

Environmental Justice Disclosure and Notification Requirements

1. Background

Executive Order 12898 entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” states in relevant part that “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...” The order also provides that federal agencies are required to implement the order consistent with and to the extent permitted by existing law.

In addition, in May 2013, EPA Region 1 issued the *EPA Region 1 Regional Implementation Plan to Promote Meaningful Engagement of Overburdened Communities in Permitting Activities*, which describes actions that the Region’s permitting programs will take when issuing EPA permits in order to promote greater participation in the permitting process by communities that have historically been underrepresented in the process.¹ It addresses four elements: 1) what types of permits will be prioritized, 2) how these permits will be reviewed for EJ concerns, 3) roles and responsibilities within Region 1 to carry out this plan, and 4) what actions Region 1 will take to ensure enhanced meaningful involvement where there are EJ concerns. Conducting enhanced outreach for permits that impact communities that have been historically underrepresented in the permitting process is a key element of Region 1’s efforts to help ensure meaningful involvement.

Such efforts are in accordance with EPA’s national strategy concerning EJ. EPA’s *EJ 2020 Action Agenda*² directs program and regional offices to help communities understand the permitting process and effectively participate in it. It also directs them to establish frameworks to screen for EJ concerns during permitting actions. This information should be used to inform permitting conditions, within the scope of pertinent legal authorities.

EPA’s reissuance of a National Pollutant Discharge Elimination System (NPDES) general permit does not apply to a specific site. However, individual sites that seek to be covered under the Dewatering and Remediation General Permit (DRGP) after the general permit is reissued, have the potential to be located in environmental justice communities. Therefore, remediation activity discharges seeking coverage under the DRGP must consider environmental justice.

Specifically, operators seeking coverage under the DRGP are required to document in the NOI submitted for a site if that site is located in an environmental justice area have been appropriately identified.

¹ Available at: <https://www.epa.gov/environmentaljustice/epa-region-1-regional-implementation-plan-promote-meaningful-engagement>

² Available at: https://www.epa.gov/sites/default/files/2016-05/documents/052216_ej_2020_strategic_plan_final_0.pdf

2. Environmental Justice Notice of Intent Criteria

EJSCREEN is an EJ mapping and screening tool that provides EPA and the public with a nationally consistent dataset and approach for combining environmental and demographic indicators into “EJ Indices.” EJSCREEN uses “EJ Indices” to highlight places that may have higher environmental burdens and vulnerable populations for each United States census block group. The 11 EJ Indices are a combination of environmental data measures overlaid with demographic data measures. This is the formula for the index:

$$\text{EJ Index} = (\text{Environmental Indicator}) \times (\text{Demographic Index for Block Group} - \text{Demographic Index for US}) \times (\text{Population Count for Block Group})$$

The 12 environmental indicators EJSCREEN uses are the concentration of 2.5 particulate matter (in $\mu\text{g}/\text{m}^3$), ozone concentration (in ppb), diesel particulate matter (in $\mu\text{g}/\text{m}^3$), air toxics cancer risk (in lifetime risk per million), air toxics respiratory hazard index (from 0 to 1), traffic proximity and volume (in daily traffic count/distance to road), lead paint indicator (represented as the percentage of pre-1960 housing), superfund proximity (represented as the site count/km), RMP proximity (represented as the facility count/km), hazardous waste proximity (represented as the facility count/km), underground storage tanks, and wastewater discharge indicator (represented as the toxicity-weighted concentration/m).

EJSCREEN uses eight socioeconomic indicators as very general view of a community’s potential susceptibility to environmental pollution. These indicators include the population of people of color, low-income population, unemployment rate, linguistically isolated population, population with less than high school education, population under 5 years of age, population over 64 years of age, and demographic index (combination of percent low-income and percent minority).

The following two instructions indicate how operators seeking coverage under the DRGP can meet the information disclosure requirements for environmental justice under this general permit. Operators will be required to certify in the DRGP NOI which of the below criteria applies to their discharges and/or site activities and provide any supporting documentation.

*If at least **ONE** of the EJ indices is above the 80th percentile (nationally), then the site in question is considered in an area of EJ concern, per Region 1 policy.*

EJ Criterion A: No environmental justice indices are above the 80th percentile at the site or the discharge location.

EJ Criterion B: One or more environmental justice indices are above the 80th percentile at the site or the discharge location.

Operators seeking coverage under the DRGP must, at a minimum, review information available on the EPA’s website at <https://www.epa.gov/ejscreen>. Instructions for documenting the minimum required information can be found in Section 3 of this appendix. The relevant contacts for environmental justice are listed in Sections 4 and 5 of this appendix. Operators seeking coverage may also contact city, county, or other local entities for assistance.

3. Notice of Intent Documentation Requirements

To determine whether one or more environmental justice indices are present within the action area of a site or discharge point, the operator must review all reasonably ascertainable information that must include, at a minimum, mapping using EPA's EJSCREEN. EPA anticipates providing additional resources to assist applicants in following the assessment methodology for EJ in this appendix on EPA Region 1's DRGP website.³

To access EJSCREEN's mapping tool, navigate to <https://ejscreen.epa.gov/mapper/>.

To determine EJ indices at a site, type the street address or latitude/longitude coordinates in the search box in the upper right-hand corner labeled "Find address or place," then click on the magnifying glass to show search results.

After searching, click on the "X" where the site is located, then click on "Explore Reports" in the popup box.

Within the box titled "Explore Reports," navigate to the tab labeled "Socioeconomic Indicators," and ensure that all boxes (demographic index, people of color population, low-income population, linguistically isolated, less than HS education, under age 5, over age 64) are checked.

Once all boxes are checked, scroll down within the box titled "Explore Reports," and click on "Get Data Table."

If one or more EJ index is found to be present with a "Percentile in USA" value above 80, an operator must select Criterion B in the NOI and attach the tabular data report from EJSCREEN. To export data on EJ indices, click on the blue Export button on the right-hand side of the box titled "Tabular View." Report demographic indices in tabular form.

The additional documentation submitted to EPA will be used to review the application with respect to environmental justice indices. This documentation must include a description of any activity or site/discharge control measures that specifically address any of the environmental data measures applicable to the site and/or discharge.

EPA encourages operators seeking coverage that determine one or more environmental justice indices to be present above the 80th percentile (nationally), to contact the EPA Region 1 Public Affairs Office listed in Section V, below, for assistance. EPA may conduct or require enhanced outreach and/or additional permit conditions, including, but not limited to: additional monitoring, limitations, reporting, and notification requirements. Any such terms and conditions will be included in an operator's authorization to discharge.

³ EPA Region 1's DRGP website is currently accessed at: <https://www.epa.gov/npdes-permits/remediation-general-permit-rgp-massachusetts-new-hampshire>

4. Notification Requirements

Any operator that selects Criterion B is required to develop a public notification program for discharges affecting EJ communities and include this program in the overall BMP Plan for the site. This program must be implemented upon initiation of discharges and include the following:

1. Signage posted at the site that identifies:
 - a. NPDES permit number
 - b. discharge points
2. Operator contact information (including telephone number)
3. Initial Notification to potentially affected public entities, and the public of:
 - a. the site location
 - b. a description of the discharge(s)
 - c. when the discharge will occur
4. Operator contact information (including telephone number)
5. Supplemental Notification after becoming aware that the discharge has been terminated to the aforementioned entities that specifies the date the discharge ended.

5. EPA Region 1 Environmental Justice Contact

Jeffrey Norcross
5 Post Office Square, Suite 809
Boston, MA 02109
T: 617-918-1839
E-mail: norcross.jeffrey@epa.gov

6. Massachusetts and New Hampshire Environmental Justice Contacts

Massachusetts Department of Environmental Protection:

Deneen Simpson
Environmental Justice Coordinator
1 Winter Street
Boston, MA 02108
T: (617) 624-6000
Email: deneen.simpson@mass.gov
<http://www.mass.gov/environmental-justice>

New Hampshire Department of Environmental Services

Karen Craver
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