

MEMORANDUM OF UNDERSTANDING ON
ENVIRONMENTAL JUSTICE AND EXECUTIVE ORDER 12898

WHEREAS, on February 11, 1994, the President signed Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (“Executive Order 12898” or “Order”), and issued an accompanying Presidential Memorandum (references to this Order herein also generally include this Memorandum), and

WHEREAS, Executive Order 12898 applies to the following agencies: the Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, Department of Health and Human Services, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of Transportation, and the Environmental Protection Agency. The Order applies to the following offices in the Executive Office of the President: Office of Management and Budget, Office of Science and Technology Policy, Office of the Deputy Assistant to the President for Environmental Policy, Office of the Assistant to the President for Domestic Policy, National Economic Council, and Council of Economic Advisers. The Order also applies to other agencies and offices as the President may designate, Executive Order 12898, sec. 1-102, 6-604 (Feb. 11, 1994). The agencies and offices that are listed in section 1-102 or designated by the President under section 6-604 of the Order are referred to herein as “covered agencies” and “covered offices,” respectively, and

WHEREAS, Executive Order 12898 requires each covered agency to “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,” *id.*, sec. 1-101, and

WHEREAS, each responsibility of a covered agency under Executive Order 12898 “shall apply equally to Native American programs,” *id.*, sec. 6-606, and

WHEREAS, Executive Order 12898 establishes an Interagency Working Group on Environmental Justice (“Interagency Working Group”) consisting of the heads of the agencies and offices listed above and any other officials designated by the President, or their designees, *id.*, sec. 1-102(a), and

WHEREAS, Executive Order 12898 directs the Interagency Working Group to assist the covered agencies by providing guidance and serving as a clearinghouse, *id.*, sec. 1-102(b), and

WHEREAS, Executive Order 12898, as amended, required that the then-covered agencies submit to the Interagency Working Group by March 24, 1995, an agencywide environmental justice strategy to carry out the Order, *id.*, sec. 1-103(e), as amended by Executive Order 12948 (Jan. 30, 1995), and

WHEREAS, Executive Order 12898 further required, within two (2) years of issuance, that the then-covered agencies provide to the Interagency Working Group a progress report on implementation of the agency’s environmental justice strategy, Executive Order 12898, sec. 1-103(f), and

WHEREAS, Executive Order 12898 requires that covered agencies conduct internal reviews and take such other steps as may be necessary to monitor compliance with the Executive Order, *id.*, sec. 6-601, and provide additional periodic reports to the Interagency Working Group as requested by the Group, *id.*, sec. 1-103(g), and

WHEREAS, Executive Order 12898 provides that a member of the public may submit comments and recommendations to a covered agency relating to the incorporation of environmental justice principles into the agency's programs or policies and provides that the agency must convey such recommendations to the Interagency Working Group, *id.*, sec. 5-5(a), and

WHEREAS, the covered agencies and the Interagency Working Group remain committed to full ongoing compliance with Executive Order 12898, and

WHEREAS, Executive Order 12898 does not preclude other agencies from agreeing to carry out the Order and to participate in the activities of the Interagency Working Group as appropriate, and as consistent with their respective statutory authorities and the Order;

NOW THEREFORE, the undersigned agencies (referred to herein as "Federal agencies") hereby agree:

I. Purposes

- A. To declare the continued importance of identifying and addressing environmental justice considerations in agency programs, policies, and activities as provided in Executive Order 12898, including as to agencies not already covered by the Order.
- B. To renew the process under Executive Order 12898 for agencies to provide environmental justice strategies and implementation progress reports.
- C. To establish structures and procedures to ensure that the Interagency Working Group operates effectively and efficiently.
- D. To identify particular areas of focus to be included in agency environmental justice efforts.

II. Authorities

This Memorandum of Understanding on Environmental Justice and Executive Order 12898 ("Memorandum of Understanding" or "MOU") is in furtherance of the Order, including the authorities cited therein. Federal agencies shall implement this Memorandum of Understanding in compliance with, and to the extent permitted by, applicable law.

III. Actions and Responsibilities

- A. Adoption of Charter.** This Memorandum of Understanding adopts the Charter for Interagency Working Group on Environmental Justice ("Charter") set forth in Attachment A. Each Federal agency agrees to the framework, procedures, and responsibilities identified in the Charter and agrees to provide the Interagency Working Group with the agency's designated Senior Leadership Representative and Senior Staff Representative by September 30, 2011.
- B. Participation of Other Federal Agencies.** While Executive Order 12898 applies to covered agencies, the Order does not preclude other agencies from agreeing to undertake the commitments in the Order. Likewise, while the Executive Order identifies the composition of the Interagency Working Group, other agencies may, to the extent consistent with the Order, participate in activities of the Interagency Working Group as appropriate. An agency that is either not a covered agency or not represented on the Interagency Working Group, or both, may become a "Participating Agency" by signing this Memorandum of Understanding. To the extent it is not already a covered agency, a Participating Agency agrees to carry out this Memorandum of Understanding, as well as Executive Order 12898, and to the extent it is not already

represented on the Interagency Working Group, a Participating Agency agrees to participate in activities of the Interagency Working Group, as appropriate. The term “Federal agency” herein refers to covered agencies that sign this MOU and to Participating Agencies that sign this MOU.

C. Federal Agency Environmental Justice Strategies; Public Input; Annual Reporting.

1. **Environmental Justice Strategy.** By September 30, 2011, after reviewing and updating an existing environmental justice strategy, where applicable, and as the agency deems appropriate, each Federal agency will post its current “Environmental Justice Strategy” on its public webpage and provide the Interagency Working Group with a link to the webpage. If the agency posts and provides a draft Environmental Justice Strategy, then it will post and provide its final Environmental Justice Strategy by February 11, 2012. Thereafter, each Federal agency will periodically review and update its Environmental Justice Strategy as it deems appropriate and will keep its current Environmental Justice Strategy posted with a link provided to the Interagency Working Group.
2. **Public Input.** Consistent with Executive Order 12898, section 5-5, each Federal agency will ensure that meaningful opportunities exist for the public to submit comments and recommendations relating to the agency’s Environmental Justice Strategy, Annual Implementation Progress Reports, and ongoing efforts to incorporate environmental justice principles into its programs, policies and activities.
3. **Annual Implementation Progress Report.** By the February 11 anniversary of Executive Order 12898 each year, beginning in 2012, each Federal agency will provide a concise report on progress during the previous fiscal year in carrying out the agency’s Environmental Justice Strategy and Executive Order 12898. This “Annual Implementation Progress Report” will include performance measures as deemed appropriate by the agency. The report will describe participation in interagency collaboration. It will include responses to recommendations submitted by members of the public to the agency concerning the agency’s Environmental Justice Strategy and its implementation of the Executive Order. It will include any updates or revisions to the agency’s Environmental Justice Strategy, including those resulting from public comment. The agency will post its Annual Implementation Progress Report on its public webpage and provide the Interagency Working Group with a link to the webpage.

D. Areas of Focus. In its Environmental Justice Strategy, Annual Implementation Progress Reports and other efforts, each Federal agency will identify and address, as appropriate, any disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations, including, but not limited to, as appropriate for its mission, in the following areas: (1) implementation of the National Environmental Policy Act; (2) implementation of Title VI of the Civil Rights Act of 1964, as amended; (3) impacts from climate change; and (4) impacts from commercial transportation and supporting infrastructure (“goods movement”). These efforts will include interagency collaboration. At least every three (3) years, the Interagency Working Group will, based in part on public recommendations identified in Annual Implementation Progress Reports, identify important areas for Federal agencies to consider and address, as appropriate, in environmental justice strategies, annual implementation progress reports and other efforts.

IV. Miscellaneous

- A. Parties, Effective Date, Amendment.** This MOU becomes effective for a Federal agency when it signs the MOU. An agency may sign the MOU at any time. The MOU may be amended by written agreement of the then-current signatory Federal agencies.
- B. Applicable Law.** Nothing in this MOU shall be construed to impair or otherwise affect authority granted by law to, or responsibility imposed by law upon, an agency, or the head thereof, or the status of that agency within the Federal Government. This MOU shall be implemented consistent with applicable law and subject to the availability of appropriations.
- C. Fiscal.** This MOU is not a fiscal or financial obligation. It does not obligate a Federal agency to expend, exchange or reimburse funds, services or supplies, or to transfer or receive anything of financial or other value.
- D. Internal Management.** This MOU and activities under it relate only to internal procedures and management of the Federal agencies and the Interagency Working Group. They do not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers, employees or agents, or any other person.

V. Signatures

A. Covered Agencies.

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Eric H. Holder, Jr.
Attorney General of the United States

Date: _____

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Ken Salazar
Secretary of the Interior

Date: _____

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Thomas J. Vilsack
Secretary of Agriculture

Date: _____

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Hilda L. Solis
Secretary of Labor

Date: _____

\S

Kathleen Sebelius
Secretary of Health and Human Services

Date: _____

\S

Shaun Donovan
**Secretary of Housing and Urban
Development**

Date: _____

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Ray LaHood
Secretary of Transportation

Date: _____

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Steven Chu
Secretary of Energy

Date: _____

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Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency

Date: _____

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Rebecca M. Blank
Acting Secretary of Commerce

Date: _____

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John Conger
Acting Deputy Under Secretary
(Installations and Environment)
Department of Defense

Date: _____

B. Participating Agencies and Offices.

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Arne Duncan
Secretary of Education

Date: _____

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Eric K. Shinseki
Secretary of Veterans Affairs

Date: _____

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Janet Napolitano
Secretary of Homeland Security

Date: _____

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Nancy Sutley
Chair
Council on Environmental Quality

Date: _____

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Martha Johnson
Administrator
General Services Administration

Date: _____

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Karen G. Mills
Administrator
Small Business Administration

Date: _____