



Draft EJ 2020 Action Agenda Framework

EPA's Response to Public Comments

For Comment Period April 15, 2015 through July 14, 2015

INTRODUCTION

On April 15, 2015, EPA released the draft EJ 2020 Action Agenda (EJ 2020) framework to obtain stakeholder input through public comment. The comment period for the draft framework concluded on July 14, 2015. During that time, EPA received over 600 emails concerning a wide range of important issues. This document responds to the comments that EPA received during that public comment period. It does not respond to each comment individually, but rather it responds to overarching comments based on the priority areas identified in the draft plan as well as cross-cutting issues.

When finalized, EJ 2020 will be EPA's next strategic plan for advancing environmental justice (EJ) through our programs, policies and activities, and support our cross-agency strategy on making a visible difference in environmentally overburdened, underserved, and economically distressed communities. EJ 2020 will set priorities and focus high-level attention on several high-priority areas that are vital to the communities we serve. It is important to note that EJ 2020 is not a comprehensive list of all of EPA's environmental justice activities. In addition to the priority areas for attention under EJ 2020, the agency will continue to address environmental justice implementation in all of EPA's national programs, regional work, and other efforts.

Engaging the public is a critical way EPA uses its limited resources to identify the issues that matter most to communities. Through the comments, we are learning about important areas that require our attention in EJ 2020 as well as other ongoing work at the agency. EPA reviewed the comments and worked across our programs and regional offices to evaluate and consider them as we develop the detailed action plan. This input helped to shape the draft EJ 2020 plan. The public comments we received will help inform EPA's work in environmental justice in the coming months and years.

EPA also released the public comments received on the draft framework to be transparent about the feedback and how it will help to shape the final EJ 2020 plan. The comments are available on the EPA website at: <https://www.epa.gov/sites/production/files/2015-12/documents/framework-public-comments.pdf>.

We look forward to a continued dialogue with the public to ensure that EJ 2020 results in meaningful and measurable improvements in communities throughout the nation.

Approach for Responding to Public Comments

This document uses two approaches to responding to the public comments EPA received:

1. In the first section of this document, EPA responds to overarching comments related to the priority areas of EJ 2020. Those priority areas are:
 - Rulemaking
 - Permitting
 - Compliance and Enforcement

- Science
 - States and Local Governments
 - Federal Agencies
 - Community-Based Work
 - Tribes and Indigenous People
 - National Measures
2. In the second section, EPA responds to cross-cutting and related issues that do not fit into the priority areas but still will be addressed through EJ 2020, as well issues that go beyond the scope of this strategic plan.

SECTION 1: PRIORITY AREAS

EJ 2020 is structured around implementations plans for the nine priority areas. Because environmental justice is a cross-agency endeavor, leadership for each priority area rests across our national programs and regional offices. In this section, we summarize the major stakeholder comments related to these areas and EPA’s responses to them.

Rulemaking

- 1. Commenters suggested that there are several barriers to community participation in rulemaking and that EPA should endeavor to engage communities in every step of the rulemaking process.**

EPA has responded by identifying actions in the plan for strengthening outreach and encouraging meaningful involvement. EPA will incorporate an appropriate level of meaningful community involvement in the development of rules with potential environmental justice concerns. To accomplish this, each program office responsible for writing rules will consider opportunities and develop strategies for achieving involvement of potentially impacted minority populations, low-income populations, and tribes and indigenous peoples as part of the process of developing the rule. Each program office responsible for writing rules will consider steps to increase community involvement and understanding about high-priority rules that are expected to significantly affect overburdened communities. These efforts will be augmented by periodic sessions that provide basic information on the rulemaking process and relevant statutes. When conducting outreach and meaningful community involvement, EPA may use a variety of methods, including traditional and non-traditional communication; social media, email blasts, and website content; community town hall meetings; existing state, tribal, and local partnerships; and Federal Advisory Committee meetings.

- 2. Commenters suggested that in order to ensure a more robust incorporation of environmental justice considerations in EPA policies, they must be made a key required component from the beginning of a rulemaking process or permitting action.**

EPA has responded by developing the EJ 2020 Implementation in Rulemaking Plan to further ensure that its rule writers appropriately consider environmental justice as they develop regulatory actions. This plan will deepen and broaden how environmental justice is considered in rulemaking and its associated regulatory guidance by: ensuring the availability of relevant guidance, promoting awareness and building capabilities of EPA rule writers and analysts on action development and analytical approaches through training, encouraging meaningful

involvement in the development of rules by engaging impacted communities and stakeholders, and monitoring, evaluating and strengthening how the agency is incorporating EJ into the development of its rules. (See permitting comments below.)

3. Commenters encouraged EPA to use guidance as a tool to integrate EJ into standard operating procedures.

EPA has committed in the plan to finalize and implement guidance by finalizing the Technical Guidance for Assessing Environmental Justice in Regulatory Analysis (EJTG) and promoting the use of the both the EJTG and the Guidance on Considering Environmental Justice During the Development of Regulatory Actions (May 2015) (EJ ADP Guide) throughout EPA.

4. Commenters supported many of the recommendations made by the Science Advisory Board in April 2015 to strengthen the EJTG and reiterated the need to provide, clear, specific options, and examples of best practices for EJ analyses, tighten the EJTG to convey a stronger commitment to the requirement for EJ analysis instead of erring on the side of flexibility and to develop guidance on how to incorporate and evaluate cumulative impacts.

EPA has responded by revising the EJTG to incorporate the SAB recommendations. The revised guidance will include an appendix of examples of EJ analyses in recently proposed or finalized EPA regulations. The revised guidance will include more discussion about cumulative impacts and best practices. The final guidance will be released in 2016.

Permitting

1. Commenters suggested that EPA, in collaboration with the permit applicant, should actively listen to and learn from the community about past pollution, rather than insisting past pollution is out of the new permit's scope.

Under both Plan EJ 2014 and EJ 2020, EPA considers whether enhanced outreach to communities is appropriate for permits. Each EPA Region developed a Regional Implementation Plan (RIP) to outline how they will they will decide about and conduct enhanced outreach on permits. These efforts are being tracked. Enhanced outreach efforts include, for example, making permits more accessible to communities for review, holding public meetings/information sessions/hearings, and notifying the public about permits on the radio, social media and other communication sources, and providing plain-language factsheets in multiple languages. Under EJ2020, a framework will be developed that describes information that can be gathered about communities to understand local concerns, and addresses what concerns can be addressed through permits or other means. The existing environmental conditions resulting from past pollution may be considered in some permitting contexts. For example, in the Prevention of Significant Deterioration permitting program under the Clean Air Act, review of a permit application typically involves consideration of existing air quality concentrations in the affected area in order to determine whether a proposed emissions increase resulting from construction will cause or contribute to a violation of air quality standards.

2. Commenters suggested that EPA revise the minimum public notice requirements for Clean Air Act and other permits, for both major and minor sources, to allow for adequate public review and participation.

EPA's Regional Implementation Plans for conducting enhanced outreach for EPA-issued permits in communities with EJ concerns include the potential to extend the public comment period on permits as well as other actions that enhance the opportunity and ability of overburdened communities to participate in the permitting process. As discussed further below, EPA has taken steps recently to clarify and improve the public notice provided for both major and minor source permits under the Clean Air Act New Source Review program.

- 3. To give more community members a chance to learn about permits that govern facilities in their area (including Clean Air Act Title V, Prevention of Significant Deterioration, New Source Review, Clean Water Act, and other types of permits), EPA should require facilities and/or state agencies to post permit applications and the proposed draft permit online on a publicly available website at the start of the public notice period. EPA should also ensure that notification occurs in relevant languages for the affected nearby communities.**

Under EJ 2020, EPA will work with our state, tribal, and local co-regulators, as well as permit applicants, to appropriately consider EJ in permitting. This includes best practices for enhanced outreach such as plain-language fact sheets in appropriate languages to communities on permits. This will build upon ongoing EPA actions to facilitate internet posting of permit applications and proposed permits under the Clean Air Act New Source Review program. In 2012, EPA clarified in guidance that the requirement for providing public notice of minor NSR permits is “media neutral” and thus includes electronic notice (e-notice) on a website.¹ EPA recently amplified this guidance and proposed a rule that enables internet posting of public notices of draft PSD permits for major sources.²

- 4. Commenters suggested that it is a serious problem that some sources apply for and receive minor source permits without adequate review. EPA should revise its minor source permit rules to ensure public notice of all minor source permitting decisions.**

EPA will work with our state, tribal, and local co-regulators on best practices for considering EJ in permitting under EJ 2020, including ways to enhance public notice for minor source permitting decisions. EPA has recently taken a step in this direction by issuing policy guidance clarifying the requirement to provide “prominent advertisement” of a minor source permit under the Clean Air Act New Source Review program.³

- 5. Commenters suggested that EPA should promote monitoring and citizen science. They noted that EPA can help foster citizen science by providing additional guidance on how it can be used to pursue EJ approaches, such as intervening in permitting, and by showcasing best-practice models of effective citizen science. Commenters also noted that citizen science can empower community members and contribute valuable data in areas where data collection may otherwise be difficult.**

¹ See memorandum titled “Minor New Source Review Program Public Notice Requirements under 40 CFR §51.161 (b) (3),” dated April 17, 2012, and available at: <https://www.epa.gov/sites/production/files/2015-07/documents/pubnot.pdf> and page six (item number two) in the memorandum titled “Regional Consistency for the Administrative Requirements of State Implementation Plan Submittals and the Use of ‘Letter Notices,’” dated April 6, 2011, and available at: https://www3.epa.gov/ttn/naaqs/aqmguidance/collection/cp2/20110406_mccabe_regional_consistency_admin_requirements.pdf.

² 80 Fed. Reg. 8123 (Dec. 29, 2015), available at: <https://www.gpo.gov/fdsys/pkg/FR-2015-12-29/pdf/2015-32639.pdf>.

³ See memorandum titled “Minor New Source Review Program Public Notice Requirements under 40 CFR §51.161 (b) (3),” dated April 17, 2012, and available at: <https://www.epa.gov/sites/production/files/2015-07/documents/pubnot.pdf>.

EPA is committed to citizen science and is working to develop a strong citizen science program. EJ 2020 will describe activities to advance citizen science, and encourage leveraging of advanced monitoring, for example, in the context of permitting.

6. Commenters asked if EPA’s efforts on EJ and permitting would only impact its own internal permitting processes.

Under Plan EJ 2014, EPA focused on considering environmental justice concerns in EPA-issued permits. Under EJ 2020, EPA will collaborate with our state, tribal, and local co-regulators, as well as permit applicants, to share tools, best practices and approaches.

7. Commenters suggested that public participation is one of the cornerstones of EJ and many states have made public participation a priority for their agencies and/or implemented their own approaches to consider EJ in permitting through policy, guidance or statutes. They noted that some states have made significant progress in these areas and are already serving as resources to EPA.

EPA agrees with and is supportive of this statement. For example, EPA had two calls with ECOS where seven states presented on their efforts to address EJ in their programs including permitting. EPA plans to continue our conversations with ECOS to collaborate on addressing EJ concerns, not only through permitting, but through other EJ 2020 elements as well. EJ 2020 focuses on increasing our collaboration and building joint capacity with states and local co-regulators to address EJ concerns. For example, EJ 2020 calls for EPA to work states and other governmental partners to pursue vigorous enforcement for violations in overburdened communities and leverage limited compliance resources by improving joint planning and targeting of enforcement activities. EJ 2020 also calls for EPA to work with states to explore opportunities for use of analytic tools like EJSCREEN and the Community-Focused Environmental Risk Screening Tool (C-FERST).

8. Commenters suggested that States are supportive of EPA’s commitment and efforts to incorporate EJ into its permitting activities and appreciate EPA’s intention to enable overburdened communities to have full and meaningful access to the permitting process and to develop permits that address EJ issues to the greatest extent practicable.

EPA appreciates receiving this comment. We look forward to working with states and local co-regulators on this important issue.

9. Commenters suggested that permitting and enforcement criteria used by state agencies to issue and/or enforce permits should account for existing cumulative health and environmental burdens in the areas and safeguard against creation of EJ hotspots.

EPA is committed to ensuring that permits issued under its environmental programs protect human health and the environment and do not create EJ hot spots. While permits are issued to facilities individually, the existing and cumulative environmental conditions resulting from past pollution may be considered in some permitting contexts. For example, in the Prevention of Significant Deterioration permitting program under the Clean Air Act, review of a permit application typically involves consideration of existing air quality concentrations in the affected area in order to determine whether a proposed emissions increase resulting from construction

will cause or contribute to a violation of air quality standards. This analysis is informed by a requirement that a permit application include monitoring data.

Compliance and Enforcement

- 1. Commenters suggested that EPA should expand enforcement resources and direct its resources to the most vulnerable communities with the greatest need and past and current compliance problems.**

EPA responded in EJ 2020 by crafting a strategy with specific actions for directing more EPA enforcement resources to the most overburdened communities with the greatest need and to address pollution and public health burdens caused by violations in those communities. For example, EPA will initiate community-based compliance and enforcement strategies in at least 100 of the most overburdened communities over the next five years.

- 2. Commenters would like to see EPA enforcement staff ensure that the outcomes of cases, including any supplemental environmental projects, provide the best available benefits and pollution and health protections for affected local communities.**

EPA has committed in EJ 2020 to achieve more settlements that benefit overburdened communities impacted by pollution violations. These benefits can be incorporated in injunctive relief, mitigation and supplemental environmental projects (SEPs) and EPA is specifically setting a goal of increasing the number of SEPs affecting overburdened communities.

- 3. Comments were received encouraging EPA to work with state, tribal and local governments and other co-regulators to develop robust enforcement programs in overburdened communities and to work closely with states in the compliance and enforcement area on opportunities to leverage limited resources through coordinated efforts in identified communities.**

EPA has responded by identifying actions in EJ 2020 for working with its co-regulators to build a community of practice on a national level. Specifically, EPA will (a) solicit and share examples of best state, tribal, and federal practices, standard operating procedures, trainings, tools, case studies, and policies and guidance that advance EJ through enforcement and compliance; and (b) facilitate joint learning by federal, tribal, and state enforcement staff on how and when to consider overburdened communities when undertaking enforcement activities. EPA has also committed to engage each year in joint planning and targeting with the states to pursue compliance and enforcement activities in the nation's most overburdened areas and leverage limited resources.

- 4. Commenters asked EPA to strengthen the availability of public information that community members can consult to assess compliance.**

EPA has responded by including commitments in EJ 2020 to share more information with the public (including members of the public with limited English proficiency) on enforcement and compliance work that affects them. EPA has also committed to empower communities with information about pollution and violations that affect them by increasing the number of EPA enforcement settlements negotiated each year that incorporate environmental monitors and/or

transparency tools (e.g., web posting of data), with the goal of doubling the annual number by the end of FY 2020.

Science

- 1. Commenters suggested that EPA must apply research on cumulative impacts to rulemaking as the science of cumulative impacts evolves.**

The EJ 2020 Science Implementation Plan includes research that will provide a stronger scientific foundation for considering cumulative risks in the rulemaking process. As the science improves, EPA will increasingly include cumulative risk considerations, where appropriate, in the rulemaking process.

- 2. Commenters suggested that EPA must continue to prioritize research aimed at reducing cumulative risks and cumulative impacts, and should recognize that actual exposures and cumulative risks may be greater than those estimated from controlled human exposure studies and assessments due to additive or synergistic effects as well as additional physical and socioeconomic stressors. They noted that EPA could model its efforts on cumulative impact assessments on CalEPA EnviroScreen.**

Research on cumulative risks and cumulative impacts is a priority under EPA's EJ 2020 *Science Implementation Plan*. An important focus of this research is to characterize the interactions between chemical and non-chemical stressors (e.g., stress associated with poverty, poor access to health care). In this way, EPA will be able to better assess the cumulative impacts and cumulative risks associated with exposure to multiple stressors. The agency acknowledges the excellent screening tool developed by CalEPA as an important resource for certain cumulative assessment applications.

- 3. Commenters suggested that EPA should state its intention to coordinate with states in setting research priorities, developing tools, and providing training on various tools. EPA should develop community-level datasets like asthma and low birth weights, and should strengthen the Toxics Release Inventory.**

EPA agrees that it is important to coordinate with the states on the research priorities, tools development and training. The Science Implementation Plan identifies the states and other entities as key partners on EJ-related science activities.

- 4. Commenters suggested that EPA encourages community-based participatory research and citizen science but has not provided a clear path for consideration of citizen-gathered data. EPA should create a policy on the use of citizen science.**

EPA agrees that there is a need for further guidance related to the use of citizen-gathered data and local knowledge/expertise. Guidance on some of these topics is already available (e.g., see <http://www3.epa.gov/citizenscience/index.html>), and consideration will be given to providing additional information in this regard in the future.

- 5. Commenters suggested that community air monitoring must play an important role in creating strong air quality monitoring networks for low-income communities and communities of color.**

EPA recognizes the value of air monitoring for these and other communities interested in the quality of the air that citizens breathe. In response to this need, the agency has implemented and is planning a number of activities. This includes, for example, the development of an online air sensor toolbox to provide information on sensor technologies to communities, training community-based groups on technologies for local air monitoring, and awarding research grants for universities, states and local agencies to partner with communities to measure and evaluate local air quality concerns using new technologies.

6. Commenters suggested that EPA should collaborate with research agencies, academia, state partners and other organizations to obtain targeted research data and provide technical assistance and training to people in communities to support citizen science efforts.

The agency agrees that it is important to actively engage a wide range of other partners in collaborative and information sharing activities. This is already occurring with a variety of federal partners, states (including ECOS), universities and others – and more is anticipated over the coming years.

States and Local Governments

1. Commenters suggested that there should be some environmental justice requirements for states when using EPA monies or implementing EPA regulated activities. Many felt that EPA programs administered by other governments should be required to follow the same EJ principles that EPA would follow if EPA were to administer the program through direct implementation.

There are a range of approaches available to EPA to work with states and local governments to address EJ. Our strategy is designed to make progress in phases, working first to assess needs and build capacity within EPA and among our state and local co-regulator partners, and then moving towards establishing expectations and accountability through joint planning and other mechanisms, including grants.

Title VI of the Civil Rights Act of 1964 and EPA’s implementing rules do place nondiscrimination requirements on recipients of EPA funding (including funding to implement delegated or authorized programs) – see Section 2 for discussion of the actions EPA is taking in that regard.

2. Commenters suggested developing EJ guidance for state and local recipients of EPA funds, for a variety of activities including permitting and Title VI.

EPA is addressing Title VI in the Office of Civil Rights’ External Compliance and Complaints Program Strategic Plan for FY 2015 – 2020. Please see the response on Title VI in Section 2 on cross-cutting issues.

3. Commenters recommended adapting existing EPA guidance for states or considering exercising its oversight authority to require EJ standards in state-delegated permitting or enforcement actions, as states make a majority of these decisions.

For permits or enforcement actions not issued by EPA, the agency will collaborate with our state, tribal, and local co-regulators, as well as communities and permit applicants, to share and promote the use of tools, best practices, and approaches. Ultimately, EPA and the states will

jointly develop a set of expectations for implementation of EJ in delegated or authorized programs.

4. Commenters recommended mandatory training for state agency staff and leaders on environmental justice, ranging from basic training to in-depth topics.

Strategy 2 in the States and Local Government chapter of EJ 2020 focuses directly on building capacity to address EJ concerns through actions such as training, peer-to-peer learning, and identifying and promoting best practices, tools, approaches and resources.

5. Commenters expressed that reporting requirements might lead to expectations that states report back to EPA on certain aspects of work which could be burdensome on state programs.

EPA will work jointly with states to develop expectations and measures to demonstrate and report progress. By engaging with states in the design of these mechanisms, our intent is to create a streamlined process that minimizes the burden on EPA and the states while providing a meaningful assessment of progress.

Federal Agencies

1. Commenters would like EJ 2020 to address strengthening implementation of environmental justice in NEPA as it relates to Environmental Impact Statements (EIS) that support permitting for land use, zoning, and site construction of government and industrial facilities that distribute and/or emit air/water/soil pollutants.

To the extent that NEPA applies to these types of projects, EJ 2020 advances consideration of environmental justice through application of *Promising Practices on Environmental Justice Methodologies in NEPA Reviews* (Promising Practices). This document was produced by the NEPA Committee of the Federal Interagency Working Group on Environmental Justice and seeks to improve effective, efficient, and consistent consideration of environmental justice in the NEPA process. EPA is also conducting training on Promising Practices for EPA reviewers of EIS documents and with federal departments and agencies who prepare EIS documents. EPA is developing a measure to ensure that environmental justice issues are adequately considered during EPA's reviews of Environmental Impact Statements pursuant to Section 309 of the Clean Air Act.

2. Commenters would like to see EPA adopt standards that will benefit all communities near freight facilities and include in the EJ 2020 Framework a timeline and interagency appropriations for implementation and enforcement of the EPA NEJAC Goods Movement Recommendations (2009). Commenters are also requesting EPA elevate port and goods movement issues as a national priority.

The agency recognizes the difficult challenges facing communities located in and around areas of dense goods movement activities and is committed to addressing those challenges, including those with an environmental justice perspective. There are several EPA actions that are relevant to recommendations made in the NEJAC's Goods Movement report. EPA announced a Ports Initiative in 2014, a voluntary ports program focusing on air pollution found in and around ports. The Initiative includes a number of projects designed to support ports, communities and other stakeholders with identifying opportunities and finding solutions to create healthy air quality in

communities and reduce climate risk. EJ 2020 includes a strategy to identify and address potential adverse impacts from the commercial distribution of freight (goods movement) and related infrastructure (e.g., ports, rail yards, distribution centers) by developing and implementing assessment and engagement tools and programs that promote emissions reductions, better planning and sustainable development practices, and enhance the health safety, quality of life, and meaningful engagement of affected communities.

- 3. Commenters suggested creating a mechanism by which EPA and other agencies in the federal family track/document - on an annual basis - how they have taken steps to integrate EJ into their practices, as well as monies that have been used to provide staff, assistance, etc., by program.**

The EJ IWG’s Memorandum of Understanding directs agencies by the February 11 anniversary of Executive Order 12898 to provide a concise report on progress during the previous fiscal year in carrying out the agency’s Environmental Justice Strategy and Executive Order 12898. This “Annual Implementation Progress Report” will include performance measures as deemed appropriate by the agency, which will post its Annual Implementation Progress Report on its public webpage. EPA will provide the link to the progress reports on the EJ IWG webpage.

- 4. Commenters suggested that in addition to EPA, other federal agencies are critical to developing the most effective approaches to directing resources to communities in need and implementing the Executive Order.**

EPA responded in EJ 2020 by crafting a strategy with specific actions strengthening collaboration and coordination on environmental justice issues among all federal agencies. All federal agencies play a critical role in ensuring we make a visible difference in communities overburdened with environmental and economic distress. For example, EPA will address key environmental justice challenges in collaboration with governmental partners through the implementation of the Federal Interagency Working Group on Environmental Justice (EJ IWG) FY 2016-2018 Framework for Collaboration.

- 5. Commenters would like to see federal agencies create a single resource for communities and hold “solutions workshops” to learn about all available funding and technical assistance opportunities.**

EPA has committed in EJ 2020 to foster the capacity of the agency and our sister federal agencies to meaningfully address environmental justice concerns through the use and continued development of environmental justice data tools and resources. For example, EPA will develop and update annually a guide to EPA resources available to communities (e.g., financial, educational, informational, technical, etc.), and also develop and update annually, through the EJ IWG a guide to resources available from other Federal agencies.

Community-Based Work

- 1. Commenters suggested that EPA should consider holistic approaches to community revitalization during agency cleanup projects by implementing programs that address job training, green infrastructure, land use planning and other issues that are important to local stakeholders.**

EPA will strengthen the use of best practices collected from past and present community-based programs to connect community based efforts with technical assistance, job training, leveraging resources and other issues important to stakeholders.

2. Comments suggested that EPA should act as a facilitator to connect overburdened communities with private sector, nonprofit, governmental and other partners that can assist by addressing issues outside the purview of the agency.

EPA will act as a convener, and where appropriate, the community-based initiative will support community revitalization in America's economically distressed cities and neighborhoods by partnering with federal agencies, states, and other entities that support sustainable economic development approaches.

3. Commenters suggested that EPA should direct resources to the most overburdened communities and that criteria for selecting projects in those communities should be based on the principles of environmental justice.

EPA will work with the other federal agencies to develop criteria that address the most vulnerable communities' challenges by developing environmental justice criteria in the scoring scheme for federal agencies' grants and cooperative agreements. This action will ensure that all communities will be considered in the process of project identification using EJSCREEN, which helps to pinpoint areas for additional outreach and technical assistance support.

4. Commenters suggested that EPA should address climate change by supporting the development of community resilience in underserved areas impacted or potentially threatened by environmental issues and natural disasters resulting from global warming.

EPA will address climate change considerations by ensuring that underserved communities benefit from energy efficiency and green infrastructure initiatives, training, etc. Plan EJ 2020's climate justice work is linked to EPA efforts on building sustainable and resilient communities, reducing pollution, improving energy and water efficiency, conducting decision-relevant research to support communities, and tools and technical assistance through partnerships with the federal, state, tribal and local governments.

5. Commenters suggested that EPA should better support the capacity of communities to assess and address local public health and environmental concerns through training, technical assistance, resources, and tool development.

EPA will promote the use and continued development of analytical and data tools that enable and encourage our governmental partners and community members to consider and address environmental justice and local public health issues.

6. Commenters suggested that EPA should include timeliness of investigations of citizen complaints and requests for assistance.

In EJ 2020, EPA will strengthen its procedures and practices associated with citizen tips and complaints and will elevate matters of critical public health concern. EPA will develop and distribute outreach on these tools so that communities know that they exist and understand how to use them.

Tribes and Indigenous People

1. Commenters suggested that EPA should encourage greater public participation in federal environmental programs administered by States and Tribes.

The 2014 issuance of the *EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples* identifies in its principles that stronger collaboration between tribal, state and local governments is an area that EPA will work on as part of its implementation of this Policy. Where EPA is administering the environmental program in Indian country we work with tribal governments to promote participation of tribal members and others living in Indian country in the governmental decision-making processes. EPA's environmental statutes and regulations all have provisions that require public participation and therefore states and tribes that are authorized to run federal environmental regulatory programs follow procedures that provide for effective public participation.

2. Commenters suggested that it is important, in light of the federal government's trust responsibility to Native American Tribes, that state programs incorporate the principles of the 2014 EPA Policy on EJ for Working with Federally Recognized Tribes and Indigenous Peoples when administering a federal statute with a program approved by EPA.

We recognize that steps by states to addressing environmental justice in their EPA-approved programs may benefit overburdened tribal populations. EPA, through its committed implementation of the *EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples* and work through the Federal Interagency Working Group on Environmental Justice, is continuing to work with states and other federal agencies to collaborate on environmental justice approaches that lead to effective ways to implement EJ principles and address EJ concerns.

3. Commenters suggested that EPA must engage with non-Federally Recognized Tribes and Indigenous Peoples.

EPA's Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples (2014), which is a central effort addressed under the EJ 2020 Action Agenda, does recognize and gives attention to the need for EPA to be responsive to the environmental and public health concerns of indigenous peoples. For purposes of the Policy, the term "indigenous peoples" is defined to include state recognized tribes; indigenous and tribal community-based organizations; individual members of state-recognized tribes; Native Hawaiians; Native Pacific Islanders, and individual Native Americans. While the *EPA Policy on Consultation and Coordination with Indian Tribes* is focused on our government-to-government relationship with federally recognized tribes, it also recognizes the need to be responsive to the environmental justice concerns of non-federally recognized tribes, individual tribal members, tribal community-based/grassroots organizations and other indigenous stakeholders.

4. Commenters suggested that EPA should ensure that agency regional efforts commit to outreach, education, and communication to better understand the needs of native and tribal communities which may face non-traditional EPA environmental justice issues.

EPA strives to improve and deepen connections and partnerships with communities around the country in all of our work to make a visible difference in communities. EJ 2020 outlines actions

to address its role and commitment to more outreach to and engagement with indigenous peoples to identify their concerns, and to be responsive to the concerns. *EPA's Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples (2014)* identifies principles that the agency has committed to implement that also speaks to these concerns.

National Measures

1. Commenters suggested that achieving the best possible on-the-ground results in overburdened communities should be the unifying/cross-cutting goal for EJ 2020.

By 2020, EPA will make a more visible difference in overburdened communities by working toward on-the-ground results. We will make measureable progress on environmental outcomes in four areas with significant environmental justice challenges nationally. We will enhance the agency's work in supporting environmental and public health improvements in thousands of communities throughout the United States by institutionalizing environmental justice and community practice as a routine part of our core programmatic and regulatory work, as well as our technical and other assistance.

2. Commenters suggested that EPA needs to set metrics that lead to measureable outcomes, target resources to overburdened communities, and reduce the disproportionate exposures.

EPA agrees that progress on environmental justice must focus on environmental and health outcomes and reducing disparities. Each element of EJ 2020 includes specific measures through which we will track our progress.

By 2020, EPA will demonstrate progress on four critical national environmental justice challenges with the goal of eliminating blood lead level disparities among children, ensuring safe drinking water for small and tribal communities, increasing protection from fine particle air pollution for vulnerable populations, and reducing human exposure to contaminants at hazardous waste sites. The agency also is reviewing public comments and conducting additional analyses to identify both opportunities for improving the existing measures and for developing additional meaningful measures of progress on a national scale. To ensure the agency's approach continues to respond effectively to public concerns, EPA will collaborate over the next several years with local, state, tribal governments, other federal agencies, and EJ stakeholders to improve existing measures and develop additional meaningful national measures. By applying national environmental measures through an environmental justice lens, we can bolster our efforts to improve the air, water, and land in the nation's most overburdened communities.

3. Commenters provided essential issues that matter to communities. These include: pollution reduction; health; enforcement; cleanup of contaminated properties; expanding access to nature; products, chemicals and pesticides; development of metrics, addressing cumulative burden; working for multiple benefits; updating methods to match new science, and continuous improvement in community engagement.

EPA will consider these topics as we develop and implement EJ 2020, which is designed to deepen environmental justice practice within EPA's programs and expand our partnerships

outside of the agency. A number of these topics are addressed by EJ 2020 and discussed in this response to public comments.

- 4. Commenters thought metrics should be developed in collaboration with EJ stakeholders and other partners to ensure that their priorities are represented. They noted that public involvement early and often in this process will be important.**

In response to public comments, each element of EJ 2020 includes specific measures through which we will track our progress. In addition, EPA has developed national outcome measures, based on available data and demographic analyses, which support the four critical national EJ challenges (children’s blood lead levels, drinking water, air quality, and hazardous waste sites). To ensure the agency’s approach continues to respond effectively to public concerns, EPA will collaborate over the next several years with local, state, tribal governments, other federal agencies and EJ stakeholders to improve existing measures and develop additional meaningful national measures. EPA is planning multiple events during the EJ 2020 timeframe to obtain stakeholder input, including headquarters and regional outreach sessions, Tribal Consultation, and other engagement.

- 5. Commenters suggested that EPA should leverage the report Pathways to Environmental Justice: Achieving a Framework for Evaluation based on a symposium co-sponsored by EPA, as a foundational tool to help stakeholders develop indicators of success and measure outcomes in a rigorous way.**

EPA has reviewed the report and agrees that it offers a solid foundation to guide our continued efforts to measure progress in achieving our environmental justice goals.

- 6. Commenters suggested that EPA should demonstrate progress through use of social network analysis metrics that reveal the extent to which social ties influence health and environmental disparities including the number of connections and types of partnerships established that can indicate the trajectory of success in attaining outcomes and eventual impact.**

EPA strives to improve and deepen connections and partnerships with communities around the country in all of our work to make a visible difference in communities. EPA agrees with the commenters that building these relationships improves the likelihood of success of community projects and relevant environmental health outcomes.

- 7. Commenters suggested that the actual reduction of the pollution load borne by overburdened communities should be a primary community outcome of EJ 2020. Evidence of a visible difference should be measurably reduced pollution and associated illness.**

To provide evidence of a visible, measureable reduction in pollution, EPA has developed national outcome measures, based on available data and demographic analyses, which support the four critical national EJ challenges (children’s blood lead levels, drinking water, air quality, and hazardous waste sites).

EPA agrees that reducing pollution exposures borne by overburdened communities is the goal, and our national EJ challenges and associated outcome measures reflect that. By 2020, EPA will build a stronger scientific basis for action on environmental justice and cumulative impacts. We will achieve this by developing and using assessment, screening and decision tools that look at communities holistically, and drive action when possible. These tools include: EJSCREEN,

Community-Focused Environmental Risk Screening Tool (C-FERST)/Tribal-Focused Environmental Risk and Sustainability Tool (T-FERST), Next Generation advanced environmental monitoring tools, port emissions and near roadway impacts characterization tools, Health Impact Assessment (HIA) and analytical methodologies for considering EJ during National Environmental Policy Act (NEPA) reviews. In addition, EPA research will contribute to the development of cumulative risk assessment for regulatory decision-making. Through our Environmental Justice Research Roadmap, we will help to lay a foundation for better understanding the interrelationships between social determinants of health, other non-chemical stressors, and chemical agents.

- 8. Commenters suggested that EPA should (1) develop an expansive list of all known hot spot areas which have EJ concerns, (2) target its resources and authorities to address hot spots, and (3) regularly audit and publish reports on all actions taken to provide relief in hot spot communities.**

EPA is committed to ensuring that its programs to protect human health and the environment address EJ hot spots.

EPA will use EJSCREEN, the agency's environmental justice mapping and screening tool, to help advance EJ 2020's priority areas. In order to better focus agency attention on vulnerable areas and measure the impact of our work, we will determine how best to use the tool to screen for places that are the *most overburdened*. We currently use EJSCREEN as a starting point when considering environmental justice for a variety of applications, including outreach, enforcement targeting, and policies and activities that affect communities. To better focus agency attention on vulnerable areas and measure the impact of our work, we will determine how best to use the tool to screen for places that are the most overburdened. We will also consider community concerns and other sources of information in this process.

In addition to progress on the national EJ measures, by 2020, EPA will institutionalize a robust system for routinely analyzing, considering and addressing environmental justice issues in all appropriate EPA rulemaking, permitting and enforcement actions. We will reinforce and refine integration of environmental justice in EPA's rulemaking actions through implementation of guidance, meaningful community involvement, and continuous learning, including a rigorous evaluation of EJ analyses for rulemaking efforts every three years. EPA will systematically consider environmental justice issues in all appropriate EPA-issued permits, accompanied by enhanced outreach for priority permits and analyses of potential local impacts. In addition, EPA will continue to develop approaches to target compliance and enforcement resources to make a bigger difference in the most overburdened communities.

SECTION 2: CROSS-CUTTING & RELATED ISSUES

- 1. There were a multitude of comments related to Title VI of the Civil Rights Act of 1964 ("Title VI"). Many of these comments expressed concerns about the lack of progress on Title VI issues and provided recommendations for how to strengthen the program. These comments urged EPA to produce guidance to the many state and local 'recipient' agencies funded by EPA on how to fulfill their obligations under Title VI. Further, commenters requested that EPA develop a strategy and workplan to address the backlog of Title VI complaints. A number of commenters pointed out that there is a clear relationship between the agency's**

environmental justice work and Title VI, and that this connection should be referenced and included in the EJ 2020 action plan.

In carrying out our responsibilities under Title VI, 42 U.S.C. 2000d, EPA works to ensure that no person is excluded from participation in, denied the benefits of, or subjected to discrimination on the basis of race, color or national origin (including limited proficiency in English) in the administration of any program or activity receiving federal funding from EPA. EPA's Office of Civil Rights (OCR) is charged with overseeing the implementation of these important legal obligations, and has laid out its plan to execute those responsibilities in OCR's [External Compliance and Complaints Program Strategic Plan for FY 2015-2020](#).

In the context of environmental justice, EPA seeks the fair treatment and meaningful involvement of all people with respect to the implementation of environmental programs, regardless of their race, income, or other factors; EJ 2020 is designed to strengthen EPA's efforts to address challenges faced by overburdened communities, in coordination with state, tribal, and federal partners. Enforcement of the federal nondiscrimination laws, including Title VI, is an important complement to the EJ program; they provide a legal right of action for situations in which recipients of EPA financial assistance for environmental programs and activities discriminate against persons based on their race, color, national origin, sex, disability and age.

Where possible, EPA seeks to address the concerns of the affected communities outside of the civil rights enforcement process as an important component of the agency's efforts to make a prompt and visible difference in communities. However, where potential Title VI claims exist, EPA's OCR will promptly, effectively and efficiently address those claims. OCR is strengthening its external compliance program through the implementation of the Strategic Plan mentioned above. This plan promotes mission-critical program accountability through measurable goals that will: (1) ensure prompt, effective, and efficient complaint docket management; (2) enhance OCR's external compliance program through proactive compliance reviews, strategic policy development, and engagement of critical EPA, federal and external partners and stakeholders (e.g., recipients and communities); and, (3) strengthen OCR's workforce through strategic human capital planning, organizational development and technology and training to promote a high-performing organization.

The important role of federal civil rights laws is recognized within EJ 2020. EPA's civil rights and EJ programs can be strengthened through a sharing of knowledge and past experiences in identifying and responding to community concerns. The agency will look for opportunities to share lessons learned and will coordinate EJ and civil rights efforts to ensure that a comprehensive set of tools are available to affected communities.

2. Commenters suggested that EPA needs to expand the functionality and data available in EJSCREEN, as well as provide additional guidance about its use especially when looking at cumulative impacts and exposure.

EPA will use EJSCREEN to help advance EJ 2020's priority areas. The tool will play a significant role in the EJ 2020 priorities related to enforcement, permitting, state engagement, collaboration with federal agencies, science, community-based work, and measures

development work. In order to better focus agency attention on vulnerable areas and measure the impact of our work, we will determine how best to use the tool to screen for places that are the *most overburdened*. To support these activities, EPA will focus efforts on sharing information about EJSCREEN and its application, providing training to stakeholders, and developing collaborative uses of the tool with States and other partners. The agency will also improve EPA staff's knowledge of the tool and to further integrate the use of EJSCREEN into our programs.

EPA currently uses EJSCREEN as a starting point when considering environmental justice for a variety of applications, including outreach, enforcement targeting, and policies and activities that affect communities. EPA has shared this tool with partners and the public to be more transparent about how we consider EJ in our work, to assist our stakeholders in making informed decisions about pursuing environmental justice, and to create a common starting point for dialogue about EJ between the agency, our partners and the public.

3. Commenters suggested that climate change, climate adaptation and promoting greenhouse gas reductions co-benefits should be an important focus of the EJ 2020 Action Agenda.

EPA's extensive and ongoing efforts to address climate change include an important focus on climate justice, the intersection between climate change and environmental justice. EJ 2020's climate justice work is linked to EPA efforts on building sustainable and resilient communities, reducing pollution, improving energy and water efficiency, conducting decision-relevant research to support communities, and tools and technical assistance through partnerships with federal, state, tribal and local governments. This work will include an emphasis on important issues such as helping underserved communities benefit from energy efficiency and green infrastructure initiatives, training the next generation of young climate justice leaders, and applying EJSCREEN and other agency efforts and tools that impact communities, as well as other key climate justice areas.

4. Commenters suggested that EPA needs to provide multiple avenues for overburdened communities and other stakeholders to meaningfully, effectively, and transparently participate in aspects of EJ 2020, as well as other agency processes, that impact them.

Strengthening our collaborations with communities, our governmental partners, and all other interested stakeholders is essential to achieving meaningful outcomes for overburdened communities. Stakeholder engagement is an integral part of all areas of EJ 2020. Examples include community involvement in EPA rulemaking and permitting processes, community-based participatory research and citizen science, and the development of measures that are meaningful to communities.

5. Commenters suggested that EPA utilize multiple Federal Advisory Committees to better obtain outside environmental justice perspectives for agency's work.

EPA has been working to integrate environmental justice into the work of all of its federal advisory committees. In addition to the National Environmental Justice Advisory Council, whose mandate is to provide advice to the Administrator on environmental justice issues, many, such as the Local Government Committee, have established formal subcommittees or workgroups that focus explicitly on environmental justice. Other FACAs have appointed persons with EJ

experience and expertise to serve as members and focus on issues through an environmental justice lens.

6. Commenters suggested that there is a need to provide environmental justice and area-specific training to EPA staff, state and local government partners, and stakeholders working with the agency.

Through EJ 2020, EPA will bolster its environmental justice training efforts set forth in Plan EJ 2014 for EPA staff and significantly expand these endeavors with co-regulators and stakeholders outside of the EPA. Environmental justice 101 will continue to be a mandatory training for all employees. Through EJ 2020, EPA will ensure that the staff involved have the appropriate training and tools to understand the role of environmental justice in the development of rules and with permitting activities. EPA will also provide National Environmental Policy Act (NEPA) training to review staff and environmental justice coordinators, as well as offer NEPA training to other federal agencies. We will also solicit and share examples of best state and federal practices, trainings and tools that advance EJ through enforcement and compliance, and work with state, tribal, and local co-regulators to identify and offer trainings to build joint capacity to take action on EJ concerns. By 2020, EPA will provide internal and external outreach and training on community-based decision support tools, increase training for communities on EPA grants and technical assistance programs, and will develop training on EJ tools (e.g., citizens' concerns reporting systems). We will also identify, develop and offer training to all federally recognized tribes and identified indigenous organizations in an effort to increase their participation and input into EPA's work.

7. Commenters suggested that there is a need to address air quality issues in overburdened communities with stronger air monitoring, standards, and enforcement and with a focus on mobile source air pollution.

EPA appreciates the comments about the importance of air quality issues in the lives of overburdened communities. There are many ways in which EJ 2020 will address such air quality issues. Integration of environmental justice into the EPA's rulemaking, permitting and enforcement processes will help to address air quality issues of concern to overburdened communities. In our work with states, tribes, and local government, we will identify opportunities to jointly take efforts to address these air quality issues. EPA will develop innovative approaches to manage air pollution, including assessment and community engagement tools for commercial distribution of freight (goods movement) and related infrastructure. Lastly, in areas that are not meeting the national ambient air quality standards for pollutants such as fine particulates, ozone, and sulfur dioxide, including areas with overburdened communities, EPA will work with states and local governments (and tribes that choose to do so) as they prepare and implement plans to achieve those air pollution standards by the appropriate statutory attainment dates. These are important steps and EPA seeks further dialogue with communities, governmental partners and stakeholders about ways to enhance them.

8. Commenters suggested that EJ 2020 should consider financial capability and affordability challenges as they relate to water utilities, especially for economically distressed communities.

EPA is aware of the strong interest and ongoing efforts among some water utilities to address financial and operational issues, especially for economically challenged communities, and other issues relevant to environmental justice. We will work with interested water utility and community partners on these endeavors, particularly in efforts that seek to provide high-quality service while implementing green infrastructure and promote community revitalization. Through EJ 2020 and other efforts, EPA seeks to address clean water, including infrastructure and affordability challenges, as an important way to strengthen community-based partnerships that make a more visible difference in overburdened communities.

9. Commenters suggested that EPA should identify additional mobile source regulatory measures to protect overburdened communities.

EPA recognizes that air quality issues remain of concern to overburdened communities. EPA has recently instituted requirements for states to monitor pollution levels near heavily traveled roads in major urban areas to provide greater information to the public, states and EPA about ambient levels of pollution in these areas. In addition, EPA regulates emissions from new motor vehicles and engines, and the fuels used to operate them, and by encouraging travel choices that minimize emissions. “Mobile sources” include cars and light trucks, heavy trucks and buses, non-road engines, equipment, and vehicles. The Office of Air and Radiation’s Office of Transportation and Air Quality (OTAQ) is addressing mobile source air pollution through a variety of approaches, which include incentives, voluntary programs and national environmental standards. EPA has adopted stringent standards for new diesel heavy duty engines used in trucks, ships, and locomotives, as well as for new light duty passenger cars and trucks, which will reduce emissions by up to 90% as vehicles are replaced. Also, through the Near-port Community Capacity Building Project, OTAQ is collaboratively developing tools to support effective stakeholder engagement. These tools equip overburdened communities to engage with the port industry sector in decision-making about environmental, health, and other community-driven concerns associated with port-related activities. In combination with other components of OTAQ’s overall Ports Initiative, these capacity building tools facilitate sustainability at ports and environmental improvement in nearby communities.

10. Commenters suggested that EPA should better consider selected at-risk populations in this and other environmental justice efforts. The populations identified for inclusion were prisoners, farmworkers, and persons with limited English proficiency.

EPA is working to address the analytical challenges of addressing the needs and concerns of underrepresented populations. Through EJSCREEN and other agency tools, EPA has made great strides in considering prison and limit English proficiency populations. However, data limitations still exist regarding the amount of real-time information available on transient, temporarily relocated, and displaced populations. Moving forward, the agency will continue to work on these challenges and ensure the fullest consideration of all populations in our policies and programs.