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Building Capacity to Participate in Environmental Protection Agency Activities

A Needs Assessment and Analysis

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BUILDING CAPACITY TO PARTICIPATE IN ENVIRONMENTAL PROTECTION AGENCY ACTIVITIES: A NEEDS ASSESSMENT AND ANALYSIS

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[1]*See* GSA TWENTY-FIFTH ANN

Today, the list of laws, regulations, and policies that call for public participation in Agency administration is diverse and lengthy – the Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), to name only a few. The majority of these statutes and policies rely on standard approaches to Agency public involvement, primarily public meetings and notice and comment on proposed activities.[6]

But over the last few decades, a paradigm shift has occurred in how government agencies attempt to involve the public.[7] Citizens are increasingly reluctant to defer to "expert" Agency opinions and are unwilling to act merely as sounding boards for agencies that have already made a decision – particularly when these decisions affect their local communities.[8] Consequently, governments are moving away from the more traditional representative form of decision-making, where the Agency administrator makes a decision after consulting with select individuals who are leaders or representatives of key interests.[9] Instead, Agency officials are employing a more participatory democratic process that attempts to involve citizens directly affected by Agency decision-making. This evolution toward directly involving citizens in an Agency issue can be seen at all levels of government, ranging from large federal agencies such as the United States Department of Defense to local governments such as city health boards. In short, there has been an increase in the number of federal and age0Z3nCvhministmber of feng cithort, ther 41ity hei federa as

[6]*See, e.g.*, CERCLA, 42 U.S.C. § 9617(a).

[7]*See* JOHN CLAYTON THOMAS, PUBLIC PARTICIPATION IN PUBLIC DECISIONS: NEW SKILLS AND STRATEGIES FOR PUBLIC MANAGERS 1-8 (1995); *see also* Marion Cox, *Integrating Public Input into Environmental Decisions: How Far Have We Come?*, 2 INTERACT: THE J. OF PUB. PARTICIPATION 35, 36 (1996).

[8]*See* Marion Cox, *Integrating Public Input into Environmental Decisions: How Far Have We Come?*, 2 INTERACT: THE J. OF PUB. PARTICIPATION 35, 36 (1996).

[9]*See* Dale J. Blahna & Susan Yonts-Shepard, *Public Involvement in Resource Planning: Toward Bridging the Gap Between Policy and Implementation*, 22 PUB. INVOLVEMENT IN RESOURCE PLAN 209, 211 (1989).

[10]*See generally* STUART LANGTON, CITIZEN PARTICIPATION IN AMERICA (1978).

[11]*See* Paul Slovic, *Perceived Risk, Trust, and Democracy*, 13 RISK ANALYSIS 675, 680 (1993).

trust has corresponded with an apparent growth in grassroots activism and the emergence of public interest and other social movement organizations.JO54.9roj14.932 e.g.,

[12]Jack DeSario and Stuart Langton, *Citizen Participation and Technocracy, in* CITIZEN PARTICIPATION IN PUBLIC DECISION-MAKING 3, 11-13 (Jack DeSario & Stuart Langton eds., 1987).

[13]Various theories of democracy detail the public participation evolution. For example, the traditional approach to Agency decision-making has been described as a "politics-administration" dichotomy, whereby policies reflecting the will of the people are established by a governing body and agencies administer or implement these policies. In the past, public will has centered on influencing the political side of this dichotomy – leaving federal administrators to determine solely how to implement resulting policies. Similar to the politics-administration dichotomy, a pluralist approach to democracy has been described that involves groups or organizations representing and advocating member interests and who have some influence over policymakers. Direct participation theory, on the other hand, shifts the focus away from groups to the individual and advocates Agency policymaking that involves citizens or so-called "stakeholders." *See* Daniel J. Fiorino *Citizen Participation and Environmental Risk: A Survey of Institutional Mechanisms*, 15 SCIENCE, TECHNOLOGY & HUMAN VALUES 226 (1990); *see also* Frank N. Laird, *Participatory Analysis, Democracy, and Technological Decision-Making*, 18 SCIENCE, TECHNOLOGY & HUMAN VALUES 341, 352 (1993); Barbara Knuth, *Weighting Stakes: Implications from the Citizen Task Force Approach*; *see also* JOHN CLAYTON THOMAS, PUBLIC PARTICIPATION IN PUBLIC DECISIONS: NEW SKILLS AND STRATEGIES FOR PUBLIC MANAGERS 16-18 (1995).

[14]Failures of poorly implemented stakeholder processes recognized in the literature include: inadequate representation of the surrounding demographic community; stakeholders that are essentially elite decision-makers; poorly informed participants; unbalanced representation; and inadequate technical and financial resources to participate effectively. *See, e.g.*, JOHN CLAYTON THOMAS, PUBLIC PARTICIPATION IN PUBLIC DECISIONS: NEW SKILLS AND STRATEGIES FOR PUBLIC MANAGERS 25-26 (1995). Researchers also recognize, however, the promises of well-run public involvement processes based on direct involvement, and that processes such as citizen advisory panels allow citizens to ask questions of Agency officials, challenge experts, explore and learn about issues in depth, and share values and concerns. *See, e.g.,* Daniel J. Fiorino, *Citizen Participation and Environmental Risk: A Survey of Institutional Mechanisms*, 15 SCIENCE, TECHNOLOGY & HUMAN VALUES 226, 228 (1990).

[15]*See, e.g.*, Daniel J. Fiorino, *Citizen Participation and Environmental Risk: A Survey of Institutional Mechanisms*, 15 SCIENCE, TECHNOLOGY & HUMAN VALUES 226, 228; *see also* Frank Laird, *Participatory Analysis, Democracy, and Technological Decision-Making*, 18 SCIENCE, TECHNOLOGY & HUMAN VALUES 341, 351-53 (1993); Jeffrey M. Berry et al., *Public Involvement in Administration: The*

regional level. The opportunity to find additional information on these programs and all others discussed in this report is provided in Appendix A.

These recent EPA initiatives reflect a high degree of effort and interest on the part of the Agency in trying to improve current public participation processes and develop new approaches to involving the public in its activities. In the course of these efforts, however, both EPA and stakeholders in a variety of contexts have expressed frustration that citizens and communities do not necessarily have the time, resources and expertise to participate effectively in EPA activities. The limited capacity of citizens and communities to participate effectively has raised numerous issues, including whether and how EPA, as well as non-governmental organizations, could build local capacity to participate in EPA decision-making processes.[20] This project was initiated to examine how the capacity of local communities can be increased and to discuss and analyze several potential approaches to capacity building. This research also suggests possible considerations and next steps for moving forward on building local capacity.

B. Study Methodology

During the first phase of the project, ELI conducted in-depth interviews with experts on citizen participation in environmental issues to help identify:

- The areas most in need of an investment in capacity building;
- Capacity building tools and techniques that are perceived as effective by communities and citizens;
- Effective mechanisms for delivering capacity building tools; and
- Approaches that could be taken to implement capacity building efforts.

The interview phase targeted approximately 34 citizen experts in the field of public participation and community capacity building across the country, primarily those working with communities at the grassroots and local level on a day-to-day basis. Interviewees were asked a series of varying and open-ended questions and were given a promise of confidentiality in order to encourage full and candid discussions.

During the second phase, ELI analyzed each need and approach identified by interviewees for building local capacity. In doing so, ELI sought to identify the

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[20]For example, the REPORT OF THE COMMON SENSE INITIATIVE COUNCIL'S STAKEHOLDER INVOLVEMENT WORK GROUP at 17 (1998) concluded: "Further guidance is needed on EPA's role and applicable techniques as a partner in decision-making and as capacity builder"; *Id.*at 79 ("The 'capacity building' role is sufficiently new to EPA (except in the technical assistance area) that it may be helpful to provide additional information on capacity-building skills.").

- If the public is educated about the issues, leaders will emerge;

- Given limited resources, capacity building should focus on community leaders because they are most likely to participate;

- Leaders can develop special interests and gaps can develop between leaders and members of the general public;

- Capacity building efforts should be broadened to reach non-environmental groups including civic associations, anti-poverty groups, community development groups, and chambers of commerce. If given the tools, these groups may participate in EPA's activities, thereby broadening the base of interest in those activities.

Thus, there were strong voices supporting capacity building targeted at both community leaders and the general public.

B. What Capacity Building is Needed?

The interviews pointed to several fundamental building blocks that interviewees thought should be part of capacity building efforts. These include:

- Information: The need for timely information early in the public participation process was viewed as essential to enhancing the capacity of communities to participate. Understandable and focused information was also viewed as critical, as well as information that explains the relevance of particular initiatives to specific communities. The importance of proactive dissemination of information was raised by many interviewees.

- Technical assistance: Some interviewees strongly emphasized the need for more technical assistance, because of the technical nature of EPA decisions. They thought that EPA should not shift the burden to perform technical analyses to citizens and communities – the Agency should translate citizen concerns into technical terms rather than require citizens to assume that responsibility. By contrast, other interviewees were adamant that technical assistance is necessary to level the playing field so communities can effectively counter industry's positions.

- Process education: Several interviewees emphasized the need to educate communities about how to participate in EPA processes, including notice and comment rulemakings, federal advisory committees, permitting activities, reinvention initiatives, and other Agency initiatives. According to interviewees, federal Agency processes can be intimidating and difficult to understand, and most importantly can incorporate informal practices

that are not explained anywhere. Consequently, citizens and community activists are not on equal footing with full-time industry representatives whose careers are based on understanding federal Agency procedures and practices.

- Access to documents: Easy and inexpensive access to documents, such as facility reports, that EPA uses to make permit and other decisions and access to copies of laws, regulations and policies was viewed by some interviewees as an important part of building capacity to participate.

- Education on laws: Some interviewees explained that communities need to learn about legal requirements and legally required procedures that govern environmental decisions, because it is difficult to participate in a permitting process or comment on an enforcement settlement or proposed rule without some basic understanding of the legal framework that applies.

C. How Should Capacity Building Tools Be Delivered?

In addition, the interviews highlighted several mechanisms that were perceived as effective in delivering capacity building tools. These approaches include:

- Meetings: Face-to-face meetings were discussed most often by interviewees as the best mechanism for delivering capacity building. Several specific points were made about the use of meetings to deliver information to communities: (1) meetings should be held at convenient times and in convenient locations for the communities affected by the pending action or initiative; (2) meetings should be held at places where people already gather such as civic associations, malls and fairs; (3) more than one meeting on an issue or initiative is critical – people need to hear about an issue more than one time in order to understand it and contribute to the decision-making process; (4) periodic meetings should be held in communities to determine what is important to particular communities, as opposed to meetings that are focused on a particular issue or initiative; (5) interpreters should be provided as appropriate; (6) informal meetings with small groups are needed because people are more likely to be engaged and creative in small groups; (7) most meetings should be open to the public rather than by invitation only; and (8) meetings should be advertised proactively.

- Mailing Lists: Mailing lists – both regular and e-mail – were cited as a strong mechanism for disseminating information, because they are a direct and efficient approach for providing information to stakeholders about EPA activities and pending initiatives.

- Advisory Groups: Participation in advisory groups was also viewed as a means of obtaining information and learning about issues. However, interviewees disagreed about the usefulness of federal advisory groups and other formal groups as a means of delivering capacity building tools, such as information. Some thought advisory groups were a "waste of time," while others thought advisory groups were effective and should be used earlier in the policy development process before proposals are established, to allow communities to learn about issues early and in detail.

- Internet: Views on the effectiveness of using the Internet for capacity building purposes varied considerably. Some interviewees thought that list-serves in particular were an effective means of reaching communities with information and that meetings held over the Internet could be effective as well. Several interviewees cautioned, however, that too much reliance on the Internet was problematic because only a relatively small percentage of the population, particularly in low-income and minority communities, currently has easy access to the Internet or to e-mail.

- Direct Outreach: Several interviewees favored direct outreach through telephone calls and door-to-door information dissemination as a means of reaching and informing communities about pending environmental initiatives and related issues that may be of concern or interest to them.

- Mass Media: Local newspapers were generally viewed as a good mechanism for reaching communities, but notices announcing meetings and other matters need to be large enough to attract attention. Some interviewees expressed frustration that newspapers only cover environmental initiatives once they have been completed and the opportunity for public input has passed. Other interviewees noted that smaller papers may be willing to print stories that they receive about pending environmental initiatives and issues. One interviewee mentioned radio as the best means of disseminating information.

- Newsletters: Local newsletters, including but not limited to environmental group newsletters, were mentioned by several interviewees as an effective mechanism for reaching communities.

- Non-EPA Organizations: Some interviewees noted that regulated entities are a good means of disseminating information to communities. Examples ranged from including information in water bills to requiring businesses regulated under certain programs to disseminate information about pending initiatives and related issues.

- Facility Notices: Several interviewees emphasized the importance of affirmatively notifying communities about the permitting and siting of facilities in their communities. Proposed mechanisms for notifying communities included posting signs and mailing notices to residents within a few mile radius of a facility that is subject to a pending siting or permitting action.

- Fact Sheets: Fact sheets and "one pagers"on pending national rules that explain in lay-person's language the effect of the regulation on communities were cited as a good mechanism for disseminating information. Interviewees also mentioned using templates on a variety of issues written in general, lay-person's language that could be modified or tailored by localities or EPA Regional offices to include community-specific information about an initiative. For example, a one-page document on total daily maximum loads under the Clean Water Act could be developed that would explain the concept, the legal requirements, and the status of efforts to implement the program. The template could designate places to add information about water bodies in a particular geographic area.

- Grants: Several interviewees mentioned grants to community groups, particularly technical assistance grants, as the best way to provide capacity building tools.

III. POTENTIAL APPROACHES TO CAPACITY BUILDING

The needs assessment interviews pointed to several potential approaches to building the capacity of communities to participate in EPA decision-making. This section summarizes several general approaches based on a wide range of suggestions offered in the course of the needs assessment interviews. The approaches are not based on any individual interviewee's suggestions *verbatim* or in full detail, but rather represent an amalgamation and categorization of the ideas and suggestions that emerged from the interviews. The strengths and weaknesses of the potential approaches are also discussed, but the approaches are not ranked in terms of their potential effectiveness because they vary considerably in scope and content and, therefore, are not comparable for purposes of ranking. Furthermore, as discussed below, additional efforts that include substantial public input, would be needed to evaluate fully the various approaches. To the extent that related approaches have already been tested in the field through NGO, EPA, state, or other federal programs, these programs are described.

A. Independent Information Broker

1. *Overview*

Most interviewees pointed out the need to have people dedicated to providing information to citizens about the environmental issues and initiatives that affect their

communities. Information was consistently described by interviewees as a critical part of building capacity, but the messenger of the information was seen as equally important as the information itself. The approaches to information dissemination currently used by federal and state environmental agencies were viewed as too bureaucratic, unresponsive, and removed from communities' interests and needs. Accordingly, many interviewees suggested that in-person delivery of information was key to capacity building. Many of the interviewees' comments are consistent with the research and academic literature examining the importance of both information and the source of information in public participation.[21]

Several variations on the same theme emerged in the interviews, but the independent information broker approach best summarizes a common group of suggestions. Under this approach, an individual would be responsible for disseminating information relevant to a particular geographic area. The broker would track and sort through the vast number of EPA initiatives and activities ongoing at any given time and select the information that would be particularly relevant to the communities he or she is responsible for informing. The broker would then disseminate that information in the manner most effective given the broker's knowledge of the community, its leaders, organizations, and information sources. Brokers could, for example, develop lists of local organizations and leaders and meet regularly with them or set up some means of reaching them that would enable the brokers to deliver relevant information and keep apprised of the issues of interest to the communities.

Views varied on how small the geographic areas need to be to allow the broker to know and understand the communities, their interests, and their concerns. Several interviewees believed that one broker per state would be sufficient and that it would be feasible for one person to learn enough about the various communities in the state to track issues of local interest and disseminate relevant information. As discussed below, however, the relevant academic literature indicates that a larger number of brokers may be necessary to implement such an approach effectively.

The independence of the broker from EPA and other regulatory authorities was viewed as an important aspect of the information broker approach. There was no consensus, but instead many suggestions, about how to achieve this independence. It was agreed, however, that an independent source of information would be particularly challenging to achieve in light of the fact that the broker would rely on EPA for information to disseminate to communities.

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[21] *See generally* Paul Slovic, *Perception of Risk*, 236 SCIENCE 28 (1987); Harold Mendelsohn, *Some Reasons Why Information Campaigns Succeed*, 14 PUB. OPINION Q. 50 (1973); NATIONAL RESEARCH COUNCIL, UNDERSTANDING RISK: INFORMING DECISIONS IN A DEMOCRATIC SOCIETY (1996).

A few interviewees suggested the broker could be an EPA or state Agency staff member but should be accountable to a board of directors that included, or was wholly made up of, community members that could dismiss the broker if job performance was unsatisfactory. In general, interviewees were concerned that a broker selected by, and responsible to, EPA or the states would not be trusted by or serve the interests of the community. Indeed, their comments reflect much of the research relating to citizen trust in government.[22] Because there was a strong sentiment among interviewees that the person who reaches out to the community should be from the community, several suggested that the information broker, even if funded by EPA through a grant, should not be an EPA employee. These interviewees recognized, however, the importance of a strong link between the broker and EPA in order to ensure that timely and accurate information is available to disseminate. Accordingly, some interviewees suggested that a two tier structure could be developed with designated point persons at EPA responsible for tracking and reporting relevant information to the information brokers. Numerous suggestions were offered regarding where information brokers should be housed. These included EPA, state agencies, local NGOs, local government agencies, state environmental councils, community colleges and others.

2. *Models*

Over the years, a variety of programs have been proposed, piloted, or implemented that utilize an information broker type model. One approach that is currently being piloted in Burlington, Vermont is the Sustainable Development Extension Network (SDEN) Partnership, developed by the White House Office of Science and Technology Policy. SDEN seeks to strengthen education extension networks to provide citizens and decision-makers in local communities with the information and support they need to develop sustainable communities. SDEN was established as a "one-stop-shop" that collects a comprehensive array of environmental information and provides information about support available from many governmental and non-governmental sources. Communities are able to access this information and support through "community based brokers" that come from their communities and understand their needs and interests. Brokers meet frequently with community members to keep apprised of their concerns and then utilize SDEN as a resource to connect their community clients with the educational, technical and financial resources and information they require.

A model very similar to the information broker model suggested by the interviewees is a program proposed by the National Commission on Superfund in 1993. The National Commission was a diverse group of CEO-level stakeholders convened to

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[22] *See* Rosenbaum, *Citizen Participation and Democratic Theory*, *in* CITIZEN PARTICIPATION IN AMERICA 45 (Stuart Langton ed., 1978); *see also* Thomas A. Heberlein, *Some Observations on Alternative Mechanisms for Public Involvement: The Hearing, Public Opinion, The Workshop, and The Quasi-Experiment*, 16 NAT. RESOURCES J. 197, 198 (1976).

develop recommendations for federal Superfund reform. The stakeholders developed a comprehensive reform package that received broad support but ultimately was not enacted into legislation. The Commission's recommendations included the establishment of Citizen Information and Access Offices (CIAOs) to ensure that communities received adequate, timely information about the nature of the Superfund program and their options for participation throughout the Superfund cleanup process. The Commission recommended that the creation of an "independent, extra-governmental, citizen-run entity located in each state could be instrumental in ensuring meaningful public involvement in the Superfund program." The CIAOs would be responsible for ensuring wide dissemination of information in a fashion easily understood by the community, taking into account any unique cultural needs of the community such as the need for oral presentation of information and distribution of information in languages other than English. In addition to maintaining records of site status and lists of available experts and active citizen groups, they would also be a repository for information about site-related data. The Commission envisioned that the CIAOs could run advertisements in the most widely read local newspapers, advertise over local radio, or send employees door-to-door to distribute flyers that explained options for community involvement. To ensure that the CIAO would be a stable and reliable resource for citizens, the permanent staff would have strong backgrounds and qualifications for working with citizens in Superfund communities. To further ensure that each CIAO served the intended communities successfully, the Commission recommended the establishment of a volunteer Citizen Governing Board for each CIAO. This board would have responsibility for ensuring that the CIAO was properly managed. Although CIAOs were never adopted, because the larger legislation they were included in failed to pass, the recommendation was a consensus proposal made by a diverse group of stakeholders, including industry and environmental groups.[23]

One well-tested program that uses a type of information broker is the United States Department of Agriculture (USDA) Cooperative State Research, Education and Extension Service (Extension Service). The Extension Service was established to convey information from departments of agriculture and land grant universities to local communities. The primary purpose of the Extension Service is to transmit information from specialists to the public and private sectors in order to promote communication and enhance science-based decision-making in the agricultural sector. The scope of the program has broadened since the time it was originally conceived and now includes topics not directly related to agriculture, such as issues important to urban residents and minorities. To facilitate information exchange, the Extension Service is staffed by county-level employees who serve as liaisons between the Department of Agriculture, land grant universities and local communities, thereby allowing for the establishment of a two-way dialogue. These county employees are typically hired from the community, which allows them to remain current on local issues and concerns. They are also trained

[23]*See* NATIONAL COMMISSION ON SUPERFUND, FINAL COMMISSION REPORT OF THE NATIONAL COMMISSION ON SUPERFUND (1993).

in educational and outreach techniques. The county employees provide information to the community through meetings, workshops, face-to-face dialogues, conferences, publications, electronic communications, and mass media. Currently, EPA and USDA are exploring possibilities for a partnership to support community-based education and effectively deliver locally-relevant environmental information to communities. A study conducted by the Extension Service at the University of Wisconsin found that EPA could capitalize on the Extension Service's substantive expertise, conveners, educators, and facilitators by applying their skills to environmental topics. The goals of the proposed EPA / USDA partnership described in the Wisconsin report are to enhance efforts that expand community capacity to improve environmental quality, lead to environmental

[24] *See* UNIVERSITY OF WISCONSIN COOPERATIVE EXTENSION ENVIRONMENTAL RESOURCES CENTER, AN EPA / USDA PARTNERSHIP TO SUPPORT COMMUNITY-BASED EDUCATION, EPA 910-R-98-008 (1998).

educational community, and federal, state and local governments. There is a SBDC in every state, with a network of over 1,000 subcenters. These subcenters are located at colleges, universities, vocational schools, chambers of commerce and economic development corporations. SBDC assistance is tailored to the local community and the needs of individual clients. Each center develops services in cooperation with local SBA district offices to ensure statewide coordination with other available resources. The staff at each SBDC takes a proactive role in providing small businesses with current and pertinent information and connecting businesses with appropriate resources, such as consultants and engineers.

working relationships with EPA and state officials would, in all likelihood, facilitate the brokers' efforts to consistently obtain timely, reliable and relevant information and to share information and concerns with the Agency, but might undermine perceptions of their independence.

Another option would be to house the brokers in a variety of local venues selected on a case-by-case basis. For example, in one community the optimal location for an information broker may be a community college, but in another community it might be an environmental council or a library. The advantage of this approach is that it would allow ample flexibility to tailor the location of the information broker to community-specific needs and characteristics. The disadvantages could include a lack of national consistency for administrative coordination purposes, as well as institutional separation from EPA, the source of the information to be disseminated.

Funding and support for the information brokers could come from EPA or state agencies initially and then from private foundations. Because foundation funding is limited, however, some local environmental groups would undoubtedly be concerned about having foundation funding taken away from their organizations to fund what is arguably an EPA function of providing information about its own initiatives and pending activities to stakeholders.

Due to the potentially large amount of resources required to establish information brokers and the possibility that such a program could not be implemented absent additional EPA authority, one option would be to explore using existing infrastructure and staff from other federal programs or non-governmental organizations, such as the USDA Extension Service agents, Americorps volunteers, or university professors and students, to serve as information brokers. This would have the advantage of conserving resources and building on successful programs rather than starting anew. However, this approach would require extensive inter-Agency or inter-organizational coordination and willingness on the part of the entity with the infrastructure in place. This approach raises additional concerns such as whether USDA Extension agents, for example, have the required training or interest in providing information to their constituencies about EPA activities and initiatives. Although USDA Extension agents have expanded the range of issues they cover in recent years, they still tend to focus on serving agricultural interests in many communities and may view environmental issues as inconsistent with these interests or outside their area of expertise.

Despite these concerns, at least some Extension Service employees are already working with EPA to deliver information. For example, the USDA Extension Service environmental education specialist at the University of Wisconsin talks regularly with EPA about pending initiatives that may impact the State. This information is then relayed to the county extension agents who may use and disseminate the information. This approach relies on the judgment and interest of the county employees as to whether to disseminate the information in their counties and, therefore, may not be as reliable as

some communities would desire. It also depends on committed individuals such as the environmental education specialist taking the initiative to solicit and relay relevant information. Nevertheless, an approach that builds on the well-established infrastructure of the USDA Extension Service may warrant further consideration by EPA and community stakeholders because of the considerable resources the program offers. This approach could be of particular interest if steps could be taken to address concerns about Extension Service agents' conflicting interests and agendas through, for example,

[26] *See* JOHN CLAYTON THOMAS, PUBLIC PARTICIPATION IN PUBLIC DECISIONS: NEW SKILLS AND STRATEGIES FOR PUBLIC MANAGERS 154-56 (1995) (discussing the importance of the role that ombudspersons can play in resolving citizens' concerns).

Interviewees emphasized the importance of having a proactive ombudsperson who would reach out to communities rather than wait for and react to requests. Ombudspersons could, for example, work with NGOs in the various communities, such as state environmental councils and specific environmental groups, to disseminate information. Interviewees differed as to whether the ombudsperson should assume the added role of serving as a community advocate within the EPA.

Unlike the information brokers, the ombudspersons would be located at EPA and would not spend a lot of time in communities. Interviewees suggested that ombudspersons could be located in Regional EPA offices rather than in Headquarters in order to increase opportunities to interact with local communities. Several interviewees further suggested that the ombudspersons come from the communities they serve or at a minimum receive training in outreach techniques. The likely success of the ombudsperson approach was viewed as heavily contingent upon selecting the right people as ombudspersons and adequately funding their activities.

2. *Models*

EPA has used the ombudsperson model in a variety of contexts over the years. The Small Business Ombudsman (SBO) Office was established in 1982 to help businesses participate in EPA decision-making and to increase EPA's understanding of small businesses for purposes of developing and enforcing environmental regulations. The Ombudsman also mediates disputes and serves on EPA working groups, providing input on the effects of proposed regulations on small businesses. When notice of a proposed rulemaking is published in the Federal Register, the SBO alerts the proper trade associations and business organizations so that they can submit comments for the record. Once laws are established, the SBO attempts to get voluntar so thamse efminen the Federal Re Ombudsman the information bidinher th Veralof aple asSenio aE. The

Business Ombudsman to assist small businesses with complying with the Clean Air Act. The Ombudsman's responsibilities may include: 1) reviewing and providing recommendations to EPA and state/local air pollution control authorities regarding development and implementation of regulations impacting small business; 2) assisting in the dissemination of information about upcoming air regulations, control requirements, and other matters relevant to small businesses; 3) referring small businesses to appropriate specialists for assistance with specific needs; and 4) conducting studies to evaluate the effects of the Clean Air Act on state and local economies and on small businesses.

Some states also have established more general ombudsperson programs in their environmental protection departments. For example, the Connecticut Department of Environmental Protection has an Office of the Ombudsman that aims to make the Department as accessible as possible to the general public and the regulated community. The Office assists applicants in understanding the permitting process through user guides and pre-application meetings where they bring together potential stakeholders in the permit process. The office also maintains a hotline that provides training and information to business, industry, municipalities and citizens, distributes information to businesses, and develops special task forces and advisory committees composed of diverse interests to solve environmental problems.

In contrast to these approaches, several ombudsperson programs are less proactive and instead focus on responding to questions and concerns of community members through hotlines, websites, publications and resource libraries. The EPA Office of Solid Waste and Emergency Response established a hazardous waste ombudsman program that responds to questions and concerns from citizens and the regulated community about the Agency's Superfund and hazardous waste programs. The ombudsman also makes recommendations to the EPA Administrator based on the inquiries received. This program conducts minimal outreach work, mainly consisting of making people aware of the toll-free number. The program maintains one employee at EPA headquarters and one in each region.

Programs such as the North American Association for Environmental Education, the Eisenhower National Clearinghouse, the Envirolink Network, the Calumet Environmental Resource Center, EPA's National Center for Environmental Publications and Information, and EPA Region VIII's Environmental Information Service Center provide citizens with environmental information through various mechanisms including the Internet, newsletters, journals, technical documents, and resource libraries. Although not classic ombudsperson programs, they provide information in a similar manner.

3. *Discussion*

Ombudspersons are a familiar model that may be effective for local capacity building depending on the way such a program is structured and implemented. In

order to be effective, enough ombudspersons or staff would have to be appointed so they could meet the information needs and requests of the communities they serve. The ombudsperson approach may help to ensure that the disseminator of information to communities is knowledgeable about the Agency and has access to the information communities need in order to participate. A corresponding concern, however, is that the ombudspersons may not feel accountable to their customers and may be perceived as inaccessible, unhelpful bureaucrats.[27]

If the ombudspersons were to perform an information dissemination role only, as compared to an advocacy role, this approach could be implemented by EPA without major institutional changes. Using ombudspersons in an advocacy role, however, raises several additional issues. For example, one issue is whether such a function would require Congressional approval or would fall within EPA's current authority. Even if additional statutory authority is not required, however, the political feasibility of garnering funding for such an approach may be limited. Furthermore, placing advocates for particular groups within the Agency, even a group as broad as communities, may prompt other groups to seek similar advocates. The implications of such an approach for the way that EPA does business should, therefore, be carefully thought through.

Despite these concerns, there are considerable advantages to an advocacy role for ombudspersons. As discussed below in section IV, some communities may lack confidence in the federal government and public participation processes. The addition of ombudspersons who would advocate for communities and represent them in the bureaucracy could help raise confidence levels and minimize one of the current impediments to capacity building. A key challenge would be to determine how an ombudsperson could represent numerous communities and all interests within any particular community – many of which may have different and competing concerns and positions on issues. While this may not be an insurmountable problem – certainly, all small businesses do not have the same interests but are represented by one ombudsperson – it is a challenge that would have to be addressed if ombudspersons took on an advocacy role.

C. Hotlines

1. *Overview*

Some interviewees suggested that EPA improve its daily operations by using a single, comprehensive hotline that would respond to questions from communities that

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[27] *See generally* Marcus E. Ethridge, *Procedures for Citizen Involvement in Environmental Policy: An Assessment of Policy Effects*, *in* CITIZEN PARTICIPATION IN PUBLIC DECISION-MAKING 115, 116 (Frank DeSario & Stuart Langton eds.,1987); *see generally* MARY GRISEZ KWEIT & ROBERT W. KWEIT, IMPLEMENTING CITIZEN PARTICIPATION IN A BUREAUCRATIC SOCIETY(1981).

[28]*See* Final EPA Policy on Public Participation, 46 Fed. Reg. 5740, 5742 (1981) (recognizing hotlines as an important technique to aid dialogue between citizens and the Agency).

[29]*See*

the initiative to call a hotline may have a ripple effect in the community, but there is no guarantee that there will be an initial interest to provide this impetus. In addition, depending on the nature of the questions asked of a hotline operator, a caller may garner less complete information than might be provided by someone with a more proactive responsibility for educating the public. Furthermore, by the time a call is received by a hotline, it may be too late in the public participation process for the caller to participate effectively on the issue or concern.

For a new, comprehensive hotline to be effective, the hotline staff should have both substantive expertise and experience working with the public. An ineffectively staffed hotline could create substantial ill will, waste valuable resources, and undermine capacity building efforts. By contrast, if accountability is built into the process and hotline operators are required to follow up and ensure that callers' questions are answered, the resource implications of the effort could be significant.

Before the establishment of a new, comprehensive hotline, EPA's existing hotlines should be examined to determine the strengths and weaknesses of the current approach to hotline operation. Notably, interviewees did not mention any of EPA's current hotline operations, which may reflect a failure to publicize them well or the need for a hotline that is not program-specific but could handle any inquiries related to EPA activities. Financial resources and staff would therefore be needed to publicize hotlines widely so that citizens across the country would know the number to call with their questions. Advertising a hotline on this scale could be a formidable task that would require substantial investment and networking with other organizations, including state environmental agencies, that could in turn publicize EPA's and their own hotlines to their constituencies.

D. Technical Assistance Grants

1. *Overview*

The increased use of technical assistance grants (TAGs) was suggested by several interviewees. Technical assistance grants were viewed favorably by interviewees because they allow communities to assess independently the technical aspects of an issue or pending action, rather than relying on the regulated community or EPA for their information. Specifically, interviewees suggested that TAGs should provide adequate amounts of money, have limited matching requirements, and that approval processes should be streamlined. In addition, some interviewees suggested using the TAG model as a basis for providing grants for activities outside the traditional realm of technical assistance, such as training in leadership development or dispute resolution.

2. *Models*

The primary model referred to by interviewees was the TAG program established by Section 117 of CERLCA, or Superfund. Under the TAG program, groups that are

[31]CERCLA, 42 U.S.C. §9617(e).

[32]*See* 40 C.F.R. Part 35 (1998).

[33]*See* THE LOKA INSTITUTE, *The Loka Institute* (last modified June 2, 1999) <http://www.loka.org/>.

[34]*See* JOHN THOMAS CLAYTON, PUBLIC PARTICIPATION IN PUBLIC DECISIONS: NEW SKILLS AND STRATEGIES FOR PUBLIC MANAGERS 149-50 (1995) (noting that technical assistance grants, although many times helpful to citizens, do not solve the more systemic problems in public involvement); *see also* Clifford W. Scherer, *Strategies for Communicating Risks to the Public,* 45 FOOD

participants with the resources and tools available to assist them in writing NPDES permits. There is no fee for attending the five day course, which is held six times per year in a variety of cities throughout the country.

Workshops that are geared more towards the average citizen are given by Technical Outreach Services for Communities. TOSC sponsors workshops, short courses, and other learning experiences to explain basic science and environmental policy concepts. Professional TOSC trainers travel to communities and hold workshops that address the concerns of specific communities.

A USDA program that trains citizens and then relies on them to train their communities is the Master Gardeners Program. This program is run through USDA county extension offices and has been established in 45 states. Each state's program varies slightly, but their common approach is to offer community members free training in horticulture, wildlife management and other environmentally-related topics in exchange for those community members contributing a specified number of hours of service. The community service tasks can range from conducting a public workshop to answering questions on phone hotlines. This model allows community members to receive training in environmental issues that interest them and then multiply awareness by training others in the community.

An additional, less resource-intensive approach to training is to develop and disseminate guidebooks. EPA and non-profit organizations have published several guidebooks for citizens written in non-technical, understandable language.[39] Examples of EPA Guidebooks include *Environmental Enforcement: A Citizen's Guide* and *Project XL Stakeholders Involvement: A Guide for Project Sponsors and Stakeholders*(Se fStepThis mode-31.85lies on tl

[39]EPA's Stakeholder Involvement Action Plan (December 1998) recognizes the importance of the Agency creating project and program-specific guidance materials for citizens that will be broadly distributed.

[40]Evaluation of Project XL Stakeholder Processes, Final Report, EPA 100-R-98-009 at 4 (1998).

[41]*See* Marion Cox, *Integrating Public Input Into Environmental Decisions: How Far Have We Come?*, 2

regulated entities and EPA. Capacity to participate could be increased not only through the exchange provided by the collaborative structure but also by virtue of the increased opportunity to advance other capacity building tools, such as information-sharing. In addition, an ongoing collaborative relationship could promote citizen involvement early in the decision-making process. According to interviewees, a collaborative approach may address concerns that many processes currently used for public participation are outdated and that new paradigms are needed to provide a more integral and meaningful role for stakeholders. Implementing additional collaborative public participation processes could also increase citizen trust in EPA decision-making.

2. *Models*

Several new approaches to collaborative participation have been tested by EPA and NGOs. For example, EPA's Common Sense Initiative (CSI) brought together diverse stakeholders to discuss how to improve environmental performance in specific industry sectors. Six industries were selected to serve as CSI pilots and subcommittees were established for each sector. The subcommittees worked under the umbrella of a CSI Council made up of senior leaders from industry and numerous national stakeholder groups. The subcommittees consisted of multiple stakeholder interests, including environmental organizations, environmental justice groups, labor unions, government regulators, and industry. Sector subcommittees met regularly to discuss project progress and policy issues. Subcommittees made recommendations through the CSI Council to EPA for policy and regulatory actions. From 1995 to 1999, the sector subcommittees initiated close to 40 projects involving more than 150 stakeholders who participated in subcommittee work groups. Using a consensus approach to decision-making, the groups addressed diverse topics such as pollution prevention, environmental reporting requirements and public access to environmental information. The Iron and Steel sector subcommittee, for example, met for three and one-half years to find better ways to provide for protection in the areas of regulation, permits, compliance, reporting, pollution prevention and environmental technology. The subcommittee consisted of 20 non-federal members representing diverse backgrounds. Together the group developed numerous recommendations, principles, and pilot projects on issues that impact the iron and steel industry.

EPA's *Framework for Community Based Environmental Protection* (CBEP) brings together private and public community stakeholders to identify environmental and public health concerns, set priorities, and forge solutions toward sustainable communities. EPA's objectives are to achieve environmental results consistent with the Agency's mission, help communities develop the tools and capacity necessary to be stewards of their human and natural resources, and coordinate and integrate EPA's activities and programs to increase the Agency's effectiveness in supporting sound community environmental decision-making. The Framework states that EPA will work to integrate the CBEP approach into all of its programs by revising policies and rules, developing better lines of communication among programs, identifying and supporting

research needs, and establishing education and training programs for EPA staff. The CBEP Framework has not, however, been adopted and implemented throughout the Agency to date.

EPA has also used new processes that more fully involve communities in decision-making under specific programs. For example, a multi-stakeholder council was created to select a remedy for the Pine Street Barge Canal Superfund site using a consensus-based decision- making process, developed by the Mediation Consortium, that allowed for extensive community involvement. The process was initiated following the community's opposition to EPA's initial remedy. The council was comprised of affected stakeholders including: EPA, the State of Vermont, the City of Burlington, United States Fish and Wildlife Service, a citizens' group, an environmental group, and parties potentially responsible for the cleanup. The Council was asked to reevaluate ecological, human health, and remedial issues, and reached consensus on cleanup levels and a remedy. In addition, a separate agreement was developed between the community and the parties responsible for the cleanup that provides for $3 million in "special projects."

Restoration Advisory Boards (RAB) established by the Department of Defense (DOD) also use a more collaborative approach to public involvement. RABs provide a forum for discussion and exchange of information between regulatory agencies and communities at DOD Superfund sites. RABs are composed of members of the community, representatives of the installation, EPA, and state, tribal and local governments. The size of each RAB depends upon the complexity of the issue, the number of stakeholders and the level of community interest, but they usually consist of no more than 20 members. The responsibilities of RABs include increasing community understanding of DOD's cleanup program, reviewing cleanup plans and technical documents, providing advice on cleanup activities and remedy selection, and acting as a resource to the community. This program is intended to involve communities early in decisions about contaminated property in their neighborhoods.

An example of a NGO approach to involving the public in environmental issues is the use of Good Neighbor Agreements. The goal of these agreements is to foster sustainable development in a community by reconciling economic development with the

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environmental information about regulated facilities. In the past, these records, although public for the most part, were very difficult for public and government users to obtain because they were spread across many different databases. Under SFIP, EPA has integrated this information so that it can be viewed in one place, and can be used to better understand facilities'overall environmental records. SFIP covers five industry sectors including petroleum refining, iron and steel production, primary nonferrous metals smelting and refining, pulp manufacturing, and automobile assembly.

Another initiative from the Office of Enforcement and Compliance Assurance that attempts to provide citizens with improved data accessibility is the Integrated Data for Enforcement Analysis (IDEA) system. IDEA is a comprehensive source for environmental performance information on regulated facilities that allows the public to obtain a historical profile of EPA-regulated companies' inspections, enforcement actions, toxic chemical releases, penalties, and emergency hazardous spills. This single access point provides information from EPA's Air, Water, Hazardous Waste, Toxic Chemical Release Inventory, and Emergency Response Notification Systems.

Non-governmental organizations are also striving to provide citizens with improved access to environmental information. The Environmental Defense Fund (EDF) has created the Scorecard, accessible through the EDF web page, which allows members of the public to acquire information about the environmental conditions in their locality. Users can type in their zip code to access information about their county and neighborhood, including releases of toxic chemicals, air pollution, water pollution and their locality's environmental priorities. With the Scorecard, EDF is attempting to fill gaps in the public's information about local pollution and other environmental conditions.

In addition to initiatives that provide data to the public, several web pages that attempt to direct citizens to information and sources of data have also developed. EPA's Office of Reinvention has developed a stakeholder Internet web site, which provides links to key information about EPA's efforts to develop policies and related materials regarding stakeholder involvement. The "related projects" link provides access to activities of interest to the general public, local governments, communities, tribes, state governments, federal agencies, facilities, businesses, and industrial sectors. For instance, the site provides access to information about EMPACT, CBEP, Project XL, the Envirofacts Warehouse, and the Center for Environmental Information and Statistics. Any citizen may find statistics on information ranging from air quality levels in his or her community to information on specific facilities discharging pollution.

Several networks have also been established for sharing information among stakeholders that draw, in part, on data made available by EPA and NGOs. An example of a network that has been established to aid in collaboration and information-sharing is the Smart Growth Network sponsored by EPA and a coalition of private sector and non-profit organizations. This network strives to encourage land development that serves

the economic, environmental and social needs of communities. It provides a forum for education, information-sharing, tool development, and collaboration on smart growth, anti-sprawl issues. The Network also provides contact information, educational resources and videos, a bimonthly newsletter and regional conferences and workshops.

Another network established through a partnership of several organizations, including EPA, is the Local Government Assistance Network (LGEAN), a forum and clearinghouse that provides clear, concise and relevant environmental management, planning and regulatory information to local governmental officials and their staff. The

Another NGO network, the Southwest Network for Environmental and Economic Justice, is a coalition of grassroots community-based, native, labor, and student groups in the southwestern and western United States and border states of Mexico that are pro-actively working for sustainable communities and for environmental, economic, social, and racial justice. Composed of African Americans, Asian / Pacific Islanders, Native Americans, and Latinos, the group works to join people together to develop collective regional strategies on environmental degradation and to fight against social, racial, generational, economic, and gender injustices. This network runs six campaigns focused on border justice, accountability and environmental justice, technology, dumping on native lands, worker justice, and youth leadership and development. The Southwest Network partnership includes organizations that provide technical assistance and research to these campaigns. The Network's training program provides skills to affiliate organizations for building organizational development, leadership development, and communications technology.

3. *Discussion*

The tremendous increase in availability of data has affected and will continue to affect, the role of the public in environmental policymaking and the level of accountability of the regulated community.[44] Providing huge volumes of data will not necessarily build the capacity of communities to participate unless they have access to the data, can understand it, and have a mechanism for using the data to influence policy and the regulated community's behavior.[45] Thus, the great increase in the availability of data raises many issues, including how to ensure the quality and integrity of the data that is available and whether data should be provided raw or with some explanation. Furthermore, limited access to the Internet and lack of computer hardware, particularly among low-income and minority communities is an issue, at least in the short term, that should not be ignored.

The development of non-profit networks for disseminating and interpreting data addresses some of these issues by providing a non-governmental, independent means of accessing information for communities. These networks, particularly those that emphasize collaboration of national environmental groups and local environmental groups, can increase local capacity by providing resources and information.[46]

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[44] *See* generally STEWART LANGTON, CITIZEN PARTICIPATION IN AMERICA (1978).

[45] *See, e.g.*, STEPHEN KELLERT & JOYCE BERRY, KNOWLEDGE, AFFECTATION, AND BASIC ATTITUDES TOWARD ANIMALS IN SOCIETY 7 (1980) (merely providing information is inadequate to ensure informed input, and information must be tailored to address knowledge levels of specific audiences or segments of the public).

[46] *See, e.g.*, Evaluation of Project XL Stakeholder Processes, EPA 100-R-98-009 at 4 (1998) ("national environmental group staff often have the substantive expertise that citizen environmentalists lack . . . . pairing national and local environmental group direct participants also can improve technical resources available to local groups.").

unclear, however, whether these networks can be self-sustaining over the long term and tailored enough to specific local communities' interests.

H. Grants to Community Groups

1. *Overview*

Some interviewees suggested that EPA provide grant money to community groups to enable them to disseminate information more widely about EPA activities and pending actions. The interviewees reasoned that local environmental groups are often responsible for ensuring community participation in EPA initiatives and, therefore, know the best way to disseminate information in their communities. Grant money would assist communities in determining whether an issue or initiative is of interest and merits participation.

2. *Models*

ELI's research did not produce any models that provide grants for local groups to disseminate information. However, EPA's Office of Environmental Justice (OEJ) has established the Small Grants Program to assist community-based and grassroots organizations and tribal governments that are working on solutions to local environmental problems and environmental justice issues. OEJ has awarded $3,000,000 to over 150 grant recipients across the country. Those eligible for the grants are any affected community group, church, school, educational institution, non-profit organization, university, or tribal government.

Sustainable Development Challenge Grants are provided by EPA to create an opportunity for communities to develop place-based approaches to problem solving. Grants are awarded directly to non-profit organizations, educational institutions, and non-federal governmental entities, including tribes. The grants are intended to encourage people, organizations, businesses and government to work together in their communities to improve their environment while supporting a healthy economy and a sense of community well-being. The program challenges communities to match EPA seed funds with public and private investments to develop and implement community-based environmental programs using a sustainable development approach. The projects funded are designed by community stakeholders to involve those with the best insight into problems and opportunities in the community. In FY 1997, the Agency awarded 45 grants totaling approximately $5 million.

3. *Discussion*

Providing grants to local environmental groups is a direct approach to building capacity. It delivers resources directly to groups that work on environmental issues on a community level and very well might increase the level of participation in EPA

initiatives.[47] On the other hand, the resource implications could be considerable and such an approach would undoubtedly raise strong opposition from certain stakeholders.

Perhaps the most interesting question raised by grants to community groups relates back to the question of whose capacity should be bolstered through capacity building efforts. Providing money to local groups necessarily requires the selection of particular grant recipients. In this manner, the grantor is providing resources not to the community as a whole, as for example under the information broker model, but is building the capacity of a specific group, its members or parts of the community that share a similar perspective with the grant recipient. While this type of targeted capacity building could be viewed as a sound use of resources because it leverages resources by providing funds to community leaders who then disseminate information more widely, it also raises questions about whether this approach is too narrow compared to an approach that may reach larger segments of affected communities. Care would also need to be taken to ensure compliance with any legal restrictions on government funding of organizations that lobby Congress.

I. Improved Access to Documents

1. *Overview*

Easy and inexpensive access to documents was viewed by some interviewees as essential to capacity building.[48] Documents could include a wide range of materials such

[47] *See* Final EPA Policy on Public Participation, 46 Fed. Reg. 5740, 5744 (1981) (stating that EPA's 1981 policy allows for outside organizations and individuals to receive funds for public participation activities which the Agency deems appropriate).

[48] *See id.* at 5741 (outlining the importance of providing policy, program, and technical information at places easily accessible to interested and affected persons and organizations).

simply making documents available is enough or whether the documents need to be written in non-technical language and include lay-person explanations of the impacts a pending action may have on the community concerned.

J. Improved Mailing Lists

1. *Overview*

Several interviewees suggested that EPA should strengthen and improve its mailing lists.[50] Mailing lists are currently under-utilized for the most part, according to the interviewees, although some states use mailing lists effectively. Although mailing lists are currently used by certain programs, several interviewees suggested that these lists are not maintained diligently by EPA and are not used as often as they should be used. In addition, several interviewees suggested that tailored mailing lists that target certain groups and communities with an interest in particular issues should be developed more proactively, even when they are not required.

2. *Models*

Mailing lists are currently used by EPA, other federal agencies, and state governments. EPA maintains a wide variety of mailing lists nationally, regionally and locally. The requirements for maintaining and using mailing lists are similar across many EPA programs,[51] but the practices vary greatly among offices and regions. Typically, mailing lists are developed by including those who request to be placed on a mailing list, those who have been on past mailing lists for similar environmental proceedings, and those who respond to EPA notices of the opportunity to be notified of upcoming proceedings.[52] EPA officials may also add the names of people and organizations that they believe may be interested in an Agency action or decision. Generally, however, most of the names that are collected on such mailing lists are those who have approached EPA with a request to be informed of future meetings and proceedings.

Mailing lists of community-level stakeholders are typically kept in the Regional offices, if at all. Region I has made an effort to develop a centralized database of mailing lists of municipal organizations, business associations and other groups that may be

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[50]*See* Final EPA Policy on Public Participation, 46 Fed. Reg. 5740, 5741 (1981) (noting the importance of developing lists of persons and organizations that express interest or are affected by an Agency activity that can be used to send announcements of participation opportunities, notices of meetings, hearings, field trips and other events and notices of available reports and documents).

[51]Clean Water Act and Resource Conservation and Recovery Act permits, 40 CFR §124.10(c)(1)(ix); Federal Operating Permit Programs under the Clean Air Act, 40 CFR §71.11(d)(3)(i)(E).

[52]*See, e.g.*, 40 CFR §124.10(c)(1)(ix).

interested in EPA actions – the database has grown to over 20,000 entries. Other regions are less far along. Where there are mailing lists of local stakeholders, they are likely to reside with a project officer. Some project officers, particularly those associated with Superfund programs, may undertake fairly extensive community outreach efforts to develop community contacts, "branching out" from local government officials to larger advocacy groups, down to smaller advocacy groups.

There appears to be little information-sharing among the different program offices and regions with respect to mailing lists, but an effort is currently underway in

[53] *See* Final EPA Policy on Public Participation, 46 Fed. Reg. 5740 (1981) (stating that the purpose of EPA's 1981 policy on public participation is to create a strong Agency policy and consistent procedures to make it easier for the public to become involved and affect the outcome of the Agency's

interviewees in a variety of ways, including that communities feel their input does not matter because EPA has already made its decision before it hears from the public.[54] Participation was viewed by some interviewees as "busy work" that is often very time consuming. In the past, community groups have gone through a long process with EPA

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decisions).

[54]*See* Dale J. Blahna & Susan Yonts-Shepard, *Public Involvement in Resource Planning: Toward Bridging the Gap Between Policy and Implementation*, 22 PUB. INVOLVEMENT IN RESOURCE PLAN. 209, 211 (1989).

[55]This view is consistent with the National Environmental Justice Advisory Council's (NEJAC) Model Plan for Public Participation which recognizes that citizens should be assured that their contribution will influence an Agency's decision and that they will be informed regarding how their input was, or was not, used. Plan at 5.

[56]*See* Jeffrey M. Berry et al., *Public Involvement in Administration: The Structural Determinants of Effective Citizen Participation*, 13 J. OF VOLUNTARY ACTION RESEARCH 7, 9 (1984).

[57]*See generally* Cheryl S. King et al., *The Question of Participation: Toward Authentic Public Participation in Public Administration*, 58 PUBLIC ADMINISTRATION REVIEW 317 (1998) (discussing the deficiencies of conventional participation mechanisms); T.F. YOSIE and T.D. HERBST, USING STAKEHOLDER PROCESSES IN ENVIRONMENTAL DECISION-MAKING: AN EVALUATION OF LESSONS LEARNED, KEY ISSUES, AND FUTURE CHALLENGES 10-15 (1998).

powerful deterrents to public participation even if EPA attempts to build local capacity to participate.

B. Lack of Defined Purpose for Public Participation

Another impediment to building the capacity of communities to participate in EPA activities is the perception that the role of the public in particular initiatives is unclear and ill-defined.[58] Several interviewees indicated that EPA is beginning to embrace the concept of participation, but that the theoretical underpinnings for why public participation is important are lacking. As a result, EPA's efforts to involve local groups are undirected and often off the mark, contributing to communities' perception that their input does not matter.[59]

Interviewees explained that EPA staff need to decide before involving community groups whether they are really willing to listen to the public.[60] According to these interviewees, EPA needs to be clear about what it wants in a particular case. For

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[58]EPA has recognized this problem in its Stakeholder Involvement Action Plan: "there is not always an understanding of the type of stakeholder involvement that is most appropriate in a particular situation . . . ." Plan at 1.

[59]The National Environmental Justice Advisory Council's Model Plan for Public Participation states that citizens should be involved in defining their role in the process of public participation. Model Plan for Public Participation at 5.

[60]*See* JOHN CLAYTON THOMAS, PUBLIC PARTICIPATION IN PUBLIC DECISIONS: NEW SKILLS AND STRATEGIES FOR PUBLIC MANAGERS 93-136 (1995) (discussing the importance of determining the degree to which the public is involved in decision-making and the selection of techniques by which to pursue that involvement).

[61]This approach is consistent with the recommendations of the CSI STAKEHOLDER INVOLVEMENT WORKING GROUP REPORT (at 9) and the EVALUATION OF PROJECT XL STAKEHOLDER PROCESSES (at 2-3), EPA 100-R-98-009 (1998).

[62]EPA has recognized in its Stakeholder Involvement Action Plan that it is difficult to recruit stakeholders for some activities because of the large time and resource commitment necessary for effective participation in these activities. Plan at 1. *see also Evaluation of Project XL Stakeholder Processes,*

issue as a problem that needs to be addressed even if capacity to participate is increased. Specifically, interviewees explained that activists and leaders are overextended in their commitments, particularly now that philanthropic funding of local groups is decreasing and local groups can only participate in a limited number of EPA activities. Similarly, the average member of a community is also busy with work, children, and other

EPA 100-R-98-009 (1998).

[63] *See* JULIET B. SCHOR, THE OVERWORKED AMERICAN 28-32 (1991) (stating that work hours increased 163 hours per year, or the equivalent of an extra month a year, between 1969-1987).

[64] *See* Cheryl S. King et al., *The Question of Participation: Toward Authentic Public Participation in Public Administration*, 58 PUBLIC ADMINISTRATION REVIEW 317, 322 (1998); *see generally* T.F. YOSIE and T.D. HERBST, USING STAKEHOLDER PROCESSES IN ENVIRONMENTAL DECISION-MAKING: AN EVALUATION OF LESSONS LEARNED, KEY ISSUES AND FUTURE CHALLENGES (1998).

[65] This observation is consistent with other research findings that "citizens usually want to be involved only when they have strong feelings on an issue or when a decision will affect them directly." JOHN CLAYTON THOMAS, PUBLIC PARTICIPATION IN PUBLIC DECISIONS: NEW SKILLS AND STRATEGIES FOR PUBLIC MANAGERS 56 (1995).

D. Need for New Participation Processes

Several interviewees explained that EPA's public participation processes should be the focus of attention rather than capacity building *per se*. These interviewees said the primary problem is the approach that EPA uses in public participation efforts. According to these interviewees, if the processes are improved from a qualitative perspective, more communities will want to participate, thereby eliminating a major impediment to capacity building. In discussing new models for participation, some of the interviewees explained that EPA is using the Administrative Procedures Act model for public participation in rulemaking in a wide range of situations where it is not required and that the approach is limited in scope, focusing on notice and comment and public hearings.[66] As discussed in section III above, several interviewees favored a new paradigm that involves community stakeholders in a more intrinsic way in the process of developing environmental policies, before specific rule proposals are issued or permit hearings are held.[67]

E. Need for Increased Oversight of State Public Participation

The perception that state-run public participation processes are often inadequate, or minimal at best, was also raised by interviewees as an impediment to capacity building. Because the states are delegated responsibility for many of the core environmental programs, opportunities for meaningful participation by communities are often severely limited. Examples of inadequate participation included the development of a Section 303 list under the Clean Water Act's total daily maximum load program that was based on little or no public participation. Some interviewees suggested that EPA should use its oversight authority to a greater extent to ensure that states provide for adequate public participation.[68] Even if EPA's oversight of state activities for public involvement were minimal, such as commenting during a facility permitting process on the need for public participation, it could encourage states to allow for more public input, according to one interviewee. In addition, EPA could consider developing public participation models that could be adopted by or guide state public participation efforts.

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[66] *See* 5 U.S.C. §§553b-553c; *see also* Susan Casey-Lefkowitz et. al., *Country Report on Public Participation*, 4th PAN-EUROPEAN ENVIRONMENTAL MINISTERS CONFERENCE (1998).

[67] *See generally* Cheryl S. King et al., *The Question of Participation: Toward Authentic Public Participation in Public Administration*, 58 PUBLIC ADMINISTRATION REVIEW 317 (1998); *see generally* T.F.YOSIE & T.D. HERBST, USING STAKEHOLDER PROCESSES IN ENVIRONMENTAL DECISION-MAKING: AN EVALUATION OF LESSONS LEARNED, KEY ISSUES AND FUTURE CHALLENGES 17-34 (1998) (discussing methods to engender effective participation processes).

[68] *See* Final EPA Policy on Public Participation, 46 Fed. Reg. 5740, 5745 (1981) (specifying that Regional Administrators should annually evaluate public participation activities of the states and localities and work with them to improve their processes as necessary).

these efforts will be crucial to both their acceptance and effectiveness for several reasons.

Furthermore, providing timely and more extensive feedback to communities about whether and how their input was used by EPA could help ensure citizens that the Agency is listening to them even if their views are not adopted. When EPA does not provide adequate feedback to stakeholders that participate, it is easy for the participants to assume their views were not taken into account if the Agency did not adopt their positions. EPA has recognized this problem in its Stakeholder Involvement Action Plan: "[I]t might not be clear how the [stakeholder involvement] activities contribute to actual Agency decisions. This can lead to frustration as participant expectations do not concede with Agency actions."[70]

In order for EPA to determine an effective role for the public in specific proceedings, the Agency may need to step back and examine more broadly and comprehensively the purpose of pubic participation in general and the appropriate role for the public in the many different types of decisions that the Agency makes. EPA is in the process of developing a set of principles for public participation as part of its Stakeholder Involvement Action Plan that may help toward this goal. It is essential, however, that EPA involve the public in an early and clearly defined manner in the process of developing its principles. Otherwise, the principles are less likely to be accepted by the public and serve their intended purpose of facilitating EPA's participation efforts.

Finally, overhauling EPA's public participation processes in an effort to make involvement less burdensome and more accessible could make capacity building efforts far easier. A common concern af i gintenriewses ias uhe pimeland exer gythat Ei

[70]EPA Stakeholder Involvement Action Plan at 1 (1998).

recommended next steps are designed so that some of them can be pursued and implemented separately. For example, the specific approaches outlined in section C below could be initiated independent of the more overarching steps discussed in sections A and B, although this may not be the optimal strategy for purposes of designing a long-term approach to capacity building.

A. Public Participation Authority, Goals, and Public Participation Plan

Any approach to building the capacity to participate in EPA activities is necessarily linked to the public participation processes used. The processes define in large part what capacity is being built to do and whether participation is likely to occur once local capacity is built. Thus, although this study was not designed to address public participation processes and approaches specifically, it nevertheless became apparent early in the course of the project that, in developing an approach to capacity building, public participation issues were implicated and require attention before capacity building needs can be met by EPA. For this reason, the discussion of next steps focuses initially on public participation processes and approaches as they relate to capacity building efforts.

1. *Review of EPA's Mandate and Authorities for Public Involvement*

A critical first step in addressing capacity building needs is to determine when public participation is required and when it is discretionary. In addition, it is necessary to determine the type of public participation required (*e.g.*, notice and comment, meetings). A threshold review of the statutes and regulations EPA implements would provide the foundation for EPA's capacity building efforts because it would serve as a reference for what communities need the capacity to do with respect to Agency activities. For example, the research could produce a list of mandatory public participation opportunities, such as commenting on Superfund cleanup plans, and the mechanisms for doing so, such as stakeholder group discussions, submitting written comments, or attending public hearings.

As part of the review of EPA mandated and discretionary public participation duties, a study of the authorities of the states with respect to public participation under delegated programs would advance capacity building goals. Furthermore, because so many programs are delegated to the states, research on EPA's authority to review and oversee state public participation efforts is necessarily an integral part of such a review. Again, unless meaningful opportunities for public participation are available, at the state level as well as through EPA, local capacity building efforts will not produce an increase in the level and quality of community involvement.

2. *Development of Public Participation Goals and Principles*

While much has been written on general goals and purposes in seeking public participation, EPA Headquarters and the Regional offices have not yet fully adopted and

[72]EPA's CBEP Program is a step toward establishing a strategic, Agency-wide approach to

C. Potential Pilot or Programmatic Initiatives

Ideally, any specific initiatives should grow out of a strategic planning process, but EPA's resources are not infinite and the Agency may want to move forward on some concrete proposals, whether or not it undertakes the efforts suggested in subsections A and B above. Accordingly, the following section outlines an overview of some of the initiatives that could be undertaken now – either simultaneous with, or independent of, the activities in subsections A and B – based on the foregoing discussion of potential approaches to capacity building.

Several options may merit consideration by EPA that could be tested either in a pilot format or integrated into day-to-day operations. Because of the numerous approaches and combinations available to the Agency, it is important to note that the following options are only representative of the myriad potential approaches that emerged from the interviews and research on other models. For a more specific discussion of any of the approaches summarized below, see Section III above.

The details of any of these approaches to capacity building would need to be developed with substantial input from communities and other stakeholders. As discussed above, EPA's involvement of stakeholders in the development of approaches to capacity building is essential to assuring the credibility, support, and effectiveness of the efforts. Furthermore, if any of these approaches is integrated into daily operations or tested in pilot format, it is critical that the public be given the opportunity to evaluate on a timely basis the effectiveness of the new efforts and to provide regular input on how to improve them. A pilot project should, therefore, have a clear evaluative component.

1. *Information Dissemination*

Building local capacity through improved information dissemination could be pursued in a variety of ways – through new programs and by improving EPA's current way of doing business. Several new approaches to disseminating information to communities through in person information delivery (phone and face-to-face) may merit further examination. Approaches that would require the development of new programs that could be tested on a pilot basis include independent information brokers, community ombudspersons, and a new general hotline. The strengths and weaknesses of these approaches and important considerations in testing them are discussed in section III of this paper. The key challenges would be to staff the efforts with people who are trusted and credible with the communities they serve. This could be achieved

solve long term funding problems or provide the best approach for the long-term success and effectiveness of EPA's local capacity building efforts, they could at least allow for the testing or vetting of some of these approaches.

Improved information dissemination could also be pursued through approaches that seek to strengthen mechanisms already being used by the Agency. These include increasing document access at the community level, updating and more aggressively using mailing lists, enhancing e-mail capacity, improving established hotlines, and continuing to fill data gaps by increasing the scope and quantity of data available on the Internet.

Finally, using regulated entities and community groups to help disseminate information to stakeholders could be further explored. As discussed in section III above, the use of these groups could be structured in a variety of ways: businesses could disseminate information in utility bills or through mailings to communities impacted by their operations; community groups could be given grants to facilitate the dissemination

overcome any barriers to effective implementation and possible incentives that could encourage or refine the implementation of the project, would enable leaders throughout the country to adopt and implement similar projects.

2. *Training for Communities*

Several approaches to providing education and training to communities as a way to build capacity may merit consideration. First, training in how to participate in EPA processes, such as education on dispute resolution or running meetings, could be provided through workshops, guidebooks, and other mechanisms. In addition, training on environmental laws and regulations, including for example how permitting processes work, could be offered. This approach, discussed in more detail above, focuses on building the capacity of those that are already interested in participating in EPA processes and want to be able to participate more effectively. Training, depending on how it is implemented, may focus capacity building resources on a relatively small number of citizens, but perhaps with a greater return in terms of quality of participation than the broad brush approaches that focus on wider dissemination of information to larger groups.

In order to develop a specific training initiative or pilot project, a workshop could be developed in conjunction with community representatives from a selected region. Working with those representatives, experts in skills training for citizens could: identify the objectives of a training initiative; develop an agenda; select appropriate faculty; and design hands-on exercises and role-playing training mechanisms. The training course could then be piloted and a report prepared for public dissemination detailing the lessons learned and the successes of the workshop design. The report and workshop materials would also serve as a model for future workshop or training initiatives or as part of a blueprint for training trainers.

3. *Technical Support*

Building capacity through enhanced technical support could also be considered. The possible approaches to providing technical support vary considerably. Efforts could focus on using the current TAG model under the Superfund program as a basis for providing support for participating in other programs or for broadening the scope of activities that grants would cover. Other ways of exploring technical assistance include the use of new collaborative approaches, such as the Common Sense Initiative or Good Neighbor Agreements, that can allow the regulated community to provide the technical support that communities need to understand and participate in regulatory initiatives. Increasing the accessibility of technical documents and preparing succinct summaries of technical issues or legal requirements could also enhance local capacity from a technical and scientific perspective. Furthermore, consideration of models used in Europe for providing technical support to communities could result in the development of new approaches.

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Appendix A:
Additional Information on Programs and Initiatives

United States Government Agencies:

Small Business Administration (SBA):
1100 Vermont Avenue, N.W.
Washington, D.C. 20005
(202) 606-4000

United States Department of Agriculture (USDA):
Independence Avenue between 12th and 14th Streets, S.W.
Washington, D.C. 20250
(202) 720-2791

United States Environmental Protection Agency (EPA):
401 M Street, S.W.
Washington, D.C. 20460
(202) 260-2090

Programs and Initiatives:

Business Information Centers (BICs):
SBA
www.sba.gov/starting/bics/html

Calumet Environment Resource Center (CERC):
Chicago State University
Paul and Emily Douglas Library
9501 S. Martin Luther King, Jr. Drive
Chicago, IL 60628-1598
bsmfs@csu.edu
(773) 995-2964

Center for Environmental Information and Statistics (CEIS):
EPA Office for Policy
www.epa.gov/ceis
(202) 260-1849

Center of Excellence for Sustainable Development (CESD):
United States Department of Energy
Office of Energy Efficiency and Renewable Energy
Denver Regional Support Office
1617 Cole Blvd.
Golden, CO 80401
sustainable.development@hq.doe.gov
(800) 363-3732

Common Sense Initiative Council Report (CSI):
EPA Office of Reinvention
www.epa.gov/commonsense/index.htm
(202) 260-1849

Community Research Network (CRN):
The Loka Institute
P.O. Box 355
Amherst, MA 01004
www.loka.org/crn
(413) 582-5860

Cooperative State Research, Education and Extension Service:
USDA
www.reeusda.gov
(202) 720-4423

Eisenhower National Clearinghouse:
Ohio State University
web@enc.org
(614) 292-9734

Emergency Planning and Community Right to Know Act (EPCRA) Hotline:
(800) 424-9346

Envirofact Warehouse:
www.borderecoweb.sdsu.edu/Drct_pgs/enfacts.html
(202) 260-3130

EnviroLink Network:
5808 Forbes Avenue
Second Floor
Pittsburgh, PA 15217
www.envirolink.org
(412) 420-6400

Environmental Defense Fund Scorecard:
Environmental Defense Fund
1873 Connecticut Avenue, N.W.
Washington, D.C. 20009
www.scorecard.org
(202) 387-3500

Environmental Enforcement: A Citizen's Guide:
EPA Office of Enforcement and Compliance Assurance
www.epa.gov/ARD-RS/enforce/citizenf.htm
(202) 564-2440

Environmental Health Network:
P.O. Box 16267
Chesapeake, VA 23328
(757) 546-0663

Environmental Information Service Center (EISC):
EPA Region VIII
999 18th Street, Suite 500
Denver, CO 80202-2466
(303) 312-6312

Environmental Monitoring for Public Access and Community Tracking (EMPACT):
EPA Office of Research and Development
www.epa.gov/empact
(202) 564-6620

Environmental Quality Incentives Program (EQIP):
USDA Natural Resources Conservation Service
14th and Independence Avenue, S.W.
Washington, D.C. 20250
www.nhq.nrcs.usda.gov/OPA/FB96OPA/eqipfact.html

EPA Federal Advisory Committees:
http://134.67.104.12/html/ozpmrh/FACA.htm

EPA Framework for Community-Based Environment Protection (CBEP):
www.epa.gov/ecocommunity

EPA Stakeholder Involvement Action Plan:
EPA Office of Reinvention
www.epa.gov./reinvent/stakeholders
(202) 260-1849

Good Neighbor Project:
P.O. Box 79225
Waverly, MA 02179
www.enviroweb.org/gnp
(617) 354-1030

Integrated Data for Enforcement Analysis System (IDEA):
EPA Office of Enforcement and Compliance Assurance
http://es.epa.gov/oeca/idea

Joint Center for Sustainable Communities:
United States Conference of Mayors and National Associations of Counties
1620 Eye Street, N.W.
Washington, D.C. 20006
www.usmayors.org/uscm/sustainable/menu-wn.htm
(202) 942-4224

Local Government Environmental Assistance Network:
777 North Capitol Street, N.E.
Suite 500
Washington, D.C. 20002
www.lgean.org
(887) TO-LGEAN

Master Gardeners Program:
USDA
(515) 294-2336

National Center for Environmental Publications and Information:
P.O. Box 42419
Cincinnati, OH 45242-2419
www.epa.gov/ncepihom/index.html
(800) 490-9198

National Environmental Justice Advisory Council Model Plan for Public Participation:
EPA Office of Environmental Justice
es.epa.gov/oeca/oej/nejac
(202) 564-2515

Natural Resources Conservation Service (NRCS):
P.O. Box 2890
Washington, D.C. 20013
www.nrcs.usda.gov

Natural Resources Defense Council Clean Air Network:
1200 New York Avenue, NW
Suite 400
Washington, D.C. 20005
www.cleanair.net/index.htm
(202) 289-2395

Natural Resources Defense Council Clean Water Network:
1200 New York Avenue, NW
Suite 400
Washington, D.C. 20005
www.cwn.org/homepage.htm
(202) 289-2395

North American Association for Environmental Education (NAAEE):
410 Tarvin Road
Rock Spring, GA 30739
www.naaee.org
(706) 764-2926

National Pollutant Discharge Elimination System Permit Writers Training Courses:
EPA Office of Water
www.epa.gov/owm/npdesup.htm
(202) 260-5700

Office of Environmental Justice Small Grants Program:
EPA Office of Environmental Justice
www.epa.gov/oeca/oej/ejgrantf.html
(800) 962-6215

Office of Reinvention Stakeholder Internet Website:
EPA Office of Reinvention
www.epa.gov/reinvent/epastake
(202) 260-1849

One Stop Capital Shop (OSCS):
SBA
www.sba.gov/onestop

Permit Improvement Team (PIT):
EPA Office of Reinvention
www.epa.gov/ooaujeag/notebook/pit.htm
(202) 260-1849

Plug Your Classroom Into the Environment:
Environmental Defense Fund
www.edf.org/Earth2Kids/teachers
(800) 684-3322

Project XL Stakeholder Involvement: A Guide for Project Sponsors and Stakeholders:
EPA Office of Reinvention
www.epa.gov/ProjectXL
(202) 260-1849

Resource Conservation and Recovery Act (RCRA)/Superfund Hotline:
EPA
(800) 424-9346 or DC local (703) 412-9810

Restoration Advisory Boards (RABs):
Department of Defense
(703) 545-6700

Sector Facility Indexing Project (SFIP):
EPA Office of Enforcement and Compliance Assurance
www.epa.gov/oeca/sfi
(202) 564-2440

Senior Environmental Employment Program (SEE):
EPA Region V
77 West Jackson Blvd.
Chicago, IL 60604-3507
(202) 260-2574

Six Steps to Cleaner Greener Printing:
Environmental Defense Fund
www.edf.org/pubs/Brochures/GreenPrinting
(800) 684-3322

Small Business Development Centers (SBDCs):
SBA
www.sba.gov/sbdc
(202) 205-6766