

- Promote the public's involvement in the Agency's mission of protecting human health and the environment.

- Explain to the public how its input affected the Agency's decision.

To achieve these purposes and goals, while recognizing resource constraints, Agency officials should strive to provide for, encourage, and assist public involvement in the following ways:

- Involve the public early and often throughout the decision-making process.

- Identify, communicate with and listen to affected sectors of the public (Agency officials should plan and conduct public involvement activities that provide equal opportunity for individuals and groups to be heard. Where appropriate, Agency officials should give extra encouragement and consider providing assistance to sectors, such as minority and low-income populations, small businesses, and local governments, to ensure they have full opportunity to be heard and, where possible, access to technical or financial resources to support their participation.)

- Involve members of the public in developing options and alternatives when possible and, before making decisions, seek the public's opinion on options or alternatives.

- Use public input to develop options that facilitate resolution of differing points of view.

- Make every effort to tailor public involvement programs to the complexity and potential for controversy of the issue, the segments of the public affected, the time frame for decision making and the desired outcome.

- Develop and work in partnerships with state, local and tribal governments, community groups, associations, and other organizations to enhance and promote public involvement.

When Does This Policy Apply?

This Policy applies to all EPA programs and activities. In programs or activities where the public is already meaningfully involved, EPA can use this Policy to enhance that public involvement. Where the existing level of public involvement needs to improve, this Policy provides suggestions for how to move forward. Finally, this Policy can serve as a model for building public involvement into new programs as they are developed.

The activities where conducting meaningful public involvement should particularly be considered include:

- EPA rulemaking, when the regulations are expected to be classified as Significant Actions (under the terms of Executive Order 12866).
- EPA issuance or significant modification of permits, licenses or renewals.
- Selection of plans for cleanup, remediation or restoration of hazardous waste sites or Brownfields properties.
- EPA's decision on whether to authorize, delegate or approve states or local governments to administer EPA programs consistent with the relevant regulatory requirements for each program (Note: Tribes seeking approval to administer environmental programs under EPA statutes

generally also seek "treatment in a similar manner as a state (TAS)" status from EPA. Appropriate opportunities for public participation are contained in the relevant statutory and regulatory provisions establishing a TAS process. Consult with the Office of Regional Counsel or the Office of General Counsel, and/or the American Indian Environmental Office for assistance.)

- All other policy decisions that the Administrator, Deputy Administrator or appropriate Assistant, Regional or Associate Administrator determine warrant public participation in view of EPA's commitment to involve the public in important decisions.

- The development of significant information products (as the Office of Environmental Information has defined them in Appendix 2: Definitions).

- For activities not listed here, EPA staff may use this Policy in whole or in part to strengthen decision making.

In planning and conducting public involvement activities, Agency officials should rely on the sound use of discretion. The Policy is not a rule, is not legally enforceable, and does not confer legal rights or impose legal obligations upon any member of the public, EPA or any other agency. Resource constraints, the need for timely action and other considerations may affect the appropriate nature and extent of public involvement. For example, a compelling need for immediate action may make it appropriate to limit public involvement. In particular, the desire to reach agreement among all parties, while valuable, should not prevent the Agency from carrying out its responsibility to make decisions or take actions to preserve and protect the environment and public health.

Nevertheless, the Agency should approach all decision making with a bias in favor of significant and meaningful public involvement. Experience throughout government has shown that a lack of adequate participation or of effective means for participation can result in decisions that do not appropriately consider the interests or needs of those that will be most affected by them. Furthermore, early involvement can ultimately reduce delay, by avoiding time-consuming review, public debate or litigation. Finally, decisions based on meaningful public involvement are likely to be better in substance and stand the test of time, avoiding the need to reopen controversial issues.

Does This Policy Affect Authorized, Approved or Delegated Programs?

EPA developed this Policy for EPA staff use, but it also may be useful to States, Tribes and local governments that implement federally delegated, authorized or approved programs. EPA encourages these entities to adopt similar public involvement policies if they have not already done so. EPA intends to discuss the effectiveness of their public involvement activities during periodic meetings with States, Tribes and local governments, and will obtain their input about ways to improve EPA's activities. EPA will not use whether a State, Tribe or local government has adopted EPA's Public Involvement Policy as a criterion for the

authorization, approval or delegation of programs or the award of grants. In general, recipients may use grants for continuing environmental programs and Performance Partnership Grants to fund public involvement activities to the extent that costs are allowable under OMB Circular A-87 and applicable EPA regulations. (Note: Some statutory or regulatory provisions require compliance with certain public participation requirements before EPA may approve a grant. See 40 CFR 25.11 and 25.12.) The grant applicant may comply with such requirements without adopting EPA's Policy.

What Are the Roles of States, Tribes and Local Governments?

State agencies, Tribes and some local governments have unique roles regarding EPA's programs and decisions:

1. State agencies, Tribes and some local governments may be co-regulators with EPA. In some cases, they implement authorized, approved or delegated Federal programs. In other cases, they run independent, but closely-related programs. In both cases they work closely with EPA as regulatory partners, and EPA will consult them as appropriate when implementing this Policy. In addition, they may have expertise that can be valuable to EPA in designing public involvement activities.

2. State agencies, Tribes and local governments also may be regulated parties when they undertake activities that are subject to Federal laws and regulations. As regulated parties, they are also members of the community of regulated stakeholders, and would benefit from the application of the Policy like other regulated parties.

3. Whether they are partners helping EPA implement a program or members of the regulated community affected by EPA regulations, state agencies, Tribes, and regional and local governments often play an active role in making recommendations on policies, rules, plans and recommendations under development, and providing input on EPA's decisions.

The role of Tribes is unique in another way. Each federally-recognized Tribal government is a sovereign entity that has an individual government-to-government relationship with the federal government. EPA should coordinate and consult meaningfully with Tribes to the greatest extent practicable for agency actions that may affect the tribes. This Policy complements EPA's efforts to consult with Tribes. See Executive Order 13175, Consultation and Coordination With Indian Tribal Governments November 6, 2000.

Consultation should be a meaningful and timely two-way exchange with Tribal officials that provides for the open sharing of information, the full expression of Tribal and EPA views, a commitment to consider Tribal views in decision making, and respect of Tribal self-government and sovereignty. The Agency should allow comment from Tribes early in the planning process and prior to making a decision. However, consultation does not imply that the Tribes or any other non-EPA entities that are consulted can stop an Agency action by withholding consent.