



OAQPS Environmental Justice Program

Briefing for NACAA

February 2020
Community and Tribal Programs Group



- Agency Concepts
- History of Environmental Justice (EJ)
- Plan EJ 2020
- OAQPS EJ Infrastructure and Activities
 - EJ Analysis
 - Meaningful Involvement
 - Training
- Appendix

What is Environmental Justice (EJ)?



- EPA conducts Environmental Justice (EJ) activities under **E.O. 12898 - Federal Actions to Address Environmental Justice in Minority and Low-income Populations**
 - calls for federal agencies "to the greatest extent practicable and permitted by law, to identify . . . and address . . . as appropriate, disproportionately high and adverse human health or environmental effects of agency programs, policies and actions on minority populations and low income populations"
- EPA defines Environmental Justice (EJ) as "the **fair treatment** and **meaningful involvement** of all people regardless of race, color, national origin or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies."



- EJ means that **EVERYONE** enjoys the same degree of protection from environmental harms and hazards and equal access to the decision-making process to have a healthy environment in which to live, play, and work.

What does “Fair Treatment” and “Meaningful Involvement” Mean?



Fair Treatment

- No group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental and commercial operations or programs and policies.

Meaningful Involvement

- Potentially affected community members have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health,
- The public's contribution can influence the regulatory agency's decision,
- The concerns of all participants involved will be considered in the decision-making process; and
- The rule writers and decision-makers seek out and facilitate the involvement of those potentially affected.



The Clean Air Act

The EPA has various discretionary authorities that give, or may give, it opportunities to promote environmental justice under programs implementing the Clean Air Act.

Standard setting (e.g., new source performance standards, standards for solid waste incinerators, hazardous air pollutant standards, national ambient air quality standards [NAAQS], and mobile source standards);

NAAQS implementation;

Permitting (e.g., the new source review preconstruction permit program and the title V operating permit program);

Provisions relating specifically to **Native American communities** and **federally recognized Indian tribes**; and

Miscellaneous (e.g., accident prevention authorities, **radiation**, **indoor air** pollution, information authorities).

EPA Policy and Tools that Support Meaningful Involvement



Plan EJ 2014 and EJ 2020

- Roadmaps to integrate environmental justice into EPA programs, policies, and activities

OGC EJ Legal Tools

- Overview of existing legal tools to help EPA policy decision-makers advance EJ objectives

EJScreen

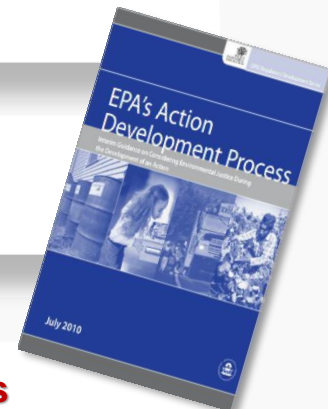
- Screening tool to provide national consistent dataset for calculating "EJ indexes"

Guidance on Considering EJ During the Development of an Action

- Step-by-step guide helps EPA staff evaluate EJ considerations into rulemaking process

Technical Guidance for Assessing Environmental Justice in Regulatory Analysis

- Provides guidance on how to conduct analyses to assess potential EJ concerns



EPA EJ 2020 Strategic Plan



7

- Agency's plan to integrate EJ into our programs, policies and activities
- Builds on EJ 2014 and +20 years of work





Goal I: Deepen EJ practice in EPA to improve health and environment of overburdened communities

- Rulemaking
- Permitting
- Compliance and Enforcement
- Science

Goal II: Work with partners to expand our positive impact within overburdened communities

- State and Local Governments
- Federal Agencies
- Community-Based Work
- Tribes and Indigenous Peoples

Goal III: Demonstrate progress on significant national EJ challenges

- Lead Disparities
- Small and Tribal Drinking Water Systems
- Fine Particle Air Pollution
- Hazardous Waste Sites

OAQPS' EJ Infrastructure



- The Executive Order, OGC and agency guidance all reinforce EJ considerations in EPA actions.

Incorporating EJ into Rulemaking

- EJ Analysis
- Meaningful Engagement

Community Capacity Building

- CAA 101
- Air Permitting Program
- Training and Workshops on Rules
- Ongoing Outreach

Working on Agency Programs

- EJ Program Measures (ex: PM2.5)
- EJ Training (ex: new hires, EPA staff)

OAQPS EJ Analysis



- OAQPS addresses EJ in rulemakings by using a **variety of different methods and tools** of varying degrees of sophistication, depending on the availability of information and the results of preliminary evaluations.

Method Type	When Used	Example
Qualitative / Narrative Statements	Used when unable to quantify affected populations or impacts due to unknown or uncertain source locations, unclassifiable areas and/or impracticable etc.	Examples: Reciprocating Internal Combustion Engines (RICE), Grain Elevators
Demographic Proximity Analyses	Identify populations and their socioeconomic makeup within a specified distance (i.e., 3 miles) to a facility with comparative analyses to the national averages.	Tools: EJSCREEN Examples: Polyvinyl Chloride (PVC), Pulp and Paper
Risk Based Demographic Analyses	Identify the socioeconomic makeup of the population within different cancer and/or noncancer risk levels due to hazardous air pollutant exposures near the facilities subject to a specific NESHAP.	Examples: RTR analyses such as Chromium Electroplating, Secondary Lead, Wool Fiberglass
Risk Characterization (NAAQS pollutants)	Identify populations susceptible and vulnerable to criteria air pollutant health impacts (baseline); characterize change in risk among populations; approach first applied in Detroit Multi-pollutant Pilot Project and received favorable peer review in the journal Risk analyses	Tools: BenMAP and CMAQ Example: Detroit multi-pollutant pilot project; CSAPR, MATS



Types of meaningful involvement varies and may include:

- Webinars
- Fact sheets
- Maps
- Community calls
- In-person trainings/workshops

During rule development, communities seek:

- Equitable transparency (not more information than industry)
- Ways to engage pre-proposal; integral to the success of EJ and will only build stronger OAQPS rules and actions

Community Capacity Building



Workshops



Community Specific Workshops

- Design to meet the community's needs
- Involve communities in the planning process
- Provide the Clean Air Act (CAA) Framework

- Include the state/local government and industry (if possible) in the planning and encourage participation in the workshops

❖ *As a result of outreach activities, we have seen better crafted comments*

Engage the Impacted



Community Capacity Building



OAQPS Focus Areas



- Support OAQPS staff to implement agency policy and guidance.
- Improve coordination and adherence to OAQPS EJ infrastructure.
- Enhance risk assessment tools to better depict benefits.
- Build stronger rules through equitable pre-proposal involvement and data sharing.
- Develop new approaches to better connect with and inform communities:
 - OAQPS rule lists
 - GIS mapping applications
 - Regular Community calls
- Community Scale Activities
 - Conduct pilots in areas identified in NATA as having elevated risks, options:
 - Pilot innovative sensor projects
 - Focused training
 - Facilitate identification of resources across EPA, other agencies, state and private
- Continue Capacity Building Training Activities

EPA's Overall Responsibility to EJ Concerns



- Listen and learn
- Be transparent, clear and respectful
- Seek out and encourage participation
- Do more than “checking the box”. Provide avenues for input (i.e., in-person trainings, webinars, workshops, round-table discussions, etc.)
 - Reach out before and after public comment periods
- Be willing to change approach when input has merit





Appendix

Basic Concepts: Legal and Policy Framework



E.O. 12898

Make EJ part of our mission.

To the greatest extent practicable and permitted by law, identify and address disproportionately high and adverse impacts on minority and low income populations.

Presidential Memorandum

Environmental and civil rights statutes provide opportunities to address environmental hazards in minority communities and low-income communities.

- Use Clean Air Act authority to consider and address EJ concerns, consistent with Agency's EJ policies.
- Agency's statutory and regulatory authorities allow you to address adverse impacts without showing impacts are disproportionate.
- EPA's statutory and regulatory authorities give the agency the broad basis for protecting human health and the environment <http://www.epa.gov/laws-regulations/summary-executive-order-12898-federal-actions-address-environmental-justice>.

OGC EJ Legal Tools



- To provide legal assistance to EPA policy makers and other Agency decision-makers to advance EPA's environmental justice objectives and achieve the Agency's vision of using the law as a tool to advance environmental justice.
- The [*EJ Legal Tools*](#) document is designed to identify existing legal tools to help EPA advance its goal of environmental justice in the United States. It provides an overview of a number of discretionary legal authorities that are or may be available to EPA under federal statutes and programs.

EJ in Rulemaking Process Guidance



- The process guidance is for members of action development workgroups, action decision-makers and any other agency staff involved in developing actions, including those that perform the analyses that may be used to support agency decision-making and those that manage the process.
 - presents the key concepts and policies that are critical for understanding EJ and determining whether actions involve potential EJ concerns,
 - provides a step-by-step walk-through of what rulemaking workgroups and senior decision-makers should do to consider EJ in each stage of EPA's Action Development Process, and
 - provides strategies and techniques for achieving meaningful involvement of population groups of concern (minority, low-income and indigenous populations) and tribes at key stages in the rule development process.

EJSCREEN



- EJSCREEN is the environmental justice screening tool used by EPA to provide a nationally consistent dataset and methodology for calculating "EJ indexes," which highlight places that may be candidates for further review.
- The tool offers a variety of powerful data and mapping capabilities that enable users to access environmental and demographic information, at high geographic resolution, across the entire country.
- Air metrics include:
 - NATA Air Toxics Cancer Risk
 - NATA Respiratory Hazard Index
 - NATA Neurological Hazard Index
 - NATA Diesel PM
 - PM_{2.5} - Annual average PM_{2.5} concentration in $\mu\text{g}/\text{m}^3$
 - O₃ - May–September (summer/ ozone season) average of daily-maximum 8-hour-average ozone concentrations in ppb

Technical Guidance for Assessing EJ in Regulatory Analysis



- This document provides Agency staff with guidance on how to assess disproportionate environmental and public health impacts of proposed rules and actions on minority, low income and indigenous populations in a variety of regulatory contexts.