




Revised Technical Guidance for Assessing Environmental Justice in Regulatory Analysis

Office of Policy
U.S. Environmental
Protection Agency

Outline

- Background
 - Update overview and review process
 - Content and updates
 - Questions
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Background

Executive Order 12898 (1994)

- E.O. 12898 (1994), *Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations*
- “...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...”

Executive Order 14096 (April 2023)

Supplements E.O. 12898 and expands notion of Environmental Justice:

“just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability, in agency decision-making...”

Identify, analyze and address:

- Disproportionate and adverse human health and environmental effects, risks, and hazards of Federal activities, including those related to climate change and cumulative impacts.
- Historical inequities, systemic barriers, or actions related to Federal actions;
- Barriers to accessing human health or environmental benefits from Federal actions, including those related to natural disaster recovery and climate mitigation, adaptation, and resilience.

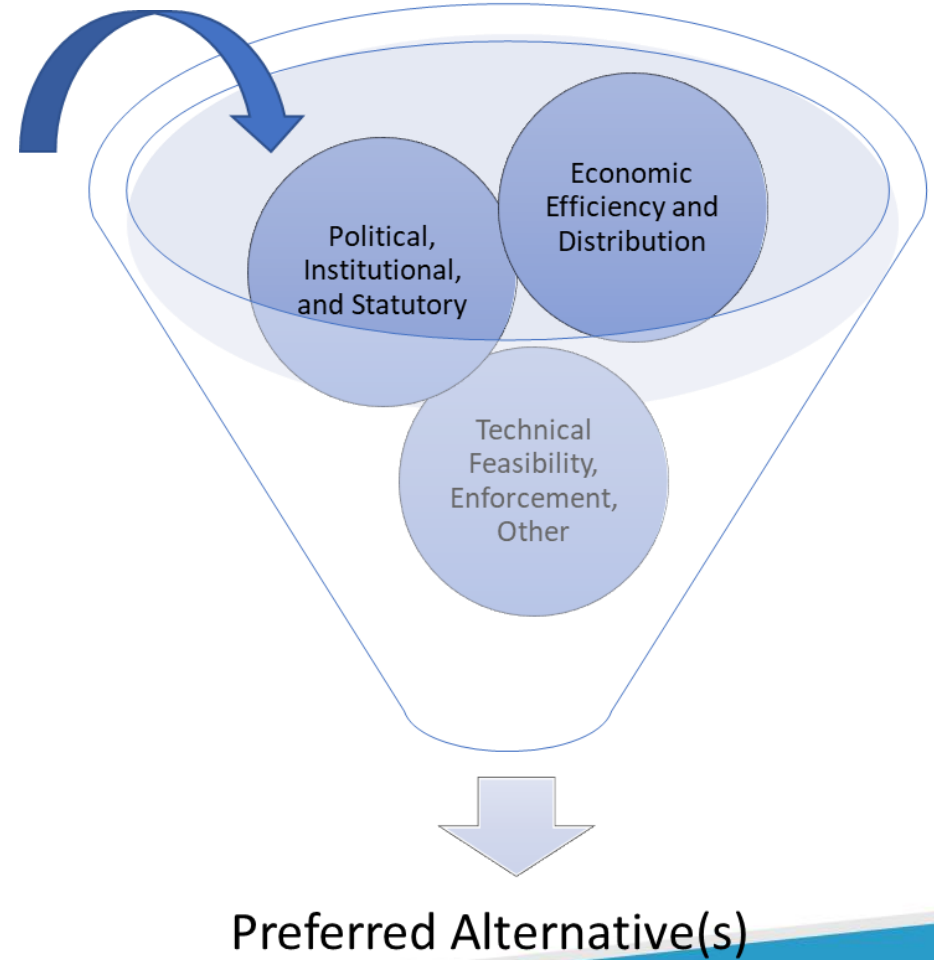
EJ as Administration Priority

- EPA Administrator Michael Regan has asked Agency employees to “infuse equity and environmental justice principles and priorities into all EPA practices, policies, and programs.”
- For rulemakings, by
 - “Assessing impacts to pollution-burdened, underserved, and Tribal communities in regulatory development processes and considering regulatory options to maximize benefits to these communities,” and
 - “Taking immediate and affirmative steps to improve early and more frequent engagement with pollution-burdened and underserved communities” affected by EPA actions and policies.
- Even when statutory constraints limit role of EJ in determining stringency, analysis can inform enhanced information provision, monitoring, collection and dissemination of information, requiring analysis at key decision points, and other design features.

How Analysis Ultimately Informs Regulatory Design Varies

- Political Factors
- Statutory Instruction
- Institutional Feasibility
- Technical Feasibility
- Benefits and Costs (Economic Efficiency)
- Enforceability
- Distributional Concerns
 - Economic Impacts
 - Environmental Justice
- Ethics
- Sustainability

Many Possible
Regulatory
Alternatives

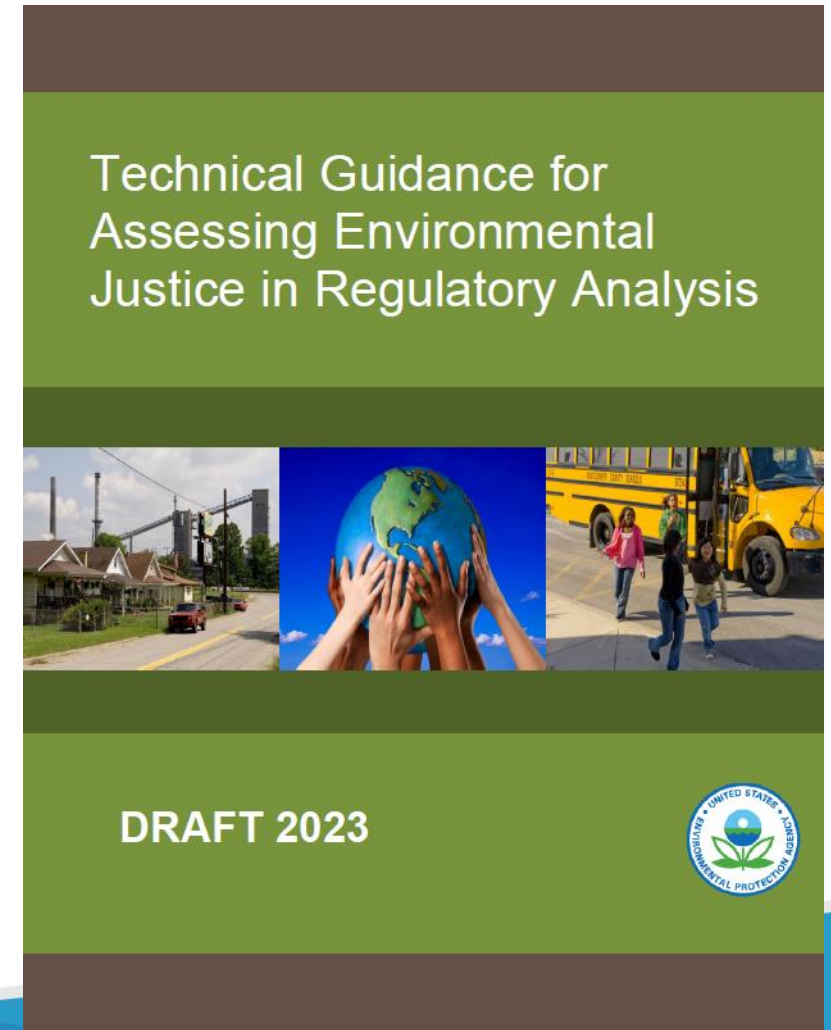




Update overview and review process

Targeted Update of EJ Technical Guidance

- Originally released in 2016
- Outlines analytic expectations, best practices, and technical approaches to evaluate EJ concerns for regulatory actions.
- Main audience is EPA analysts.
- Designed to be flexible
 - Data and methods to evaluate EJ concerns may be tailored to reflect a specific regulatory context.
 - Allows offices to balance budget and time constraints with analytic expectations.



Updates to EJ Technical Guidance

- Reflect latest state of science, new peer-reviewed Agency guidance and new terminology, priorities, and direction, including E.O. 14096. For example, expanded or new discussions of:
 - How meaningful involvement can inform regulatory analysis,
 - New terminology and data (e.g., disability status data from Census),
 - Participatory science in the context of human health risk assessment,
 - Vulnerability as function of intrinsic and extrinsic factors to strengthen link to disparate patterns of exposure and higher incidence of health effects among some populations,
 - Differential monitoring, compliance, and regulatory enforcement,
 - Why some population groups are more vulnerable to climate change,
 - The importance of considering the role of multiple stressors,
 - Hot spots as a function of existing conditions, including discriminatory land use policy,
 - Importance of investigating underlying heterogeneity, among others.

External engagement and review

- Public Comment
 - Closes on January 15, 2024.
 - Informational webinars scheduled for Dec 6 and Dec 12
 - A recording will be available afterwards on the website.
- You can find the draft document and more information on the webinars at:
<https://www.epa.gov/environmental-economics/epa-draft-revision-technical-guidance-assessing-environmental-justice>
- Submit comments through the Federal Register, Docket ID No. EPA–HQ–OA–2013–0320
- Tribes
 - 60-day Tribal consultation period coincides with public comment period
- Science Advisory Board (SAB) review scheduled to begin in January 2024
- Revise draft document in response to all comments received and release in late 2024



Content and updates

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Chapter 2: Key Definitions

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Chapter 7: Research Priorities to Fill Key Data and Methodological Gaps

Glossary

References

Appendices

Overview of Revisions

- **Section 1: Introduction** provides background and outlines the main objectives of the EJ Technical Guidance.
 - Changes include discussing the importance of integrating EJ into rulemaking process early to inform the rule and describing specific EJ analytic requirements from new Executive Orders
 - **Section 2: Key Definitions** reviews key EJ concepts that are expected to influence analytic considerations.
 - Changes include expanding discussions of meaningful involvement as it pertains to analysis and updating and expanding relevant terminology
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Overview of Revisions

- **Section 3: Key Analytic Considerations** discusses questions analysts should strive to answer when evaluating EJ concerns, provides a basic framework to guide the analysis, and presents overarching recommendations and best practices.
 - Changes include
 - refining analytic questions and overarching recommendations,
 - considering cumulative impacts from multiple stressors in the analysis, and
 - broadening concept of baseline beyond directly regulated stressors.

Questions analysts strive to answer with EJ analysis

- **Baseline:** Are there existing (baseline) EJ concerns associated with environmental stressors affected by the regulatory action for population groups of concern?
- **Regulatory options:** Are there potential EJ concerns associated with environmental stressors that are affected by the regulatory action for population groups of concern for the regulatory option(s) under consideration?
- **Mitigation or exacerbation of impacts:** For the regulatory option(s) under consideration, are EJ concerns exacerbated, mitigated, or unchanged compared to the baseline?
- Degree to which questions can be evaluated varies
- EJ Technical Guidance is not prescriptive on approach utilized, but suggests:
 - Two-tiered approach: preliminary + in-depth analysis, as warranted
 - Set of best practices

Overarching Recommendations to Analysts

1. While analysts should use best professional judgement to decide on the type of analysis that is feasible and appropriate, when risks, exposures, outcomes, or benefits are quantified, some level of quantitative EJ analysis is recommended.
 2. Analysts should integrate EJ into the planning of a risk assessment conducted for the regulatory action.
 3. Analysts should strive to characterize the distribution of risks, exposures, or outcomes within each population group, not just average effects.
 4. Analysts should follow best practices appropriate to the analytic questions at hand.
 5. As relevant, analysts should consider any economic challenges that may be exacerbated by the regulatory action for relevant population groups of concern.
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Overview of Revisions

- **Section 4: Contributors to Environmental Justice Concerns** identifies factors that contribute to EJ concerns and highlights reasons why environmental health risks are unevenly distributed across population groups.
 - Changes include:
 - Vulnerability as a function of intrinsic and extrinsic factors to strengthen the link to disparate patterns of exposure and health effects,
 - Discussing climate change as a contributor to higher vulnerability and susceptibility, and
 - Differential monitoring, compliance and enforcement as factors that contribute to increased exposure.

Overview of Revisions

- **Section 5: Considering Environmental Justice when Planning a Human Health Risk Assessment** provides guidance on incorporating EJ concerns into the planning of an HHRA, including descriptions of available methodologies and tools.
 - Changes include
 - substantial reorganization,
 - expanded discussion of cumulative impacts and
 - highlighting the possible role of participatory science.

Overview of Revisions

- **Section 6: Conducting Regulatory Analyses to Assess Environmental Justice Concerns** discusses how to identify and evaluate feasibility and appropriateness of analytic approaches; types of information to include; other analytic considerations; and how to consider costs and non-health effects
 - Changes include:
 - how impacts from multiple stressors may interact with regulatory options;
 - expanded discussions of hotspots, evaluating underlying heterogeneity, Census data, EJScreen, comparison groups, and exposure/risk-based approaches;
 - updates to proximity analysis section, including use of aerial apportionment and how to consider buffer distance in water quality context; and
 - new sections on presenting results and on how differences in compliance/enforcement across options may lead to EJ concerns

Overview of Revisions

- **Chapter 7: Research Priorities to Fill Key Data and Methodological Gaps** provides information on research goals to improve assessment of EJ at the EPA.
 - Based on listening sessions and interviews with program office staff on key gaps.
 - Plan to expand this discussion for the final document to incorporate input from the public, Tribes, and the Science Advisory Board

Glossary and Appendices

- **Glossary** defines key terms; first use is hyperlinked in the document
- **Appendix A:** Select EPA Guidance, Guidelines, and Policy Documents
- **Appendix B:** Incorporating EJ Concerns When Conducting Exposure and Effects Assessments
- Changes include:
 - Update references to reflect newest terms and guidance documents
 - Update to reflect current practice and references
 - Appendix with summaries of recent EJ analyses to be updated and housed separately as companion reference to allow for more frequent updating



Questions?

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