



Environmental Justice: No Longer an Academic Exercise

Presented by Stoel Rives
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New Perspectives: An Exercise

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EJ Perspective -- Personal

Yes = one point

I am aware of neighborhood health conditions (cancer, asthma, diabetes)

I have difficulty sleeping due to sound or light disturbance.

I experience odor or discoloration in tap water.

I lack access to green space or nature.

I have trouble breathing or must curtail activity from pollution.

I could be displaced by climate change impacts (drought, wildfire, flood).

I think about my environment often (places that I live, work, play).

English is not the primary language spoken in my home.

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EJ Perspective -- Personal

I live near industrial activity.

I live near a contaminated site, landfill, or brownfield.

My ancestral land is occupied by an uninvited settlor, developer, or industrial operation.

I experience odor or particles in the air in my neighborhood.

College degrees are rare in my neighborhood.

I lack access to healthy food, quality housing, convenient transport.

I lack access to health care.

I feel unsafe in my home/neighborhood.

More points = more burdened community

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EJ Perspective -- Organization

Yes = one point

We can access and understand technical information.

We can access and understand regulatory frameworks.

We can access subject matter experts for assistance.

We have influence (seat at the table) in rulemaking processes.

We have influence in permit review processes.

English is our organization's primary language.

We participate in trade associations or other advocacy groups.

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EJ Perspective -- Organization

Meeting times important to our outcomes are conveniently scheduled.

We can access regulators and leaders of regulatory bodies.

Opportunities for public involvement align with organization's preferences (schedule, locations, advance materials, explanatory materials).

We can access financial resources to apply to projects and ideas.

We employ full time professionals to work on projects and ideas.

We can access multi-disciplinary professionals (public relations, financial, technical, operations, legal, government affairs, communications)

More points = more access and involvement

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EJ Definition

Environmental justice is 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.

<https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>

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EJ Focus

Environment includes places where people live, work, play, study, pray.


Fair treatment compares impacts and infers the Golden Rule.







Meaningful involvement includes access, resources, voice, seat at the table, understanding.

Development, implementation, and enforcement covers rulemaking, permitting, regulatory interpretation, inspections, investigations, administrative + judicial enforcement.

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 **Sources of impacts**

Industry, extraction, utilities – land use, pollution, legacy impacts	
Water management – aquifer, water transfers, dams	
Land management – wildfire, species conservation, invasive species	
Waste management – landfills, dumps, pick-ups, incineration	
Infrastructure – roads, airports, urban development, green space	
Tourism and recreation – use, traffic, access	

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 **New Emphases**

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New Emphases on EJ -- Federal

Federal Register
Vol. 58, No. 32
Wednesday, February 16, 1994

Presidential Documents

Title 3--

The President

Executive Order 12896 of February 11, 1994 Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1-1. Implementation.

1-101. Agency Responsibilities. To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing an appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.

1-102. Creation of an Interagency Working Group on Environmental Justice. (a) Within 3 months of the date of this order, the Administrator of the Environmental Protection Agency ("Administrator") or the Administrator's designee shall convene an Interagency Federal Working Group on Environmental Justice ("Working Group"). The Working Group shall comprise the heads of the following executive agencies and offices, or their designees: (A) Department of Defense; (B) Department of Health and Human Services; (C) Department of Housing and Urban Development; (d) Department of Labor; (E) Department of Agriculture; (f) Department of Transportation; (g) Department of Justice; (h) Department of the Interior; (i) Department of Commerce; (j) Department of Energy; (k) Environmental Protection Agency; (l) Office of Management and Budget; (m) Office of Science and Technology Policy;



Federal Register / Vol. 86, No. 19 / Monday, February 1, 2021 / Presidential Documents

Presidential Documents

Executive Order 14008 of January 27, 2021

Tackling the Climate Crisis at Home and Abroad

Federal Register / Vol. 86, No. 14 / Monday, January 25, 2021 / Presidential Documents 7009

Presidential Documents

Executive Order 13985 of January 20, 2021

Advancing Racial Equity and Support for Underserved Communities Through the Federal Government

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. Policy. Equal opportunity is the bedrock of American democracy, and our diversity is one of our country's greatest strengths. But for too many, the American Dream remains out of reach. Entrenched disparities in our laws and public policies, and in our public and private institutions, have often denied that equal opportunity to individuals and communities. Our country faces converging economic, health, and climate crises that have exposed and exacerbated inequities, while a historic movement for justice has highlighted the unbearable human costs of systemic racism. Our Nation deserves an ambitious whole-of-government equity agenda that matches the scale of the opportunities and challenges that we face.

It is therefore the policy of my Administration that the Federal Government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Affirmatively advancing equity, civil rights, racial justice, and equal opportunity is the responsibility of the whole of our Government. Because advancing



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New Emphases on EJ -- Federal

- **Strengthen enforcement** of violations with disproportionate impacts on underserved communities
- Create community notification **programs to monitor and provide real-time data** on emissions in frontline and fence line communities
- Coordination between **DOJ and EPA on enforcement strategy and remedies** for systemic violations and contamination
- **Justice40** federal investments 40% of overall benefits flow to disadvantaged communities

EO 14008 - January 27, 2021 + EO 13985 – January 20, 2021

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EJ in Enforcement

- Increase inspections in overburdened communities
- Prevent pollution due to noncompliance
- Penalties, SEPs, restitution
- Injunctive relief: addresses past harms
- Early, innovative relief
 - Fence line monitoring
 - Data posted to website
 - Root cause and corrective actions



Starfield Memo - April 30, 2021



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EJ Enforcement

- Engage with communities on cases
 - Provide information (press, public meetings)
 - Facilities, pollution, enforcement actions
- Empower communities with resources
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- Seek input on cleanup and reuse
- Joint planning with States

Starfield Memo - April 30, 2021

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EJ Enforcement

- Advanced monitoring
- Audits
- Electronic reporting
- Increased transparency of compliance data
- Mitigation
- SEPs
- Stipulated penalties

Starfield Memo - April 26, 2021

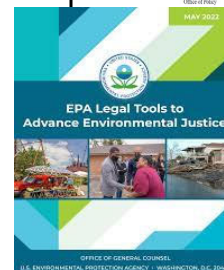
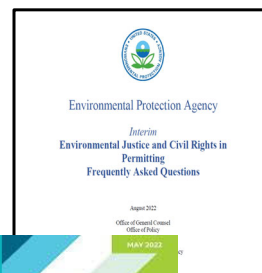
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EJ in Permitting

- New applications of existing laws
- FAQs (August 2022)
- Enhanced public involvement
- EPA as permitting authority
- States as permitting authority
- EPA review + oversight
- Cumulative impacts



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EJ in Rulemaking

Air Toxics Standards for Ethylene Oxide Commercial Sterilizers

- “Reductions in EtO are critical for communities that have suffered disproportionately from toxic air pollution”
- “African Americans, those living below poverty, and those living in linguistic isolation are disproportionately represented where risk is highest.”
- Outreach to 23 communities most at risk during rulemaking
- CEMS and quarterly reporting to EPA – *to be made available to the public*

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EJ in Rulemaking

Risk Management Program Safer Communities by Chemical Accident Prevention

- “Historically underserved and overburdened populations disproportionately live within close proximity to RMP facilities compared with other populations.”
- Coordinate with LEPC to provide community release notifications
- Obligation to provide chemical risk information to individuals within 6 miles of fence line
 - Accident history
 - Chemical information
 - Declined recommendations and justifications

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EJ Notables

EPA Office of Environmental Justice and External Civil Rights

DOJ Office of Environmental Justice

Title VI of Civil Rights Act

American Rescue Plan Act + Bipartisan Infrastructure Law

Justice40

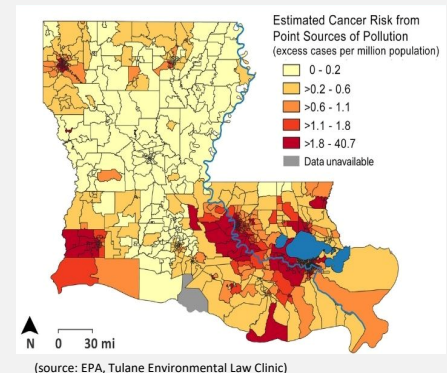
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But See

Louisiana v. EPA, 2024 WL 250798
(W.D. La. Jan. 23, 2024)

- Earthjustice filed Title VI complaint alleging Louisiana DEQ engaged in racial discrimination in its permitting process
- EPA opened civil rights investigation into LDEQ permitting practices
- EPA objected to Title V permit – cumulative impact analysis
- Louisiana sued to block EPA/DOJ Title VI regulations prohibiting disparate impact – Regs focus on consequences instead of intent – and “extra regulatory measures”
- Preliminary injunction granted



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The slide features the Stoel Rives LLP logo in the top left corner, which consists of a stylized blue 'S' icon followed by the text 'Stoel Rives LLP'. The background is a light gray color with a green curved shape on the left side. The title 'EJ FAQs' is in the top right corner in a bold, dark blue font. Below the title is a list of six questions with their answers in italics.

EJ FAQs

- Is there a list of EJ communities? *Not yet*
- Are there tools to identify EJ communities? *Yes*
- Are EJ concerns only focusing on black and brown communities? *No*
- Does EJ reach remote, rural facilities? *Yes*
- No complaints means no concerns, right? *No*
- Can EPA really make us do more than what the law requires? *No, but...*

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EJ Assessments

- EJSCREEN <https://ejscreen.epa.gov/mapper/>
- US Census <https://data.census.gov/cedsci/>
- Compare impacts
 - Date near site to county, state data
- County health reports
- Sensitive receptors
- Nearby regulated sources
- Vulnerability to climate
- Access to services, social + public health

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EJ Meaningful Involvement

Who/Where is the host community?

Who are the leaders and representative community members, organizations?

What concerns face the community – identified through direct communication?

What information does host community need about project, operations?

How frequently is the community engagement?

What prompts the engagement?

Who leads the engagement with communities – public affairs or SME?

What form is best form of communication for the community?

What are best times generally to host public participation events?

How can attendance at events be maximized?

Are communications to host community in local primary language?

What materials are provided to host community in advance of meeting?

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EJ + ESG Performance



EJ Actions

Recognize – your privilege



Learn – the community



Define – concerning impacts



Discuss – collaborative solutions



Examine – need for change



Question -- everything



Voice – others' opinions



Invite – all stakeholders





Update from IDEQ

Kristin Ryan, Deputy Director