

environmental justice pilot projects, which have included, among other activities, increasing public involvement by tailoring outreach activities to affected communities.

EPA and its Office of Solid Waste and Emergency Response (OSWER) also remain committed to addressing environmental justice concerns beyond those related to public participation. The preamble to the proposed rule (see 59 FR 28686) discussed OSWER's environmental justice efforts. Elliott P. Laws, OSWER Assistant Administrator, formed the OSWER Environmental Justice Task Force ("EJ Task Force") to begin addressing many of these issues. EPA released the "OSWER Environmental Justice Task Force Draft Final Report" (OSWER 9200.3-16 Draft) and its separate executive summary (OSWER 9200.3-16-1 Draft) on April 25, 1994. Since that time, the EPA Regional offices and the OSWER program offices have been implementing the recommendations outlined in the EJ Task Force's draft final report. The report was distributed to the National Environmental Justice Advisory Council (NEJAC) for comment. In June 1995, after careful consideration of all comments, EPA released the "OSWER Environmental Justice Action Agenda." The Action Agenda provides a concise summary of OSWER's current strategy and describes the implementation process for ensuring that major issues, identified by the NEJAC and others, continue to be recognized and addressed. A full report on implementation progress and accomplishments, entitled "Waste Programs Environmental Justice Accomplishments Report," was released concurrently with the Action Agenda. All of these documents are "living documents" and, as such, are a part of the process of continuously addressing environmental justice concerns. This process represents OSWER's commitment to adhere to the principles of Executive Order 12898, in which the President directed federal agencies to identify and address the environmental concerns and issues of minority and low-income communities. Furthermore, in an effort to make environmental justice an integral part of the way we do business, the Agency issued a policy directive, in September 1994 (OSWER 9200.3-17), that requires all future OSWER policy and guidance documents to consider environmental justice issues.

During the public comment period on the proposed rule, EPA received a large number of comments on preliminary recommendations that the EJ Task Force had developed regarding several other

(i.e., beyond today's public involvement rule) key environmental justice issues facing the RCRA permitting program. The comments ranged from general observations to more detailed suggestions, particularly with regard to siting criteria, cumulative risk assessments, and the need to base decisions on sound science.

We are disseminating the comments that deal with these environmental justice issues in the following manner: (1) We are forwarding the comments on RCRA facility siting to the Office of Solid Waste's (OSW) RCRA Siting Workgroup and to the NEJAC's Waste and Facility Siting Subcommittee's Siting Workgroup; (2) we are forwarding the comments on issues affecting RCRA corrective action to the RCRA Subpart S Workgroup, which is developing a rule to establish corrective action requirements for releases of hazardous wastes or hazardous waste constituents to any environmental medium, including ground water, from any solid waste management unit, including regulated units; (3) we are sharing the comments on cumulative risk, multiple exposure, and synergistic effects with the EPA Science Policy Council, the group actively working to address these issues; and (4) the comments on how EPA should respond to RCRA permit challenges based on environmental justice issues are being addressed by OSWER with assistance from the Office of General Counsel, Office of Civil Rights, and any other appropriate party.

EPA also received several comments that did not approve of the Agency's decision to discuss and solicit comments on the more technical environmental justice issues in the context of a RCRA public involvement rule. Many commenters argued that these issues are broad, far-reaching, and impact a much larger constituency than the intended audience for the public participation rulemaking.

EPA acknowledges the breadth of these issues. The preamble to the proposed rule has not been the only forum for discussing these issues. As we discussed above, EPA has received and considered comments from additional stakeholders, including States, the NEJAC, environmental groups, environmental justice groups, and regulated industries in developing the "OSWER Environmental Justice Action Agenda." Furthermore, since the Action Agenda is a living document, OSWER will continue to seek external comments, suggestions and experiences as we strive to ensure environmental justice in all our programs.

B. Pre-Application Meeting and Notice

1. Applicability (Proposed § 124.31(d)). EPA proposed to exempt permit modifications, permit renewals, and permit applications submitted for the sole purpose of conducting post-closure activities from the requirements in § 124.31.

Synopsis of Major Comments on § 124.31(d). A number of commenters stated that the rule should require facilities seeking permit renewals to hold a pre-application meeting. Other commenters recommended that the pre-application meeting requirements apply to facilities making significant changes during the renewal process, or that the permitting agency should have discretion in applying the requirement to renewals. Opposing these commenters, several commenters supported the requirement as proposed and urged EPA to keep the exemption for renewals since many renewal applications simply continue "business as usual." In these cases, said the commenters, the community will have adequate opportunity to participate in the renewal process; for instance, at the draft permit stage.

EPA's Response to Commenters. EPA has decided to expand § 124.31 to cover facilities that make a significant change at permit renewal. For the purposes of § 124.31, a "significant" change in facility operations is a change that is equivalent to a class 3 modification in § 270.42, e.g., operating conditions change significantly.

The Agency believes that this approach is a common sense compromise that will ensure adequate public participation in the necessary cases. At the same time, the regulated community will have the assurance that facilities undergoing minor changes will be spared unnecessary administrative burden.

EPA will continue the exemption for facilities that submit permits for the purpose of conducting post-closure activities. As we stated in the proposed rule, the goals of the pre-application meeting (e.g., establishing an early dialogue between the facility and the public) do not apply at most post-closure facilities. EPA's experience is that the public has usually been concerned with permit decisions relating to active hazardous waste management operations, as opposed to decisions relating to closed facilities. In addition, most post-closure activities are mandatory (e.g., maintenance of a closed unit) and involve fewer discretionary judgments than are involved in issuing an operating permit. The existing public participation