

Title VI: Increasing Equity, Transparency, and Environmental Protection in the Permitting of Swine Operations in North Carolina

Attachment J: Public Participation Plan



PUBLIC PARTICIPATION PLAN



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1 / Introduction

The North Carolina Department of Environmental Quality (Department or DEQ) strives to conduct the people's business in an open and transparent way. To achieve this goal, DEQ and its staff must be aware of and sensitive to the changing diversity of the State's population, culture, as well as the needs of communities across the State when developing and implementing public participation, outreach, and engagement programs. At this time, the Department is reexamining its public participation practices as media and messaging options are evolving, print newspaper subscriptions are declining, and access to the internet varies considerably across our state's population. This Public Participation Plan (Plan) is intended to be a living document that addresses the Department's ongoing efforts to engage in public participation and guide DEQ's efforts to continue presenting clear and easy-to-consume information to all stakeholders.

It is important to note that while this document provides guidance and best practices, each community is different and a 'one-size fits all' procedure for public participation is not the most effective approach. Rather, the Department will apply best practices and methods that reflect the needs of each individual community. The primary purpose of creating, implementing, and regularly updating this Plan is to assist the Department and its staff in fostering stronger partnerships with individuals and groups that will contribute to the Department's statutory duty to protect public health and the environment. Fostering these relationships and partnerships from the outset will provide the Department and our staff with more meaningful opportunities to engage the public when specific events, permit applications, or community concerns arise.

The Department and its staff adhere to policies and programs for enhanced public participation and nondiscrimination. The law provides that no person shall, on the grounds of race, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Rehabilitation Act of 1973, and all other pertinent nondiscrimination laws and regulations. In keeping with the tenets of the law, the Department works to ensure that, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies, all North Carolinians will receive *fair treatment* and *meaningful involvement* regardless of their race, color, national origin, or income.

According to the U.S. Environmental Protection Agency (USEPA):

Fair treatment means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental, and commercial operations or policies, and;

Meaningful involvement means

- people have an opportunity to participate in decisions about activities that may affect their environment and/or health,
- the public's contribution can influence the regulatory agency's decision,
- community concerns will be considered in the decision-making process, and,
- decision-makers will seek out and facilitate the involvement of those potentially affected.

This Plan seeks to fulfill the Department's public participation and environmental justice goals by providing meaningful outreach and engagement in our decision-making processes.

2 / Purpose

The purpose of this Plan is to ensure consistency across the Department and its Divisions in both the understanding and implementation of our public participation, outreach, and engagement strategies. The Department recognizes public engagement as an active and intentional dialogue between members of the public, DEQ, and the regulated community. In order for communities to be meaningfully involved in decision-making processes and for the Department to incorporate local community knowledge, proper tools must be used to engage with communities. By applying the guidance and best practices presented in this Plan, DEQ aims to:

- Create better opportunities and mechanisms to receive public input.
- Promote respectful and meaningful dialogue between community members, organizations, regulated industry, and the Department.
- Educate the public about the Department's programs.
- Build trust with the public to strengthen community ties and partnerships.
- Work with community organizations to identify shared goals and opportunities for collaboration.
- Provide consistent communication about state law and DEQ's regulatory authority.
- Work with the public on strategies to improve future public engagement.
- Identify underserved communities, as needed, and develop tailored communication plans that best serve their specific cultural and logistical needs.

3 / Definitions

MEETINGS AND PUBLIC OUTREACH

There is no "one size fits all" approach to public involvement. The Department intends to use a variety of comprehensive, tailored methods and strategies to facilitate meaningful public involvement. Methods and strategies for involving and engaging stakeholders and target audiences, including traditionally underserved populations (i.e., individuals with varying levels of experience, knowledge of a topic, or financial resources, etc.) may include the following:

Public Outreach

The aim of public outreach is to provide well-planned, inclusive, meaningful public participation opportunities in the course of the Department's decision-making. The Department will analyze each project individually in order to determine the best outreach methods or strategies. This will be done by examining certain factors including potential project impacts, past outreach methods used effectively in the community, and the type of the information that DEQ is providing, among others. Outreach methods may include: posting information on the DEQ website, placing print newspaper advertisements, utilizing social media or radio, and engaging in personal communications with interested parties.

Public Hearings

Public hearings are held by the Department to formally collect community feedback and comments on a pending Department decision as required by state and/or federal rules governing regulatory programs. Feedback will be documented and reviewed by DEQ staff. The public hearing format is governed by federal and state rules and regulations and does not always allow for DEQ staff to answer questions during the hearing. Staff will typically respond to the questions raised at a later time in the Hearing Officer's report, which is published when the Department's decision is released. Although the particular process and timeline is specified in the relevant DEQ program rules, the typical timeline requires a 30-day notice for the public hearing and a subsequent 30 to 60 days for the Hearing Officer to make a recommendation to the applicable Division Director in the Hearing Officer's report. The Division Director then evaluates the Hearing Officer's recommendation and makes a final decision.

STAKEHOLDER MEETINGS OR INFORMATION SESSIONS

If a Division or Program would like to hold a less formal public session, several other meeting options are available. Public meetings may be held to encourage participation and engage a wide audience in information-sharing and discussion. They can be used to increase awareness of an issue or proposal. These meetings may take a variety of different formats, but all seek to foster meaningful dialogue between interested parties and DEQ. In this more informal setting, questions from members of the public are answered on the spot and conversations between DEQ staff and community members are encouraged (as compared to a public hearing). Public meetings can also be paired with public hearings to allow staff to respond to questions prior to the more formal public hearing. Additionally, DEQ may hold stakeholder workshops to engage with interested parties in order to help inform program development and implementation.

4 / Determining the Appropriate Level of Public Engagement

It is important to remember that not all decisions by the Department require the same level of public participation. The level of public involvement or outreach for a specific project or proposal will depend on a number of factors particular to both the project (i.e., scope, potential impact, DEQ's statutory and regulatory authority, etc.), and the community involved (i.e., the potentially affected population, level of concern, information from community leaders etc.).

The Department's strategy for public engagement includes a variety of methods (Section 5) and based on the public interest, project-specific details, demographic data, or additional factors, other appropriate methods for enhanced engagement (Section 7) may also be implemented.

5 / Public Engagement Methods

DEQ will continue to comply with its legal requirements while actively looking for appropriate opportunities to exceed those requirements and improve community engagement and outreach efforts, especially in underserved communities. DEQ will

consider geography, available community information, and other relevant data to reach key constituencies and stakeholders.

DEQ’s public engagement and outreach steps may include:

- Distributing media releases when events are posted for public notice and public comment;
- Crafting social media and email messages to raise awareness for public notice and public comment events;
- Communicating with interested parties, such as community members, local and Tribal governments, community organizations, and non-profit organizations that have expressed an interest in or may be directly affected by the Department’s proposed action. DEQ will also attempt to reach other organizations that may have an interest but may not be aware of the pending decision or action;
- Meeting in-person with interested parties to address issues of concern;
- Directing affected individuals or groups to the proper staff contacts within DEQ or sister agencies;
- Updating, maintaining, and improving the use of the Department’s stakeholder contact databases; or
- Scheduling meetings at times and locations that are convenient, accessible, and culturally-appropriate for potentially impacted communities.

6 / Notifications

The current statutory requirements for disseminating information for public notice have not kept pace with evolving media communications. In general, the public notice requirement for permitting is to publish a notice in one newspaper and in some cases on DEQ’s website, to request public comment or to provide 30 days’ notice in advance of the scheduled public hearing. Print newspapers are declining in popularity, rendering them less effective as a single point of noticing information. For some individuals, the website may be difficult to navigate, as it requires access to technology and internet services, which some individuals may not have. Therefore, it is important for the Department continue to practice different methods of communication and outreach to help insure public notices reach the public. Possible supplementary methods for providing notice include:

Mailed flyers or postcards may best serve certain communities when resources allow. These flyers can be mailed to residents using the United States Postal Service. Communities where mailed flyers or postcards may be appropriate include those with a large population over 65 years old, communities with limited internet access, and rural communities with limited shared public spaces. Mailing flyers may also be appropriate when in-person staff visits are not feasible. Mailed flyers may be sent to the same locations identified (below) under posted flyers.

Posted flyers can be effective and can start the dialogue with a community. Venues where information can be posted that may have higher concentrations of sensitive populations (i.e. children, the sick, or elderly, etc.) or shared spaces underserved community members may frequent include:

- Schools
- Places of worship
- Tribal facilities
- Locally-owned businesses
- Restaurants
- Nursing homes
- Public libraries
- Community colleges
- Community centers
- Subsidized housing complexes
- Local government buildings
- Laundromats

In many communities, information about events happening in the area are circulated via **social media** platforms, such as Facebook and Twitter. Given the wide reach and broad use of these platforms, the Department publicizes events and notices on DEQ's social media accounts.

Email lists are an additional method for distributing notices. Online sign-up for DEQ news releases is available on the website. Divisions within DEQ also provide opportunities to sign up to receive email notification for any updates on specific types of proposed activities. Additionally, a Department-wide stakeholder contact list has been developed by the EJ Program staff, which contains searchable contacts based on geographic location, topics of interest, etc. Requests to be added to the EJ listserv may be sent to ej@ncdenr.gov.

Radio can be an effective method to notify certain stakeholder groups in rural areas about public notices or events. Radio ads or outreach may be considered where appropriate and as resources allow.

7 / Enhanced Engagement Methods to Reach Underserved Communities

When a Division receives a permit application or a decision on a significant issue is pending, Division staff will determine, with the support from EJ Program staff, whether standard engagement methods are sufficient to reach underserved communities. Based on these results, varying communication strategies presented in this document may be incorporated to provide additional outreach and engagement as appropriate. The communication methods chosen will be project-specific and community-oriented to best fit the needs of the community.

METHODS FOR IDENTIFYING UNDERSERVED COMMUNITIES

DEQ's internal method for identifying underserved communities relies on precedent set by US EPA and other EJ standards. However, there is no universal definition for what constitutes an underserved community, nor is there a definitive methodology for determining how a community will be affected by a Department decision or which engagement methods will best serve a community. Thus, DEQ uses the following

methods as a basis for identifying communities that exhibit characteristics that may prevent them from being fully served by standard engagement methods. This is not meant to judge or define the status of that community.

Preliminary Screening Methods:

- Utilizing DEQ’s North Carolina Community Mapping System to look into a potentially affected community. DEQ has developed this geographic information mapping tool that allows division staff to partner with the EJ Program staff to conduct demographic, socioeconomic, and environmental analyses. The System includes demographic, socioeconomic, and health data at the census tract or county level, as well as state specific information on active facilities and permits. Utilizing the CMS will allow staff to flag communities that may be better served by additional engagement. In addition, the CMS may help refine the type of documentation that would need to be drafted prior to holding a public hearing or meeting.
- Utilizing EPA’s EJSCREEN in concert with DEQ’s CMS to provide additional environmental and demographic data sets for analysis. EPA’s EJSCREEN is a tool that complements the data in the DEQ CMS and can provide more detailed environmental and demographic analysis.

Further Screening Methods:

If preliminary screening methods suggest that a community may be underserved and may benefit from additional engagement, or if specific permit characteristics warrant additional research, further screening methods will be requested and employed by Division and E.J staff.

Further screening methods may include:

- Completing an Environmental Justice Snapshot: An EJ Snapshot is an initial review of the demographics and socioeconomics of a community surrounding a facility proposed in a permit application, but goes beyond the preliminary analysis of DEQ’s North Carolina Community Mapping System or EPA’s EJSCREEN. An EJ Snapshot typically includes the following information for an area within a radius determined by the Department:
 - » Race and poverty (based on the most recent decennial census year).
 - » Per capita income and Ability to speak English (based on the most current ACS census range).
 - » The current county distress ranking or “Tier” (based on current ranking by the North Carolina Department of Commerce)
 - » “Presence or absence” of state designated tribal statistical areas.

The EJ Snapshot will be distributed to interested community members and posted on the DEQ website, accompanying the related permit application and draft permit prior to the close of the public comment period. It is DEQ’s aim to receive and solicit suggestions and feedback from the surrounding community, industry, and environmental organizations on the content of the EJ Snapshot during

and environmental organizations on the content of the EJ Snapshot during the comment period to help inform the preparation of an EJ Report, when applicable.

- **Completing an Environmental Justice Report:** An EJ Report is prepared after an EJ Snapshot is completed to provide additional information about the surrounding community. In an EJ Report, staff assess the potential impact on communities surrounding the proposed construction and operation of the facility under application. The staff assessment of potential impacts in an EJ Report may include, but is not limited to:
 1. Review of the facility permit application
 2. The potential and/or modeled emissions/discharges/impacts from the facility/operations.
 3. Consideration of the surrounding community, including demographics on race and ethnicity, income, and poverty levels.
 4. County health overview
 5. Identification and location of potential sensitive receptors
 6. The presence of other industrial or permitted sites
 7. Limited English Proficiency (LEP) and the potential need for translation services

Eligibility for Enhanced Engagement:

If the screening methods detailed above indicate the presence of an underserved community, DEQ staff will refer to the following enhanced engagement to determine project-specific and community-oriented best practices for that decision. However, because each Department decision is specific to the details of the particular project and surrounding community, additional engagement may also be provided in communities not flagged by the underserved community screening process.

Additional practices DEQ will consider for hard-to-reach populations:

- Distributing flyers, when appropriate and resources allow, in locally-owned businesses, community stores, libraries, places of worship, senior centers, and other gathering places in the areas where communities are potentially affected.
- Engaging non-English speakers through social media and other non-English language media outlets.
- Communicating and distributing vital documents (which may include public hearing notices, project summary documents, etc.) in non-English languages in order to successfully reach potentially impacted communities, in accordance with the Department’s Limited English Proficiency(LEP) - Language Access Plan.
 - » Include a standard notice on Department documents with a contact for obtaining assistance in a different language.
 - » Requests for language assistance can be made by calling (877) 623-6748.
- Coordinating with community and faith-based organizations, local and Tribal governments, educational institutions, and other entities to implement public engagement strategies specifically for members of historically underserved communities.

- Working with local community members to identify methods for non-electronic notices/communication.
- Organizing information sessions to familiarize community members who may be familiar with or understand the work conducted and services offered by the Department.
- Notifying nearby counties of projects when the EJ Snapshot incorporates multiple counties.
- Attending community events.

In accordance with EPA guidance, an effective communication plan includes the following:

- Overview of the plan of action for addressing the community's needs and concerns.
- Description of the community (including demographics, history, and background).
- Contact list of agency officials with phone numbers and email addresses to allow the public to communicate via phone or internet.
- List of past and present community concerns (including any Title VI complaints).
- Detailed plan of action (outreach activities) DEQ will take to address concerns.
- Contingency plan for unexpected events.
- Contact names for obtaining translation for documents and/or interpreters for meetings.
- Appropriate local media contacts (based on the culture of the community).
- Stated location of situationally pertinent information (i.e. where important documents can be found, such as permit application, press releases, etc.).

8 / Additional Resources

DISTRIBUTION OF TITLE VI PROGRAMMATIC INFORMATION

Programmatic information on Title VI and other Department nondiscrimination programs will be created and distributed to employees, contractors, stakeholders, and the public. Public distribution efforts may vary, but will generally include:

- Posting, online and prominently at each DEQ building, multi-lingual public statements describing DEQ's nondiscrimination policy using readable designs;
- Placing multi-lingual brochures in public places, such as government offices, transit facilities, and libraries;
- Including nondiscrimination language in contracts;
- Including multi-lingual nondiscrimination notices in meeting announcements and handouts; and
- Displaying DEQ's Notice of Nondiscrimination at public meetings in multiple languages.

At a minimum, nondiscrimination information will be available on the DEQ website, as well as on posters in visible areas at all of the Department's office locations. Project-related information and the Department's most current Title VI documents will be maintained online.

LIMITED ENGLISH PROFICIENCY

It is critical to facilitate and encourage public participation and reduce known barriers. The Department is committed to providing equitable access and ensuring accurate and understandable information is distributed to and available for all North Carolinians. Executive Order 13166 requires each federal agency to ensure recipients of federal funding provide language access services to Limited English Proficient (LEP) individuals on the obligation under Title VI. As a recipient of federal funds, DEQ is therefore required to provide language assistance services to qualifying populations when deemed appropriate.

Please refer to DEQ's LEP Language Access Plan, which has been developed in conjunction with this plan, for resources and best practices for outreach with limited English proficient persons.

9 / Conclusion

It is the Department's intention to follow this Plan in the conduct of the people's business in North Carolina. DEQ staff who interact with the public as part of their duties will be appropriately notified of this Plan and trained in its implementation to ensure consistency across programs. This agency will continue to perform its work in an open and transparent way, with awareness of and sensitivity to the changing demographics of the people of our State. To ensure the plan reflects current best practices and lessons learned by the Department, this plan will be reviewed every two years. As the Department applies the public participation, community outreach, and engagement strategies and methods articulated in this Plan, DEQ expects to be better stewards of the State's resources and better partners with the communities it serves.