Understanding Environmental Justice:

Guidance for Regulated Facilities

**Frequently Asked Questions from Regulated Sources**

I. Where are we right now?

1. What are the primary tools that EPA is using to advance Environmental Justice?
2. Will EJ Actions begin to focus primarily on regulated Entities directly rather than State and/or Local Governments?
3. What has been the impact on State and Federal relations? How is it different in Blue v. Red states?
4. What is the definition of “disparate impact?” What would be considered an unjustified disparate impact?
5. Can someone define “cumulative impacts” and what role it plays?
6. For air quality issues, why isn’t fence line monitoring enough?
7. Does EJ have a federal legal underpinning outside the civil rights context?
8. Title VI of the Civil Rights Act states that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” But in practice how do States and regulated facilities weave the requirements of the Civil Rights Act into environmental permitting?
   1. Example: When constructing a new air emissions source, there are reasonably clear hoops. If emissions exceed a certain threshold, you have to conduct a BACT analysis to sort out potential controls/limits should apply. Modeling is required to make sure that you are not causing NAAQS issues, etc. But there are no implementing regulations for EJ, no guideposts
9. Are states at risk of losing federal funding for environmental programs?
10. What is the role of the “bully pulpit?” It seemed paramount in Chicago at the General Iron facility?
11. What are the politics of Environmental Justice?
12. To What Extent Will “Red” States Comply With EPA Civil-Rights-Focused Requests?
13. How does EPA take into account the idea of “coming to the nuisance?” In many instances clusters of industrial facilities predate most of the population growth surrounding them. How should that factor into the analysis?
14. EPA has resurrected Supplemental Environmental Projects (SEPS). What role will this play in EJ? Will facilities undergoing enforcement actions be expected to take additional EJ measures via SEPS that are not required by statute or regulation?
15. What is the status of civil rights complaints and EJ actions in Chicago, Flint, San Joaquin, California, Louisiana, and Texas?
16. How did the RMG General Iron facility become the poster child for EJ resistance?
17. What is the “Public Trust Doctrine” and how does it apply to EJ issues and Civil Rights?

II. What does EJ mean to regulated facilities?

1. What should I be doing now if I know an expansion, or extension of a production line, or a new emissions point is being planned for my facility? How does this preparation change if my facility is in an EJ designated area?
2. Is there anything I can do in my permit application to avoid EJ scrutiny?
3. What tips do you have for working with your community on EJ issues.
4. Is it possible to work with environmental groups that do not want the facility no matter what it does?
5. If I have a permit that is being held up and the Agency is silent and inactive, is there anything I should/can do?
6. Should I be considering green field sites for my new project/expansion to avoid EJ?
7. Is buying a big buffer of property around my facility a viable approach to avoiding Agency action against me?
8. What are the “hot buttons” EPA and state agencies are looking at when deciding to take enforcement action against a facility? Are there priority factors that EPA or DOJ look for?
9. What legal recourse is there if an Agency denies me a permit on a civil rights or EJ basis?
10. Should facilities consider hiring Public Relations firms to help out?
11. Will These Changes Last Into Subsequent Non-Democratic Administrations?