how to build, maintain, and enhance relationships with Native American Tribes, and conduct Section 106 consultation in a sensitive manner that respects Tribal sovereignty.

**Developing Compliance and Review Capacity.** DHS continued to expand the Department's environmental justice compliance and review capacity in FY2019.

### DHS-wide

As established by *Directive 023-01, Rev 01, Implementing the National Environmental Policy Act*, the Environmental Planning and Historic Preservation Decision Support System (EPHP

DSS) is the online system for documenting NEPA review and compliance for certain DHS actions. In FY2019, DHS documented 1,487 categorical exclusions in the EPHP DSS, where preparers were required to answer questions regarding consideration of environmental justice.

## **FEMA**

Training personnel is a key component to ensuring environmental justice considerations are appropriately addressed in FEMA's NEPA review processes. In FY2019, FEMA offered the following environmental justice related classroom and online training:

1. Eleven (11) courses of FEMA E/L-0253 "Introduction to Environmental and Historic Preservation Compliance" (an in-person class). A total of 205 students attended.
2. In addition to these classroom offerings, a secondary, online version of E/L-0253 (IS253a) is available for download and access for a broader audience. A total of 145 individuals completed this course during the reporting period.
3. On May 17, 2019, the FEMA Environmental and Historic Preservation Office hosted a webinar lead by the Shipley Group on the topic of Environmental Justice. The webinar was open to thirty (30) Environmental and Historic Preservation (EHP) practitioners with the agenda tailored to FEMA projects, looking at techniques to engage the public and identifying impacts to disadvantaged and minority communities.

## **CBP**

The United States Border Patrol (Border Patrol) provides CBP Environmental and Cultural Stewardship training at the Academy for all newly hired agents to provide them with tools to mitigate the impacts that operations have on the environment and understand how environmental impact assessment is incorporated into planning for projects supporting the operational mission. All agents must also attend annual refresher training via the online DHS PALMs training portal. The Border Patrol divides the United States into 20 geographic operational areas called sectors. Each sector has identified personnel, such as Public Lands Liaison Agents (PLLAs), who specialize in mitigation of environmental impacts and addressing public concerns. Border Patrol PLLAs completed their annual supplemental training in August 2019. PLLAs participated in Interagency Regional and National Wilderness Stewardship Training alongside land managers from the Department of Interior in September 2019. The course emphasized interpreting and applying the 1964 Wilderness Act, agency policies, and wilderness management principles.

**Identifying and Addressing Environmental Justice Considerations in Programs, Policies, and Activities.** In FY2019, the DHS EJWG, composed of representatives from DHS Components and Headquarter offices, met bi-monthly to review DHS programs and activities, share best practices, and explore opportunities to advance intra- and inter-agency collaboration on current and emergent issues.

## **FEMA**

After feedback from some Tribal Nations was received suggesting the FEMA grant programs (Individual Assistance, Public Assistance, and Mitigation) are disproportionately available to certain populations such as Federally Recognized Tribes, FEMA Region I provided in-person training to the Aroostook Band of Micmacs Tribe in Presque Isle, Maine. The training provided an overview of FEMA's Environmental and Historic Preservation (EHP) review process, including a primer on various environmental laws, regulations, and EOs, including environmental justice.

## **Intergovernmental Affairs (IGA)**

IGA's tribal affairs program works to assist Department offices and Components with understanding the Indian Civil Rights Act of 1968 and applicability to civil rights and civil liberties activities. IGA works in coordination with CRCL in efforts to ensure Indian civil rights are upheld and programs are delivered. IGA holds monthly conference calls with tribal affairs specialists from throughout the Department.

## **USCG**

The USCG Cutter HEALY routinely communicated with Alaskan Native communities and their subsistence leaders during whaling season in FY2019. This communication ensured HEALY was aware of Alaskan Native subsistence hunting efforts and de-conflicted disruption of hunts.

The USCG Bridge Program, as part of the standard application adjudication process, issued public notices prior to any bridge permit action and solicited comments regarding environmental justice concerns. Tribal interactions regarding proposed permits are frequent occurred, with four instances of tribal interactions regarding actions for bridge permits. Although the Bridge Program made no changes to its planned actions based upon these interactions, the comments and feedback provided by these groups were incorporated into the consideration of the final action via the NEPA and National Historic Preservation Act processes.

At the request of the USCG, the DHS Center of Excellence, Arctic Domain Awareness Center (ADAC), conducted the "Arctic Incidents of National Significance 2019 Alaska Native and Rural Arctic "Insights" Community Workshop" in Nome, Alaska on April 18-19, 2019. The workshop was used to elicit insight and perspective from Alaska Natives and other rural Alaskans on the immediate crisis response efforts which would be undertaken by volunteer first responders from rural Alaska Native villages and to understand likely shortfalls in crisis response. This information was intended to inform emergency response planners on flaws or inconsistencies in their assumptions, to describe the key concerns or gaps that remote populations would experience during these types of incidents, and to discuss how their communities might act as force multipliers during an ongoing crisis.

Insights were also sought regarding post-crisis effects on Alaskans over both short- and longer-term time scales that might be exacerbated by remoteness, impact on subsistence ways of life, and other unique circumstances in this region of the Arctic. The information learned from this

workshop informed development and execution of the May 20-22, 2019, ADAC "Arctic Incidents of National Significance Stressing the System, Managing a Complex Arctic Crisis" workshop, which identified areas for potential research to close USCG science and technology gaps in the changing Arctic region.

**Collaborating with Other Agencies on Environmental Justice Related Matters.** As outlined in the QHSR, "Homeland security spans the authorities and responsibilities of federal departments and agencies; state, local, tribal, and territorial governments; the private sector; and private citizens and communities. For this reason, coordination and cooperation are essential to successfully carrying out and accomplishing the homeland security missions."

## **CBP**

In September 2018, Department of Interior (DOI) and DHS/US Border Patrol signed a Statement of Mutual Benefit and Support for the Southern Border Fuels Management Initiative to reduce the wildfire risk along the Southern Border and increase officer safety. In FY2019, \$5 million was made available to fund the initiative. DOI bureaus interested in requesting FY2019 funding under this initiative coordinated and developed project proposals with their local Public Lands Liaison Agents. One of the projects funded was the Cocopah Tribe's Border Fuels Project for wildfire risk measures on 160 acres.

In FY2019, DHS deployed Temporary Immigration Hearing Facilities (IHF) in Laredo and Brownsville, Texas, to support the expansion of the Migrant Protection Protocols in response to the migrant crisis at the Southwest border. Laredo and Brownsville were identified by DHS's OCRSO as the top priority locations for this effort. CBP provided support for this effort in the development of requirements, procurement of facilities services and information technology equipment, management/oversight of the projects in coordination with U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, U.S. Federal Protective Services, Department of Justice, and the General Services Administration.

**Communicating Through Active Outreach Efforts.** DHS remains committed to active outreach, which includes:

## **CBP**

As part of the planning process for the Rio Grande Valley Levee/Border Wall System construction projects, CBP sought input from the public on potential impacts to the environment, culture, commerce, and quality of life. An initial notification inviting input was sent to federal, state, and local agencies, environmental non-governmental organizations, and local landowners in July 2019. Notification of the public input process was distributed in English and Spanish through letters, e-mails, media advisory, print and digital advertisements, webinars, and flyers posted in local community centers and libraries. Based on feedback received from the public,

## CBP:

1. Extended the comment period for an additional 60 days;
2. Expanded the distribution list to additional community members and academics; and
3. Provided notification and informational materials in both English and Spanish.

PLLAs participated in Real Estate and Environmental Outreach in FY2019 for the Border Wall Fence Replacement Project in San Diego and El Centro, California, Yuma and Tucson, Arizona and El Paso, Texas. PLLAs met with local stakeholders and Tribes to address any possible impacts or concerns related to the proposed border barrier project.

## USCG

In FY2019, Sector San Juan directed federal resources to conduct post storm port/waterway damage assessments following Hurricane Dorian and verified marina checks for pollution and damaged or sunken vessels. Sector San Juan led investigations of pollution discharges/releases into US navigable waterways in USCG jurisdiction throughout Puerto Rico and the US Virgin Islands. In order to educate the boating public, Sector San Juan Incident Management Division conducted public outreach at the major recreational marina in San Juan Harbor to inform boaters of steps to take for pollution prevention, preparedness, response, liability, and compensation. This was pivotal training to help boaters understand their role in protecting the marine environment by reporting instances of pollution. This training created an opportunity for further collaboration with local environmental quality agencies who lack funding for the type of extensive outreach needed to inform boaters throughout Puerto Rico and the US Virgin Islands.

The USCG Sector San Juan Incident Management Division conducted surge operations to identify vessels left derelict/abandoned after Hurricane Maria and Hurricane Dorian that posed a significant threat to the environment in US Navigable Waterways. This resulted in the cleaning of several abandoned vessels and prevented pollution from oil discharge and hazardous substances into the marine environment/US navigable waterways.

## **U.S. Immigration and Customs Enforcement (ICE)**

ICE strives to comply with all public participation provisions required by NEPA and other integrated planning statutes such as the National Historic Preservation Act of 1966. ICE actively solicits community feedback during public participation and comment periods through project scoping letters, accessible public meetings (if applicable), and through the presentation of concise, non-technical NEPA documents. In FY2019 ICE completed an Environmental Assessment for the Port Isabel Detention Center, which included public participation outreach efforts like posting notices in both English and Spanish newspapers and at local public libraries. ICE continues to initiate consultations with State Historic Preservation Officers and tribal representatives for all ICE tactical communication construction/leasing activities, seeking input on how to best avoid impacting historic, tribal, and community resources. When planning public participation, ICE does not follow a standard formula. Instead, ICE considers the community's profile and needs to ensure representative community involvement. For example, ICE evaluates local community indicators to assess English proficiency and publishes public



notices in both English and other languages used at the local level, if determined to be appropriate. Additionally, ICE considers the significance of any proposed action and the community's desire for public participation when evaluating what level of public participation is appropriate. ICE Office of Acquisitions and Environmental, Energy, and Sustainability Office also held an Environmental Industry Day in FY2019 where ICE communicated environmental and environmental justice considerations in its solicitation processes to potential vendors.

## **V. Notable and Innovative Community-based Projects**

### **USCG**

Sector San Juan tasked the USCG Cutter WINSLOW GRIESSER to the Bahamas following Hurricane Dorian. WINSLOW GRIESSER patrolled 832 nautical miles and engaged with 1,500 citizens providing 3,000 pounds of food, water, and medical supplies as the first maritime responder following Hurricane Dorian. While deployed to the Bahamas, WINSLOW GRIESSER:

- Delivered disaster relief supplies for the people devastated by Hurricane Dorian;
- Performed waterway assessments while delivering perishable food stores, water, and personal hygiene products to Bahamian citizens;
- Carried goods to the most remote dwellings within the Grand Bahama and Abaco Island chains; and
- Created detailed reports highlighting the extent of damage to sensitive environmental areas, which informed incident response decision making.

## **VI. Public Comments**

No public comments were received on the FY2018 Environmental Justice Annual Implementation Progress Report. DHS remains open to public comment on its Environmental Justice Strategy and Annual Reports.

## **VII. Updates and Revisions to the DHS EJ Strategy**









The DHS Environmental Justice Strategy was approved in February 2012 and outlines several strategic objectives. Appendix A: 2012 Strategic Objectives Update, summarizes the Department's progress towards the 2012 goals. The DHS Environmental Justice Strategy is available to the public at <https://www.dhs.gov/dhs-environmental-justice-strategy>. There are no updates or revisions to the DHS Environmental Justice Strategy for this reporting period.

## **VIII. Conclusion**

This FY2019 Environmental Justice Annual Implementation Progress Report serves as the official update of the Department's activities for the implementation of the 2012 DHS Environmental Justice Strategy. The Department remains committed, to the greatest extent

practicable and as permitted by law, to integrate environmental justice into its programs, policies, and activities, by identifying and addressing, as appropriate, the disproportionately high and adverse human health or environmental effects on minority and low-income populations throughout the United States, including its territories and possessions, such as the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Island.

## Appendix A: Strategic Objectives Update

|   | Objective  | Status  | Activity Summary  |
|---|--|---|---|
| 1 | Creating a Directive and Instruction on Environmental Justice through revisions to Directive 023-01 on Environmental Planning Program  |    | <ul style="list-style-type: none"> <li>▪ NEPA Directive 023-01 issued 10/31/14</li> <li>▪ NEPA Instruction 023-01-001-01 issued 11/06/14</li> <li>▪ EJ Directive 023-04 issued 09/19/18</li> </ul>  |
| 2 | Identifying and addressing programs, policies, and activities of the Department that may have disproportionately high and adverse human health or environmental effects on minority, low-income, and tribal populations.                       |    | <ul style="list-style-type: none"> <li>▪ Institutionalized Annual Program Management Reviews</li> </ul>   |
| 3 | Developing compliance and review capacity to test the effectiveness of the requirements in the Directive and Instruction and to measure performance. This includes incorporating environmental justice into compliance reviews under Title VI. |    | <ul style="list-style-type: none"> <li>▪ Establishment of the DHS Environmental Planning and Historic Preservation Decision Support System for evaluating and documenting NEPA compliance for CATEXs (FY2012)</li> <li>▪ DHS Civil Rights Evaluation Tool</li> </ul>  |
| 4 | Collaborating fully with other agencies on environmental justice related matters, as the need arises.  |    | <ul style="list-style-type: none"> <li>▪ EJIWG</li> <li>▪ Chair EJ Goods Movement Committee</li> </ul>  |
| 5 | Effectively communicating through active outreach efforts with the public, the academic community, other agencies, and non-federal governmental entities, including government-to-government contact with tribes.                              |   | <ul style="list-style-type: none"> <li>▪ CRCL Technical Assistance to Recipients</li> <li>▪ DHS Tribal Consultation Policy</li> <li>▪ USCG/Tribal Nation MOU and Memorandum of Agreement</li> <li>▪ FEMA/EPA Disaster Response collectives</li> <li>▪ CRCL Federally Assisted Compliance Program (ongoing)</li> </ul> |
|   | *not all inclusive   |  completed  in progress  not started |   |