

Environmental Protection Agency
Office of Environmental Justice and External Civil Rights Docket
1200 Pennsylvania Avenue NW,
Washington, DC 20460

To Whom It May Concern,

The Alliance for Affordable Energy is a consumer and environmental advocacy nonprofit organization dedicated to securing equitable, affordable, and environmentally responsible energy policy for all Louisianans. Public engagement and participation are crucial aspects of policymaking and we are glad to see the Environmental Protection Agency promulgate updated policy to guide the agency's approaches in these areas.

In Louisiana, the communities that are in the closest proximity to and most impacted by fossil fuel infrastructure, petrochemical manufacturing, and fossil fuel-fired power plants are also often relatively poorer and more likely to be majority non-white than other parts of the state. These communities have not only often seen their concerns left unaddressed despite clear and dire public health impacts, but historically were often purposefully disenfranchised.

For instance, Louisiana's history of systemically racist voter registration policies ensured that, until the late 1960s, Black Louisianans were generally denied the right to vote; and policies requiring racial segregation in public denied them equal participation in society generally. These policies often left Black Louisianans voiceless when decisions were being made for their communities by federal, state, and local governments in conjunction with the private sector, often to devastating effect.

With this history in mind, to be truly effective and to redress wrongs past and current, we assert that policies surrounding public engagement should not be treated as simply offering opportunities to participate; **they must be aimed at correcting past injustices and preventing future ones.** And while this policy largely frames meaningful involvement as the EPA collecting feedback on decisions it is considering making, it does not seem to consider the possibility of the public requesting or recommending decisions to be considered. We also suggest that the EPA consider the possibility of meaningful involvement to include solicitation from the public of what problems they would like to see the agency address.

The Alliance's comments are written with these perspectives in mind; we hope they will be useful as the EPA finalizes its Meaningful Involvement Policy.

Comments regarding Section 1: EPA's Meaningful Involvement Policy

As this policy lays out, the EPA views it as essential that the public be included in decision-making, with that involvement differing according to the scope and the EPA's "public participation spectrum." And as this section notes, "the public" is a broadly encompassing concept, which the table on Page 9 specifying the EPA considers the public to include groups

ranging from advocacy groups to Indigenous peoples to business and industrial interests, and more.

The list provided in the policy is fairly comprehensive – but the Alliance would like to note that the various groups listed differ significantly in resources, capacity, and time to meaningfully engage in discussions about policy- and decision-making. While this is alluded to – insofar as the policy mentions “competing priorities” as a potential limitation for public involvement – we would stress that the relative political, economic, and social power of various members of “the public” differ substantially.

For instance, while the EPA may see ExxonMobil, the State of Louisiana, environmental justice groups, and residents of Louisiana all as members of the “the public,” there are significant disparities between them in terms of resources or public credibility that affect how readily they may be able to participate in or influence decision-making. And frankly, these groups are often treated quite differently, by federal agencies such as the EPA as well as others – often at the detriment to those with less power, money, or fewer credentials.

To truly be an equitable policy, the EPA has to recognize the role that power and influence plays in policy-making. For both community members and transnational corporations to be viewed, let alone treated, as equal members of the public would only diminish the ability of the meaningful engagement policy to achieve its stated aims.

The Alliance recommends that the EPA clarify that, beyond determining the general “levels of participation,” that agency staff may need to further determine how to equitably engage with various stakeholder groups. For example, business and industry, trade associations, labor unions, and national nonprofit advocacy organizations are likely to employ or contract lobbyists or governmental affairs staff who are able to dedicate significant time and resources to engaging with agencies such as the EPA. Meanwhile, community organizations, residents, and even small businesses are less likely to be able to do the same, and therefore, less able to participate on equal footing. In our view, achieving “meaningful engagement” requires recognizing these disparities and working proactively to address them in the public participation process.

Section 2 of the policy addresses these factors to a degree, particularly in the “key demographics” analysis it recommends using to assess who “the public” should include, but we would recommend the EPA utilize a different approach.

Comments regarding Section 2: EPA’s Public Participation Model:

Section 2 is quite comprehensive in laying out the tools available to EPA staff to ensure meaningful involvement and public engagement. In particular, the “Identify the Public” subsection does well to emphasize prioritizing the inclusion of populations who may be disproportionately affected by an EPA decision in the decision-making process. And offering assessments to provide technical assistance and financial support are certainly helpful in circumstances where they are needed to ensure public participation.

But as previously mentioned, neither Section 1 nor 2 really grapple with disparities in power or positionality (meaning, one person or entity's relative standing to or influence on policy or government) between members of "the public." While it may be helpful to get a wide array of views via specific focus groups or consultations, approaching decisions from the perspective that all stakeholders are essentially equal actors in the policymaking process – with their differences mainly being to whom do benefits accrue and upon whom are costs borne – evades the ways in which different actors are able to provide "meaningful involvement."

We recommend that the EPA more explicitly address what it means, in a more fundamental sense, for all members of the public to be meaningfully involved in decision making processes. Because the fact of the matter is that a corporation seeking permits for its business and the people living downwind or downriver of that site are rarely ever equally influential actors or equally equipped or able to participate in regulatory or rules-making processes.

Finally, the Alliance would like to note that the meaningful involvement policy seems to be written from the perspective of the EPA coming to the public or stakeholders to weigh in on decisions they have already made (or, that it has been determined will be made, pending the required decision-making processes). This makes sense given the way policymaking processes are generally practiced, but we would suggest to the EPA that truly meaningful involvement requires more than this.

To really ensure meaningful involvement, public engagement should not only be about involving the public in decisions being made on their behalfs – but in **empowering the public to identify priorities, problems, and solutions for agencies like the EPA to pursue on their behalf.** While this may not be the document for such considerations, we hope that the EPA will consider the possibility for deeper forms of public involvement as a way of upholding and strengthening democracy and environmental justice in the United States.

Thank you for your consideration.

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