

EPA bungling leaves 'environmental justice' elusive

OUR VIEW Agency pulls back rules that hurt economic development.

When the Environmental Protection Agency (EPA) issued guidelines in February for applying civil-rights laws to pollution permits, Detroit officials saw no reason to be concerned.

The minority-dominated city leadership was all for the concept. Its aim, after all, is to assure that environmental hazards aren't concentrated in minority areas, a phenomenon sometimes called "environmental racism."

But they're plenty concerned now, and so are city officials elsewhere.

The vaguely written but sweeping guidelines threaten cities with loss of jobs, as well as federal environmental funds. At a hearing in Detroit Friday, mayors from around the nation turned out to demand changes.

Detroit illustrates the reasons for their frustration: The rules require penalties whenever a permit is issued for a polluting facility that has a disproportionate impact on minorities. But just about any neighborhood in the predominantly black city would suffer such an impact.

And since the EPA was poised to nullify permits even after construction had started, the guidelines threatened \$5 billion in redevelopment for the once hot-tom and desolated community. What business would choose to build where it faced such risks?

So Mayor Dennis Archer became a leading opponent of the guidelines, getting the National Conference of Mayors to oppose them.

After the hearing Friday, the EPA backed away from the guidelines. It promised to work with local officials, industry and community advocates to develop a policy all can live with. What's less obvious is whether developing such a policy is possible.

The EPA has been trying — and failing — to find an acceptable policy for five years.

After getting its first complaint in 1993, it created an office of environmental justice to investigate problems and promote discussion. Yet internal studies indicating the problem is not widespread were buried. That failure has had embarrassing side effects.

Last week, the Congressional Black Caucus issued a resolution supporting the guidance.

Environmental justice highlights:

1987 — The United Church of Christ publishes a report that shows communities with hazardous waste facilities have higher percentages of minorities than those with no such facilities.

1989 — Bush-administration EPA Administrator William Reilly establishes the Environmental Equity Work Group, marking the EPA's first official reaction to environmental justice demands.

1993 — EPA accepts first civil-rights complaint: a Louisiana case filed by the Tulane University Environmental Law Clinic. EPA also forms the National Environmental Justice Advisory Council, a group of activists, local officials and industry experts intended to serve as advisers.

1994 — President Clinton signs environmental justice executive order requiring all federal agencies to start taking the issue into account. **1998** — EPA releases environmental justice guidance: The new rules, with no input from states, cities or industry, create an uproar.

basing its stand in part on a 1992 *National Law Journal* study showing environmental discrimination. Only the study was flawed. On the same day the EPA was meeting with the mayors, an agency spokesperson admitted the EPA had withheld from Congress its own expert analysis refuting the *Law Journal* study.

The EPA hasn't done any better dealing with environmental justice complaints. It has found none that its attorneys felt they could uphold in court.

The EPA's best known case involves a proposed \$700 million plastics plant in a rural, mostly black Louisiana County, and it illustrates EPA's dilemma.

The plant would more than meet strict emission limits and got state approval more than a year ago. Polls show most residents, black and white, support it and want its high-paying jobs. But minorities nearest the plant want it stopped. Rather than broker a compromise, the EPA put the plant on hold at least until next year — ironically to serve as a test case for the guidelines it is now rewriting.

As Archer told the EPA Friday, "Injustice of any kind can't be tolerated." And certainly residents of any disadvantaged community forced to bear a disproportionate environmental burden deserve help. But so far, the EPA's approach has done little more than give minority areas another hurdle to economic growth.

Attacks on EPA unfair

OPPOSING VIEW Caving in to economic pressures endangers health.

By Luke W. Cole and Richard Moore

Despite improvements in environmental protection in recent decades, millions of Americans continue to live, work, play and go to school in unhealthy environments. Dozens of studies show that those who live closest to toxic sites, with the worst air and water pollution, highest levels of lead and pesticide poisoning and least environmental enforcement, are people of color.

Because of this discriminatory distribution of hazards and state agencies' failure to provide protections, community leaders have begun using civil-rights laws to fight environmental injustice.

In response, the EPA recently issued a guidance to its staff on how to process civil-rights complaints. The guidance, while too narrow, is an important step in efforts to combat environmental discrimination.

But a firestorm of criticism from industry and state governments has enveloped it. They argue

the guidance will hurt economic development, particularly of brownfields — contaminated inner-city industrial sites. It's as if they are saying if we can't discriminate on the basis of race, there can't be economic development.

We reject that trade-off. Communities have redeveloped hundreds of brownfields, proving development without discrimination works. Only one complaint filed with the EPA has concerned brownfields redevelopment.

All communities deserve environmental protection. Rather than criticizing the EPA's efforts, states and industry should work toward avoiding the devastating situations that give rise to environmental civil-rights complaints.

Industry and state criticism of civil-rights efforts has a long history. When civil-rights laws were proposed in the 1960s, many states opposed them as burdensome. In 1998, that position seems indefensible. Today's civil-rights opponents would do well to learn that lesson.

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