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About the Network for Public Health Law

The Network is a national initiative of the Robert Wood Johnson Foundation launched in 2010 to advance law as a tool to improve public health.

Experts in public health law, our leadership team comprises a National Director and five Regional Office Directors who lead teams of Network attorneys across the U.S.
Legal Technical Assistance

Network attorneys in your region can answer questions on a wide range of public health legal issues at no cost, and can assist you in using law to advance your public health initiatives.

Visit networkforphl.org.
The Built Environment as a Social Determinant of Health: The Role of Laws and Policies

April 20, 2017

Co-sponsored by:
Montrece McNeill Ransom, Senior Public Health Analyst/Team Lead, Public Health Law Training and Workforce Development, Centers for Disease Control and Prevention

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- M.P.H., Tulane University School of Public Health and Tropical Medicine
- Research interests/areas of expertise:
  - Social determinants of health
  - Public health emergency legal preparedness
  - Environmental public health law
Presenter

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  - Supporting physical activity through policy
Presenter

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  - Built environment and travel behavior
  - Sustainable transportation
  - Green infrastructure
Presenter

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- Research interests/areas of expertise:
  - Social determinants of health
  - Public health emergency legal preparedness
  - Vaccine policy
  - Environmental public health
CITY OF MINNEAPOLIS

Health & the Built Environment in Minneapolis

April 20, 2017
Sarah Stewart
Minneapolis Health Department
Cool Down The Warm Temperatures With an Icee:

16 oz $1.49
24oz $1.79

Taking control of DIABETES takes an extra hand

See a trained pharmacist for your FREE private consultation
Bike share + bike parking
Transit
Bike route
Sidewalk

Not pictured – access to trail system
Physical activity has massive health benefits

THE ROLE OF
Transportation
IN PROMOTING PHYSICAL ACTIVITY

TRAFFIC CALMING
Medians, speed bumps and other traffic-calming efforts can reduce the number of automobile crashes with pedestrian injuries by up to 15%.

PUBLIC TRANSPORTATION
Public transit users take 30% more steps per day than people who rely on cars.

SIDEWALKS
People who live in neighborhoods with sidewalks on most streets are 47% more likely to be active at least 30 minutes a day.

BIKE FACILITIES
In Portland, Ore., bicycle commuters ride 49% of their miles on roads with bike facilities, even though these are only 8% of road miles.

THE ROLE OF Communities IN PROMOTING PHYSICAL ACTIVITY

WALKABLE COMMUNITIES
People who live in walkable neighborhoods are 2 times as likely to get enough physical activity as those who don’t.

JOINT USE
The number of children who are physically active outside is 84% higher when schoolyards are kept open for public play.

RECREATIONAL FACILITIES
Teens who live in poor or mostly minority neighborhoods are 50% less likely to have a recreational facility near home.

TRAILS
People who live near trails are 50% more likely to meet physical activity guidelines.

Active Living Research
www.activelivingresearch.org

Areas of Concentrated Poverty by Census Tract, 2011-2015

- Purple: Area of Concentrated Poverty
- Striped: Area of Concentrated Poverty where at least half the residents are people of color

Years of Potential Life lost by neighborhood during 1998-2007

- Legend:
  - Green: 0.0 - 750.0
  - Light Green: 750.1 - 1500.0
  - Yellow: 1500.1 - 2250.0
  - Orange: 2250.1 - 3000.0
  - Red: 3000.1 - 11000.0

Minneapolis map with neighborhood areas color-coded based on years of potential life lost.
“To deny access to walking is to deny basic human rights. ...start with the premise that all communities have the right to safe, sustainable, just, healthy, and walkable communities.”

-Dr. Robert Bullard, 2015 National Walking Summit
What’s happening in Minneapolis

- Community engagement: walkability and public housing residents
- Infrastructure: testing out a street-to-greenway conversion
- Policy: complete streets; comp planning
Engaging Public Housing residents about walkability
Barriers to walking

- Poor snow clearance
- Cracked/uneven/narrow/obstructed sidewalks
- Short crossing times
- Fast traffic
- Personal safety concerns
- Bus stop issues
Northside Greenway (street-to-greenway conversion)
Tactical Urbanism – testing out the greenway
Policy – complete streets

“The City establishes a modal priority framework that prioritizes people as they walk, bicycle, and take transit over people when they drive.”

–Minneapolis Complete Streets policy, passed May 2016
Policy: comprehensive planning
(Minneapolis 2040)
Integrating Health Impact Assessments via Environmental Policy Acts

Kim Weidenaar, JD
Deputy Director,
Network for Public Health Law – Western Region
April 20, 2017
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Project Overview

- **Stage 1**
  - Analyze legal factors for infusing health considerations and HIAs into environmental reviews of proposed actions or projects with potential corollary health implications.

- **Stage 2**
  - 5 case studies conducted by ASTHO and other colleagues to demonstrate actual or potential public health and environmental benefits of early incorporation of HIAs into such projects.
Stage 1 – HIA NEPA Report

**Purpose**
- Assess specific federal and state environmental laws and policies supporting the infusion of health considerations and HIAs into NEPA and SEPA required environmental reviews of proposed projects and actions.

**Research Question**
- How can health considerations be embedded into environmental reviews required by NEPA and related state or local equivalent laws?

**10 Pathways**
- Integrating health considerations into environmental reviews
17 Selected SEPA Jurisdictions
(and year of enactment)
Key Terms

- **Health Impact Assessment (HIA)**
  - “bring together scientific data, health expertise, and public input to understand how a proposed plan, policy, program, project, or action could affect the public’s health.”
  - A health review considering influences from social, economic, and environmental factors.
  - e.g., HIAs might consider the impact of construction of an industrial factory on the physical health of a community.

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**The Steps of HIA**

1. **SCREENING**
   - Determine whether an HIA is needed and likely to be useful.

2. **SCOPING**
   - In consultation with stakeholders, develop a plan for the HIA, including the identification of potential health risks and benefits.

3. **ASSESSMENT**
   - Describe the baseline health of affected communities and assess the potential impacts of the decision.

4. **RECOMMENDATIONS**
   - Develop practical solutions that can be implemented within the political, economic or technical limitations of the project or policy being assessed.

5. **REPORTING**
   - Disseminate the findings to decision makers, affected communities and other stakeholders.

6. **MONITORING AND EVALUATION**
   - Monitor the changes in health or health risk factors and evaluate the efficacy of the measures that are implemented and the HIA process as a whole.

The HIA process encourages public input at each step.
Environmental Policy Acts

- **National Environmental Policy Act (NEPA)**
  - Established comprehensive procedures for the review and analysis of federal agency actions that significantly affect the human environment.

- **State Environmental Policy Acts (SEPA)**
  - Provides similar processes for evaluating certain projects and actions that may affect the environment at the state and local level.

- **NEPA laws do not preempt SEPA laws.**
  - CEQ encourages federal agencies to work cooperatively with state and local agencies through joint environmental research, assessments, and hearings.
Three Levels of Review

- **Categorical Exclusion (CE)**
  - ~95% of actions or projects are determined by agencies to not have any significant effect on the human environment.

- **Environmental Assessment (EA)**
  - <5% of actions require limited assessments of non-excluded actions or projects if the lead agency is unsure if it could have a “significant affect” on the environment.

- **Environmental Impact Statement (EIS)**
  - 1% of proposed projects require a detailed review and analysis for proposed “major Federal actions significantly affecting the quality of the human environment.”
How NEPA Applies to Health Effects

Psychological effects may be required in some NEPA assessments.
Prospective Paths to Integrate Health Impacts

1. Statutes & Regulations Promoting Health & Safety
2. Significantly Affect Human Environment
3. Allegations of Detrimental Health Impacts
4. Scoping Process
5. Cumulative Impacts
6. Public Involvement
7. Proposed Action Alternatives
8. Functional Equivalence Doctrine
9. Policies Promoting Health & Safety
10. Environmental Justice
Timeline of Paths in the NEPA Process

Does NEPA/SEPA apply? → EA Process → EIS Process → Final Determination

- Significantly Affects Human Environment
- Allegations of Detrimental Health Effects
- Statutes and Regulations
- Cumulative Impacts
- Incorporation by Reference
- Scoping
  - Public Involvement
  - Action Alternatives
  - Environmental Justice
  - Policies Promoting Health

The Network for Public Health Law

ASU Sandra Day O'Connor College of Law
Arizona State University
Center for Public Health Law & Policy
Path 1: Statutes & Regulations Promoting Health & Safety Considerations

- NEPA’s intent is to “stimulate the health and welfare of man”
- Planners must avoid risks to human health and safety in agency action planning
- Environmental reviews consider both direct and indirect impacts on the environment that may affect health
  - e.g., water and air quality
- Health effects of any NEPA project must be identified, compared to economic and technical factors of a project, and included within planning documents for review.
- Nearly every SEPA also mentions health or safety.
  - Minnesota: Focuses on the “promotion of human health-oriented efforts.”
Path 2: Significantly Affects Human Environment

Highway J Citizens Group v. Mineta (7th Cir. 2003)

- Wisconsin residents challenged approved construction of 2 overpasses without a preliminary EIS.
  - Residents asserted that project would contaminate groundwater, flooding local residents’ water with arsenic.
  - They claimed inadequate assessment of “intensity” in the EA.
- U.S. Department of Transportation eventually won due to the specific, scientific, and reasoned consideration of health impacts in the EA.
Path 4: Scoping Process

- Lead federal agencies are required to invite affected governmental entities, and other interested parties to provide comments.
- Issues previously analyzed may be addressed in the EIS by reference to prior assessment.
  - e.g. Federal Aviation Administration might adopt an EIS produced by Air National guard on relevant issues.
- Assignments to cooperating agencies on significant issues are allocated.
Path 5: Cumulative Impacts

- Analyze the cumulative effects of proposals to ensure all consequences are considered

- Not just the affected environment, but also human health
  - Greater geographical area, and timeline
  - Considers resources and socioeconomic issues
  - “Human health issues”
    - Emissions, water, quality degradations, and disruption of community mobility
**Path 5: Cumulative Impacts**

- *City of Buffalo v. New York State Department of Environmental Conservation (N.Y. Sup. Ct. 2000)*
  - A New York Appellate court held that the agency failed to consider the cumulative impacts of a bridge and plaza construction together.

Cumulative impacts at the EA level are less stringent than at the EIS level, however most courts require analysis of foreseeable actions that could exaggerate impacts of the proposed project.
Path 6: Public Involvement

- NEPA/SEPAs require public involvement, presenting opportunities to highlight potential health impacts, alternatives, and mitigation measures.
  - NEPA requires public awareness of mitigation and monitoring efforts to ensure goals are met to reduce impacts.
  - EIS must include public comments formally submitted.
Atlanta Beltline Project

- The Atlanta BeltLine project is transforming a 22-mile loop of freight rail into parks, trails, transit, and residential and commercial developments.

- HIA emphasized many issues including equitable access, safety, and accommodation for the elderly people and people with disabilities.

- These concerns were common themes in the EIS public comments.
Path 7: Proposed Action Alternatives

- Review processes must include alternatives to proposed projects, providing pathways for incorporating health considerations.

- Reasonable alternatives are the “heart” and “linchpin” of an EIS.
**Path 9: Policies Promoting Health & Safety Considerations**

- Federal agencies are required to adopt and implement their own policies regarding reviews.
- Federal and state agencies set guidance for their own project-planning processes.
  - How to incorporate human health considerations.
- Not legally binding, however courts may require agencies to follow their own procedures and policies.

**U.S. Department of Energy NEPA Guides**

- e.g. *Transportation Risk Assessment Handbook* – underscores the need for assessing human health impacts.
Conclusions

- Strategic opportunities exist to infuse health effects via HIAs into legally-required environmental reviews (ERs)
- 10 paths for agencies, public health officials, community interest groups, and others to incorporate health considerations in the ER process
- NEPA and SEPA ERs via HIAs consider the built environment, transportation, natural resources and energy, agriculture, and housing
- HIAs can gain community support by helping agencies avoid health-related legal objections and improving public health in equitable ways
- Increased focus on health impacts assures healthier and safer communities through cleaner and more livable environments
Acknowledgements and Questions

Special thanks to Sarah Noe, B.A. Candidate, ASU (2017), for her contributions to this presentation


Please type your questions in the Q&A panel

If you have any further questions or comments please contact Kim Weidenaar, JD, at kim.weidenaar@asu.edu
Please type your questions in the Q&A panel.
Thank you for attending

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