

Environmental Justice 2023 Update

**A&WMA -Louisiana Section Environmental
Conference**

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Today's Agenda

- ✓ Defining Environmental Justice (EJ)
- ✓ Overview
- ✓ EJ Tools
- ✓ Legal Update
- ✓ Industry Perspective
- ✓ Questions and Answers



What is Environmental Justice?

There are several definitions of Environmental Justice from state to state, but EPA's official definition 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."

Federal EJ News – Executive Orders

- February 17th, Executive Order: *“Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.”*
 - Formation of a White House Steering Committee to coordinate cross-agency efforts.
 - Directs agencies to affirmatively advance civil rights, directing them to “comprehensively use their respective civil rights authorities and office to prevent and address discrimination and advance equity for all, including to increase the effects of civil rights enforcement and to increase public awareness with civil rights principals.”
- April 21st, Executive Order: *“Revitalizing Our Nation’s Commitment to Environmental Justice for All.”*
 - Primarily reaffirms the administration’s commitment to EJ:
 - Strengthen engagement between government, industry, and community
 - Promote the use of the latest science including on cumulative impacts
 - Created the White House Office on Environmental Justice
 - Federal agencies must conduct new assessments of their EJ efforts, to be reported to CEQ and made available to the public.



Federal EJ News - Developments

- January 11th: *“Legal Tools to Advance Environmental Justice”*
 - Seeks to identify ways U.S. EPA and other agencies can use the legal authority of existing rules to address EJ and cumulative impacts.
- June 16th: Draft *“Guidelines for Cumulative Risk Assessment Planning and Problem Formulation”*
 - Not the long-awaited cumulative impact analysis guidance, attempts to “lay the foundation for considering current and future cumulative risk analytical methods”
- July 18th: U.S. EPA announces that each region will open their own stand-alone EJ office, mirroring the national Office of Environmental Justice and External Civil Rights
- September: U.S. EPA Science Advisory Board (SAB) announces it will execute a self-initiated project to help create “comprehensive, rigorous, and geographically detailed” EJ approaches that U.S. EPA can apply to future rulemaking





Federal – EJ Funding

Billions of dollars are being pumped into EJ related projects, ambient monitoring, and community programs:

- ❑ 2022: \$170 million+ from the Inflation Reduction Act (IRA) for fenceline and “hyper-local” community monitoring programs.
- ❑ January: \$100 million in grants to support local community projects that address climate change in EJ communities.
- ❑ February: Billions of dollars in IRA grant funding for projects in low-income and disadvantaged communities.
- ❑ April: \$177 million to create 17 technical assistance centers to help EJ advocacy organizations navigate the grant process.
- ❑ Day before Yesterday (10/24/23)!: U.S. EPA releases \$128 million to fund 186 projects focused on clean air and water and climate resilience solutions.



Coming Soon - Cumulative Impact Assessments

- ❑ Not a new idea: Initially floated by Bush administration in 2003, raised in Obama's 2014 environmental agenda but stalled
- ❑ Assesses cumulative impacts from overlapping environmental hazards:
 - Air, water, waste
 - Public health
 - Non-chemical stressors (higher at-risk local population, etc.)
- ❑ Certain populations more vulnerable due to higher exposure and compromised ability to cope with stressors
- ❑ Not limited to just your facility
- ❑ EPA expected to release guidelines by the end of 2021, then Q1 2022, now? Equity Action Plan said implementation by September 2023...
- ❑ Recent SAB meeting revealed uncertainty on path forward
- ❑ Many tools, rules and policies being tuned to support cumulative impact assessments.



Increased use of Civil Rights Act in EJ Cases

Title VI of the Civil Right Act states:

“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

- ❑ Possible avenue for U. S. EPA to pressure states on EJ issues
- ❑ Threat of lost federal funding
- ❑ U.S. EPA currently investigating or has been petitioned to investigate the permitting programs of several states (Alabama, Colorado, Delaware, Mississippi, Missouri, North Carolina, Rhode Island, Texas) for possible Title VI violations





Summary

- ❑ Environmental Justice is here and permeating every aspect of environmental regulation and policy across all media and agencies
- ❑ Billions of federal dollars are being made available for hyper-local and fence line monitoring programs and to promote public engagement
- ❑ Most federal activity is around funding community projects, outreach programs, and enforcement actions. Little to no rulemaking.
- ❑ States that are active in the EJ arena are implementing policy, tools, and rules that have a more direct impact on industry.
- ❑ What the Cumulative Impact Assessments guidance will ultimately look like is the big question on the federal front.

Questions or Comments?

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