EXHIBIT

PWC-702

BEFORE THE CITY OF WEST CHICAGO CITY COUNCIL

In Re: THE APPLICATION OF)
LAKESHORE RECYCLING SYSTEMS,)
LLC, FOR SITING APPROVAL OF A)
TRANSFER STATION AT)
1655 POWIS ROAD,)
WEST CHICAGO, ILLINOIS 62418)

Protect West Chicago's Offer of Proof
Relating to the Testimony of James Powell

In light of the Hearing Officer's decision and/or ruling to exclude the testimony of James Powell relating to Environmental Justice concerns and in order to preserve its rights on appeal, Protect West Chicago hereby submits this offer of proof and specifically avers that if allowed to continue to testify, in addition to the testimony that has been admitted into the record, Mr. Powell would also testify that:

1) The Illinois Environmental Protection Act (the "Act") requires that a pollution control facility, such as the transfer station that is the subject of this Application, be so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected, and the potential impacts associated with the proposed facility be minimized.

2) That according to the Environmental Justice Act and as set forth in **Exhibit PWC-405**, the Illinois General Assembly found that environmental justice requires that no segment of the population, regardless of race, national origin, age or income, should bear disproportionately high or adverse effects of environmental pollution and that certain communities in the state may suffer disproportionately from environmental hazards related to facilities with permits approved by the state.

3) That pursuant to Section 39 of the Act, a waste transfer station, including the proposed LRS facility, is a facility that requires a permit approved by the state.

4) That a Commission on Environmental Justice has been established in the state which includes individuals with varying backgrounds and expertise, including members of the general public who have an interest or expertise on environmental justice.

5) That as set forth in **Exhibit PWC-406**, the Illinois EPA Environmental Justice Public Participation Policy explains the methods by which the Illinois Environmental Protection Agency will engage with the public in communities located in identified areas of Environmental Justice (EJ) concern.

6) That the Illinois EPA defines "area of EJ concern" as a census block group or areas within one mile of a census block group with income below poverty and/or minority population greater than twice the statewide average.

7) That the Illinois EPA has developed a Geographic Information System (GIS) mapping tool call EJ START to identify census block groups and areas within one mile of census block groups meeting the EJ demographic screening criteria.

8) That EJ START is publicly available and can be found on the Illinois EPA's EJ webpage at the following location: http://epagisportal.illinois.gov/portal/apps/webappviewer /index.html?id=414d804241e94c51809f08f3644c37d9.

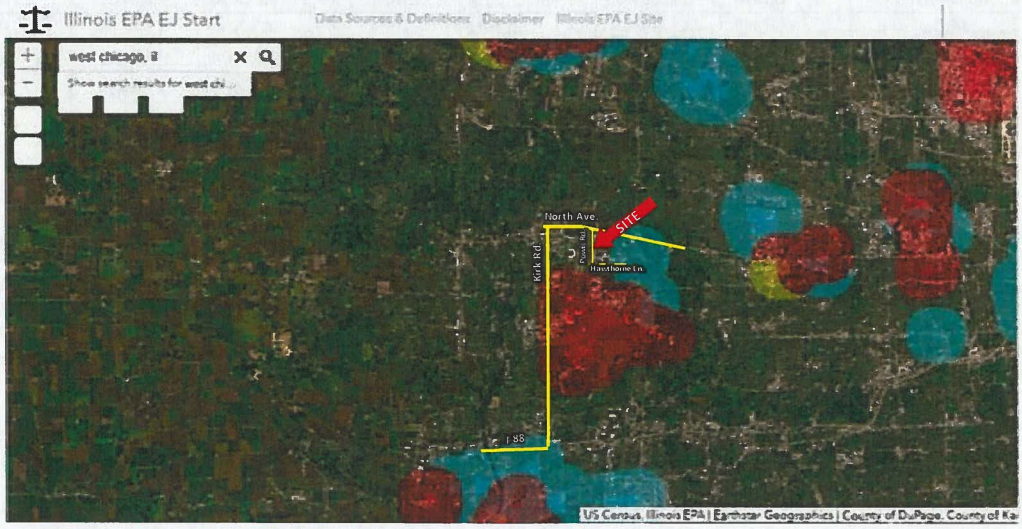
9) That I used EJ START to determine whether the proposed LRS waste transfer station facility is in or impacting an "area of EJ concern," and that based on my review of the EJ START, the proposed facility is approximately 1,300 feet from an area determined by the IEPA to have minority population greater than twice the statewide average, and therefore within an "area of EJ Concern."

10) That I also used EJ START to determine whether the proposed LRS waste transfer station's proposed trash transfer-trailer route travels through an "area of EJ concern," and that

based on my review of the EJ START, I found that if LRS transfer-trailers leaving the LRS facility on Powis Road travel North on Powis Road and then proceed West on North Avenue and then South on Kirk Road (as depicted by the yellow line on slide 25), all LRS transfer-trailers leaving the LRS facility would travel through numerous "areas of EJ concern," that are located along Kirk Road South from Batavia to I-88 and would include the area of West I-88 at Aurora and North Aurora communities, as depicted by the blue and red portions along the proposed route in slide 25, which I have also set forth below:

Transfer Trailer Route and Communities Impacted

Regional community impact along Kirk Road South from Batavia to I-88 and the Area of West I-88 at Aurora and North Aurora.



1/12/2023 Mostardi Platt 22

11) That environmental hazards can result in adverse health effects for the general population in West Chicago, a majority of which (namely 51.85%) is Latino based on United States census information

and as set forth below:

LRS Service Area
Burden on Latino Community
2.3 x's Greater on Latinos vs. Non-Latinos

	A	B	C	D	E	F	G	H
1	DuPage County Townships	#	%	#	%	#	%	#
2		Latino	Latino	African American	African American	White	White	Total
3	Bloomingdale	23,786	21.26%	5,736	5.13%	60,875	54.41%	111,875
4	Lisle	11,141	9.36%	6,582	5.53%	80,630	67.73%	119,040
5	Milton	10,993	9.14%	5,604	4.66%	87,153	72.48%	120,237
6	Naperville	12,098	11.55%	9,167	8.75%	54,932	52.43%	104,765
7	Wayne	9,506	14.75%	1,890	2.93%	39,097	60.68%	64,427
8	Winfield	17,502	38.18%	1,137	2.48%	23,936	52.22%	45,836
9	Kane County							
10	Aurora	74,474	58.67%	12,102	9.53%	34,152	26.91%	126,929
11	St. Charles	5,846	11.26%	975	1.88%	40,296	77.64%	51,902
12	Elgin	45,542	43.58%	6,296	6.03%	43,530	41.66%	104,493
13	Geneva	1,924	7.29%	189	0.72%	22,704	86.01%	26,396
14	Batavia	4,113	11.63%	1,285	3.63%	27,401	77.48%	35,363
15	Will County							
16	Du Page Township	24,011	27.49%	14,279	16.35%	36,414	41.69%	87,348
17	Wheatland	7,428	8.36%	5,798	6.52%	50,092	56.35%	88,894
18								
19	Total Service Area	248,364	22.8%	71,040	6.53%	601,212	55.28%	1,087,505
20								
21	West Chicago	13,282	51.85%	701	2.74%	8,906	34.77%	25,614
22								

12) That as set forth in **Exhibit PWC-48**, the National Environmental Justice Advisory Council – Waste and Facility Siting Subcommittee Waste Transfer Station Working Group found that the clustering and disproportionate siting of noxious facilities in low-income communities and communities of color led to the creation of the environmental justice movement and that the "siting and operation of waste transfer stations is such an example."

13) That the National Environmental Justice Advisory Council – Waste and Facility Siting Subcommittee Waste Transfer Station Working Group also found that waste transfer stations "can cause environmental concerns associated with poor air quality (from idling diesel-

fueled trucks and from particulate matter such as dust and glass) and disease-carrying vectors such as rodents and roaches."

14) That according to the EPA, and as set forth in **Exhibit PWC-49** titled: Waste Transfer Stations: A Manual for Decision Making (June 2002), steps should be taken "to ensure that siting decisions are not imposing a disproportionate burden upon low-income or minorities" and that therefore, it is appropriate to determine whether the siting of the proposed LRS facility in West Chicago, which is majority Latino, does or does not impose a disproportionate burden on the Latino community of West Chicago.

15) That based on my review of the EJ START map, as well as the information from the EPA and Illinois Environmental Protect Act, the proposed facility route for departing trash transfer-trailers does impose an adverse impact on various areas of EJ concern as depicted in slide 25 and the image above.

James Powell 1.12.2023

James Powell Date

Respectfully Submitted,

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Certificate of Service

The undersigned certifies that on_____, he caused a copy of Protect West Chicago's Offer of Proof to be personally served upon all counsel of record in this matter.

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth above are true and correct.

_____

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Itasca, IL 60143
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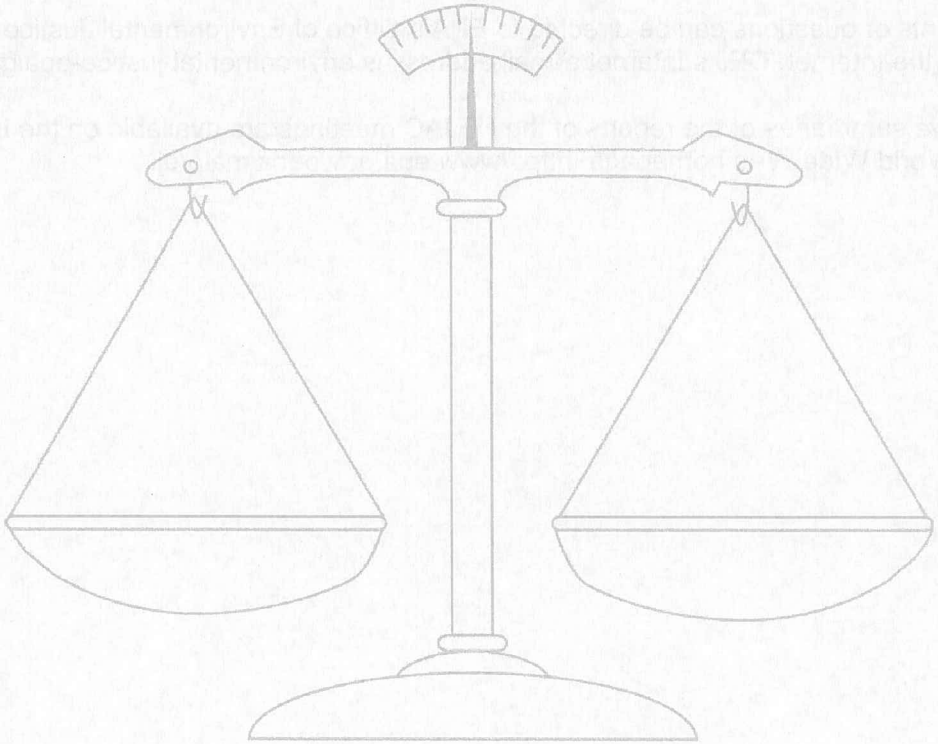
EXHIBIT

PWC-48

EPA 500-R-00-001
March 2000

A REGULATORY STRATEGY FOR SITING AND OPERATING WASTE TRANSFER STATIONS

A Response to a Recurring Environmental Justice Circumstance: The Siting of Waste Transfer Stations in Low-Income Communities and Communities of Color



Prepared by the

National Environmental Justice Advisory Council
Waste and Facility Siting Subcommittee
Waste Transfer Station Working Group

A Federal Advisory Committee to the U.S. Environmental Protection Agency

This report and recommendations have been written as a part of the activities of the National Environmental Justice Advisory Council, a public advisory committee providing extramural policy information and advice to the Administrator and other officials of the United States Environmental Protection Agency (EPA). The Council is structured to provide balanced, expert assessment of matters related to environmental justice.

This report has not been reviewed for approval by the EPA and, hence, its contents and recommendations do not necessarily represent the views and policies of the EPA, nor of other agencies in the Executive Branch of the federal government, nor does mention of trade names or commercial products constitute a recommendation for use.

This report is EPA Report number EPA 500-R-00-001. Additional copies of this report may be requested by contacting EPA's Office of Solid Waste and Emergency Response Outreach and Special Projects Staff at 202-260-4039 or via e-mail at benjamin.kent@epa.gov.

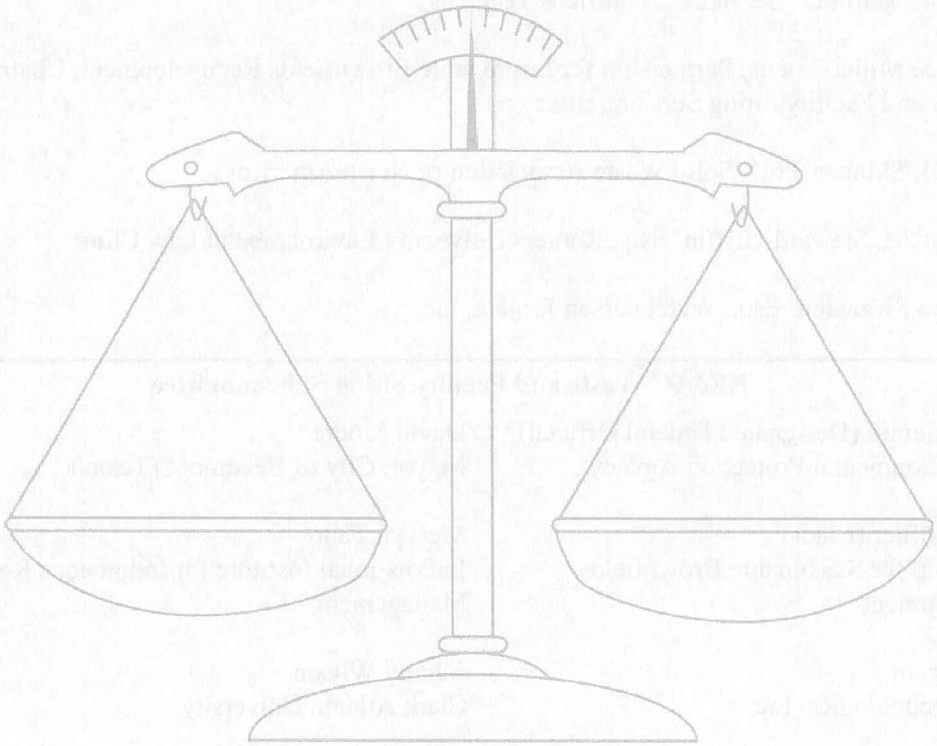
Comments or questions can be directed to EPA's Office of Environmental Justice (OEJ) through the Internet. OEJ's Internet e-mail address is environmental-justice-epa@epa.gov.

Executive summaries of the reports of the NEJAC meetings are available on the Internet at OEJ's World Wide Web homepage: http://www.epa.gov/oeca/main/ej.

EPA 500-R-00-001
March 2000

A REGULATORY STRATEGY FOR SITING AND OPERATING WASTE TRANSFER STATIONS

A Response to a Recurring Environmental Justice Circumstance: The Siting of Waste Transfer Stations in Low-Income Communities and Communities of Color



Prepared by the

National Environmental Justice Advisory Council
Waste and Facility Siting Subcommittee
Waste Transfer Station Working Group

A Federal Advisory Committee to the U.S. Environmental Protection Agency

ACKNOWLEDGMENTS

The NEJAC Waste and Facilities Siting Subcommittee would like to recognize the Waste Transfer Station Working Group for the time and effort that went into preparing this document. The Subcommittee thanks the following working group members for volunteering their valuable time to produce such a comprehensive, high-quality report:

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- Miles Glasgow, Neighbors United for Legitimate Environmental Order and Proper and Responsible Development
- Michael Holmes, St Louis Community College
- Naftalie Martinez, Servicios Cientificos Tecnicos
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EXECUTIVE SUMMARY

I. Background

The National Environmental Justice Advisory Council (NEJAC) is a Federal Advisory Committee established in 1993 to provide independent advice, consultation, and recommendations to the U.S. Environmental Protection Agency (EPA) on matters related to environmental justice. NEJAC has established six subcommittees which address various issues corresponding to EPA's areas of authority, responsibility, and structure. Among the subcommittees is the Waste and Facility Siting Subcommittee.

NEJAC and its subcommittees meet semiannually to plan their activities and address pressing issues raised by the public. During the December 1997 NEJAC meeting in Durham, North Carolina, the closing of New York City's Fresh Kills Landfill and the proliferation of waste transfer stations (WTSs) in low-income communities and communities of color in Brooklyn and the Bronx were raised to the Waste and Facility Siting Subcommittee. WTSs are facilities where municipal waste is unloaded from collection vehicles and subsequently re-loaded onto larger transport vehicles to be taken to a disposal site. Most of the waste comes from outside the communities that are home to the WTSs and, in part, from outside the local municipality. WTSs are part of regional waste streams and serve the economic needs of the region and the waste industry. The affected communities assert that WTSs, in combination

The clustering and disproportionate siting of noxious facilities in low-income communities and communities of color led to the creation of the environmental justice movement. The siting and operation of waste transfer stations is such an example. For several years, communities around the country have raised the issue of waste processing facilities that are disproportionately sited in and impact on environmental justice communities to the National Environmental Justice Advisory Committee (NEJAC).

NEJAC formed the Waste Transfer Station Working Group to conduct a factual examination of waste transfer station siting and operation, with a focus on alleviating the impacts of clustering, disproportionate siting, and unsafe operations in low-income communities and communities of color.

In deliberating on its recommendations, the Working Group was challenged with resolving the issue of the clustering of waste transfer stations with few environmental controls and the legitimate role that waste transfer stations play in providing an essential municipal service—the economical disposal of solid waste. The recommendations in this report are intended to identify areas that will allow for the sustainable management of waste transfer stations and promote equality in the distribution and siting of these facilities.

Some of the recommendations in this report focus on policy and regulatory changes, while other recommendations focus on voluntary standards and partnerships between local, state, and federal governments. The Working Group sought to implement NEJAC's mission to provide recommendations to EPA to achieve environmental justice. However, these recommendations also call on all levels of government, in the spirit of collaboration that existed among the Working Group, to work with their communities, the waste trade, environmental justice and environmental organizations, and all other stakeholders to implement these recommendations. It must be remembered, however, that these recommendations are merely a beginning. The realization of safe siting and operation of waste transfer stations and livable communities requires good-faith collaboration for its implementation.

with historic patterns of other negative-impact facilities in their neighborhood, have resulted in degraded health and environmental conditions, as well as displacement of community revitalization plans and economic activity.

These concerns were consistent with concerns raised by citizens that have approached NEJAC and the Waste and Facility Siting Subcommittee about local conditions at WTSs and EPA's role in ensuring more consistent protection at these facilities. In tours conducted by NEJAC, public comments, calls to NEJAC members, and discussions during subcommittee meetings, citizens from New York City, Atlanta, San Francisco, Las Vegas, Philadelphia, Baton Rouge, Washington, DC, Los Angeles, Birmingham, and other cities asked NEJAC to examine EPA's authority under the Resource Conservation and Recovery Act (RCRA) to develop baseline standards for WTSs.

In response, the Waste and Facility Siting Subcommittee developed and approved a resolution that called for a number of EPA actions including examining the risks associated with the siting and operation of WTSs. In February 1998, NEJAC's executive committee approved the resolution and forwarded it to EPA Administrator Carol Browner. The resolution called upon EPA to support the formation of a NEJAC Working Group to evaluate issues such as: 1) the adequacy of current standards that address WTS emissions; 2) illegal commingling of hazardous and medical wastes; 3) the adequacy of regulatory standards to address the transport of waste from city, interstate; and 4) regional environmental and health impacts, and means to ensure public participation.

At the May 1998 meeting of the subcommittee in Oakland, California, the Office of Solid Waste and Emergency Response (OSWER) agreed to support the establishment of a NEJAC Working Group. The Waste Transfer Station Working Group was formed to conduct a factual examination of WTS siting and operation and to recommend actions to alleviate the impacts on communities and ensure safe operation of WTSs. The Working Group is made up of individuals with the diverse perspectives necessary to provide a thorough and fair examination of these difficult issues. They included representatives of community-based and environmental justice organizations, private and public waste trade associations, and local governments.

Given the significant budget constraints of the project, the subcommittee decided to conduct fact-findings in two cities in which citizens had expressed concerns representative of the issues associated with WTS siting and operation across the United States. New York City and Washington, DC, were known to have WTSs with considerable controversy and were accessible within a small travel budget. Although the subcommittee report focuses primarily on the concerns of these two urban environments, it was supplemented by members' experiences in other cities. The Working Group was mindful that the concerns raised by clustered facilities in New York City and Washington, DC, were serious, and similar situations in other parts of the country have been raised to NEJAC. However, the Working Group was also made aware that there existed well-designed and well-sited WTSs in parts of the country, and that its examination did not address differences in rural, tribal, and suburban communities. Therefore, the Working Group endeavored to outline a national baseline that would be consistent with good practices in place throughout the country, and that would upgrade standards in cities with the kinds of problems seen first hand in New York City and Washington, DC, in a manner that acknowledged the limitations of its examination.

In November 1998 and February 1999, the Working Group held fact-finding sessions in New York City and Washington, DC, respectively, to gather information regarding the operation of WTSs and their impact on surrounding communities. These sessions followed a two-day format. The first day the Working Group toured the WTSs in the area; the second day the Working Group hosted a public

meeting to which representatives from various stakeholder groups were invited to present information about WTSs. At both the New York and Washington meetings, the Working Group heard from residents and business owners, environmental justice and environmental groups, community representatives, waste industry representatives, technical organizations, and state and local government officials.

After the meetings, the Working Group began drafting this report based on the information gathered. The Working Group also researched the ways that other parts of the nation are managing WTSs. Even though the meetings were only held in New York City and Washington, DC, the Working Group sought to gain information on the perspectives of other areas of the nation. This information was gathered by Working Group members communicating directly with several stakeholders from across the nation, and by soliciting input and comments on a draft recommendations report issued October 7, 1999.

The draft report was sent to more than eighty people, representing state and local agencies, environmental, community, industry, and technical groups and associations. Following the distribution of the draft report, several of the reviewers pointed out that the cities of New York and Washington represent extreme and, perhaps, atypical urban settings. They indicated that other areas of the country have their own, unique set of challenges that can best be addressed at the state and local level. Reviewers' comments are summarized in a report appendix.

II. Waste Transfer Stations And Environmental Justice

WTSs are facilities where municipal waste is unloaded from collection vehicles and temporarily stored before being reloaded onto larger long-distance transport vehicles for shipment to landfills. Based on observations by the Working Group and information presented to it, WTSs are disproportionately clustered in low-income communities and communities of color. They are commonly found adjacent to high-density housing, recreational areas, food establishments, and small businesses.

These temporary storage areas for waste can bring many problems to a community if they are not managed correctly. In addition to quality of life issues such as noise, odor, litter, and traffic, WTSs can cause environmental concerns associated with poor air quality (from idling diesel-fueled trucks and from particulate matter such as dust and glass) and disease-carrying vectors such as rodents and roaches.

Currently, there are no national standards or regulations that apply directly to the management of WTSs. Because WTSs are managed mainly at the local level by local ordinances and enforcement agencies, the variance at which they are operated can be great. Moreover, many WTSs in urban areas are located in mixed zoned neighborhoods of color. WTSs in New York and Washington process waste that is generated not only within the municipality, but also from surrounding municipalities and states.

From the Working Group's perspective, the issues surrounding WTSs should be raised to EPA, states, and local governments. The recommendations provided in this report support the need for national standards, more community involvement in local land-use decisions, and tougher enforcement at the local level. The Working Group recognizes that the recommendations in this report are gathered from a limited number of meetings and with a limited amount of resources. It is the Working Group's desire to bring this important issue to light and challenge community groups and federal, state, and local governments to respond aggressively to a problem that will continue to grow with the population.

III. Recommendations

The recommendations in this report call for actions that systematically address the issues associated with siting and operating WTSs. These recommendations range from regulatory actions and the development of a best practices manual to immediate actions in the communities suffering from the clustering and disproportionate siting of WTSs, WTSs in close proximity to residential uses, and the unsafe operation of WTSs. At the core of these recommendations is the direct and continuous participation of communities in every aspect of the development and implementation of these recommendations.

To ensure a thorough and fair examination of these difficult issues and to develop recommendations that could be implemented from a regulatory, technical, and political perspective, the Working Group consisted of individuals representing a variety of stakeholders such as nearby residents, business owners and employees, community groups, environmental justice organizations, the private and public waste trade, and local government. In conducting its work, the Working Group consulted with EPA and sought information and recommendations from individuals representing diverse perspectives.

With a focus on solution-building, the Working Group sought to develop recommendations using a consensus-based process to develop as much as unanimity as possible for its recommendations. This process required every member to understand the complexity of the issues, their representative positions, and to struggle with recommendations that would respond to the issues of WTS siting and operation. The Working Group did achieve consensus on all recommendations—a significant feat in light of the diversity of the Working Group. The achievement of agreement on these recommendations does not mean that the Working Group does not have concerns regarding their full implementation. Only through the full and complete implementation of these recommendations will the suffering of communities from the clustering, disproportionate siting, and unsafe siting and operations of WTSs be addressed, and all future WTSs be designed and operated in a safe manner. The full implementation of these recommendations will require the commitment of resources and the collaboration of EPA, state and local permitting agencies, with local communities.

The Working Group strongly urges EPA and state and local regulatory agencies to review these recommendations in the light of the good faith and hard work of the Working Group. Moreover, it must be noted that these recommendations are presented as a packaged, comprehensive strategy to fully address the issues of WTSs and should be viewed as an initial framework for further development and implementation. It is the view of the Working Group that the elimination of any of these recommendations would not fully respond to the conditions observed.

The following is an overview of the recommendations set forth in the report.

a. Resource Conservation Recovery Act (RCRA)—Solid Waste Management Planning

RCRA Sections 6942 and 6947 provide the authority to the EPA to issue regulations for the establishment of solid waste management plans by states. In developing these plans, this authority permits EPA to consider the "characteristics and conditions associated with solid waste management, including collection, storage, processing, and disposal methods and practices; location of facilities; reasonable protection of ambient air quality; population density; distribution and projected growth, type and location of transportation; constituents and generation of waste and the political, economic, organizational, financial, and management problems affecting comprehensive solid waste management." EPA is also provided the authority to review and approve solid waste management

plans and withdraw approval if they fail to comply with minimum requirements.

The Working Group believes that the above-noted provisions provide EPA with the authority to directly address the impacts of WTSs. Moreover, WTS siting and operations observed during the Working Group's fact-finding tours, as well as issues raised to NEJAC over several years, justifies EPA's use of such authority. There is unanimity for the issuance of federal siting and operation criteria to be included in state solid waste management plans. The Working Group also considered recommending the promulgation of federal standards for WTSs comparable to those EPA has published for municipal solid waste landfills. However, one member of the Working Group, representing a solid waste professional association, did not agree that EPA should establish enforceable federal regulations for WTSs; he did not believe that the Working Group's effort demonstrated the existence a nationwide problem of such severity to justify federal regulation, and he does not agree that RCRA provides EPA with the legal authority to do so.

Based on these considerations, the Working Group recommends that EPA:

- Issue federal criteria to revise solid waste management plans to address the safe and equitable siting and operation of WTSs;
- Review solid waste management plans of states where the presence of WTSs has been implicated as a threat to public health, the environment, and environmental justice;
- Convene a meeting of organizations that can provide resources to support the coordination of solid waste planning; and
- Convene regional planning workshops to address the clustering of WTSs and the siting of new facilities in an equitable fashion where solid waste handling involves multiple jurisdictions.

b. Facility Siting

The report includes recommendations that address the two fundamental challenges of siting new WTSs and the existing clustering of WTSs in a manner that reflects the principles of environmental justice. The basis for the recommendations to address these challenges is that local land uses have, in effect, predetermined the siting of negative land uses to low-income communities and communities of color. While WTS siting is "limited" to purportedly race- and class-neutral manufacturing zones, WTSs are sited disproportionately in areas adjacent to poor communities and communities of color. Among the reasons cited for this circumstance are that communities in such areas were grandfathered into industrial zones; such areas are adjacent to industrial zones; such areas permit a mixture of commercial, industrial, and residential uses; and rezoning decisions to eliminate such negative land uses come from affluent white communities. Therefore, the recommendations presume that local land-use decisions alone cannot ensure the prevention of clustering or disproportionate siting of WTSs in low-income communities or communities of color or the protection of public health.

Clustering and disproportionate siting of WTSs: With respect to existing circumstances of WTSs that are clustered, or disproportionately sited in communities, the Working Group recommends the following transition strategy to provide funding and technical assistance for a neighborhood-specific facilitated process to develop a "transition strategy" to reduce the total number and capacity of WTSs in such communities and to identify uses acceptable to the community. The transition strategy would be based on:

- Identifying the total number of WTS, total throughput, and capacity of waste processed with the community;

- Identifying WTSs that have a high degree of incompatibility with adjacent community land uses;
- Establishing fair goals for reducing total solid waste throughput in the community and consolidating and closing WTSs that have high degree of incompatibility with adjacent community land uses by working with facility owners;
- Establishing a mechanism to transition closed facilities to uses acceptable to impacted communities and in consideration of investments by facility owners;
- Establish a plan for WTSs continuing operation to implement best management practices, transportation impacts, and community complaint systems.

Future siting of WTSs: With respect to the future siting of facilities, the Working Group recommends that the siting of WTSs be based on an examination of the entire area or region that solid waste is handled, particularly because WTSs provide an essential municipal service. The Working Group recommends the following process for selection of such sites:

- Establish an advisory panel of representatives of communities (particular from communities with existing WTSs), municipalities, public and private waste trade groups, environmental justice and environmental organizations, local community development organizations, and permitting agencies.
- The advisory panel should establish site-selection criteria—to which all WTSs (public or private, small or large) would be subject—that prevent clustering and disproportionate siting and ensure the protection of public health and the environment.
- Subject the criteria to public review and finalize them based on the review.
- In consultation with the advisory panel, identify sites meeting the criteria and subject them to public review.
- Subject the sites identified to environmental and community impact analyses. Provide communities adjacent to each site with independent technical services to review the impacts from the proposed site.
- Select sites based on an affirmative demonstration that they will not result in clustering or disproportionate impacts.

Permitting: With respect to processing applications to site and operate WTSs, the Working Group recommends that EPA work with local permitting agencies to:

- Identify all neighborhoods potentially impacted by the proposed WTSs and their transportation routes;
- For all potentially impacted neighborhoods, establish a baseline of information needed to assess impacts for the proposed facility including demographics, sensitive receptors, health statistics, and impacts from similar facilities;
- Require the identification of the source and volume of waste to be processed;
- Require an affirmative demonstration that clustering and disproportionate impacts will not result from the proposed WTSs;
- Require the demonstration of the application of best management practices for the proposed WTS; and
- Require the submission of a transportation plan.

c. Best Management Practices

Separate from the recommendation for the federal regulation of WTSs, the Working Group unanimously recommends that EPA develop a manual of best management practices for WTSs. The

Working Group learned of methods used at some WTSs around the country and the world that are effective in eliminating or reducing impacts. A manual discussing such methods would serve as an information base for facility operators, government regulators, and the public of practices deemed best for addressing various types of facilities and impacts.

In developing a comprehensive best management practices manual, the Working Group recommends developing a baseline of impacts from WTSs. The Working Group recommends that the baseline consider the various types of settings (e.g., urban, suburban, rural, and tribal), location (e.g., waterfront, land-based), and proximity to human populations. The baseline also must the include the variability of impacts depending on the type of waste processed. The Working Group was made aware of various facilities that are functionally equivalent to WTSs but process such diverse wastes as asbestos, medical, and low-level radioactive wastes. The best management practices manual would be developed based on the baseline of impacts. The report provides an initial framework for the major areas that must be considered in the manual.

The Working Group recommends that EPA convene a diverse focus group to ensure that the best management practices consider all pertinent variables in siting, operation, geography, and government al structure. At a minimum, the focus group should include representatives from:

- State, tribal, and local regulatory agencies responsible for issuing design and operating permits for WTSs and for ensuring compliance;
- Public and private solid waste professionals with expertise in planning, designing, and operating WTS; and
- Community, environmental and environmental justice organizations that have been involved with solid waste and WTS issues.

d. Community Participation

The direct participation of community residents, particularly those that reside in the communities burdened by the clustering and disproportionate siting of WTSs, is critical to the development of solutions that are responsive to community needs and concerns. All the recommendations in this report call for meaningful and continuous community participation in every aspect of the development and implementation of these recommendations.

The Working Group recommends that the process of community outreach and consultation be guided by the "NEJAC Public Participation Model." In addition, because components of implementing these recommendations are inextricably linked to issues of local land use, the Working Group recommends that community consultation to identify community uses, plans, and environmental justice circumstances be based on the NEJAC Waste & Facility Siting Report: "Environmental Justice, Urban Revitalization, and Brownfields: The Search for Authentic Signs of Hope," and EPA's "Land Use Based Remedy Selection Guidance."

The Working Group also recommends providing of technical assistance to communities to promote meaningful participation.

e. Marine Waste Transfer Stations

The use of marine WTSs was identified by community residents during the Working Group's fact-finding sessions as an equitable method to process solid waste in a manner that would minimize

impacts to the community. EPA had initiated a rule-making process for such facilities under the authority of the Shore Protection Act, entitled: "Waste Handling Practices for Vessels and Waste Transfer Stations." The Working Group recommends that EPA finalize this rule.

f. Air Quality and Clean Air Act

The degradation of air quality by WTS operations was a consistent issue raised during the fact-finding sessions. The Working Group held preliminary discussions with EPA's Office of Air and Radiation on strategies to address air quality impacts. It should be noted that some Working Group members expressed the view that the topic of air quality was outside their area of expertise. However, the Working Group recommends that EPA move forward on a program to characterize air emissions from WTSs and to develop strategies to address them. The Working Group recommends EPA's further investigation of the following:

- Examine comprehensively air quality controls for inclusion in the best management practices manual such as air monitoring, odor elimination technologies, and negative air pressure designs for the types of air contaminants at WTSs.
- Issue guidance to calculate emissions from WTSs includes emissions from combustion engines within WTSs.
- Work with states to develop an indirect source review program pursuant to the authority of the Clean Air Act [42 U.S.C. 7401(a)(5)] to mitigate the effects of "any facility, building structure, installation, real property, road or highway which attracts, or may attract, mobile sources of pollution."
- Mitigate the emissions from heavy-duty diesel vehicles by establishing programs for converting older, high-emitting engines to cleaner engines; establishing a program to identify and monitor diesel trucks with pollution control systems that can be disabled and retrofit them with low-NO_x kits; and dedicating a portion of settlement funds in the settlement reached with truck engine manufacturers for clean air projects in communities clustered with WTSs.
- Examine the increase in vehicle miles traveled associated with the transport of solid waste.
- Foster the establishment of clean fuel fleet.

g. Waste Reduction

During the Working Group's fact-finding sessions, it was clear that part of the capacity needed for WTS was due the inadequate waste reduction programs. While waste reduction was not the focus of the Working Group's activities, the Working Group recommends that EPA examine and assess the effectiveness of waste reduction strategies and programs throughout the country. In particular, the Working Group recommends the following be examined:

- Effective technologies and techniques to reduce the total volume of solid waste generated and to maximize recycling levels;
- Incentives to encourage waste reduction and recycling; and
- Creation of local businesses involved in waste reduction and recycling.

h. Regulatory Review and Enforcement

Inadequate enforcement was commonly cited by participants in the Working Group's fact finding sessions as a key reason for the impacts from WTSs operations. Among the enforcement issues that they raised included confusion or conflict regarding the lead local enforcement agency; unclear

standards to undertake enforcement actions; unresponsiveness of local regulatory agencies in addressing patterns of non-compliance identified by community residents; inadequate enforcement staffs; and the hindrance of regulatory enforcement by court injunctions brought by facility owners.

To begin addressing these issues, the Working Group recommends that:

- Permitting agencies charge a fee as part of each WTS permit to fund adequate enforcement;
- Environmental monitors be required as part of every permit;
- Multi-jurisdiction enforcement agreements be developed where waste is processed and handled in more than one jurisdiction;
- The federal government exhibit leadership in implementing these recommendations in Washington, DC, since the federal government is a major generator of solid waste; and
- Independent third-party inspectors be hired for all municipally owned or operated facilities.

Because enforcement of WTS standards is primarily a local municipal function, these recommendations set forth a strategy for the local lead enforcement agency. The Working Group recommends the implementation of these recommendations by EPA and other federal enforcement agencies providing assistance to the local enforcement agencies.

BACKGROUND

I. History of NEJAC and the Waste Transfer Station Working Group

The National Environmental Justice Advisory Council (NEJAC)[1] is a federal advisory committee established in 1994 to provide advice to the Administrator of the U.S. Environmental Protection Agency (EPA) on issues related to environmental justice. The Federal Advisory Committee Act (FACA) was passed in 1972 to achieve an open government through the establishment and operation of independent committees. These committees furnish advice and diverse opinions to government decision makers on essential objectives and public policy.

The NEJAC consists of members who are appointed in a balanced representation among the following areas: community-based groups; industry and business; academic and educational institutions; federal, state and local government agencies; federally recognized tribes and indigenous groups; and other non-governmental groups as deemed appropriate. The NEJAC is organized by six Subcommittees that represent various environmental issues. This report is a product of the Waste and Facility Siting Subcommittee, which covers issues associated with hazardous and solid waste.

> *Waste transfer stations* (WTSs) are facilities where municipal waste is unloaded from collection vehicles and subsequently re-loaded onto larger transport vehicles to be taken to a disposal site. WTSs allow communities to move waste economically over long distances.

For several years, citizens from across the country have been approaching the Subcommittee with concerns about local conditions at waste transfer stations and EPA's role in ensuring more consistent protection at the facilities. In December 1997 at a NEJAC meeting in Durham, North Carolina, the issue of waste transfer stations in poor communities and communities of color was raised to the Subcommittee. Since then, citizens from cities such as Atlanta, Baton Rouge, Birmingham, Las Vegas, Los Angeles, New York City, Philadelphia, and San Francisco have asked NEJAC to examine EPA's authority to develop baseline criteria for waste transfer stations.

In response to the citizens' requests, the NEJAC passed a resolution to investigate the impacts of waste transfer stations on adjoining poor and minority communities (see Appendix 1). The resolution passed by NEJAC established the Waste Transfer Station Working Group (hereinafter referred to as the "Working Group ") to lead the investigation. Its members bring diverse perspectives from environmental justice groups, community-based organizations, local government, and the waste industry (see Appendix 2 for a list of Working Group members). The Working Group has prepared this report as a basis for the EPA to implement a national strategy for addressing the impacts of waste transfer stations on poor and minority communities.

II. Investigation of Impacts

The Working Group began its investigation of the impacts of WTSs by convening fact-finding sessions in New York City and Washington, DC. These sessions included tours of the impacted communities and their facilities followed by public meetings. At both public meetings, representatives of various

[1] NEJAC was chartered in February 1994 under the Federal Advisory Committee Act and pursuant to the Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," which is commonly referred to as the "Executive Order on Environmental Justice."

interests—community groups, technical experts, waste industry personnel, and local and state government officials—presented their perspective on WTSs. Agendas of these meetings are provided in Appendix 3.

The Working Group selected New York City and Washington, DC, to hold its fact-finding sessions because both cities are home WTSs with considerable controversy—and both were easily accessible within a small travel budget. Although the Working Group 's investigation focused primarily on the concerns of these two cities, this report also takes into consideration input the Working Group received from other cities. The Working Group acknowledges that many of the impacts caused by the clustering of WTSs in large urban environments are not typical concerns of rural and suburban communities. Therefore, the Working Group endeavored to outline national baseline criteria that are consistent with good practices already practiced in some parts of the country and that will upgrade criteria in cities with the kinds of problems seen in New York City and Washington, DC.

As part of its investigation, the Working Group also participated in a training course on state-of-the-art WTS design and operation. The training included a visit to a modern, WTS and recycling facility in suburban Virginia that has won awards for its design and operation. The training helped the Working Group learn about effective approaches for minimizing WTS impacts.

III. Drafting the Report

Following its investigation, the Working Group drafted this report for submission to EPA Administrator Carol Browner and the Assistant Administrator for Solid Waste and Emergency Response, Timothy Fields, Jr. Input from the New York and DC fact-finding sessions as well as input from residents of other communities formed the basis for the Working Group 's recommendations for national baseline criteria. The Working Group also solicited input on the draft report from additional municipalities and national organizations before submitting it to the full NEJAC in order to reflect a broader perspective of concerns and issues nationwide. After reviewing this input, the Working Group submitted the draft report to a variety of stakeholders for review and input (see Section IV below).

IV. Comments from Reviewers

In an effort to gain a nationwide perspective of WTS issues, the Working Group selected report reviewers from around the country and representing the broad spectrum of stakeholders and stakeholder groups concerned with WTSs (see Appendix 4 for a list of reviewers). Eighty-nine reviewers representing environmental justice organizations, tribal councils, solid waste associations, environmental groups, solid waste professionals (from both private companies and local governments), and local, state, and federal government agencies were asked to review the report. Written comments were received from 10 of the reviewers, and four additional reviewers provided written comments after the specified comment period.

A detailed listing of the comments received is contained in Appendix 5. In summary, many of the reviewers felt the report and the recommendations to EPA will be valuable in addressing the impacts of WTS clustering. However, general philosophical differences do exist. Several reviewers expressed concern that federal regulatory authority and the need for national criteria have not been demonstrated. They believe that existing state and local regulatory controls are adequate if properly enforced. Representatives of rural and suburban areas, in particular, do not feel the impacts associated with clustering in large urban settings are relevant to their communities.

In addition, some reviewers cautioned against making recommendations based on public perceptions of the problem. They recommended further investigation to verify that the problems exist before drawing conclusions. Other reviewers suggested additional resources to include in the report and ways to clarify or strengthen the recommendations.

The Working Group tried to address review comments by acknowledging differences of opinion and by building a stronger foundation for the report recommendations. This report reflects the reviewers' comments to the furthest extent possible.

FACT-FINDING SESSIONS AND TRAINING

The Working Group convened two fact-finding sessions to investigate the problem of WTS clustering in poor and minority communities. The fact-finding sessions were held in the communities within New York City and Washington, DC, that most strongly feel the impact of clustering. Each session included a facility tour to get a first-hand look at the problem and a public meeting to listen to the varied perspectives of the communities, local government officials, and the waste trade industry. The fact-finding sessions are summarized in Sections I and II that follow. Section III summarizes the steps recommended to the Working Group by both the New York City and DC communities to address the problem of clustering. The Working Group 's training to learn about state-of-the-art WTS design and operation is summarized in Section IV.

I. New York City Session

a. Facility Tour and Public Meeting

The Working Group conducted their New York City fact-finding session in November 1998. The fact-finding session began with a tour of Red Hook, South Bronx, and Greenpoint/Williamsburg—three minority and low-income communities that are home to most of New York City's WTSs. The tour of these communities focused on visits to WTSs, recycling centers that perform WTS functions, and unpermitted waste handling facilities that create environmental and health concerns comparable to WTSs.[2]

The tour was followed by a public meeting at which the Working Group heard perspectives from residents of the three communities, non-governmental organizations with expertise in WTSs, a representative of the New York State Department of Environmental Conservation (NYSDEC), and a member of a waste industry trade association. Because of imminently pending litigation, the invited waste industry representatives chose not to attend.

The public meeting focused on the residents' concerns over the WTS operations clustered in their communities. The following section summarizes the feedback they provided to the Working Group .

b. Community Feedback

The residents of Red Hook, South Bronx, and Greenpoint/Williamsburg shared many similar concerns about the impacts of WTSs on their communities. It was apparent that WTSs impact many aspects of

[2] For purposes of this report, other facilities that perform waste transfer activities (e.g., recycling, construction and demolition, and processing facilities) are included in the term "WTS."

day-to-day life in these communities. Concerns ranged from impacts on health and safety to nuisance and quality of life, traffic, and the local economy. Residents raised further concern about the cumulative impact of WTSs together with many other industrial facilities in the communities. They also voiced concerns about how the city is managing the regulation of WTSs, such as the permitting of facilities and the enforcement of local ordinances and regulations.

The following sections summarize the concerns raised by the community at the public meeting held in Brooklyn. The types of issues listed below are very familiar to those who have worked with environmental justice concerned communities nationwide, especially as they relate to the siting and operation of facilities located in neighborhoods where people live and work. However, it is important to point out that although the residents' concerns are real, no data have been collected to support their claims.

***Health and Safety*:**

- The communities believe they experience unusually high asthma rates, as well as high numbers of fibroid tumors, miscarriages, respiratory problems, and nose bleeds.
- The communities see the large volume of truck traffic as a potential danger to pedestrians.
- Emissions from the large volume of trucks idling as they wait on residential streets to unload are a health concern to communities.
- Residents feel the potential impacts from air emissions are exacerbated by inadequate access to health care facilities and the high cost of health care in these areas.
- The proximity of the waste handling facilities to meat and produce handlers is a concern.

***Nuisance/Quality of Life*:**

- Dust and odor from WTSs are deemed intolerable by nearby residents.
- WTSs reportedly contribute to rat and other vermin problems, particularly because facility doors are often open.
- Noise levels of WTSs operating at night are said to deprive nearby residents of sleep.
- Facilities reportedly lack green buffer zones to enhance neighborhood aesthetics and to mitigate potential air emissions problems.
- Residents feel the exteriors of the facilities are poorly maintained. In the worst cases, trash falls from open doors and windows onto public streets.
- Residents of some communities are worried that the recommended marine transport facilities may cut off their access to the waterfront and mar their views.
- Dust-laden, unsightly "recycling" activities reportedly take place in open air. Piles of trash collect under bridges.

***Traffic*:**

- Residents report that truck routing does not appear to be controlled or monitored by regulators to restrict trucks to designated truck routes.
- Trucks reportedly use residential streets for other than pickup purposes.
- Truck traffic is particularly a concern where there is only one access route.

***Local Economy*:**

- Residents are concerned that the poor appearance of WTSs depresses nearby property values and has contributed to the exodus of local businesses.
- Residents are concerned that WTSs drive out prospective new businesses that could bring new jobs and services into the neighborhood.
- The presence of WTSs may contribute to employee absenteeism.

***Cumulative Impacts*:**

- The communities believe that the cumulative impact on traffic, health, and the environment of having several WTSs in a community should be evaluated as should the cumulative impact of WTSs combined with other sources of similar concern (e.g., sewage facilities, hazardous waste transporters and treatment facilities, scrap yards, auto shops, and sludge plants).

***Permitting*:**

- Residents claim that permitting procedures lack early notification and public participation by residents and neighbors.
- According to representatives of community groups and non-governmental organizations, permits appear to be "grandfathered" without public review, and requests to increase permitted solid waste capacity are granted as a matter of course without public review.
- Spanish translations are desired.
- Residents feel that the New York State Department of Environmental Conservation (the state's regulatory agency) does not respond adequately to their requests for permit information.
- The residents would like to see a zoning review performed during the permitting process. The proximity of industrial properties to residential areas should be reviewed, as should conflicting land uses and impacts to residents living in areas zoned industrial.

***Enforcement*:**

- Although New York City has passed "fair share" legislation that should ensure that the WTSs are equitably distributed throughout the boroughs, residents feel this has not occurred.

- Residents complained of many apparently unpermitted dump sites.
- "Recycling" facilities appear to be performing WTS functions with no regulatory controls.
- Residents believe that the city does not have a sufficient number of inspectors.
- Residents say the current air, noise, odor, and vibration restrictions do not seem to be enforced.
- The Department of Sanitation's WTS standards are written in very general terms (e.g., "adequate" loading area, or traffic managed in "a safe and efficient manner"). It is felt that this provides little guidance on good practices and little enforceability.
- Environmental impact studies reportedly are not conducted as required, either for individual facilities or for areas with multiple facilities.

Community-Specific Concerns:

In addition to shared concerns listed above, residents of Greenpoint/Williamsburg, Red Hook, and South Bronx expressed concerns specific to their own communities. The following paragraphs summarize these community-specific concerns.

Greenpoint/Williamsburg: Traffic and related health and environmental concerns are prominent in Greenpoint/Williamsburg because a large number of trucks are needed to transport waste to a large number of WTSs (reportedly 550 trucks and 15 WTSs). The high volume of truck traffic is aggravated by traffic on Brooklyn Queens Expressway and Williamsburg Bridge.

Red Hook: Red Hook residents are concerned that their community, which is made up largely of minority residents—more than half of which have incomes below the poverty level—are not zoned similarly to more affluent communities. They noted that permitted WTSs must be in industrial zones; however, more affluent communities have been rezoned to become exclusively residential, while low-income and minority communities are forced to live with industry. In Red Hook, one low-income housing development is located within *one block* of a WTS.

In addition to their concern about non-equitable zoning, Red Hook residents fear that they will continue to be cut off from access to the waterfront and views of the Verrazano Narrows Bridge, New Jersey, the Statute of Liberty, Ellis Island, and Manhattan because of WTSs and other industrial facilities.

South Bronx: Residents of Hunts Point, which is in the South Bronx, are very concerned with the apparent lack of regulation of its 32 WTSs. Some of these WTSs are within four blocks of schools and residences, and many reportedly do not have Department of Sanitation licenses. WTSs in Hunts Point often are backyard industries operating out of garages. Some of them appear to have been grand-fathered by the City, and their operations appear to be unregulated. Due to heavy truck traffic and the presence of three busy highways, the Hunts Point community is interested in marine WTSs as a means of reducing the traffic problem.[3]

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[3] This statement should not be construed as an endorsement for the proposed American Marine Rail WTS for Hunts

(continued...)

The Port Morris area of the South Bronx is particularly concerned with zoning and the impact WTSs have on their local economy. Port Morris has numerous permitted and unpermitted WTSs. Although the area is zoned for heavy industry, residents assert that light industry used the area for some time before the proliferation of WTSs drove them out. Moreover, residential zones border industrial zones.

c. Government Perspective

Council members representing Red Hook, South Bronx, and Greenpoint/Williamsburg were critical of the regulatory framework under which New York City's Department of Sanitation operates. They described the Department's regulations as vague and criticized their lack of siting criteria, the excessive grandfathering of existing uses, the use of interim operating authority pursuant to consent order rather than permit, and the failure to provide additional independent inspections of facilities operated by companies with "tainted" backgrounds. Council members also were concerned that the regulatory framework lacked provisions for public participation in the siting process.

The council members stressed the need for continuous and universal enforcement of WTS regulations. They deemed WTS environmental impact statements as inadequate, if performed at all. However, they did commend one permit that had incorporated an environmental impact statement and had rigorous restrictions on truck traffic.

The council members asserted that EPA clearly has jurisdiction over WTSs under Title V of the Clean Air Act. They urged EPA to proceed with its August 30, 1994, proposal to regulate the transport of garbage by barge, which would considerably relieve traffic in some communities. They also expressed interest in using railroads to reduce truck traffic. The council members requested a report from the New York City Department of Sanitation (which declined to participate in the fact-finding meeting) addressing its ability to use existing marine WTSs to export waste.

d. Waste Trade Perspective

The waste trade was represented at the public meeting by an environmental consultant in WTS design and construction. He explained that WTSs have emerged in the past 15 years as a necessary interim measure to transport waste economically to landfills. As solid waste landfills have become more stringently regulated, the trend has been to operate fewer, larger, regional landfills; thus, WTSs are increasingly important. He further explained that an additional role of WTSs is to serve as the location for substituting large capacity trailer trucks for much smaller packer trucks that pick up garbage at residences and businesses.

The consultant noted that a permittee must follow three steps when siting a WTS: 1) The permittee must find property that is zoned industrial and near transportation infrastructure (interstate highways, rail, or barge); 2) The permittee must plan the WTS so it is compatible with the neighborhood in terms of noise control, landscaping, and good external design; and 3) The permittee must satisfy all applicable permit conditions.

In response to questions from other meeting participants, the consultant indicated that state and local

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[3](...continued)
Point. This report only endorses the use of marine WTSs where they are fully supported by the impacted community. Furthermore, the Working Group only endorses the use of marine WTSs if they mitigate negative impacts to the community, not exacerbate them.

governments regulate WTSs, and therefore operation practices vary widely. There are no uniform requirements for the use of state-of-the-art WTS technologies.

II. Washington, DC, Session

a. Facility Tour and Public Meeting

In February 1999, the Working Group toured seven permitted WTSs in Washington, D.C.. At the public meeting the following day, the Working Group listened to two community panels, two city and local official panels, a waste industry panel, and a community technical organization panel. The meeting participants discussed concerns raised by residents and businesses near the WTSs, the roles the DC government plays as regulator and operator of these stations, and the market circumstances in which the solid waste industry operates.

b. Community Feedback

The residents of Washington, DC, voiced a number of concerns about the impact of WTSs on day-to-day life in their communities. Like New York City, these concerns encompassed impacts to health and safety concerns, nuisance and quality of life, traffic, local economy, and cumulative impacts of WTSs and other industrial facilities.

Several communities raised many site-specific regulatory issues regarding the legal status of certain facilities, their compliance with existing regulations, and in some cases their exemption from applicable requirements because they are municipally owned or sheltered by judicial consent decree. They frequently expressed concern about the siting of WTSs in communities of color and near residential areas. Recent DC legislation on WTS siting and operations was often referenced.

The following sections summarize the feedback the community provided to the Working Group at the public meeting.

***Health and Safety*:**

- Residents believe that their high rate of health problems are directly related to the numerous undesirable facilities located nearby, especially WTSs. Claims were made that 1990 census data show an unusually high rate of health problems for DC (e.g., the infant mortality rate was the highest in the country—four times the national rate; death rates from heart disease are one third higher than the national rate; death rates from cancer are two-thirds higher than the national rate; the birth rate is 16.8 percent lower that the national rate).
- No testing is being done to identify health problems in the vicinity of WTSs.
- Pervasive dust aggravates allergies. Deodorizers used to mitigate the odors also may be aggravating these allergies.
- Odors cause nausea among residents.
- The potential carcinogenic effect of breathing the emissions from trucks is a concern.
- Children at schools located near WTSs play right behind trucks as they enter and exit the station.

- Frustration with the failure to enforce adequate criteria for WTSs is causing "excessive anxiety and mental anguish."

- Residents are concerned that WTSs may be receiving biological, hazardous, and radioactive wastes.

***Nuisance/Quality of Life*:**

- Odors from the trucks and WTSs is a common problem, particularly during hot Washington summers. Residents reportedly must stay inside and incur the costs of running air conditioners to avoid the odors. Attempts by the facility operators to address the odor problem with deodorizers have been ineffective.

- Pervasive dust causes housekeeping problems.

- WTSs contribute to infestations by rodents and other vermin.

- Truck traffic produces excessive noise at early hours.

- Vibrations from the trucks deteriorate roads and the foundations of homes. Trucks also cause damage when turning corners on narrow streets.

- WTSs fail to wash trucks, creating an eyesore.

- Streets need better maintenance due to wear and tear from large trucks. Also, they often need cleaning due to trash that falls from the trucks.

***Traffic*:**

- There were several complaints about traffic congestion and noise, traffic violations, and accidents.

***Local Economy*:**

- Dust and other air emissions from the facilities have decreased property values and made homes difficult to sell.

***Cumulative Impacts*:**

- WTSs are clustered with other industrial facilities in minority and low-income communities. The city zoning process fails to fairly distribute such facilities. Large, primarily Caucasian areas of the city have no property allowable for WTS use.

- WTSs are located in neighborhoods with other, pre-existing environmental concerns.

***Permitting*:**

- Public participation in WTS siting and permitting was deemed inadequate, lacking advance notice and ignoring recycling facilities, which pose concerns comparable to WTSs.

- Residents consider the 500-foot buffer required by the DC Solid Waste Facilities Permit Act of 1995 inadequate. They would prefer a 1,000-foot buffer requirement.

***Enforcement*:**

- Residents perceive that the District of Columbia does not enforce existing law effectively, including permit requirements, certificate of occupancy requirements, or the 1995 Solid Waste Facilities Permit Act, which imposes a 500-foot buffer, traffic control plans, limits on the hours of operation, enclosed operating area standards with effective entry system requirements, rodent and disease controls, and private rights of action. For example, one facility has obtained a court injunction that bars implementation of existing regulatory standards and bars inspection and enforcement. Residents are particularly concerned because the federal government is a substantial customer for this facility.

- A number of residents have taken the initiative to encourage facility operators to take action on the issues of traffic control, hours of operation, street cleaning, and improvements to the exterior of facilities. Because these efforts were unsupported by a regulatory structure or enforcement, they could not be relied upon to ensure community protection over the long term.

- Enforcement of regulations governing toxic wastes and the lack of effective sewage facilities are concerns.

- The effect of pending litigation at many WTSs has been to immunize them from public accountability, as well as, in some cases, from regulatory enforcement.

c. Government Perspective

The panel of government officials from the District of Columbia described DC's regulatory structure, new regulations regarding WTSs, and new enforcement efforts to the Working Group . They followed up with a summary of resources they need to enhance their regulatory control of WTSs. They indicated that the District lacks funds to pay inspectors to evaluate WTSs. The District also needs additional federal funding to pay for the proper disposal of waste generated by the federal government, who is the principal landowner/tenant within DC.

DC officials also see a need for expert technical advice from EPA on best management practices for WTSs, federal air standards enforcement, federal financial assurance requirements for all facilities, and federal recycling standards.

Several panel members argued that DC is unique and should be exempt from waste handling and environmental and inspection requirements required in other jurisdictions and for all private sector activities. That view was rejected by other members of the panel and all Working Group members, who stressed the need for uniform, stringent criteria.

d. Waste Trade Perspective

The waste trade panel explained that WTSs are needed to move solid waste from the concentrated areas in which it is generated to a proper disposal site. Panel members stressed that these facilities help reduce the number of trucks on the road, save fuel, reduce vehicle emissions, lower residential and

ILLINIOS EPA
ENVIRONMENTAL JUSTICE
PUBLIC PARTICIPATION POLICY
APRIL 20, 2018

I. TITLE: Illinois EPA Environmental Justice Public Participation Policy

II. PURPOSE: This policy explains the methods by which the Illinois Environmental Protection Agency (Illinois EPA or Agency) will engage with the public in communities located in identified areas of Environmental Justice (EJ) concern by the Illinois EPA

Illinois EPA defines "area of EJ concern" as a census block group or areas within one mile of a census block group with income below poverty and/or minority population greater than twice the statewide average.

The Illinois EPA has developed a Geographic Information System (GIS) mapping tool call EJ START to identify census block groups and areas within one mile of census block groups meeting the EJ demographic screening criteria. EJ START is publicly available and can be found on the Illinois EPA's EJ webpage (http://epagisportal.illinois.gov/portal/apps/webappviewer/index.html?id=414d804241e94c51809f08f3644c37d9).

The Illinois EPA's EJ public participation policy focuses on public outreach in the context of permitting transactions but may be applied to additional Illinois EPA matters.

III. RESPONSIBLE PERSON: The Environmental Justice Officer (EJO) has primary responsibility for coordinating all EJ efforts on behalf of the Illinois EPA and will act as the spokesperson for the Illinois EPA on EJ.

The Office of Community Relations will have a lead role in preparing the public participation plans, establishing local information repositories and conducting community meetings. The Bureaus and the Office of Community Relations will coordinate on the preparation and issuance of public notices and fact sheets.

The EJO is the contact person for citizens and communities in areas of EJ concern. The EJO will serve as a liaison between the citizen or community and the relevant Illinois EPA personnel to seek resolution of any issues raising EJ concerns.

IV. ACTIVITIES SUPPORTED BY THE EJO:

A. Permitting transactions.

1. Illinois EPA's EJ public participation policy applies to permitting transactions likely to generate significant public interest.
2. If the source involved in the permitting transaction is a High Priority Violator per USEPA guidance or is the subject of an enforcement action (i.e., has been referred to a prosecutorial agency such as the Illinois Attorney General's Office), Illinois EPA will take additional outreach measures as discussed below.

B. Complaint Investigations

1. Illinois EPA will timely respond to complaints from areas of EJ concern received by the EJO.

2. EJO will apprise complainants of the results of the investigations.

C. Enforcement

1. The EJO will act as liaison for citizens and community groups located in areas of EJ concern to keep communities apprised of an enforcement action's status.

2. Illinois EPA will continue to solicit ideas for the Supplemental Environmental Project Bank.

3. Enforcement Orders may be viewed at: www.epa.state.il.us/enforcement/orders/.

V. COMMUNITY OUTREACH PROCEDURES

A. An effective public participation strategy emphasizes early and meaningful public involvement throughout the permitting process or other Illinois EPA activities.

B. Each Bureau will review permit applications and other actions identified herein to determine whether the action will take place in an area of EJ concern as determined by the Illinois EPA EJ Start tool.

C. For areas of EJ concern, the EJO will recommend the appropriate outreach, if any, based on, among other considerations, the type of permit, potential impact of the project or Agency action, type of source and level of interest.

D. Public participation options in areas of EJ concern

1. Community Outreach by Regulated Entity/Source/Permit Applicant

   a. Illinois EPA will encourage the permit applicant to meet with community stakeholders to promote open dialogue early in the permitting process for permitting actions likely to be of significant public interest. Meaningful public outreach often occurs prior to the submission of a permit application to the Agency.

      i. The applicant is encouraged to provide notice to residents located in an area of EJ concern of the proposed project and provide basic information about the project to interested community members.

      ii. The applicant is also encouraged to develop a Community Relations Plan to structure ongoing dialogue with neighboring communities. Information concerning Community Relations Plans, including examples, may be found at 35 Ill. Adm. Code Part 1600, Appendix A.

2. Community Outreach by Illinois EPA

   a. Notifications

      i. Illinois EPA will provide the community with information regarding proposed projects via EJ notifications, which are mailed to community leaders, public officials, environmental groups, concerned citizens and the permit applicant.

ii. Public Notices will be written in terminology and languages easily understood by the majority of readers, except where specific public notice language is otherwise required. When required, notices will be placed in legal notice sections or other sections of local publications.

b. Public Meetings and Hearings

i. Informational meetings – The Illinois EPA and/or the source may hold an informational meeting or availability session.

ii. For permitting transactions, the purpose of the meeting is to inform the residents in areas of EJ concern of the scope and nature of the project in a timely, interactive manner and to explain the permitting process. Informational meetings may be held prior to a public hearing or may be held when a public hearing is not required.

iii. Informational meetings may also be held to explain enforcement related matters or other Illinois EPA activities that are of concern to the public.

iv. The Illinois EPA will make a good faith effort to provide a translator when it is known that residents do not speak English very well or when the Illinois EPA receives a request for a translator within two weeks of any public hearing or meeting

and when the need for a translator is adequately justified.

c. Fact Sheet and Project Summary

i. Illinois EPA will provide a plain language summary of the major aspects of the proposed project, including the purpose and location of the proposed activity and facility, any anticipated environmental impacts, and any controls or work practices that will limit those impacts.

ii. Illinois EPA will make fact sheets available on the Agency's webpage. Written fact sheets and other available information will be made available for persons without internet access when requested.

iii. As appropriate, the Illinois EPA will translate fact sheets into the predominate language of the community if it is not English.

d. Document Availability

i. Information is available from the Illinois EPA through document repositories, the Illinois EPA's webpage and the Illinois Freedom of Information Act (FOIA) (https://www2.illinois.gov/epa/foia/Pages/default.aspx)

ii. The EJO will assist citizens and groups in identifying available information relevant to EJ concerns.

STATE OF ILLINOIS - ENVIRONMENTAL JUSTICE ACT

(415 ILCS 155/1)
Sec. 1. Short title. This Act may be cited as the Environmental Justice Act.
(Source: P.A. 97-391, eff. 8-16-11.)

(415 ILCS 155/5)
Sec. 5. Legislative findings. The General Assembly finds that:

(i) the principle of environmental justice requires that no segment of the population, regardless of race, national origin, age, or income, should bear disproportionately high or adverse effects of environmental pollution;

(ii) certain communities in the State may suffer disproportionately from environmental hazards related to facilities with permits approved by the State; and

(iii) these environmental hazards can cause long-term health effects.

(Source: P.A. 97-391, eff. 8-16-11.)

(415 ILCS 155/10)
Sec. 10. Commission on Environmental Justice.

(a) The Commission on Environmental Justice is established and consists of the following 24 voting members:

(1) 2 members of the Senate, one appointed by the President of the Senate and the other by the Minority Leader of the Senate, each to serve at the pleasure of the appointing officer;

(2) 2 members of the House of Representatives, one appointed by the Speaker of the House of Representatives and the other by the Minority Leader of the House of Representatives, each to serve at the pleasure of the appointing officer;

(3) the following ex officio members: the Director of Commerce and Economic Opportunity or his or her designee, the Director of the Environmental Protection Agency or his or her designee, the Director of Natural Resources or his or her designee, the Director of Public Health or his or her designee, the Secretary of Transportation or his or her designee, and a representative of the housing office of the Department of Human Services appointed by the Secretary of Human Services; and

(4) 14 members appointed by the Governor who represent the following interests:

(i) at least 4 members of affected communities concerned with environmental justice;

(ii) at least 2 members of business organizations including one member representing a statewide organization representing manufacturers and one member

representing an organization representing the energy sector;

(iii) environmental organizations;

(iv) experts on environmental health and environmental justice;

(v) units of local government;

(vi) members of the general public who have an interest or expertise in environmental justice; and

(vii) at least 2 members of labor organizations including one member from a statewide labor federation representing more than one international union and one member from an organization representing workers in the energy sector.

(b) Of the initial members of the Commission appointed by the Governor, 5 shall serve for a 2-year term and 5 shall serve for a 1-year term, as designated by the Governor at the time of appointment. Thereafter, the members appointed by the Governor shall serve 2-year terms. Vacancies shall be filled in the same manner as appointments. Members of the Commission appointed by the Governor may not receive compensation for their service on the Commission and are not entitled to reimbursement for expenses.

(c) The Governor shall designate a Chairperson from among the Commission's members. The Commission shall meet at the call of the Chairperson, but no later than 90 days after the effective date of this Act and at least quarterly thereafter.

(d) The Commission shall:

(1) advise State entities on environmental justice and related community issues;

(2) review and analyze the impact of current State laws and policies on the issue of environmental justice and sustainable communities;

(3) assess the adequacy of State and local laws to address the issue of environmental justice and sustainable communities;

(4) develop criteria to assess whether communities in the State may be experiencing environmental justice issues; and

(5) recommend options to the Governor for addressing issues, concerns, or problems related to environmental justice that surface after reviewing State laws and policies, including prioritizing areas of the State that need immediate attention.

(e) On or before October 1, 2011 and each October 1 thereafter, the Commission shall report its findings and recommendations to the Governor and General Assembly.

(f) The Environmental Protection Agency shall provide administrative and other support to the Commission.

(Source: P.A. 99-541, eff. 1-1-17.)

(415 ILCS 155/99)

Sec. 99. Effective date. This Act takes effect upon becoming law.

(Source: P.A. 97-391, eff. 8-16-11.)