

Cumulative Risk Reduction in Communities

Presented by
Kitty Richards, MS
Program Manager
Bernalillo County, Office of Environmental Health
(505) 314-0338

Background

- Traditionally, risk assessments have focused on a single source of pollution, e.g., a gas station, or on a single type of contaminant, e.g., benzene.
- Locally, permitting occurs on a project by project basis with different agencies responsible for different permits, for example within BC, NMED is responsible for large discharges to water, CofA is responsible for emissions to air, and BC is responsible for land development.
- Our current permitting process fails in that it does not allow for a place-based or population-based assessment. Instead, it results in:
 - Fragmented permitting processes
 - Poor land-use mixtures
 - No assessment of the changes in the physical environment due to the emissions/discharges of the proposed project, existing projects or future projects
 - Disproportionate environmental burdens placed on low-income or people of color populations, usually the most vulnerable populations

How Can We Improve on the Existing Permitting Process?

- When we speak of poor permitting processes the communities that usually bear the brunt are low-income or people of color, communities that have more sensitive and vulnerable populations.
- In order to properly assess the impact of proposed projects on the affected community, many agencies are requiring completion of cumulative impact statements.

Cumulative Impact Assessments

- Cumulative impact assessments are **population-based** or **place-based** and seek to address:
 - The synergistic effects between chemicals
 - The physical change in the environment as a result of the total pollution load from the proposed facility, existing facilities, and future facilities
 - Economic or social effects of a project to determine the significance of physical changes caused by the project e.g., the construction of a new freeway that divides an existing community

Current Usage of Cumulative Impact Assessments

- Both the National Environmental Policy Act and the California Environmental Quality Act require an assessment of cumulative impacts as part of their permitting process.
- Fifteen other states, Washington D.C., and Puerto Rico require the use of an environmental impact assessment as part of their permitting process.
- Local governments are adopting cumulative impact assessments as part of their permitting process.

Do We Address Cumulative Impacts as Part of Our Permitting Process?

- Our permitting process does not consider cumulative effects – how more than one criteria air pollutant may in combination affect public health and the environment.
- Our permitting process does not require an environmental impact statement.
- To trigger modeling, the proposed facility's permitted emissions for an individual pollutant must exceed threshold.
- Modeling many not account for every type of criteria pollutant, only that which triggers the modeling process in the first place.

Can We Do This Here?

- The Air Quality Control Board and the Air Quality Division can begin to utilize the methods of cumulative impact assessment to achieve the protection of all citizens from disproportionate environmental burdens right now.
- In a memo dated 12/1/2000, Gary Guzy, Office of General Council, EPA pointed out that the CAA requirement for consideration of environmental justice, and implicitly in cumulative impact assessments in PSD permitting.
 - In fact, the Environmental Appeals Board remanded a PSD permit to the delegated permitting authority for failure to provide an environmental justice analysis in the administrative record in response to comments raising the issue.
- Likewise the memo points out that environmental justice considerations should be addressed in Title V operating permits.

Title VI, Civil Rights Act

- Mandates of Title VI of the Civil Rights Act of 1964, which apply to all recipients of federal financial assistance, preclude any agency from using methods of administration, which have the effect of subjecting individuals to discrimination because of their race, color, or national origin. 40 CFR, Section 7.35(b)
- Title VI also precludes any agency from deeming a site suitable or locating a facility where it will have discriminatory effects on the basis of race, color, or national origin. 40 CFR Section 7.35 (c)

Recommendations

- Require an environmental impact statement, that includes cumulative risk assessment, as part of the permitting process via a regulation.
- Revise existing policy to allow for testimony on public health, safety, welfare and environmental justice issues as mandated by Title VI (Civil Rights Act), EPA, and referenced in the state's EJ Executive Order.
- Don't wait until the situation escalates, take action now by:
 - Organizing a committee to develop regulatory language on requirement of environmental impact statements.
 - Requesting assistance of legal counsel to review regulatory language to ensure consistency with federal and state statutes.
- There are many models on which to base regulatory language.
- There are also EPA sponsored methods by which to conduct cumulative impact assessments.

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