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OPEI Regulatory Development Series

EPA's Action Development Process

Interim Guidance on Considering Environmental Justice During the Development of an Action

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Message from the Administrator

Interim Guidance on Considering Environmental Justice During the Development of an Action

Far too often and for far too long, environmentalism has been viewed as a distant issue for low-income and minority communities. That view has persisted despite the fact that these same communities often carry the greatest environmental burdens. Dirty air, polluted water, and contaminated lands have significant impacts on the health and economic possibilities of the people who live in overburdened communities.

I have called on this U.S. Environmental Protection Agency to change both the perception and the situation on the ground, by broadly expanding our conversation on environmentalism and developing policies that have a measurable effect on environmental justice challenges. This document, the Interim Guidance on Considering Environmental Justice During the Development of an Action, also known as the EJ in Rulemaking Guidance, is an important tool for answering that call.

The EJ in Rulemaking Guidance provides specific strategies for giving environmental justice communities a voice in shaping EPA's rules and regulations. It outlines multiple steps that every program office can take to incorporate the needs of overburdened neighborhoods into our decision-making, scientific analysis, and rule development. I encourage all EPA staff to become familiar with environmental justice concepts and the many ways they should inform our decision-making.

As we begin implementing the EJ in Rulemaking Guidance, we will look to federal and state agencies, academia, community members, and other partners for ideas, innovations, and best practices. Contributions from all stakeholders will help us improve our regulation development process year after year and enhance EPA's work in communities where environmental improvements are needed the most. We are also counting on the input of EPA staff. As the individuals who will translate this guidance into action, I ask that you frequently share your perspectives on where we can strengthen this guidance.

EPA should set the standard for expanding the conversation on environmentalism and working for environmental justice. I'm proud to join you as we strengthen our mission to protect the health and the environment of every American community.

Lisa P. Jackson
Administrator

EPA's Action Development Process

Interim Guidance on Considering Environmental Justice During the Development of an Action

Foreword

The Environmental Protection Agency (EPA) is authorized by Congress to create and enforce regulations that put our nation's environmental laws into effect. Exercising this authority is one of EPA's most important and powerful tools for protecting our environment and the health of our people. EPA's regulations cover a range of environmental and public health issues, from setting standards for clean water to controlling air pollution from industry and other sources. When EPA identifies the need to develop or revise a regulation, it forms a workgroup that is led by the EPA office that will be writing the regulation. The workgroup may work for months, employing EPA expert scientists, economists, and other analysts, before an appropriate course of action is decided on and a regulation is promulgated and implemented.

A number of laws, Executive Orders, and policies direct EPA to consider issues of concern to the President, Congress, and the American public when developing regulations. To achieve the goals of Executive Order (E.O.) 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, it is critical that EPA rulemaking workgroups consider environmental justice (EJ) when developing a regulation. This Guide is designed to help EPA staff incorporate EJ into the process followed at EPA for developing regulations [also known as the Action Development Process (ADP)] by: 1) describing the legal and policy framework at EPA that requires workgroups to consider EJ; 2) identifying the information that workgroups should consider when determining if there are EJ concerns involved in their proposed regulations; and 3) highlighting the kinds of questions about EJ that workgroups should ask and address in each step of developing a regulation.

The purpose of this Guide is to explicitly integrate EJ considerations into the fabric of EPA's ADP—from rule inception through all the stages leading to promulgation and implementation—requiring that workgroups meaningfully engage with and consider the impacts on minority, low-income, and indigenous populations, and tribes. The analyses required to implement this Guide may include quantitative and/or qualitative elements. Our ability to quantitatively assess EJ issues is evolving; over time we expect it to become more robust, sophisticated, and capable of ensuring that we are meeting our mission as an agency.

Our experience in implementing this Guide will contribute significantly to that evolution, and as our analytical capabilities expand, so will Agency and public expectations for us to exercise them in the development of our rules. The Guide empowers decision-makers responsible for developing rules and regulations to determine early in the process the level of focus and effort necessary and appropriate to achieve the Guide's goals. This decision can and should balance the need to make sure that strong, environmentally protective rules are developed and executed in a timely way, while ensuring that EJ is considered to the maximum extent practicable where it has the potential to impact our regulatory decisions. To achieve these goals, the Guide directs rule writers and decisions-makers to respond to three basic questions throughout the ADP:

1. How did your public participation process provide transparency and meaningful participation for minority, low-income, and indigenous populations, and tribes?
2. How did you identify and address existing and new disproportionate environmental and public health impacts on minority, low-income, and indigenous populations?
3. How did actions taken under #1 and #2 impact the outcome or final decision?

This Guide helps rulewriters understand and identify potential EJ concerns and asks them to analyze the impacts of their rules on these populations. A critical additional step is the development of additional guidance that will help workgroups conduct technical and scientific analyses of EJ issues. As workgroups use this Interim Guide, their experiences and lessons learned will be considered in both the development of the new "technical" guidance and in revising this Interim Guide later this year.

Disclaimer: This document identifies internal Agency policies and recommended procedures for EPA employees who are participants or managers developing or reviewing an action in the Action Development Process. This document is not a rule or regulation and it may not apply to a particular situation based upon the circumstances. This Guide does not change or substitute for any law, regulation, or any other legally binding requirement and is not legally enforceable. As indicated by the use of non-mandatory language such as "guidance," "recommend," "may," "should," and "can," it identifies policies and provides recommendations and does not impose any legally binding requirements.

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ACRONYMS AND ABBREVIATIONS

AA/RA:	Assistant Administrator/Regional Administrator
ADP:	Action Development Process
DABP:	Detailed Analytic Blueprint
EA:	Economic Analysis
EPA:	Environmental Protection Agency
EJ:	Environmental Justice
E.O.:	Executive Order
FAR:	Final Agency Review
FR:	Federal Register
GIS:	Geographic Information Systems
IT:	Information Technology
NAAQS:	National Ambient Air Quality Standard
NO_2:	Nitrogen Dioxide
OEJ:	Office of Environmental Justice
OGC:	Office of General Counsel
OMB:	Office of Management and Budget
OPEI:	Office of Policy, Economics, and Innovation
PABP:	Preliminary Analytic Blueprint
RAPIDS:	Rule and Policy Information and Development System
RCRA:	Resource Conservation and Recovery Act
RIA:	Regulatory Impact Analysis
RMD:	Regulatory Management Division

Overview and Background

What is the Purpose of this Guide?

Achieving environmental justice (EJ) is an Agency priority and should be factored into every decision. Incorporating EJ considerations into the Action Development Process (ADP) represents a commitment to ensuring that all Americans, regardless of age, race, economic status, or ethnicity, have access to clean water, clean air, and healthy communities. It is vital that all Agency staff identify and address disproportionate environmental and public health impacts experienced by minority, low-income, and indigenous populations.

This Guide will help Agency staff consider EJ concerns during the development of actions under the Agency's ADP, consistent with existing environmental and civil rights laws and their implementing regulations, as well as Executive Order (E.O.) 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, Feb. 16, 1994) and EPA's EJ policies.[1]

This Guide uses the definition of "Agency action" provided in EPA's ADP, which is available online at http://intranet.epa.gov/adplibrary. Agency actions include rules, policy statements, risk assessments, guidance documents, models that may be used in future rulemakings, and strategies that are related to regulations. In addition to providing guidance on the importance of identifying EJ concerns during the development of an action, this Guide identifies key steps throughout the ADP where EJ should be considered. As a supplement to this Guide, Agency staff may find it useful to refer to other EPA guidance documents related to risk assessment, public involvement, and economic analysis.

This Guide is an important step toward ensuring that our actions appropriately address EJ issues. A critical next step is the development of technical guidance that will provide analytical tools and methodologies for evaluating the impacts of our actions on minority, low-income, and indigenous populations. As workgroups use this Interim Guide, their experiences and lessons learned will be considered in both the development of the new technical guidance and in revising this Interim Guide later this year.

[1] EPA's historical EJ policies include: *The EPA's Environmental Justice Strategy* (1995), *Environmental Justice Implementation Plan* (1996), *Environmental Justice: Guidance Under the National Environmental Policy Act* (1997), *Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses* (1998), *Toolkit for Assessing Potential Allegations of Environmental Justice* (2004), Memo from Stephen L. Johnson: *Reaffirming the U.S. EPA's Commitment to Environmental Justice* (2005).

The requirements or recommendations for integrating children's health considerations into the ADP, or for consulting with federally recognized tribes when Agency actions may impact their citizens or resources, are addressed in other Agency guides, available online at http://intranet.epa.gov/adplibrary.

Children's Health

You should be familiar with E.O. 13045, *Protection of Children from Environmental Health Risks and Safety Risks,* and with *EPA's Guide to Considering Children's Health When Developing EPA Actions*. You should note the important intersection between EJ concerns and children's health issues, as children in minority, low-income, and indigenous populations are more likely to be exposed to, and have increased health risks from, environmental pollution than the general population.

Indigenous Populations and Tribes

You should be familiar with E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*. The Agency's responsibilities under E.O. 13175 are separate from the responsibilities under E.O. 12898 and stem from federally recognized tribes' status as sovereign governments. You should note that this Guide is intended to apply to EJ concerns affecting federally recognized, state recognized, and non-recognized tribes; individual tribal members, including those living off-reservation and Alaska Natives; and Native Hawaiians.

Who is the Audience for this Guide?

This Guide is for participants on action development workgroups 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. Workgroup leads have particular responsibilities under the ADP, including identifying and addressing EJ concerns. However, each action development workgroup member has the responsibility for being familiar with, and understanding, the various statutes and Executive Orders that impact EPA's actions. Other Agency staff involved in the development of an action, but who may not be workgroup members, are also responsible for being familiar with these requirements. Therefore, this Guide uses the word "you" to refer to all workgroup members and other Agency staff. In addition, senior EPA managers may find this Guide useful in helping to ensure that EJ concerns are appropriately addressed in the development of their actions under the ADP.

How is this Guide Organized?

This Guide is organized into two parts:

Part 1:

- Describes the statutory and policy framework for considering EJ.
- Identifies concepts central to determining whether your action involves an EJ concern.

Part 2:

- Discusses the concepts and how they fit into each step of the ADP.

In addition, a separate document, "*Templates for Regulatory Preambles to Address E.O. 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*," explains how to address E.O. 12898 in rule preambles, covering various situations. It is available in the Office of Policy, Economics, and Innovation's (OPEI's) ADP library at http://intranet.epa.gov/adplibrary. It is important to note that your preamble discussion should also discuss how you identified and addressed EJ concerns.

Part 1:

Key Concepts for Understanding Whether Your Action Involves An Environmental Justice Concern

A. What is Environmental Justice?

Environmental justice (EJ) is central to the Agency's mission and is the responsibility of everyone at EPA. In particular, those who are involved in the development of an action need to understand the principles of EJ and how they relate to the development of an Agency action.

EPA defines "environmental justice" 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.[2]

> *Fair Treatment* means that 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* means that: 1) potentially affected community members have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; 2) the public's contribution can influence the regulatory agency's decision; 3) the concerns of all participants involved will be considered in the decision-making process; and 4) the decision-makers seek out and facilitate the involvement of those potentially affected.

In EPA's implementation of its EJ program, the Agency has expanded the concept of fair treatment to include not only the consideration of how burdens are distributed across all populations, but also how benefits are distributed. Thus, in the ADP, you should not only evaluate the distribution of burdens by paying special attention to populations that have historically borne a disproportionate share of environmental harms and risk, but you are also encouraged to look at the distribution of the positive environmental and health consequences from our activities.

[2] EPA's definition of EJ can be found at http://www.epa.gov/environmentaljustice/basics/index.html. EPA's definition of EJ was informed by E.O. 12898, which is discussed in full detail in Part 1, Section B of this Guide. Background information on EPA's EJ program can also be found on this website.

To help achieve EPA's goal for EJ (i.e., the fair treatment and meaningful involvement of *all* people), EPA places particular emphasis on the public health of and environmental conditions affecting minority, low-income, and indigenous populations. In recognizing that these populations frequently bear a disproportionate burden of environmental harms and risks (see Figure 1), EPA works to protect them from adverse public health and environmental effects of its programs. EPA should pay particular attention to the vulnerabilities of these populations because they have historically been exposed to a combination of physical, chemical, biological, social, and cultural factors that have imposed greater environmental burdens on them than those imposed on the general population. Thus, our focus in this Guide is on minority, low-income, and indigenous populations who are or may be disproportionately impacted by environmental pollution.

Figure 1—I-710 Freeway Los Angeles

Reproduced with permission from Environmental Health Perspectives, *Global Trade Comes Home: Community Impacts of Goods Movement*, February 2008.

The densely populated communities closest to the I-710 freeway in Los Angeles County are severely impacted by pollution from goods movement and industrial activity. The Ports of Long Beach and Los Angeles are the entry point of 40 percent of all imports to the United States and 20 percent of diesel particulate emissions in Southern California. Approximately 1,200 premature deaths are associated with diesel emissions from goods movement in the South Coast Air Basin. The I-710 freeway passes through 15 cities and unincorporated areas with a population of more than 1 million residents—about 70 percent of which are minority and disproportionately low-income. The area is dense with truck traffic, industrial facilities, residences, schools, daycares, and senior centers. The region exceeds national air quality standards for 1-hour and 8-hour ozone and particulate matter 2.5 and 10. The South Coast Air Quality Management District, California Air Resources Board, and EPA are working vigorously to address the air quality issues in the region.

B. What is the Agency's Statutory and Policy Framework for Considering Environmental Justice?

For more than a decade, EPA has developed strategies, guidance documents, and implementation plans to move the Agency closer to its goal of achieving environmental justice.[3] These documents, along with E.O. 12898 and existing environmental statutes and regulations, provide the framework for you to consider EJ during the development of your action.

E.O. 12898 applies to agency "programs, policies, and activities" and in general calls on each federal agency to make achieving EJ part of its mission (see Appendix A for full text of E.O. 12898). It directs agencies such as EPA, "[t]o 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.[4] Because minority, low-income, and indigenous

[3] Please see footnote 1 for a listing of EPA's historical EJ policies.

[4] In addition, the Presidential Memorandum accompanying E.O. 12898 directs federal agencies to analyze environmental effects, including human health, economic, and social effects, of federal actions when such analysis is required under the National Environmental Policy Act. See *Memorandum for the Heads of All Departments and Agencies: Executive Order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (1994). Similarly, EPA promotes the consideration of economic or social effects in the ADP to better inform and manage the process of implementing Agency actions and policies.

populations have historically been underrepresented in federal agency decision-making, E.O. 12898 also aims to improve public participation of these populations in the decision-making process. E.O. 12898 applies to all Agency actions, unlike other Executive Orders that may contain categorical exclusions.

Consistent with the emphasis in the Presidential Memorandum accompanying E.O. 12898, regarding the use of existing environmental laws to help achieve the goal of EJ, EPA uses existing environmental statutes and regulations to consider and address EJ concerns.[5] These authorities encompass the breadth of the Agency's activities, including setting standards. Some authorities direct the Agency to consider specific affected populations when setting standards, whereas others provide discretionary opportunities to incorporate EJ concerns into the action.[6]

Examples of Statutory Authority

- Clean Air Act section 109 requires EPA to set National Ambient Air Quality Standards (NAAQS) for certain air pollutants. The primary NAAQS are designed to protect public health. EPA sets primary standards that are judged to protect public health with an adequate margin of safety. EPA considers the health risks for sensitive populations, which often provides an important opportunity to consider the health impacts on minority, low-income, and indigenous populations without an additional requirement that those impacts are disproportionate.

- Under the Resource Conservation and Recovery Act (RCRA) sections 3002 through 3004, EPA is directed to establish requirements applicable to generation, transport, treatment, storage, and disposal of hazardous waste "as may be necessary to protect human health and the environment. "This provides EPA with broad discretion to consider impacts on minority, low-income, and indigenous populations when developing RCRA regulations.

The application of existing statutory and regulatory authorities is a critical part of EPA's efforts to prevent and address the disproportionately high and adverse effects that are the focus of E.O. 12898. This Guide uses the term "EJ concern" (defined in Part 1, Section C), which aligns with the E.O.'s focus on disproportionate impacts. It is important, however, to recognize that the Agency's statutory and regulatory authorities provide a broader basis for protecting human health and the environment and do not require a demonstration of disproportionate impacts in order to protect the health or environment of any population, including minority, low-income, and indigenous populations. Thus, consistent with its mission, the Agency may address adverse impacts in the context of developing an action without the need for showing that the impacts are disproportionate.

The E.O. has informed the development and implementation of EPA's EJ program and EJ policies. Consistent with the E.O. and the Presidential Memorandum, the Agency's EJ policies promote environmental protection by focusing attention and Agency efforts on addressing the types of environmental harms and risks that are prevalent among minority, low-income, and indigenous populations.[7] E.O. 12898 and the Agency's EJ policies do not mandate particular outcomes for an action, but they demand that decisions involving the action be informed by a consideration of EJ issues. Where feasible, actions should prevent or address and mitigate EJ concerns.

[5] The Presidential Memorandum also states that existing civil rights statutes provide opportunities to address environmental hazards in minority and low-income communities: "In accordance with Title VI of the Civil Rights Act of 1964, each Federal agency shall ensure that all programs or activities receiving Federal financial assistance that affect human health or the environment do not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin."

[6] You should consult with the Office of General Counsel (OGC) and/or the appropriate Program Office staff if you have questions about the opportunities for addressing EJ concerns provided by the statutes that govern your action.

[7] Please see footnote 1 for a listing of EPA's historical EJ policies.

C. What is an "Environmental Justice Concern?"

What is an EJ Concern?

- An EJ concern refers to disproportionate impacts on minority, low-income, or indigenous populations that exist prior to or that may be created by your proposed action.
- An EJ concern refers to lack of opportunities for minority, low-income, or indigenous populations, or tribes to meaningfully participate in the development of your action.
- An EJ concern may arise when there is an actual or potential lack of fair treatment or meaningful involvement of minority, low-income, or indigenous populations, or tribes when implementing or enforcing an Agency action.

Throughout this Guide, the term "environmental justice concern" (EJ concern) is used to indicate the actual or potential lack of fair treatment or meaningful involvement of minority, low-income, or indigenous populations, or tribes in the development, implementation, and enforcement of environmental laws, regulations, and policies. While this Guide does not provide you with guidance on how to *evaluate* potential EJ concerns, the following section will provide you with general guidelines on how to *identify* an action that might involve potential EJ concerns. (See Table 1 for a summary of actions that might involve EJ concerns).

Managers decide early in the process the appropriate level of analysis and engagement of stakeholders, considering factors such as the legal framework governing the action, the availability of relevant data and analytical methodologies, stakeholder interest, and the impacts that EJ concerns are likely to have on the actual decisions involving your action. Based on the application of these criteria, some actions will be identified for enhanced efforts that may require developing new data, applying more advanced analytical methodologies, and conducting more extensive and targeted engagement of stakeholders. As detailed more thoroughly in Part 2, managers will convey to the workgroup their determinations on the appropriate level of analysis and stakeholder engagement.

1. An EJ concern refers to disproportionate impacts on minority, low-income, or indigenous populations that exist prior to or that may be created by your proposed action.

Your action may involve an EJ concern if it could:

- Create new disproportionate impacts on minority, low-income, or indigenous populations.
- Exacerbate existing disproportionate impacts on minority, low-income, or indigenous populations.
- Present opportunities to address existing disproportionate impacts on minority, low-income, or indigenous populations that are addressable through the action under development.

Most Agency actions will benefit public health and the environment through pollution reductions and enhanced safety measures. Nonetheless, it is important to assess whether minority, low-income, or indigenous populations are experiencing existing disproportionate impacts that you can address through your action.

Your assessment of whether the action involves disproportionate impacts may include qualitative and/or quantitative elements. As you gather preliminary information and set the context for your action, you can begin to articulate your framework for analyzing whether there are disproportionate impacts on minority, low-income, or indigenous populations. The level of analysis that is appropriate for your action will depend on a variety of factors, including the legal framework governing the action, the availability of relevant data and analytical methodologies, stakeholder interest, and the impacts that EJ concerns are likely to have on the actual decisions involving your action.

The Office of Environmental Justice (OEJ) has identified several factors, summarized below, that will help you assess whether disproportionate impacts on minority, low-income, or indigenous populations exist prior to or are created by your proposed action.[8] These factors will help you identify conditions in which these populations may be experiencing disproportionate impacts associated with your action. Disproportionate impacts may result from a combination of several, if not all, of the factors below. In some circumstances, however, the presence of one or two of these factors alone could be sufficient to impose a disproportionate environmental hazard on a population. You should note that disproportionate impacts may also arise from factors not included here. While this list is intended to help you think about how EJ concerns may arise in your action, you are not required to analyze the existence or impact of these factors. You are encouraged to consider how your action may impact these populations, and this list is intended to aid in those considerations.

Proximity and Exposure to Environmental Hazards. Disproportionate public health and environmental effects can be related to a community's or population's differential proximity and exposure to environmental hazards. There are many prominent examples, empirical and anecdotal, of communities affected by their proximity to environmental hazards.

Proximity to industrial sources can cause respiratory illnesses.

Susceptible Populations. Susceptible populations are groups that are at a high risk of suffering the adverse effects of environmental hazards. Certain factors may render different groups less able to resist or tolerate an environmental stressor. These susceptibility factors may be intrinsic in nature, based on age, sex, genetics, race, or ethnicity. In addition, some susceptibility factors may be acquired (such as chronic medical conditions, lack of health care access, poor nutrition, or fitness) or be related to other pollutant exposures. Minority, low-income, and indigenous children are at greater risk because factors such as poverty, poor nutrition, pre-existing health conditions, lack of access to health care, lack of information, lack of exercise, psychosocial stress, and lack of social capital contribute to greater susceptibility to environmental hazards.

[8] For a more detailed discussion of these factors, see *Environmental Justice Factors to Consider in EPA's Regulatory Activities* in the ADP library at http://intranet.epa.gov/adplibrary/. More information on how each of these factors can inform environmental decision-making will be available at www.epa.gov/environmentaljustice.

Cultural practices, like basket weaving, may lead to a unique exposure pathway.

Unique Exposure Pathways. An exposure pathway is the route a substance takes from its source to its endpoint. Some populations sustain unique environmental exposures because of practices linked to their cultural background or socioeconomic status. For example, as a cultural practice, some indigenous populations rely on a diet that may include subsistence fishing and/or farming.[9] Subsistence diets may expose these populations to toxic chemicals, such as mercury from a fish diet or other chemicals from a diet high in contaminated vegetation. There are also nondietary exposure pathways that may be unique to some indigenous populations. For example, in populations that practice basket weaving, exposure to toxic chemicals may occur when contaminated materials are placed in the mouth during the weaving process.

Multiple and Cumulative Effects. Minority, low-income, and indigenous populations are likely to suffer a wide range of environmental hazards, ranging from poor air quality to poor housing. Numerous empirical studies and anecdotal accounts describe minority, low-income, and indigenous communities that are impacted by multiple environmental hazards, such as industrial facilities, landfills, transportation-related air pollution, poor housing, leaking underground tanks, pesticides, and incompatible land uses. Analyzing cumulative effects from multiple stressors allows a more realistic evaluation of a population's risk to pollutants. The chemical-specific focus to assessing environmental risk fails to account for the fact that these populations may be exposed to several different pollutants. EPA's *Framework for Cumulative Risk Assessment*[10] can enhance an evaluation of the various aspects of cumulative risk experienced by these populations.

Ability to Participate in the Decision-Making Process. The ability, or inability, to participate in the environmental decision-making process may contribute to disproportionate impacts. Factors that contribute to the inability of a community to participate fully in the decision-making process include:

- Lack of trust
- Availability or lack of information
- Language barriers
- Socio-cultural issues
- Inability to access traditional communication channels
- Limited capacity to access technical and legal resources

Physical Infrastructure. Physical infrastructure, such as poor housing, poorly maintained public buildings (e.g., schools), or proximity to transportation hubs, contributes to making certain populations more vulnerable to environmental hazards.

[9] In the case of subsistence fishing, these populations may be exercising legal rights, based on treaties, to do so.

[10] EPA's Cumulative Risk Framework indicates that vulnerability of a population can be thought of as having four components: susceptibility of individuals, differential exposures, differential preparedness to withstand the insult, and differential ability to recover from effects. See *Framework for Cumulative Risk Assessment* (2003).

These factors are prevalent among minority, low-income, and indigenous populations. If you think that one or more of these factors is relevant to your action, you should consider whether your action involves disproportionate impacts on minority, low-income, or indigenous populations and thus, raises an EJ concern. To understand the populations affected by your proposed action, you may want to look at demographic data and consult with Program and/or Regional EJ Coordinators.[11] You should also consider reaching out to these populations to assess potential concerns and issues associated with your proposed action. You may also want to perform a review of relevant literature or consult with the Office of Research and Development.

2. An EJ concern refers to lack of opportunities for minority, low-income, or indigenous populations, or tribes to meaningfully participate in the development of your action.

Your action may involve an EJ concern if you do not provide meaningful involvement opportunities to minority, low-income, or indigenous populations, or tribes during the development of your action. To provide meaningful involvement opportunities that are consistent with the Agency's definition of EJ, you will likely have to go beyond the minimum requirements of standard notice and comment procedures and engage these populations or tribes early. It is often not realistic to expect meaningful involvement if you have not targeted outreach efforts to these populations or tribes prior to proposing your action. Part 1, Section E, describes the Agency's policies and resources related to meaningful involvement and notes the difference between the meaningful involvement of indigenous populations as it is used in the EJ context and consultation with tribes.

You should think broadly about how actions may impact minority, low-income, and indigenous populations, and tribes. For actions that may impact these populations, you should assess what steps you will take to ensure there are sufficient opportunities for meaningful involvement during the development of your action. This includes actions that directly impact the health or environmental conditions of these populations as well as actions that involve the collection of information or data. Information or data collection actions may impact these populations or tribes if the information or data is later used for inspection and enforcement or to assess potential health or environmental impacts.[12]

[11] For a listing of media EJ Coordinators, please visit http://epa.gov/environmentaljustice/contact/ej-contacts-media.html. For a listing of regional EJ Coordinators, please visit http://epa.gov/environmentaljustice/contact/ej-contacts-regional.html.

[12] Agency actions involving monitoring requirements are often viewed as important data-gathering opportunities that inform the development of future actions. Also, a test rule that requires submitting particular data that may subsequently be used in an analysis about impacts presents an important opportunity. You should offer affected minority, low-income, and indigenous populations, and tribes meaningful opportunities to influence the type of data and information collected through such actions, how the data or information may be made available to the public, and how the Agency plans to use that data or information in future actions. For example, the Agency often makes data available for the public to consider by issuing a Notice of Data Availability or as part of an Advanced Notice of Proposed Rulemaking, you may consider soliciting feedback on other mechanisms for making the data or information available to these populations.

3. An EJ concern may arise when there is an actual or potential lack of fair treatment or meaningful involvement of minority, low-income, or indigenous populations, or tribes when implementing or enforcing an Agency action.

As you develop your action, you should consider how you can promote EJ not only in the *development* of the action, but also in the *implementation* of the action. You should consider whether and how you can craft your action to influence its implementation in a manner that promotes EJ. For example, listed below are common implementation issues you should consider that may be of particular concern to minority, low-income, and indigenous populations, and tribes.

Does your action support or enhance compliance assurance? Consider whether your action, when implemented, requires oversight opportunities to assess compliance with the requirements of your action. You should evaluate whether enhanced monitoring, reporting, and recordkeeping requirements can help you maximize the use of statutory and regulatory authority to assess and ensure compliance where needed, to protect adversely affected populations, including minority, low-income, and indigenous populations.

Does your action support enforcement against violators? Non-compliance issues may impact the public health and environmental conditions affecting minority, low-income, and indigenous populations, particularly when violations are occurring in areas already disproportionately impacted by environmental hazards. Ensuring that your action is written to be enforceable is critically important to address EJ concerns that may arise as a result of non-compliance. You should also consider the record of industry-specific non-compliance and evaluate whether the rule should include additional requirements. The decision-maker should evaluate the root cause for the non-compliance record when considering whether additional requirements are necessary. For example, if the non-compliance record is the result of inadequate capacity of any tribal or rural entity, additional requirements in the rule may not be warranted.

Does your action promote transparency and meaningful involvement? Actions that promote transparency and meaningful involvement during implementation can make it easier to engage minority, low-income, and indigenous populations, and tribes, which may improve their ability to spot non-compliance issues or identify ways in which implementation can be improved. For example, you should ensure that compliance information is readily available and accessible to the affected public. You should also assess how your action impacts the ability of minority, low-income, and indigenous populations, and tribes to meaningfully participate in subsequent environmental decision-making processes (e.g., permits, National Environmental Policy Act assessments, State Implementation Plans, other reassessments of Agency actions).

Does your action encourage or require state, local, and tribal governments to consider EJ as they implement federal programs? State, local, and tribal governments are the primary implementers of many programs that the Agency

administers.[13] If you have identified possible EJ concerns that might arise during state, local, or tribal implementation, you should consider how your action should address those issues (see example below).

Nitrogen Dioxide (NO_2)
National Ambient Air Quality Standard (NAAQS)

On January 22, 2010, EPA strengthened the health-based NAAQS for NO_2. To determine compliance with the new standard, EPA established new ambient air monitoring and reporting requirements for NO_2. Ambient NO_2 monitoring data are collected by state, local, and tribal monitoring agencies in accordance with monitoring requirements contained in 40 CFR parts 50, 53, and 58. Under the new standard, EPA is requiring Regional Administrators to work with states to site 40 NO_2 monitors, above the minimum number required in the two-tier network design, focused primarily in susceptible and vulnerable communities exposed to NO_2 concentrations that have the potential to approach or exceed NAAQS.

Does your action provide good background information for those who will be involved in drafting the individual permits later? Permits are an important vehicle through which Agency actions are implemented within a specific location. Permits implement generally applicable regulatory standards by applying those standards to specific discharges and emissions of pollutants, which in some cases may take into account actual exposure experienced by minority, low-income, and indigenous populations in that location. To facilitate the drafting of subsequent permits, it is important to document whether the assumptions that form the basis of your generally applicable regulatory standard account for cumulative impacts, vulnerable or susceptible populations, or other issues related to EJ concerns.[14] This will provide background information for whether it may be necessary to explore additional opportunities, within existing statutory authorities, to consider the impacts on these populations in a proposed permitting action.

[13] EPA reviews state, local, and tribal programs to determine if they meet applicable requirements for federal approval. If EPA finds that the program meets those requirements, it approves the state, local, or tribal government to implement the federal program. State and local governments that receive grants to implement federal programs are also subject to Title VI of the Civil Rights Act of 1964, as amended. Title VI prohibits recipients from discriminating on the basis of race, color, or national origin. A recipient's obligation under Title VI is layered on separate but related obligations under the federal or state environmental laws.

[14] In some situations, it may be appropriate for EPA to seek information about specific exposure pathways associated with cultural or traditional practices before formulating assumptions or making a determination of whether the assumptions account for a population's vulnerability.

D. How Can You Integrate EJ Concerns Into Your Analyses?

Workgroups should use existing guidance and resources, as well as experiences and lessons learned from individual rulemakings, to conduct analyses that incorporate EJ considerations. An Agency workgroup is assessing and developing analytical tools and methodologies for evaluating impacts on minority, low-income, and indigenous populations. Table 1 provides a list of available guidance and resources. See also Appendix E.

Table 1 – Guidance and Resources on Analysis

Environmental Justice Assessment Tools http://www.epa.gov/Compliance/resources/policies/ej/#tools	Identifies areas with potential EJ concerns.
Compliance Resources http://www.epa.gov/Compliance/resources/policies/ej/#tools	Provides tools and guidance for assessing potential EJ concerns and implementing EJ into EPA Programs.
Guidelines for Preparing Economic Analyses http://yosemite.epa.gov/ee/epa/eed.nsf/pages/Guidelines.html	Provides guidance on analyzing the economic impacts of regulations and policies and assessing the distribution of costs and benefits among various segments of the population, with a particular focus on disadvantaged and vulnerable groups.
Framework for Cumulative Risk Assessment (2003) http://oaspub.epa.gov/eims/eimscomm.getfile?p_download_id=36941	Represents the first step in a long-term effort to develop cumulative risk assessment guidelines; offers a simple, flexible structure for conducting and evaluating cumulative risk assessment within the EPA.
Templates for Regulatory Preambles to Address E.O. 12898 http://intranet.epa.gov/adplibrary/adp-templates/index.htm#12898	Provides information to guide the workgroup chair in determining the appropriate template to use with the action under development; text of templates included.
Risk Assessment http://www.epa.gov/risk/	Provides basic information for the public about environmental risk assessments, as well as a comprehensive set of links to key EPA tools, guidance and guidelines, models, handbooks, databases, and assessments.
Risk Characterization Handbook http://www.epa.gov/osa/spc/pdfs/rchandbk.pdf	Serves as a single, centralized body of risk characterization implementation guidance to help make the risk characterization process transparent and the related products clear, consistent, and reasonable.
Distributional Analyses: Economic Impact Analyses and Equity Assessments http://yosemite.epa.gov/ee/epa/eed.nsf/pages/Guidelines.html	Provides information about equity assessments and how policies/actions affect specific populations (See Chapter 9).
Fact Sheet: Guidelines for Preparing Economic Analyses http://yosemite.epa.gov/ee/epa/eed.nsf/pages/Guidelines.html	Two-page fact sheet on the available guidelines.
Risk Tools – Human Health http://cfpub.epa.gov/ncea/cfm/nceatools_human.cfm	Resource for models, databases, and other tools.
Scientific Analyses http://cfpub.epa.gov/ncea/index.cfm	Presents critical analyses and summaries of scientific consensus, vetted through a rigorous peer review process, on the risks of pollutants to human health and the natural environment.
Hazard Identification http://www.epa.gov/risk_assessment/hazardous-identification.htm and www.epa.gov/risk	Explains hazard identification, the first of four steps in the risk assessment process.
Sociodemographic Data Used for Identifying Potentially Highly Exposed Populations http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=22562	Presents data related to factors that potentially impact an individual's or group's exposure to environmental contaminants based on activity patterns (how time is spent), microenvironments (locations where time is spent), and other sociodemographic data (e.g., age, gender, race, economic status). Discusses populations potentially more exposed to various chemicals of concern.

E. How Can You Achieve Meaningful Involvement?

Public involvement works best when you consult with communities early and often and when your efforts follow a decision-making process that the potentially impacted community understands and, to the extent feasible, has had a role in designing. Communities have unique knowledge of their goals, needs, and vulnerabilities. Through early public involvement, you can obtain information on issues affecting the community that the Agency may not be aware of and increase the understanding of such issues in the context of developing your action.

There are numerous resources you can use to help determine what type and level of involvement is appropriate for your action.[15] For some actions, it may be appropriate to engage affected communities, while for others it may be appropriate to go even further and invite them to the table to develop alternatives for consideration. The Agency's public involvement policy and Web pages are designed to help users understand how:

EPA's Public Involvement Policy:
7 Basic Steps for Effective Public Involvement

1. Plan and budget for public involvement activities.
2. Identify the interested and affected public.
3. Consider providing technical or financial assistance to the public to facilitate involvement.
4. Provide information and outreach to the public.
5. Conduct public consultation and involvement activities.
6. Review and use input and provide feedback to the public.
7. Evaluate public involvement activities.

- Different types of public involvement relate to EPA programs.
- Public input can be used in EPA decision-making.
- Tools can be used to support effective public involvement.

Also, statutory and regulatory authorities set minimum standards for public involvement, so it is important to be familiar with the specific requirements for public notice and involvement that are associated with the development of your action.[16] However, relying on the minimum notice and comment requirements is often not enough to achieve meaningful involvement for minority, low-income, and indigenous populations.

Promoting meaningful involvement often requires special efforts to connect with populations that have been historically underrepresented in decision-making and that have a wide range of educational levels, literacy, or proficiency in English. It will likely be necessary to tailor outreach materials to be concise, understandable, and readily accessible to the communities you are trying to reach.[17]

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[15] For example, the International Association for Public Participation has developed materials that discuss the spectrum of public involvement, ranging from informing to empowering the public. Its publications and public involvement training opportunities can be found at www.IAP2.org. See also EPA's extensive public involvement resources at http://www.epa.gov/publicinvolvement.

[16] For a listing of key EPA program's public participation requirements, see *Engaging the American People: A Review of EPA's Public Participation Policy and Regulations with Recommendations for Action*, Appendix A (2000), available at http://www.epa.gov/publicinvolvement/pdf/eap_appendices.pdf.

[17] For more information, see EPA's public involvement brochure, titled "How to Involve Environmental Justice Communities" (http://www.epa.gov/stakeholders/brochures/justice.pdf) and the "Model Plan for Public Participation," (http://www.epa.gov/environmentaljustice/resources/publications/nejac/model-public-part-plan.pdf) developed by the National Environmental Justice Advisory Council.

Involving these populations in a meaningful way presents challenges and opportunities that are different than those presented by a general public involvement effort, such as:

- Conveying issues in ways that are tailored (e.g., translation, timing, location) to each community.
- Bridging cultural and economic differences that affect participation.
- Using communication techniques that enable more effective interaction with other participants.
- Developing partnerships on a one-to-one or small-group basis to ensure representation.
- Developing trust between government and potentially affected populations.
- Developing community capacity to effectively participate in future decision-making processes.

Web-Based IT Tools

Referred to as "Web 2.0 tools," these tools generally:

- Emphasize participation.
- Harness collective intelligence.
- Reach a variety of audiences by facilitating customer self-service.
- Redesign information and services based on the features that customers are using most.
- Provide information that can be accessed by more devices than just a computer (e.g., mobile phone, MP3 player).
- Develop and deploy applications that can scale quickly to meet the size of the task.

In planning your public involvement, you should identify different ways you might be able to best engage your audience. For some, you should consider using Web-based information technology (IT) tools, particularly those that are more user-centered, collaborative, or interactive. On the other hand, some communities and populations do not have access to the most modern communications tools. Remote towns and villages disseminate information using local radio stations, CB radio, local newspapers, posters at grocery stores or trading posts, or village/community center/chapter meetings. Many times, reaching parents of school-age children may be facilitated through schools.

Indigenous Populations and Tribes

You should be familiar with E.O. 13175, *Consultation and Coordination with Indian Tribal Government*. The Agency's responsibilities under E.O. 13175 are separate from the responsibilities under E.O. 12898 and stem from federally recognized tribes' status as sovereign governments. You should note that this Guide is intended to apply to EJ concerns affecting federally recognized, state recognized, and non-recognized tribes; individual tribal members, including those living off-reservation and Alaska Natives; and Native Hawaiians.

It is important to note the difference between the meaningful involvement of indigenous populations as it is used in the EJ context and consultation with tribes.[18] The federal government has a unique government-to-government relationship with federally recognized tribes, which arises from Indian treaties, statutes, Executive Orders, and the historical relations between the United States and Indian Nations. The federal government has a trust responsibility to federally recognized tribes, and EPA, like other federal agencies, must act consistently with the federal trust responsibility when taking actions that affect tribes. Part of this responsibility includes consulting with tribes and considering their interests when taking actions that may affect them or their resources. Tribal consultation is the subject of E.O. 13175.

[18] For information on the development of EPA's Tribal Consultation Policy, please contact your office's tribal coordinator or the American Indian Environmental Office.

Part 2:

Considering Environmental Justice During the Action Development Process

This section of the Guide describes the key issues related to considering EJ during the development of an action under the ADP. It is designed to help you identify opportunities in the ADP where you can:

- Identify possible EJ concerns.
- Plan to achieve meaningful involvement.
- Plan to evaluate and address those EJ concerns.
- Discuss potential or identified EJ concerns with management.
- Compare how options under consideration would change the environmental and public health impacts on minority, low-income, and indigenous populations.
- Document your efforts to achieve meaningful involvement and address potential EJ concerns.

What is the Action Development Process?

The ADP is a method for producing quality actions, such as regulations, policies, guidance, strategies, and reports. It ensures that EPA uses the best available information to support its actions and that scientific, economic, and policy issues are adequately coordinated across the Agency during the various stages of action development. Activities that implement E.O. 12898 should be undertaken within the framework of this process. For more information, see *EPA's Action Development Process: Guidance for EPA Staff on Developing Quality Actions*, available on OPEI's intranet site http://intranet.epa.gov/adplibrary.

An Agency workgroup is assessing and developing analytical tools and methodologies for evaluating impacts on minority, low-income, and indigenous populations. For more information, see Part 1, Section D, and Appendix E.

A. Who is Responsible for Considering EJ During the Development of an Action Under the ADP?

All workgroup members are responsible for working to protect minority, low-income, and indigenous populations from adverse public health and environmental impacts of our programs, policies, and activities to the extent permitted by applicable laws, including environmental and civil rights statutes and their implementing regulations, consistent with E.O. 12898. Based on your participation in the development of an action, you may have

additional specific responsibilities, as outlined below. Your program office may, however, assign responsibilities differently than as described below, so it is important to be familiar with your office's unique allocation of responsibilities for considering EJ in the ADP. See the ADP Guidance for general information about the roles and responsibilities of the different participants in the development of an action.

Managers establish policy priorities, communicate expectations to the workgroup, decide whether or not an identified EJ concern warrants further evaluation, and determine the level of analysis and public involvement and the resources available for those activities.

1. Managers. In general, as the ultimate decision-makers for the action, EPA managers establish policy priorities, communicate expectations for the workgroup, identify issues of significant concern, and guide the process of developing the action. As a result, managers play a key role in ensuring that the potential EJ implications of an action are considered during the ADP. Managers decide early in the process the appropriate level of analysis and engagement of stakeholders, considering factors such as the legal framework governing the action, the availability of relevant data and analytical methodologies, stakeholder interest, and the impacts that EJ concerns are likely to have on the actual decisions involving your action. Based on the application of these criteria, some actions will be identified for enhanced efforts, which may require developing new data, applying more advanced analytical methodologies, and conducting more extensive and targeted engagement of stakeholders. Managers will convey their determinations on the appropriate level of analysis and stakeholder engagement to the workgroup and to OPEI.

In particular, managers are likely to ask workgroups about their efforts to address the following questions at key points during the development of the action under the ADP (such as at Early Guidance, Options Selection, or Final Agency Review):

1. How will your (or how did your) public participation process provide transparency and meaningful participation for minority, low-income, and indigenous populations, and tribes?
2. How do you plan to (or how did you) identify and address existing and new disproportionate environmental and public health impacts on minority, low-income, and indigenous populations during the rulemaking process?
3. How did the actions taken under #1 and #2 impact the outcome or final decision?

Appendix C provides a quick reference for EPA managers on when and how they can participate in the action's development to ensure that the workgroup identifies and evaluates potential EJ concerns.

2. The Chair or Action Lead. As the leader of the effort, your role is to facilitate and oversee the effort to achieve meaningful involvement and to consider EJ concerns during the development of the action. Appendix D provides a checklist to identify what the chair may need to know and/or do to integrate EJ into the development of the action.

3. The Workgroup. The workgroup is responsible for ensuring meaningful involvement and consideration of EJ concerns during the development of the action under the ADP. Workgroup members influence the scope and content of analyses of EJ concerns that support an action. Workgroup members, as representatives of their program offices or regions, should keep their senior management informed of EJ concerns and decisions in a timely manner so that the program offices or Regions can formulate appropriate responses.

What is the Workgroup?

The workgroup consists of representatives from interested program offices and Regions. The workgroup develops the draft regulation or other action, involving its members throughout the ADP. Workgroup members represent the position of their program office or Region. Tier 1 and Tier 2 actions call for formation of action development workgroups. Even though Tier 3 actions do not normally call for teams/workgroups, the lead program should consider the level of assistance needed from Regions and other offices.

In general, the workgroup will identify EJ concerns that may arise during action development and opportunities available to enhance the effectiveness of an action by addressing EJ concerns. By identifying and addressing EJ concerns, the workgroup ensures that its actions comply with applicable requirements and that it will be prepared to describe its efforts to achieve meaningful involvement and address EJ concerns during the development of the action.

4. The Analysts. For the most part, the analysts—those performing the economic or scientific analyses—are likely to be members of the workgroup. In some cases, however, the analysts may only be involved in the analytic work performed as part of the development of an action. In either case, the analyst plays a key role in identifying the analytical topics that will need to be addressed during the development of an action, as well as leading or actively participating in the analytical efforts.

In general, and depending on the action under development, the workgroup and/or analyst may need to consider whether one or more scientific or economic analyses are needed to support the action.[19] It is also important to note that these analyses may be quantitative, qualitative, or both.

Economic Analysis:

EPA's peer-reviewed *Guidelines for Preparing Economic Analyses* establish a sound scientific framework for performing economic analyses of environmental regulations and policies. They provide guidance on analyzing the distribution of costs and benefits among various segments of the population, with a particular focus on disadvantaged or vulnerable groups.[20] In many EPA actions, the following areas of analysis could be informed by economics:

- Characterization of the industry and the environmental/health problem.
- Costs of options (e.g., social costs, discounting, no-action scenarios).
- Benefits of options (e.g., monetization, distributional effects, sensitive populations, valuation of health/mortality impacts on children, latency, ecological benefits).

[19] See *EPA's Action Development Process Guidelines for Preparing Analytic Blueprints*, p. 14, available electronically at http://intranet.epa.gov/adplibrary/documents/abp09-30-04.pdf.

[20] See Chapter 9: *Distributional Analyses: Economic Impact Analyses and Equity Assessments*. Economic information is important to the evaluation of at least two consequences—a regulation's efficiency and its distributional consequences. In addition, an equity assessment can provide information to decision-makers on how policies affect specific populations. For example, disadvantaged or vulnerable populations (e.g., low-income households) may be of particular concern.

- Cross-media impacts.
- Results and option selection (e.g., presentation of policy alternatives, incremental effects).
- Other analyses involving economics.

Scientific Analysis:

The quality of scientific analysis that informs EPA decisions is vital to the credibility of those decisions and ultimately EPA's effectiveness in protecting public health and the environment. Scientific analyses and reviews encompass topics beyond just biology and chemistry. For example, scientific research is crucial to informing risk assessments, hazard assessments, exposure assessments, or other studies, as well as shedding light on what technologies might be feasible. EPA's peer-reviewed Risk Assessment Guidelines (http://www.epa.gov/risk) establish sound scientific procedures and methods to help guide EPA scientists in conducting risk assessments, and also serve to inform EPA decision-makers and the public about these procedures. The guidelines include procedures and methods for assessing susceptibility from early life exposures to carcinogens and a framework for assessing cumulative risks, both of which are important considerations when assessing whether your action involves disproportionate impacts, and thus, a potential EJ concern.

Other EPA peer-reviewed guidelines are also available that provide procedures and methods for assessing the potential exposures to and hazards of chemicals and other agents. The following examples of scientific analyses are used to support many Agency actions:[21]

- Risk Assessment
    - Hazard Identification[22]
    - Exposure Assessment
    - Risk Characterization
- Cumulative Risk Assessment
- Technology Feasibility Analysis

As discussed in more detail later in this Guide, the plan for addressing the scientific and/or economic analyses needed to support the action should be specifically addressed in the Analytic Blueprint. As part of the planning effort, the analyst can help identify available data and/or information that may need to be collected to inform the planning process and be used in the analyses. As a result, the analysts can play a key role in identifying and evaluating the potential EJ concerns related to the options under consideration during the development of an action.

[21] For more information on EPA's scientific analyses, please visit the National Center for Environmental Assessment at http://cfpub.epa.gov/ncea/index.cfm. You can also find valuable information at www.epa.gov/risk.

[22] For more information, please visit http://www.epa.gov/ncea/risk/hazardous-identification.htm.

B. How Do You Consider Whether You Need to Evaluate EJ Concerns During the Development of Your Action Under the ADP?

As stated throughout this Guide, E.O. 12898 and EPA's EJ policies apply to all Agency actions, so you will need to consider whether EJ concerns may be an issue with regard to your action. Your program office may have additional guidance applicable to the ADP or requirements for program-specific actions that involve similar or identical issues. Your program office may also have a screening process to help identify whether an action or category of actions might have the potential to impact minority, low-income, or indigenous populations. Before you begin, check with your EJ Coordinator to find out if your program office has developed any specific guidance or screening process applicable to your action.

This Guide encourages program offices to utilize a screening process to help you determine whether your action may raise potential EJ concerns requiring further evaluation as you go through the ADP, or whether EJ concerns are not expected to be a factor at all in your action. This screening can help your office focus its resources and efforts on actions where there are opportunities to identify and address EJ concerns. The screening decision may need to be revisited multiple times in the beginning stages of the ADP as more information becomes available. As part of this process, you should also consult with OGC and/or the appropriate program office staff if you have questions about the opportunities for addressing EJ concerns that are provided by the statutes that govern your action.

There is no prescribed formula for how a program office should conduct a screening process. A screening process may have several important elements, including:

1. A description of the potential impacts on and existing risks to minority, low-income, and indigenous populations. This may include:
    - The proximity of what you are regulating to these populations.
    - The number of sources that may be impacting these populations.
    - The nature and amount of pollutants that may be impacting these populations.
    - Whether there are any unique exposure pathways involved.
    - Expressed community concerns about your action, if any.
2. A description of potential impacts on meaningful involvement. This may entail understanding whether your action presents opportunities to improve public involvement requirements or limits opportunities in some way.

Depending on your program office needs, a screening process may include additional considerations for circumstances where it may be impracticable to do an evaluation of EJ concerns, or where an evaluation of EJ concerns may not have the potential to influence the outcome of the action and options under consideration.

EPA managers will make a decision after considering your determination of whether or not EJ concerns will need further evaluation as you develop your action under the ADP. It is important to document your manager's decision, including the information on which this

decision is based. This documentation should become part of the record for your action and will help establish that you are complying with the directives of E.O. 12898 and EJ policies. Managers may want to review this documentation and discuss whether further consideration of EJ concerns is appropriate.

C. When Should You Consider EJ Concerns During the Development of Your Action Under the ADP?

The following is a description of the potential opportunities for considering EJ concerns at the specific steps in developing an action under the ADP. If you are unable to follow the activities for a particular step of the ADP, they may be performed at later steps, as appropriate.

The procedural steps under the Agency's ADP may vary based on the specific tier designation. The procedural steps described in this Guide primarily apply to actions developed under Tier 1 and 2 of the ADP, because actions developed under Tier 3 may not follow all the same procedural steps. For example, a formal Analytic Blueprint (preliminary or detailed) is optional for actions developed under Tier 3. Even though a particular ADP step may not apply to your Tier 3 action, you should consider EJ concerns regardless of the tiering level assigned to your action. E.O. 12898 and the Agency's EJ policies apply to all Agency actions.

Appendix B includes a flowchart titled *Incorporating Environmental Justice into Tier 1 and 2 Actions under the ADP*, which outlines the ADP procedural steps for Tier 1 and 2 actions to illustrate when EJ concerns might be integrated at various steps throughout the ADP. Appendix B also includes a flowchart that shows when EJ-related questions could be asked and answered during the development of a Tier 3 action. The discussion that follows in this Guide is linked to the numbered steps used in these process flowcharts.

ADP Steps 1 and 2 – Action Initiation and Tiering

Once the Agency decides to initiate an action (Steps 1 and 2), the next step of the ADP is tiering. At this point, the lead must fill out a tiering form in the Rule and Policy Information and Development System (RAPIDS) that provides basic information about the action being initiated. RAPIDS is a tracking system for Tier 1 and 2 rules. Table 2 displays the EJ question you will currently find in RAPIDS.[23] For some offices, the EJ question asked at tiering may also serve the function of the initial screening process discussed in the previous section. For other offices, you might have a screening process in place that can inform how you answer this question at tiering.

[23] This question is subject to change as we gain more experience integrating EJ concerns into the ADP.

Table 2 – EJ Question in RAPIDS

Environmental Justice	
Does this action involve a topic that is likely to be of particular interest to or have particular impact upon minority, low-income, or indigenous populations, or tribes?	
❍ **Yes –** If you answer Yes, please check a minimum of one of the following options: ❒ The action is likely to impact the health of these populations. ❒ The action is likely to impact the environmental conditions of these populations. ❒ The action is likely to present an opportunity to address an existing disproportionate impact on these populations. ❒ The action is likely to result in the collection of information or data that could be used to assess potential impacts on the health or environmental conditions of these populations or tribes. ❒ The action is likely to affect the availability of information to these populations or tribes. ❒ Other reasons - Explain: _____	Comments:
❍ **No** – Selecting No means that this action is not likely to be of any particular interest to these populations or tribes. Explain: _____	Comments:
❍ **TBD** – Selecting TBD means that, given the information available at this time, the Agency does not know if these populations or tribes will be particularly interested in this action.	Comments:

As you prepare to answer the EJ question displayed in Table 2, there are some important things you should keep in mind.

- You are expected to make an informed decision based on readily accessible information and what you already know about the action and its potential EJ implications.
- Note that the question asks about actions that may be of *particular interest to* or have *particular impacts on* minority, low-income, or indigenous populations, or tribes. This is meant to inform the determination of whether your action may involve a potential EJ concern as defined in Part 1 of this Guide. The question recognizes that at this early step in the ADP, you might not have sufficient information to determine whether an EJ concern is associated with your action. You can use the checklist provided in Table 2 to help determine whether your action may involve a subject that is of particular interest to or may have particular impacts on these populations. Keep in mind that the list is illustrative.

- The question encourages you to think broadly about whether your action may be of *particular interest* to minority, low-income, or indigenous populations, or tribes. An action may be of particular interest if it concerns a topic that these populations or tribes have identified as important. For example, the development of national ambient air quality standards or permitting rules may be of interest, even though they may not have particular impacts on these populations or tribes. If an action may be of particular interest to, but may not have particular impacts on these populations or tribes, you may not need to evaluate your action for EJ concerns, but you may need to provide opportunities for meaningful involvement in the development of your action.
- Answering "yes" to this question signals that EJ concerns are likely to be involved in your action. While this does not mean that you are required to do an in-depth analysis for EJ, you are expected to evaluate EJ concerns as you develop your action and consider how your action may address those concerns based on readily available data. If you believe your action might involve a potential EJ concern, you may request that an EJ Coordinator be assigned to join the workgroup or otherwise support the action. Do this by requesting OPEI or OEJ assistance in assigning an EJ Coordinator in the "Workgroup" section of the tiering form or by describing the potential concerns in the section labeled "Additional information or assistance needed."
- Answering "TBD" (To Be Determined) to this question signals that you should consider whether there are potential EJ concerns associated with your action as you go through the ADP. You are expected to build in the proper outreach and evaluation activities to determine whether EJ concerns are involved and how those concerns can be addressed before you develop the final action.
- Your answer to this question (along with other information on the tiering form) will be part of the Agency's Rulemaking Gateway, the Internet portal for Tier 1 and Tier 2 rules. The Gateway offers the public a means of learning about and tracking actions. One of the Gateway features allows you to sort actions based on the responses to the EJ question displayed in Table 2. The Gateway is updated on a monthly basis, so any updates you make to your action's Maintenance Form in RAPIDS is reflected on the Gateway throughout the life of the action. You can access the Rulemaking Gateway Website at http://www.epa.gov/rulemaking/.

What is the Rulemaking Gateway?

The Rulemaking Gateway, a new feature of EPA's Laws & Regulations Website, presents general information about EPA's rulemakings to the public in a user friendly format. In addition to providing basic information such as the title, an abstract, the docket number, and major milestones, the Gateway provides available information on potential effects on a variety of institutions, communities, and specific populations (e.g., children's health, environmental justice, tribal governments) associated with your action.

- You will be asked to reconsider your answer to this question during the semi-annual update of the Agency's Regulatory Agenda. This will provide you with an opportunity to update your answer based on new information or the results of your evaluation.

What is the PABP?

The PABP is an early planning document that describes the major issues that need to be addressed in rule development to meet statutory, regulatory, and Agency requirements. The purposes of the PABP are to:

- Promote management involvement by supporting early management guidance on basic issues.
- Alert workgroup members and their offices to areas where work should begin.
- Identify data needs and plan collection efforts.
- Outline the Detailed Blueprint.

ADP Step 3 – Preliminary Analytic Blueprint (PABP)

The PABP, which is required for all Tier 1 and 2 actions, provides an opportunity to revisit your screening decision and identify what steps you will take to ensure that EJ concerns are considered in the development of the action. It is important to take the time to scope out explicitly the parameters of inquiry relating to EJ, or put another way, to articulate the potential EJ concerns and how you will explore and approach them in developing the action.

Careful consideration of EJ concerns in the PABP can improve your action by ensuring appropriate consideration in planning the activities of your workgroup; facilitating cross-Agency sharing of valuable information, expertise, and perspectives; and fostering early agreement on key questions through a structured workgroup process and written documents. This early planning will help you foster collaborative efforts to develop a well-supported and documented action and avoid last minute workgroup debates over the type of information or analyses that should be available. For actions where EJ concerns may be an important consideration, you should consider consulting with individuals with EJ expertise. You should also be aware of opportunities to coordinate data collection and analytical efforts with children's health impact analyses.[24]

Consider a broad array of opportunities to integrate the meaningful involvement of minority, low-income, and indigenous populations, and tribes in the development and implementation of your action.

As you develop your action:
- Reach out to potentially affected populations and tribes early.
- Include them in data gathering.
- Engage them in developing options to address the issue(s).
- Consider their role for future activities.

If your action establishes a framework or regulatory standards for subsequent actions, make sure to:
- Provide opportunities for public involvement in the subsequent actions.
- Engage potentially affected population and tribes in the subsequent actions.

As you implement the action and continue to manage the ongoing program:
- Build awareness.
- Provide information.
- Involve potentially affected populations and tribes in program activities.
- Seek feedback.
- Be transparent.

[24] See E.O. 13045, "*Protection of Children from Environmental Health Risks and Safety Risks*," and *EPA's Guide to Considering Children's Health When Developing EPA Actions: Implementing Executive Order 13045 and EPA's Policy on Evaluating Health Risks to Children.*

If you believe the action may have EJ concerns, then your PABP should (to the extent possible):

- Identify potentially affected populations and tribes, as well as others who might be interested in the action.
- Outline plans and resource needs for achieving meaningful involvement (e.g., consultation with tribes, engagement of potentially interested stakeholders).
- Describe the plans and resource needs for evaluating impacts, including potential disproportionate impacts.
- Identify available EJ assessment tools, as well as related needs for data collection, expertise, and resources.
- Identify potential analytical issues that will need to be raised to management or otherwise addressed.

Please note that the PABP does not have to describe the details of the analyses that might be needed to evaluate EJ concerns.

It may be beneficial to develop a separate scoping document that becomes part of the PABP, for the purposes of increasing accountability and visibility of evaluating EJ concerns. For example, a scoping document may be a useful vehicle to provide an opportunity for meaningful involvement early in the action's development.

Given that the framework for identifying and addressing EJ concerns is part of an iterative process, it is important to revisit, as appropriate, the scope of inquiry relating to your evaluation of EJ concerns in later stages of the ADP as information and ideas continue to develop.

The PABP is an important vehicle for raising EJ concerns to management. Once developed, you should submit the PABP to senior management as part of your request for Early Guidance, typically within 60 days of the date the tiering designation was approved by OPEI. This allows workgroup members to consult with their management on the general direction for the action. All members of the workgroup should agree beforehand that the PABP is ready to be provided to senior management. If workgroup members cannot agree, the issues of disagreement should be presented to management for resolution. The expectation is that management will give early guidance within 30 days of receiving the PABP.

ADP Step 4 – Early Guidance

In this step, managers discuss their expectation that you consider potential EJ concerns during action development. Early Guidance always comes from senior management, although the level of management giving guidance differs for Tier 1 and Tier 2 actions:

- **Tier 1:** The Administrator or Deputy Administrator provides Early Guidance,

Early Guidance from Managers

Determines the appropriate level of analysis and engagement of stakeholders, based on:

- Stakeholder interest.
- Legal framework governing the action.
- Availability of data.
- Availability of resources and timeline for developing the action.
- Impacts that EJ concerns are likely to have on the actual decisions involving your action.

with input from participating Assistant Administrators and Regional Administrators (AAs/RAs) from across the Agency. If the guidance is not given directly to the workgroup, the lead AA/RA is responsible for assuring that it is communicated to them.

- **Tier 2:** The lead AA/RA, in consultation with other participating AAs/RAs, gives Early Guidance to the workgroup. The lead AA/RA should consider policy issues and priorities of other AAs/RAs when giving Early Guidance. In some cases, the AAs/RAs may delegate this authority explicitly to an Office Director.

In addition, at Early Guidance, discuss with your manager your proposed approaches for considering potential EJ concerns and any potential complications or issues in doing so. Be prepared to respond to management questions about whether your action may involve an EJ concern, and how this was ascertained. For actions that may involve an EJ concern, you should also be prepared to respond to the management questions outlined in Section A above. You should be prepared to explain resources required to identify and evaluate EJ concerns, including data needs.

ADP Step 5 — Detailed Analytic Blueprint (DABP)

The DABP should incorporate the directions received through Early Guidance from senior management. As such, the preparation of the DABP provides you with another opportunity to plan key activities for determining whether and how potential EJ concerns will be identified and considered during the development of the action. This includes the activities for analysis and outreach, including scientific and economic analysis, consultation with tribes, stakeholder involvement (including meaningful involvement of minority, low-income, and indigenous populations), information gathering, alternative approaches considered, the timeline, and opportunities to coordinate data collection and analytical efforts with children's health impacts analyses. If there are identified EJ concerns, you can also develop a detailed public involvement plan that considers the needs, capacities, cultural practices, and languages of the affected communities.

What is the DABP?

The DABP builds on the PABP to provide decision-makers with a detailed description of both the information that will be available to help them select options and the analyses and other activities that will be conducted to prepare this information. A DABP serves four purposes:

- Incorporates senior management guidance received on the PABP.
- Alerts management and various offices to any important issues that have arisen since the PABP.
- Helps the workgroup plan and schedule the analysis.
- Documents the agreement among the workgroup participants and management on the scope and framework of the analyses.

The DABP may 1) identify a preliminary plan to confirm that your action does involve EJ concerns, 2) estimate the magnitude of such concerns, and 3) guide the initial development of any options regarding those concerns. If the workgroup decides to prepare a quantitative or qualitative evaluation of EJ concerns, the DABP should describe:

- The office and workgroup members with lead responsibility for the preliminary and detailed assessments of EJ concerns.
- The data needs and data sources for the EJ assessment.
- The scope and basic methodology of the EJ assessment.
- The outputs of the EJ assessment.
- The schedule and resources required to prepare the EJ assessment.

In addition, the DABP should describe your planned activities to ensure that you can answer the following questions at Options Selection:

1. **How did your public participation process provide transparency and meaningful participation for minority, low-income, and indigenous populations, and tribes?**

This question asks you to document the proactive steps taken, beyond minimum notice and comment opportunities, to meaningfully engage these populations and tribes in the development of your action. This would include any outreach (including any outreach to EPA Regional Offices; state, tribal, and local governments; outreach specialists; and community organizations), public meetings, information sessions, workshops, or other activities designed to identify and encourage the participation of these populations and tribes.

2. **How did you identify and address existing and new disproportionate environmental and public health impacts on minority, low-income, and indigenous populations?**

This question asks you to document the proactive steps taken to identify and address disproportionate impacts on the public health and environment of these populations. This could include any investigation and characterization you performed of geographic areas or populations that are likely to be most affected by your action. As part of this evaluation, you are encouraged to look at the distribution of the positive environmental and health consequences from our activities. You should ensure that you have identified and addressed issues that are of concern to populations with the greatest need for environmental and public health protection through your activities.

3. **How did actions taken under #1 and #2 impact the outcome or final decision?**

This question asks you to describe how the analysis of impacts and the public involvement opportunities made a difference in the outcome of the action or why they made no difference. This would include a brief discussion of how decision-makers considered the information on impacts and the concerns articulated by these populations, what actions were taken as a result, and the rationale for the decisions.

You should note that not all actions will raise EJ concerns. For actions that do not raise EJ concerns, you can answer these questions by showing that the action either:

- Underwent a screening process designed to identify those actions that may raise potential EJ concerns and those that do not, or
- After thorough research and analysis, you have made a determination that your action does not involve any EJ concerns.

Rulemaking Gateway

During the course of developing the PABP and DABP, your office may alter its belief that an action might be of particular interest to or have particular impacts upon minority, low-income, or indigenous populations, or tribes. Should such a change occur, you should alter the answer you provide to the EJ Question in RAPIDS (illustrated in the section titled "ADP Steps 1 and 2"). The EJ Question is on the Maintenance Form for every action in RAPIDS and can be altered at any time. Changes to Tier 1 and Tier 2 actions are updated once a month on the Rulemaking Gateway so the public can access EPA's latest thinking about an action.

ADP Step 6 – Management Approval of the DABP

Does the DABP Address EJ?

The DABP presents the plan that implements the management decision regarding the level of analysis and engagement of stakeholders.

The review and approval of the DABP provides another important opportunity for you to check in with your management to determine whether and how potential EJ concerns will be identified and considered during the development of the action. For example, during the formal cross-Agency review of the draft DABP, the workgroup and other reviewers of the draft DABP (e.g., OEJ or the lead office's EJ Coordinator) can assess whether the DABP outlines activities for identifying or considering EJ concerns. The approving official can also use this as an opportunity to consider how well the DABP addresses EJ concerns before approving the DABP.

Once the DABP is approved, management has determined the appropriate level of analysis and engagement for your action. In the absence of any compelling circumstances that would cause management to revisit this determination, you should follow the direction provided by management in the DABP for the remaining steps of the ADP.

ADP Step 7 – Data Collection, Analysis and Consultation, and Development of Regulatory Options

In this step, you should implement the DABP and investigate the problem, gather relevant information, consult with stakeholders and affected communities, and develop options for resolving the problem.[25] Integrated into all of these activities should be the consideration of whether there are EJ concerns, and if so, how these concerns might be addressed. You should use the Agency's available EJ assessment tools to determine the extent to which the action has potential EJ concerns; complete EJ-related consultation or public participation, as appropriate; and analyze any EJ concerns.

Although analyses to evaluate EJ concerns will vary from action to action, they typically have the same starting point. Generally, you should describe the estimated or current baseline impacts of the pollutant, process, or activity that the action is concerned with. It is particularly important to characterize the potential impacts on minority, low-income, and indigenous populations. The analysis should cover the full range of options considered to address those impacts and should provide a sufficient level of detail to distinguish major environmental or public health impacts across the options for these population groups.

The process of getting to the "final" options is usually an iterative process. As analyses become more detailed, you should fine-tune the options to maximize benefits, reduce costs, and increase feasibility. At the end of the process, the detailed final options are supported by detailed analyses sufficient to provide support for option selection. The detailed analysis should 1) provide information that will allow decision-makers to select the final action and 2) fulfill executive and statutory requirements for regulatory analysis.

[25] See previous discussion about preparing the DABP. The DABP should include a consultation plan that describes how the workgroup will achieve meaningful involvement, particularly for those stakeholders that may have historically not been able to participate. In addition, the workgroup should consult the *Agency's Risk Characterization Handbook,* at http://www.epa.gov/osa/spc/pdfs/rchandbk.pdf which provides a single, centralized body of risk characterization implementation guidance for Agency risk assessors and risk managers to help make the risk characterization process transparent and the risk characterization products clear, consistent and reasonable.

The detailed analysis also should produce documents that describe the basis for the regulatory decision to stakeholders and the public. You can include the detailed analysis evaluating EJ concerns in the Economic Analysis (EA) or the Regulatory Impact Analysis (RIA), or as an attachment. Alternatively, you can reference the analysis with only a summary in the actual text of the EA or RIA. Either of these approaches will allow for easy review of the technical aspects of the assessment by experts in the field or interested stakeholders, and allow for easy revision to the EA or RIA if aspects of the assessment change in response to new data or public comments.

ADP Step 8 – Options Selection

What Happens at Options Selection?

- In presenting the options, address the EJ concerns identified, using the core management questions as your guide.
- Managers consider EJ concerns in selecting options.
- You document what was done.

Options selection is the last step in the ADP before you complete drafting the action. In this step, you identify the significant issues and several options to resolve each issue. Senior management then selects those options that would best achieve the goals of the action. Selecting an action from among many options is a complex process. The extent to which EJ concerns factor into the process will vary considerably across actions, and will depend in large part on the operative requirements of the statute under which the action is being taken.

In presenting the options to senior management for final decision-making, you have another opportunity to consider whether identified EJ concerns have been addressed. Management will also have an opportunity to confirm that you have considered and addressed EJ concerns, including any necessary consultations to achieve meaningful involvement. Your options selection presentation should describe your activities and efforts to assess identified EJ concerns and to involve affected communities and stakeholders. The presentation should also describe what actions are recommended to ensure that EJ concerns are addressed by each of the options being presented. You should be prepared to discuss the options under consideration in the action (e.g., pollution control options) in light of their impacts on minority, low-income, and indigenous populations, including reductions in exposure or risk.

In presenting the results of the analysis evaluating EJ concerns to management, you should be aware of the specific statutory and other important criteria management will use to select an option. Where EJ concerns represent the major consideration for selecting an option, it is vital that the nature and magnitude of impacts be clearly presented in some detail. For example, the following questions might be answered:

- Are there studies documenting impacts? How complete are the studies?
- Is there indication that certain populations are particularly sensitive?
- What are the qualitative and quantitative differences?

In addition, you should be prepared to discuss the management questions outlined above in Section A. You should also note that actions that impact the availability of information or the ability to participate meaningfully in the implementation of a program may have indirect impacts on these populations and tribes that should be considered. For example, a rule that

loosens or tightens reporting requirements for regulated industries may make it easier or harder for communities to be effective watchdogs for facilities that are of concern to them. This kind of impact should be considered.

Rulemaking Gateway

During the course of your analyses (Step 7) and Options Selection (Step 8), your office may alter its belief that an action might be of particular interest to or have particular impacts upon minority, low-income, or indigenous populations, or tribes. Should such a change occur, you should alter the answer you provide to the EJ Question in RAPIDS (illustrated in the section titled "ADP Steps 1 and 2"). The EJ Question is on the Maintenance Form for every action in RAPIDS and can be altered at any time. Changes to Tier 1 and Tier 2 actions are updated once a month on the Rulemaking Gateway so the public can access EPA's latest thinking about an action

ADP Step 9 – Preparation of the Action and Supporting Documents

In this step, you prepare the action under the leadership of the workgroup chair. In the case of a regulatory action, this step includes preparing the rule and preamble and the supporting documents. The evaluation of EJ concerns is part of this step.

At this stage, you may document how you identified, assessed, and addressed EJ concerns and how you achieved the meaningful involvement of minority, low-income, and indigenous populations, and tribes. Even if you concluded there were no EJ concerns, your activities that led to that conclusion should be documented. It is important that pertinent documents relating to EJ concerns are understandable and readily accessible to the public in the docket for the action.

In general, the preamble for the action should clearly state how the action is supported by the results of the analyses to evaluate EJ concerns. If the data to characterize EJ concerns was insufficient or inadequate, the preamble should describe clearly the Agency's efforts to search for data to characterize risks and how the regulatory decision addressed the data gaps. Suggested template language for addressing E.O. 12898 in preambles is available in the ADP library (http://intranet.epa.gov/adplibrary) and covers both proposed and final rules. However, your documentation is not limited to the inclusion of appropriate language in the preamble to address compliance with E.O. 12898.

What is FAR?

FAR is the last point for internal EPA review of an action, and all FAR comments reflect the views of each participating AA/RA. For Tier 1 and 2 actions, a FAR meeting is chaired by OPEI's Regulatory Management Division and serves to confirm that: all issues have been resolved or elevated; the action package is ready for OMB submission (if required) or signature; and all EPA and external requirements have been met.

ADP Step 10 – Final Agency Review (FAR)

Once the action has been developed, a package is presented to the workgroup for FAR. The FAR package consists of the final drafts of the action itself [e.g., the Federal Register (FR) document representing the proposed rule], the supporting documents (e.g., the economic impact analysis and, if prepared separately, any scientific analysis), the Action Memorandum, and any other relevant documents [e.g., the Information Collection Request (ICR), Communications Plan].

As part of the draft Action Memorandum, you should specifically address the management questions identified in Section A above. These answers will accompany the action when it goes to the Administrator or other Agency official for signature.

This is the final opportunity for you, management, and, if appropriate, the EJ Coordinator for the lead office, to consider whether identified EJ concerns have been considered and addressed, and to ensure that you have properly documented those efforts.

ADP Steps 11 & 12 – Office of Management and Budget (OMB) Review (if "significant" under E.O. 12866)

If the regulatory action requires OMB review, you will have to prepare a package for submission to OMB. Although the package will generally include the same documents identified above, only the FR document and supporting documents go to OMB. The package is submitted through your AA/RA's representative to OPEI's Regulatory Management Division (RMD), for transmittal to OMB. Once AA/OPEI approves the transmittal of the package to OMB, RMD submits the action to OMB. For more details, see the *EPA's Action Development Process: Guidance for EPA Staff on Developing Quality Actions* (http://intranet.epa.gov/adplibrary).

As the lead office revises the action based on discussions with OMB, it should be aware of the measures taken to address the identified EJ concerns so that those efforts are not inadvertently undone or adversely affected by changes made to the action during OMB review. Changes made by OMB should be documented and included in the docket.

Rulemaking Gateway

During OMB review, your office may alter its belief that an action might be of particular interest to or have particular impacts upon minority, low-income, or indigenous populations, or tribes. Should such a change occur, you should alter the answer you provide to the EJ Question in RAPIDS (illustrated in the section titled "ADP Steps 1 and 2"). The EJ Question is on the Maintenance Form for every action in RAPIDS and can be altered at any time. Changes to Tier 1 and Tier 2 actions are updated once a month on the Rulemaking Gateway so the public can access EPA's latest thinking about an action.

ADP Step 13 – Signature and Publication

As part of this step in the process, the lead program prepares the action for signature by the designated Agency official and subsequent publication in the FR. Most tiered actions are signed by the Administrator. The lead AA/RA is responsible for requesting the Administrator's signature via an Action Memorandum. The lead AA/RA then submits the signature package to OPEI's RMD. Once the AA/OPEI verifies that the action is ready for signature, RMD transmits the package to the Office of the Executive Secretariat for the Administrator's signature. For actions not signed by the Administrator, final verification that the action is ready for signature is the responsibility of the lead program.

Once signed by the appropriate official, the FR document is processed for submission to OPEI[26], which is responsible for transmitting the document to the Office of the Federal Register for final publication. In addition, you should ensure that all relevant documentation

[26] The Office of Chemical Safety and Pollution Prevention has a separate FR submission process.

regarding your consideration of EJ concerns during the development of the action is included in the docket for the action.

ADP Step 15 – Soliciting and Accepting Public Comment

This step provides another opportunity for you to consider ways to ensure that the public comment process allows for meaningful involvement of affected communities and tribes, both in terms of providing a sufficient comment period and in terms of notification, communication, or outreach to actively engage affected communities and tribes. This may include holding one or more public meetings or hearings in or near affected communities and tribes. If a public meeting and/or hearing is held, you should ensure there is sufficient notice about it and that it is scheduled at a time and place convenient to the affected communities and tribes, with appropriate translation services. These activities may also be scheduled prior to the issuance of the proposal and related public comment period.

Successful solicitation of public comments from affected communities and tribes may incorporate tailored outreach materials that are concise, understandable, and readily accessible to the communities you are trying to reach. It may be necessary to identify different ways to best engage your target community. For example, you may want to consider whether to enhance outreach to potentially affected communities, including the use of Web 2.0 tools for online dialogues, blogs, tweets, etc., or other available state-of-the-art technologies. For remote towns and villages, local radio stations, local newspapers, and posters at village or community centers may represent the most effective approach.

ADP Step 16 – Developing the Final Action

Even before the comment period ends, you can begin reviewing public comments. When preparing for the final stage of the action, your first step is to evaluate the public comments, which provides another opportunity for you to consider potential EJ concerns that were identified and discussed in the preamble, as well as an opportunity to consider potential EJ concerns raised in public comments.

In considering comments, you should evaluate whether the consideration of EJ concerns in the analyses performed for the proposed action needs to be refined or revised, and if so, how. If EPA did not consider EJ concerns in their analyses, you should consider whether the public comments raise issues that may warrant reconsideration.

You should then brief management on the scope of the comments received and recommend how to respond to comments. Management will consider the recommendations and will then provide guidance on how to proceed in developing the final action (e.g., this is equivalent to Early Guidance as discussed previously). Management guidance will also identify which process steps you should follow in preparing the final action. These steps may vary based on the nature and extent of comments, or other factors.

You are expected to consider and respond to all significant public comments that are relevant to the proposal and submitted during the applicable comment period. The consideration of significant comments, including how they are being addressed in the final action, should be

documented consistent with legal requirements and applicable docket policies. Generally, all significant public comments received by the Agency should be responded to either in the preamble of the action itself or in an accompanying Response to Comments document.

In general, you will be expected to follow the same basic process steps to finalize the action, thereby having additional opportunities to ensure that you satisfy the Agency's commitments to both identify and address EJ concerns, and to provide meaningful involvement in the ADP.

The Action Memorandum for the final action should address the management questions identified previously, as well as related public comments, and how the action changed as a result of those comments. These answers will accompany the action when it goes to the Administrator or other Agency official for signature.

Rulemaking Gateway

When considering public comments and consulting with management, your office may alter its belief that an action might be of particular interest to or have particular impacts upon minority, low-income, or indigenous populations, or tribes. Should such a change occur, you should alter the answer you provide to the EJ Question in RAPIDS (illustrated in the section titled "ADP Steps 1 and 2"). The EJ Question is on the Maintenance Form for every action in RAPIDS and can be altered at any time. Changes to Tier 1 and Tier 2 actions are updated once a month on the Rulemaking Gateway so the public can access EPA's latest thinking about an action.

Appendix A
Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations[1]

Title 3—The President

"By the authority invested 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, as 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; (1) Office of Management and Budget; (m) Office of Science and Technology Policy; (n) Office of the Deputy Assistant to the President for Environmental Policy; (o) Office of the Assistant to the President for Domestic Policy; (p) National Economic Council; (q) Council of Economic Advisers; and (r) such other Government officials as the President may designate. The Working Group shall report to the President through the Deputy Assistant to the President for Environmental Policy and the Assistant to the President for Domestic Policy.

(b) The Working Group shall: (1) provide guidance to Federal agencies on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

[1] *59 FR 7629, Feb. 16, 1994.*

(2) coordinate with, provide guidance to, and serve as a clearinghouse for, each Federal agency as it develops an environmental justice strategy as required by section 1-103 of this order, in order to ensure that the administration, interpretation and enforcement of programs, activities and policies are undertaken in a consistent manner;

(3) assist in coordinating research by, and stimulating cooperation among, the Environmental Protection Agency, the Department of Health and Human Services, the Department of Housing and Urban Development, and other agencies conducting research or other activities in accordance with section 3-3 of this order;

(4) assist in coordinating data collection, required by this order;

(5) examine existing data and studies on environmental justice;

(6) hold public meetings as required in section 5-502(d) of this order; and

(7) develop interagency model projects on environmental justice that evidence cooperation among Federal agencies.

1-103. *Development of Agency Strategies.* (a) Except as provided in section 6-605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)-(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations: (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

(b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process.

(c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy.

(d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy.

(e) Within 12 months of the date of this order, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. During the 12 month period from the date of this order, each Federal agency, as part of its environmental justice strategy, shall identify several specific projects that can be promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy, and a schedule for implementing those projects.

(f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy.

(g) Federal agencies shall provide additional periodic reports to the Working Group as requested by the Working Group.

1-104. *Reports to the President.* Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1-103(e) of this order.

Sec. 2-2. *Federal Agency Responsibilities for Federal Programs.*

Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

Sec. 3-3. *Research, Data Collection, and Analysis.*

3-301. *Human Health and Environmental Research and Analysis.* (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.

(b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.

(c) Federal agencies shall provide minority populations and low-income populations the opportunity to comment on the development and design of research strategies undertaken pursuant to this order.

3-302. *Human Health and Environmental Data Collection and Analysis.* To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(b) In connection with the development and implementation of agency strategies in section 1-103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national

origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law; and

(c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001-11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public unless prohibited by law.

(d) In carrying out the responsibilities in this section, each Federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and tribal governments.

Sec. 4-4. *Subsistence Consumption Of Fish And Wildlife.*

4-401. *Consumption Patterns.* In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.

4-402. *Guidance.* Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife. Agencies shall consider such guidance in developing their policies and rules.

Sec. 5-5. *Public Participation and Access to Information.*

(a) The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group.

(b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.

(c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the comments and recommendations discussed at the public meetings.

Sec. 6-6. *General Provisions.*

6-601. *Responsibility for Agency Implementation.* The head of each Federal agency shall be responsible for ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6-602. *Executive Order No. 12250.* This Executive order is intended to supplement but not supersede Executive Order No. 12250, which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6-603. *Executive Order No. 12875.* This Executive order is not intended to limit the effect or mandate of Executive Order No. 12875.

6-604. *Scope.* For purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6-605. *Petitions for Exemptions.* The head of a Federal agency may petition the President for an exemption from the requirements of this order on the grounds that all or some of the petitioning agency's programs or activities should not be subject to the requirements of this order.

6-606. *Native American Programs.* Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

6-607. *Costs.* Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

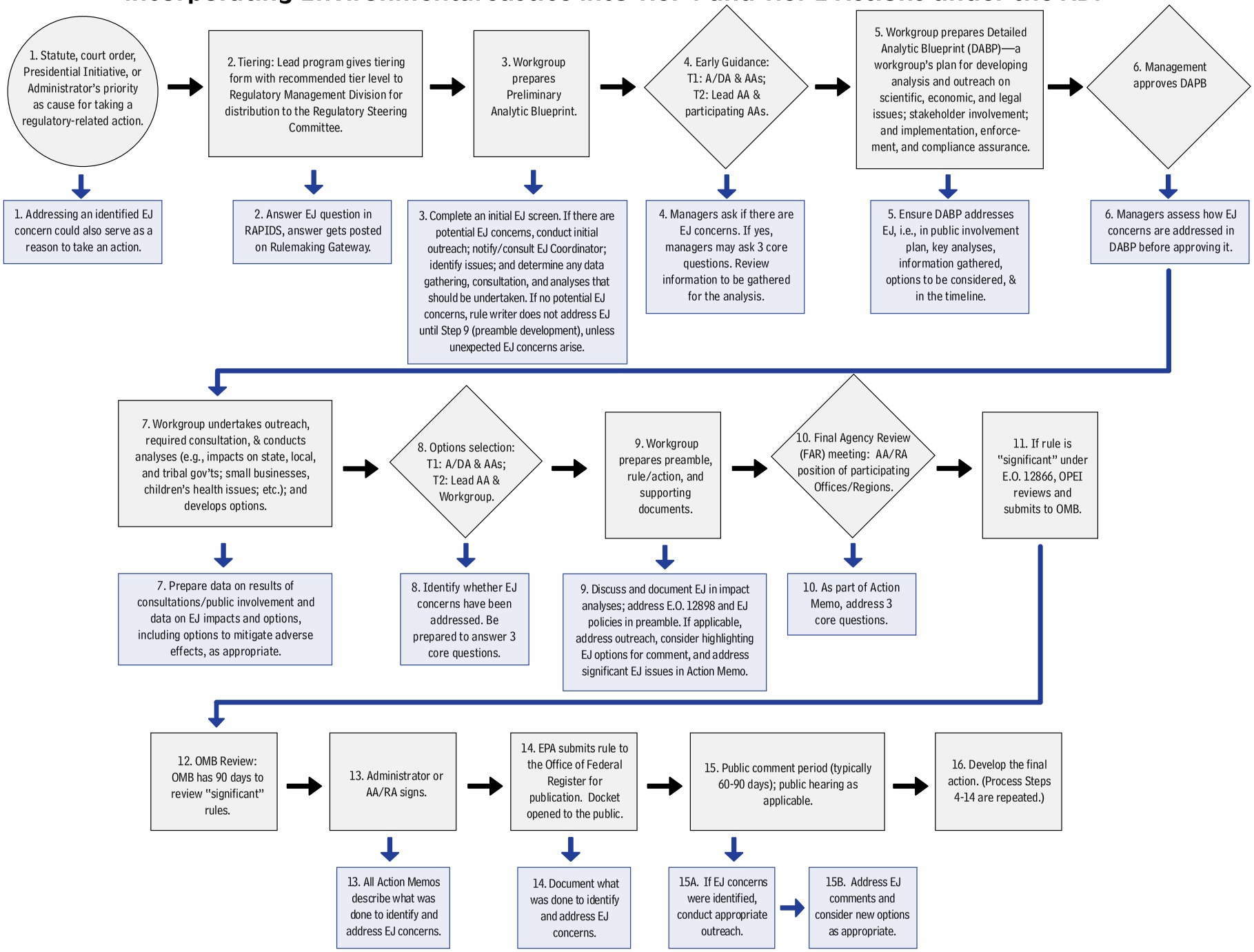
6-608. *General.* Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6-609. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or non-compliance of the United States, its agencies, its officers, or any other person with this order.

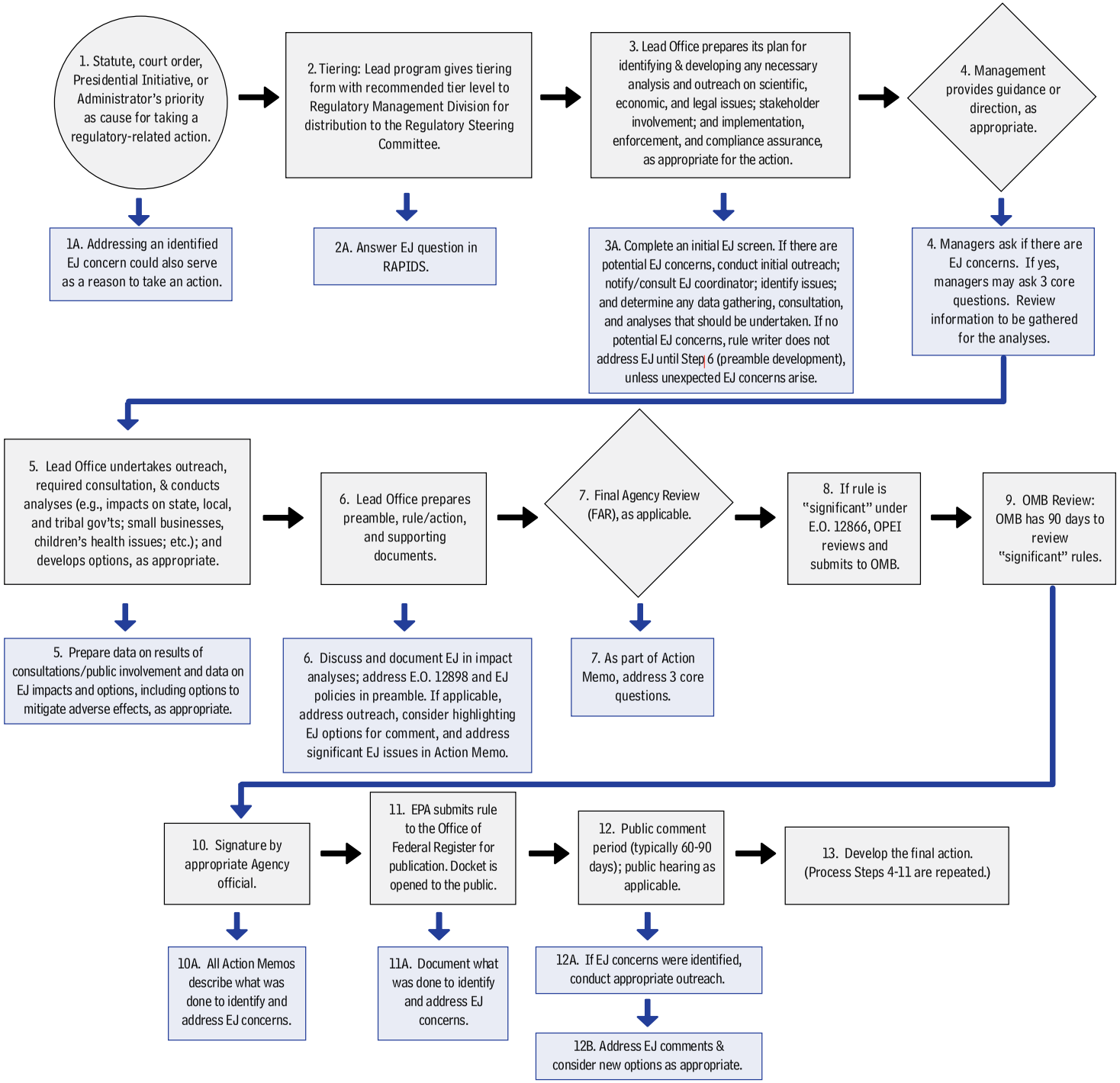
William J. Clinton
THE WHITE HOUSE
February 11, 1994

Appendix B

Incorporating Environmental Justice into Tier 1 and Tier 2 Actions under the ADP



Incorporating Environmental Justice into Tier 3 Actions under the ADP



Appendix C

A Quick Reference Guide for EPA Managers: Integrating EJ Into the ADP

This Quick Reference Guide is intended to serve as a reference tool for EPA Managers by providing a brief overview of the guidance provided in this new Interim Guide. It is not intended to replace the Guide and does not, therefore, repeat the details provided in it or elsewhere. Instead, this quick reference hits the highlights to point you to the Guide and/or other sources.

What is Meant by "Environmental Justice?"

EPA defines "environmental justice" as the ***fair treatment and meaningful involvement*** of all people, particularly minority, low-income, and indigenous populations, and tribes, in the development, implementation, and enforcement of environmental laws, regulations, and policies.

What is the Manager's Overall Role?

EPA Managers decide what needs to be done related to EJ concerns for Agency actions under development. This decision may be made in the context of a particular action or can also be made for a category of actions that are similar and have the same general impacts.[1] Managers communicate expectations to the Workgroup, establish policy priorities, identify issues of significant concern, and guide the process of developing the action. As a result, Managers play a key role in ensuring that the potential EJ implications of an action are considered during the development of that action, and that populations affected by the action have an opportunity to participate.

What Are the Management Questions for the Workgroup?

The Guide suggests that Managers ask Workgroups about their efforts to address the following questions at key points during the development of the action under the ADP (such as at Early Guidance, Options Selection, or Final Agency Review):

1. How will your (or how did your) public participation process provide transparency and meaningful participation for minority, low-income, and indigenous populations, and tribes?

[1] In the Guide, this is referred to as "screening." See page 19 of *Interim Guidance on Considering Environmental Justice During the Development of an Action.*

2. How do you plan to (or how did you) identify and address existing and new disproportionate environmental and public health impacts on minority, low-income, and indigenous populations during the rulemaking process?
3. How did the actions taken under #1 and #2 impact the outcome or final decision?

When and How Can Managers Participate?

Activities for Managers	*See page:*
Consider EJ when you decide which actions to pursue. The decision to initiate an action is an opportunity for you to consider whether the actions under consideration involve—or have the potential to involve—EJ concerns.	19
Identify the potential for EJ concerns at the beginning. EJ concerns may arise when a proposed action would: a) create disproportionate impacts, b) exacerbate existing disproportionate impacts, or c) not address existing disproportionate impacts.	6, 19
Set clear expectations about EJ concerns in the Early Guidance you provide to the Workgroup. This is likely to be the first opportunity for you to meet with the Workgroup to discuss the action and provide your expectations on that effort—including those associated with identifying and addressing EJ concerns. To start, you can provide the management questions that the Workgroup will be expected to answer at the end of their effort. Consider also providing your guidance on the level of analysis you might like to see when making decisions later, as well as the level of outreach to and involvement of populations affected by the action. Consider asking for an assessment of resource needs to perform different levels of analyses and/or outreach.	24
Review the Analytic Blueprint to ensure the Workgroup addresses EJ concerns. Your review and approval of the Analytic Blueprint may be the final opportunity for you to provide direction before resources are committed. In this review, you may want to consider whether the Analytic Blueprint includes the following information: • The identification of potentially affected populations and related stakeholders, along with a plan for how the Workgroup will ensure outreach and meaningful involvement of these populations. • The identification of analytical needs (scientific and economic) and a plan for ensuring the consideration of EJ in those analyses. • An identification of related resources needed to address both the outreach activities and analytical needs, along with whether additional resources are needed to meet expectations.	27
Consider EJ concerns related to the options presented to you. Different options may involve different EJ concerns or provide different opportunities to address existing disproportionate impacts. The Workgroup should highlight this information for your consideration in making decisions about the options.	28
Document the Workgroup's efforts and activities to identify and address EJ concerns. The Action Memorandum on which you concur or sign should describe the efforts undertaken by providing answers to the management questions.	29

Where Can I Get More Information About EJ Considerations or the ADP?

Internal EPA guidance and information about the ADP can be found at http://intranet.epa.gov/adplibrary/. Tools and guidance for assessing potential EJ concerns are available at http://www.epa.gov/Compliance/resources/policies/ej/#tools.

Appendix D

A Checklist for EPA Workgroup Chairs: Integrating EJ Into the ADP

EPA Workgroup Chairs can use this checklist to identify what they may need to know and/or do to integrate EJ into the development of their action. The checklist is based on available guidance, including that provided in the Agency's new *Interim Guidance on Considering Environmental Justice During the Development of an Action (Interim Guide).* It is not intended to replace the Guide and does not, therefore, repeat the details provided there or elsewhere. Instead, the checklist identifies ADP-related activities and provides relevant highlights and references to the Guide and/or other resources.

✓	Activity
1.	**BEFORE you start – LEARN the basics about the ADP and EJ** | Pages 1-32, B1-B2
❒	Are you familiar with the process steps under the ADP?[1]
❒	Have you read the new Agency Interim Guide?[2]
❒	Do you know what the Executive Order on EJ requires?
❒	What is meant by "environmental justice?"
❒	What is meant by an "EJ concern?"
❒	How can a workgroup identify, assess, and address potential EJ concerns during the development of the action? -If you need a refresher on the process steps involved in the ADP, please see the flowcharts provided in Appendix B of the Interim Guide.
❒	Do you know the roles of different workgroup members?
❒	Do you know the core management questions? (See item #6 on this Checklist).
2.	**Getting Started – SCREEN your action** | Pages 19-25
❒	Does your Program Office have guidance specifically applicable to your action? - Such guidance might include specific instructions about the consideration of EJ in the context of a category of similar actions, or otherwise facilitate the identification of actions for which further evaluation of EJ concerns is warranted.
❒	What do you know about the issue you've been asked to address? - Understand what you are doing in this action and why it is necessary. This will help you gather preliminary information to set the context for your action. - This will facilitate the workgroup's initial assessment (necessary for planning the development of the action) along with the identification of initial issues to raise to management for guidance or direction.

[1] Agency Guidance on the ADP is available at http://intranet.epa.gov/adplibrary.

[2] The new Agency Interim Guide is available at http://intranet.epa.gov/adplibrary.

✓	Activity
❒	Does your action have the potential to raise or address EJ concerns? - If not, you should document your determination and rationale, and then proceed with the development of your action under the ADP. Remember to revisit your determination if new information becomes available.
❒	Did you receive guidance or direction from management as part of the Early Guidance step of the ADP? - Under the ADP, Early Guidance provides an opportunity for senior management to communicate expectations, identify policy and procedural issues worthy of examination, and highlight policy issues of significant concern for the workgroup to consider in developing the action.
❒	Are there any limitations in terms of time or resources that need to be considered in your planning efforts?
3.	**PLANNING – Complete an Analytic Blueprint (ABP) for your action.** | Pages 25-26 - Your ABP should identify the key activities, analyses, consultation activities (including those called for by relevant statutes and Executive Orders), contributors, and timeline.
❒	Who are the potential stakeholders and what are their interests? - This will help you choose appropriate consultation methods and schedules. - Specifically address the identity and size of potentially affected communities, including minority, low-income, and indigenous populations, and tribes. - Involving affected communities or areas can help you obtain information or data that could inform decisions on the scope of EJ concerns and their impacts, and even help identify appropriate preliminary options to consider.
❒	Does your ABP address your plans for achieving meaningful involvement? - Meaningful involvement is more than simply providing the minimum notice and comment opportunity. - Identify the most effective ways to engage the minority, low-income, and indigenous populations, and tribes who will be affected by your action. Have any potentially affected groups historically been unable to participate in Agency processes due to circumstances unique to them (e.g., low-income community may not have been able to participate in previous public meetings because of the location of those meetings)?
❒	What do you know about potentially impacted communities (i.e., what is likely to cause impacts, what is the nature of those impacts, what are the sources of exposure)? - Identify the minority, low-income, and indigenous populations.
❒	Do you need to collect data or other information about the impacted communities or the nature of the impacts? - You may need a statistician or someone with Geographical Information System (GIS) expertise (e.g., to apply a GIS platform to demographic data and geographic data). - Consider potential cumulative impacts and, where appropriate, factors that may enhance the susceptibility of communities to environmental stressors (e.g., linguistically isolated, low socioeconomic status, reduced access to health care). Use reference communities to compare impacts.
❒	Do you plan to identify alternative approaches for addressing EJ concerns (regulatory, voluntary, and/or innovative approaches)?
❒	What resources will you need to achieve meaningful involvement, gather needed data, and conduct identified analyses?
4.	**Identify and Analyze OPTIONS** | Pages 27-28
❒	Consider what you learned from affected communities, in terms of both potential impacts and options to consider.
❒	Integrate the consideration of EJ concerns into the analyses you perform, including economic and scientific.
❒	Did you identify an existing disproportionate impact?
❒	Can you describe that existing condition in a quantifiable way?
❒	In what ways can your action address the existing disproportionate impact?
❒	Does your action have the potential to create a new disproportionate impact?

✓	Activity
❒	Did you identify options that will avoid or mitigate that creation?
❒	For all options identified, did you assess the potential for EJ concerns and related impacts?
❒	Is the workgroup ready to present options to management for decisions? - At this point, the workgroup has completed its research; provided opportunities for meaningful involvement; completed requirements for consultation; conducted analyses and completed peer review; and identified issues and scoped out the costs and benefits, pros and cons, and feasibility of the options available.
5.	**Select Options – Presentation to Management** | Pages 28-29
❒	Has the workgroup identified several possible options for each issue and recommended the one(s) that would achieve a quality action?
❒	Are you presenting the identified options to management along with the pros and cons, feasibility of the options, estimated costs and benefits, etc.?
❒	Are you prepared to present to your management EJ concerns, impacts, and considerations related to your action and each option?
6.	**Documentation – Prepare your action and final documents** | Pages 29-32
❒	Document your outreach and consultation efforts, as well as the results of those efforts.
❒	Ensure that your final economic and scientific analyses clearly present the EJ considerations.
❒	Describe in your preamble any identified potential disproportionate EJ impacts and explain how they are addressed by your action.
❒	Answer these core management questions in your Action Memo: 1. How did your public participation process provide transparency and meaningful participation for minority, low-income, and indigenous populations, and tribes? 2. How did you identify and address existing and/or new disproportionate environmental and public health impacts on minority, low-income, and indigenous populations during the action development process? 3. How did the actions taken under #1 and #2 impact the outcome or final decision?

Where Can I Get More Information About EJ Considerations or the ADP?

Internal EPA guidance and information about the ADP can be found at http://intranet.epa.gov/adplibrary/.

Tools and guidance for assessing potential EJ concerns are available at http://www.epa.gov/Compliance/resources/policies/ej/#tools.

Appendix E
Resources

Executive Order 12898: Environmental Justice http://www.epa.gov/Compliance/resources/policies/ej/#tools	Text of E.O. directing agencies to address EJ in minority and low-income populations.
EPA's Definition of Environmental Justice http://www.epa.gov/environmentaljustice/basics/index.html	EJ and related terms defined for use at EPA.
Memorandum for the Heads of All Departments and Agencies: Executive Order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (1994) http://www.epa.gov/Compliance/resources/policies/ej/clinton_memo_12898.pdf	President Clinton's cover memorandum for E.O. 12898.
EPA's Environmental Justice Program: Background http://www.epa.gov/environmentaljustice/index.html	Background information, definitions, and resources related to EJ.
EPA's Environmental Justice Strategy (1995) http://www.epa.gov/Compliance/resources/policies/ej/ej_strategy_1995.pdf	Strategy developed in response to E.O. 12898.
Environmental Justice Implementation Plan http://www.epa.gov/Compliance/resources/policies/ej/implementation_plan_ej_1996.pdf	Plan to integrate EJ into the Agency's work under Administrator Carol Browner (1996).
Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analysis (1998) http://www.epa.gov/compliance/resources/policies/ej/ej_guidance_nepa_epa0498.pdf	Guidance for incorporating EJ goals into EPA's preparation of environmental impact statements and environmental assessments under NEPA.
Environmental Justice: Guidance under the National Environmental Policy Act (1997) http://www.epa.gov/compliance/environmentaljustice/resources/policy/ej_guidance_nepa_ceq1297.pdf	Original guidance provided by CEQ.
Toolkit for Assessing Potential Allegations of Environmental Justice (2004) http://www.epa.gov/compliance/environmentaljustice/resources/policy/ej-toolkit.pdf	Reference guide to assist Agency personnel in assessing potential allegations of environmental injustice and to provide a framework for understanding national policy on EJ.

Strengthening EPA's Environmental Justice Program (June 9, 2008) http://www.epa.gov/compliance/environmentaljustice/resources/policy/admin-ej-strength-memo-060908.pdf	Administrator Stephen Johnson directs EPA to conduct EJ reviews of its program, policies, and activities.
Reaffirming the U.S. EPA's Commitment to Environmental Justice– Memo from Stephen L. Johnson (November 4, 2005) http://www.epa.gov/compliance/environmentaljustice/resources/policy/admin-ej-commit-letter-110305.pdf	Administrator Stephen Johnson outlines the Agency's commitment to EJ and its integration into all EPA programs, policies, and activities.
EPA's Policy of Evaluating Health Risks to Children http://yosemite.epa.gov/ochp/ochpweb.nsf/content/riskpolicy.htm/$File/riskpolicy.pdf	Policy applied to assessments started or revised on or after November 1, 1995.
Executive Order 13175: Consultation and Coordination with Indian Tribal Governments http://www.epa.gov/fedreg/eo/eo13175.htm	E.O. directing Federal agencies to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications.
EPA's Public Involvement Policy http://www.epa.gov/publicinvolvement/pdf/policy2003.pdf	Complete Agency policy with four appendices and two addenda.
Public Involvement http://www.epa.gov/publicinvolvement	Information on the full range of activities that EPA uses to engage the American people in the Agency's decision-making.
Engaging the American People: A Review of EPA's Public Participation Policy and Regulations with Recommendations for Action, Appendix A (2000) http://www.epa.gov/publicinvolvement/pdf/eap_appendices.pdf	Listing of key EPA programs' public participation requirements.
International Association for Public Participation www.IAP2.org	Provides discussion on the spectrum of public involvement; identifies useful publications and training opportunities.
EPA's Web 2.0 http://yosemite.epa.gov/oei/webguide.nsf/socialmedia	Provides information about EPA social media use and necessary steps for setting up Web 2.0 applications such as wikis and blogs.
Environmental Justice Coordinators – Media Offices http://epa.gov/environmentaljustice/contact/ej-contacts-media.html	List of contacts with name, phone, location, and area of expertise.
Environmental Justice Coordinators – Regional Offices http://epa.gov/environmentaljustice/contact/ej-contacts-regional.html	List of contacts with name, phone, and address.
Action Development Process http://intranet.epa.gov/adplibrary/adp/index.htm	Information about the roles and responsibilities of the different participants in the development of an action.
Action Development Checklist *See Appendix D of this Guidance on Considering Environmental Justice During the Development of an Action*	Illustrative list to help workgroup determine whether the action being developed may involve a subject of particular interest to—or may have particular impacts on—vulnerable populations.

Environmental Justice Preamble Templates http://intranet.epa.gov/adplibrary/adp-templates/index.htm#stat	Suggested language for addressing E.O. 12898 in preambles for proposed and final rules.
Action Development Guidelines for Preparing Analytic Blueprints http://intranet.epa.gov/adplibrary/documents/abp09-30-04.pdf	Discusses the timing and steps for the drafting and approval of Analytic Blueprints (applicable to all Tier 1 and 2 actions); directs reader to resources for more information and guidance.
Regulatory Gateway http://yosemite.epa.gov/opei/RuleGate.nsf/	Offers the public a means of learning about and tracking EPA actions.