

NBH - South Terminal Proposal – EJ Considerations

Under Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), “[t]o the greatest extent practicable and permitted by law . . . each Federal agency shall make achieving environmental justice 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 in the United States.” See Executive Order 12898, 59 Fed. Reg. 7,629 (Feb. 16, 1994), § 1-101. Furthermore, “[e]ach Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of . . . subjecting persons (including populations) to discrimination under, such, programs, policies, and activities, because of their race, Color, or national origin.” *Id.* § 2-2. With respect to public process, the Executive Order also authorizes federal agencies to “translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations,” and requires federal agencies to “work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.” *Id.* §§ 5-5(b)-(c). In addition, the state of Massachusetts has an Environmental Justice Policy promulgated by the Massachusetts Executive Office of Environmental Affairs which identifies environmental justice populations and requires enhanced review of impacts and enhanced public participation opportunities for agency activities that may affect these populations. EPA feels that the state appropriately evaluates the impacts to environmental justice populations and that they will continue enhanced community outreach efforts under its environmental justice policy.

The state analyzed the census tracts located wholly or partially within or along the truck access route (Route 18) in order to identify potential environmental justice populations. Based on the percentages of minority and low-income populations, the state identified all of the block groups in the study area as environmental justice areas. This approach to identifying environmental justice populations is consistent with *CEQ's Environmental Justice Guidance Under the National Environmental Policy Act, Appendix A Guidance for Federal Agencies on Key terms in Executive Order 12898*. The state then considered the existing and potential traffic, noise, and air impacts to these census block groups. Based on information provided by the state, the proposed project's additional traffic, noise and air impacts are expected to be minimal, and therefore, are not expected to have disproportionately high and adverse human health or environmental effects on minority or low-income populations. See "State Enhanced Remedy in New Bedford, South Terminal (1/18/12 Submittal)," Massachusetts Department of Environmental Protection, pp. 282-295.

In its discussion of mitigation measures (p. 295), the state indicated that a Construction Management Plan will be required. EPA strongly recommends that construction best practices or guidelines be used to reduce noise and vehicle idling, control dust, address safety concerns, etc., and that retrofitted equipment is utilized.¹ These practices should be included in the Construction Management Plan. Also see attached document “How to Ensure Effective Community Engagement at Construction Projects: Lessons Learned from Two CARE Communities in Connecticut.” We know that in the past EJ stakeholders in New Bedford have raised concerns about the safety of Route 18, air impacts to the local area due to heavy traffic, and limited access to the waterfront.

¹ Retrofit technologies may include EPA verified emission control technologies and fuels and CARB-verified emission control technologies. These lists can be accessed at www.epa.gov/otaq/retrofit/verif-list.htm

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Exposure to air emissions from goods movement facilities and activities is a major concern to environmental justice communities located in close proximity to these pollution sources. EPA is encouraged by the City of New Bedford's green port initiatives which include enforcing the state-wide 5 minute anti-idling regulation and installing shore-side power. These efforts will improve local air quality, reduce noise, and improve community relations. As port activities increase, the strategies to "green" the port will become even more important to the surrounding community. Please also see the National Environmental Justice Advisory Council (NEJAC) report, "Reducing Air Emissions Associated with Goods Movement: Working towards Environmental Justice" (November 2009)². This report contains advice and recommendations about ways to promote strategies, in partnership with federal, state, tribal, and local government agencies, and other stakeholders, to identify, mitigate, and/or prevent the disproportionate burden on communities of air pollution resulting from goods movement.

EPA wants to emphasize the importance of continued community outreach and involvement throughout the project. Community input should be meaningfully considered and concerns addressed to the greatest extent practicable. We continue to recommend that the meetings be held in the affected community at reasonable times (evening) to give everyone an opportunity to attend and that translators are provided during the meetings to allow residents not fluent in English to participate. We also recommend that meeting announcements be communicated via ethnic media (radio, websites, newspapers) to enhance public participation in the affected communities and that all documents continue to be translated in appropriate language(s), and copies made available via public libraries and community centers.

² <http://www.epa.gov/compliance/ej/resources/publications/nejac/2009-goods-movement.pdf>