



Environmental Justice...a Primer

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HISTORY

RECENT DEVELOPMENTS

EPA Definition

Environmental Justice (EJ) is 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.

This goal will be achieved when everyone enjoys:

- The same degree of protection from environmental and health hazards, and
- Equal access to the decision-making process to have a healthy environment in which to live, learn, and work.

History

- Civil Rights Movement (1960s) -- The EJ movement was started by individuals, primarily people of color, who sought to address the inequity of environmental protection in their communities.
- Memphis Sanitation Strike (1968) -- The first time African Americans had mobilized a national, broad-based group to oppose what they considered environmental injustices. Rev. Dr. Martin Luther King, Jr. investigated an environmental injustice incident and advocated for better working conditions and pay for striking Memphis, Tennessee, garbage workers.
- Sit-in Against Warren County, NC PCB Landfill (1982) -- The second time African Americans mobilized a national, broad-based group was a nonviolent sit-in protest against a PCB landfill. This event is widely understood to be the catalyst for the EJ Movement.
- US General Accounting (now Accountability) Office Report on the location of offsite hazardous waste landfills in the 8 southern states of EPA Region 4, concluding that of the 4 such sites, 3 were located in predominantly African-American communities. (1983)

History

- The United Church of Christ Commission on Racial Justice (UCC) expanded the GAO study nationwide, examining the statistical relationship between hazardous waste sites and the racial/socioeconomic composition of host communities. (1988) -- This study found that over 15 million African Americans, 8 million Hispanics, and half of all Asian/Pacific Islanders and Native Americans resided in communities with at least one abandoned or uncontrolled toxic waste site.
- EPA Administrator Bill Reilly established the EPA Environmental Equity Workgroup. (1990) EPA HQ and regional staff studied the evidence that racially and economically disadvantaged communities bore a higher environmental risk burden and considered what EPA could do about any disparities.
- EPA Office of Environmental Equity Established (1992) – recommended by Environmental Equity Workgroup. In 1994, the name was changed to the Office of Environmental Justice (OEJ).
- EPA National Environmental Justice Advisory Council (NEJAC) established (1993). Members from government, private sector, NGOs, community groups, academia provide independent advice on incorporating EJ into EPA operations.
- Executive Order 12898 (1994) -- President Bill Clinton “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” to focus federal attention on the environmental and human health conditions of minority and low-income populations with the goal of achieving environmental protection for all communities.

Clinton EO 12898 “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations” (Feb 11, 1994)

- **Interagency Environmental Justice Working Group**
 - Working Group shall 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
- **Each agency to do agency-wide EJ strategy**
 - that identifies and addresses disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low-income populations.
 - lists 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
 - (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
 - (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations

Obama Administration

Memorandum of Understanding on Environmental Justice and EO 12898

- To renew need for agency EJ strategies, procedures for Interagency Workgroup, specify areas of focus for agency EJ efforts
- Each Agency: Environmental Justice Strategy final in one year
 - Annual Reports due Feb 11 each year
- Areas of focus:
 - disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations, including, but not limited to, as appropriate for its mission, in the following areas: (1) implementation of the National Environmental Policy Act; (2) implementation of Title VI of the Civil Rights Act of 1964, as amended; (3) impacts from climate change; and (4) impacts from commercial transportation and supporting infrastructure (“goods movement”).

EPA Recent Actions

- EPA Issues Interim Rulemaking Process Guidance (2010) -- The Agency issued the Interim Guidance on Considering EJ During the Development of an Action (Rulemaking Process Guidance) and completed the Draft Technical Guidance for Assessing EJ in Regulatory Analysis (EJ Technical Guidance) in August 2012 for internal review
- EPA Developing EJ Considerations in Permits (2013) -- As part of its ongoing efforts under Plan EJ 2014 to integrate EJ into all of its programs, the EPA is published Actions that EPA Regional Offices Are Taking to Promote Meaningful Engagement in the Permitting Process by Overburdened Communities and Promising Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Neighboring Communities.
- EPA Final Guidance on Considering Environmental Justice During the Development of a Regulatory Action (2015) and Final Guidance for Assessing Environmental Justice in Regulatory Analysis (2016)
- EJSCREEN Released (2015) -- EPA's EJ screening and mapping tool, was developed in 2012 to provide the agency with a nationally consistent approach and datasets for considering EJ. This web-based tool is used by EPA and State Agencies to inform outreach and stakeholder engagement, enhance place-based work, and implement various aspects of a variety of agency programs.
- Final Framework for EJ 2020 Action Agenda (2015) -- EPA's strategic plan for advancing EJ for the years 2016-2020, building on the work of Plan EJ 2014.

EPA EJ Guidance 2015 / 2016

- Guidance on Considering EJ During Development of Regulatory Action (2015)
 - direction on when EJ should be considered during rulemaking
 - directs analysts to assess whether EJ concerns exist prior to the rulemaking and whether such concerns are exacerbated or mitigated for each regulatory option under consideration
- Technical Guidance for Assessing EJ in Regulatory Analysis (2016)
 - to help EPA analysts evaluate potential environmental justice (EJ) concerns associated with EPA regulatory actions
 - 4 recommendations to analysts to ensure consistency in EJ assessments
 1. best professional judgment to determine the combination of quantitative and qualitative analysis that is possible and appropriate for each regulatory action;
 2. integrate applicable questions during planning and scoping and problem formulation stages of risk assessment
 3. follow identified best practices for incorporating potential EJ concerns into regulatory analysis
 4. consider distribution of costs associated with a regulatory option from an EJ perspective

EPA EJ Strategic Plan for 2016-2020

Strategy 1: Direct more EPA enforcement resources to most overburdened communities.

Action 1.1: build on existing tools (e.g., EJSCREEN) and data to help EPA regional offices and co-regulators (states, tribes and local governments) focus compliance reviews in overburdened communities where there is a high likelihood of facilities' non-compliance with environmental laws.

Action 1.2: increase compliance evaluations and enforcement actions for serious violations affecting overburdened communities.

- Over next 5 years, work with co-regulators to do community-focused compliance reviews and enforcement strategies in at least 100 of the most overburdened communities where data indicate that facilities present a high likelihood of serious non-compliance issues impacting those communities, and address serious violations if found.

Action 1.3: EPA will achieve more settlements that benefit overburdened communities impacted by pollution violations.

- benefits to be achieved through injunctions, mitigation, supplemental environmental projects

EPA EJ Strategic Plan for 2016-2020

Strategy 2: Work with federal, state, tribal and local co-regulatory partners to pursue vigorous enforcement for violations in overburdened communities and leverage limited compliance resources by improving joint planning and targeting of enforcement activities.

Action 2.1: EPA will work with co-regulators to build an environmental justice community of practice on enforcement and compliance issues.

Action 2.2: EPA regional offices annual joint planning with states.

Action 2.3: Improve coordination with tribes re compliance in Indian country.

EPA EJ Strategic Plan for 2016-2020

Strategy 3: Strengthen communication so enforcement cases can benefit from the knowledge of local communities, and empower communities with information about pollution and violations that affect them.

Action 3.1: EPA will empower communities with information about pollution and violations that affect them.

- Web posted data and Next Generation Compliance initiative to increase compliance through advances in pollutant monitoring and information technology to reduce pollution

Action 3.2: EPA will strengthen communication with communities (including members of the public with limited English proficiency) on enforcement and compliance work that affects them.

- Enforcement and Compliance History Online (ECHO) data tool, which provides publically available compliance and enforcement information for regulated facilities nationwide. Specifically, EPA will expand ECHO to include: 1) more criminal enforcement data to increase transparency and information to communities, and 2) an EJSCREEN-based flag to assist ECHO users to search for facilities located in potentially overburdened areas. EPA will also make available materials to help communities better understand EPA's enforcement process.

Biden EO 13990 “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis” (Jan 20, 2021)

Section 1. Policy. Our Nation has an **abiding commitment to empower our workers and communities**; promote and protect our public health and the environment; and conserve our national treasures and monuments, places that secure our national memory. **Where the Federal Government has failed to meet that commitment in the past, it must advance environmental justice.** It is, therefore, the policy of my Administration to listen to the science; to improve public health and protect our environment; to ensure access to clean air and water; to limit exposure to dangerous chemicals and pesticides; **to hold polluters accountable, including those who disproportionately harm communities of color and low-income communities**; to reduce greenhouse gas emissions; to bolster resilience to the impacts of climate change; to restore and expand our national treasures and monuments; and to **prioritize both environmental justice and the creation of the well-paying union jobs necessary to deliver on these goals.** .

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Biden EO 13990 “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis” (Jan 20, 2021)

Government-wide Justice40

Agencies to publish recommendations on how Federal investments in the green economy might be made toward a goal that 40 percent of the overall benefits flow to disadvantaged communities.

The recommendations shall focus on investments in the areas of clean energy and energy efficiency; clean transit; affordable and sustainable housing; training and workforce development; the remediation and reduction of legacy pollution; and the development of critical clean water infrastructure.

The recommendations shall reflect existing authorities the agencies may possess for achieving the 40-percent goal as well as recommendations on any legislation needed to achieve the 40-percent goal.

CEQ, OMB, National Climate Advisor, in consultation with the Advisory Council and the disadvantaged communities develop a plan within 120 days for the 40-percent goal performance toward the goal tracked through an Environmental Justice Scorecard

Biden Administration – White House EJ Advisors

White House EJ Advisors

- White House EJ Advisory Council and White House EJ Interagency Council
 - Added 18 members
 - EPA EJ Advisory Council will provide advice
 - strengthen EJ monitoring and enforcement through new or stronger offices at EPA, DOJ, HHS
 - Advise on ways to update EO 12898 of February 11, 1994.
- National Climate Task Force headed by National Climate Advisor
 - Members are heads of 21 federal agencies and departments

Directives to Agencies

- CEQ: build on EJSscreen to create climate and economic justice interactive maps of vulnerable communities
- DOJ: consider creating an Office of Environmental Justice
- HHS: establish Interagency Working Group to Decrease Risk of Climate Change to Children, the Elderly, People with Disabilities, and the Vulnerable

Biden Administration – White House Science Advisors

Executive Order 14007 on the President's Council of Advisors on Science and Technology (Jan 27, 2021)

- Sec. 3. Functions. (a) The PCAST shall advise the President on matters involving policy affecting science, technology, and innovation, as well as on matters involving scientific and technological information that is needed to inform public policy relating to the economy, **worker empowerment**, education, energy, the environment, public health, national and homeland security, **racial equity**, and other topics.

Biden Memorandum Modernizing Regulatory Review

January 20, 2021

“Our Nation today faces serious challenges, including a massive global pandemic; a major economic downturn; systemic racial inequality; and the undeniable reality and accelerating threat of climate change. . . .”

Sec. 2. Implementation.

OMB: consult with agencies and make recommendations “for improving and modernizing regulatory review.” concrete suggestions on how regulatory review can promote public health and safety, economic growth, social welfare, racial justice, environmental stewardship, human dignity, equity, and the interests of future generations.

- also include proposals to ensure regulatory review is a “tool to affirmatively promote regulations that advance these values.” Use “public engagement with relevant stakeholders.”
- (b) In particular, the recommendations should:
 - (i) identify ways to modernize and improve the regulatory review process, including through revisions to OMB's Circular A-4, Regulatory Analysis, 68 Fed. Reg. 58,366 (Oct. 9, 2003), to ensure that the review process promotes policies that reflect new developments in scientific and economic understanding, fully accounts for regulatory benefits that are difficult or impossible to quantify, and does not have harmful anti-regulatory or deregulatory effects;
 - (ii) **propose procedures that take into account the distributional consequences of regulations, including as part of any quantitative or qualitative analysis of the costs and benefits of regulations, to ensure that regulatory initiatives appropriately benefit and do not inappropriately burden disadvantaged, vulnerable, or marginalized communities;**
 - (iii) consider ways that OIRA can play a more proactive role in partnering with agencies to explore, promote, and undertake regulatory initiatives that are likely to yield significant benefits; and
 - (iv) identify reforms that will promote the efficiency, transparency, and inclusiveness of the interagency review process, and determine an appropriate approach with respect to the review of guidance documents.

Biden Administration

EPA Administrator Michael Regan

“We will move with a sense of urgency on climate change and we will stand up for environmental justice and equity.”

US Attorney General Merrick Garland, at Senate Confirmation Hearing

- Asked to define “systemic racism”

“It is plain to me that there is discrimination and widespread disparate treatment of communities of color and other ethnic minorities in this country,” Garland said. “They have disproportionately lower employment, disproportionately lower income rate, disproportionately lower ability to accumulate wealth.”

EPA Outreach underway

- National Environmental Justice Public Engagement Calls
- EPA Environmental Justice and Systemic Racism Speaker Series
 - explores how addressing systemic racism and roots of disproportionate environmental and public health impacts is key to integrating EJ in policies and programs of EPA and other environmental agencies

Compliance, Enforcement, Lawsuits

In the Courts: EJ as basis for permit challenges

- Formosa Plastics Group planned \$9 billion plastics complex in Welcome, LA
 - Army Corps permits challenged, using EJTool as evidence
- 14 LA DEQ air permits challenged by ENVs
 - State judge ordered LDEQ to redo EJ analysis “show me the science”

Superfund 5-year review of USS Lead Superfund Site at Chicago, IL

- precedent for application of EJ principles to Superfund analysis and decisions

Securities and Exchange Commission

- Senior Policy Advisor for Climate and ESG
 - to look broadly at how ESG matters intersect with SEC regulatory framework & advance related new initiatives
- Climate and ESG (environmental, social, governance) Task Force
 - Use of resources, including sophisticated data analysis to mine and assess information across registrants, to identify potential violations.
 - Initial focus - identify material gaps or misstatements in issuers’ disclosure of climate risks under existing rules
 - Also will analyze disclosure and compliance issues relating to investment advisers’ and funds’ ESG strategies.

PRACTICAL APPLICATIONS
OF
ENVIRONMENTAL JUSTICE GUIDANCE

EPA Region V



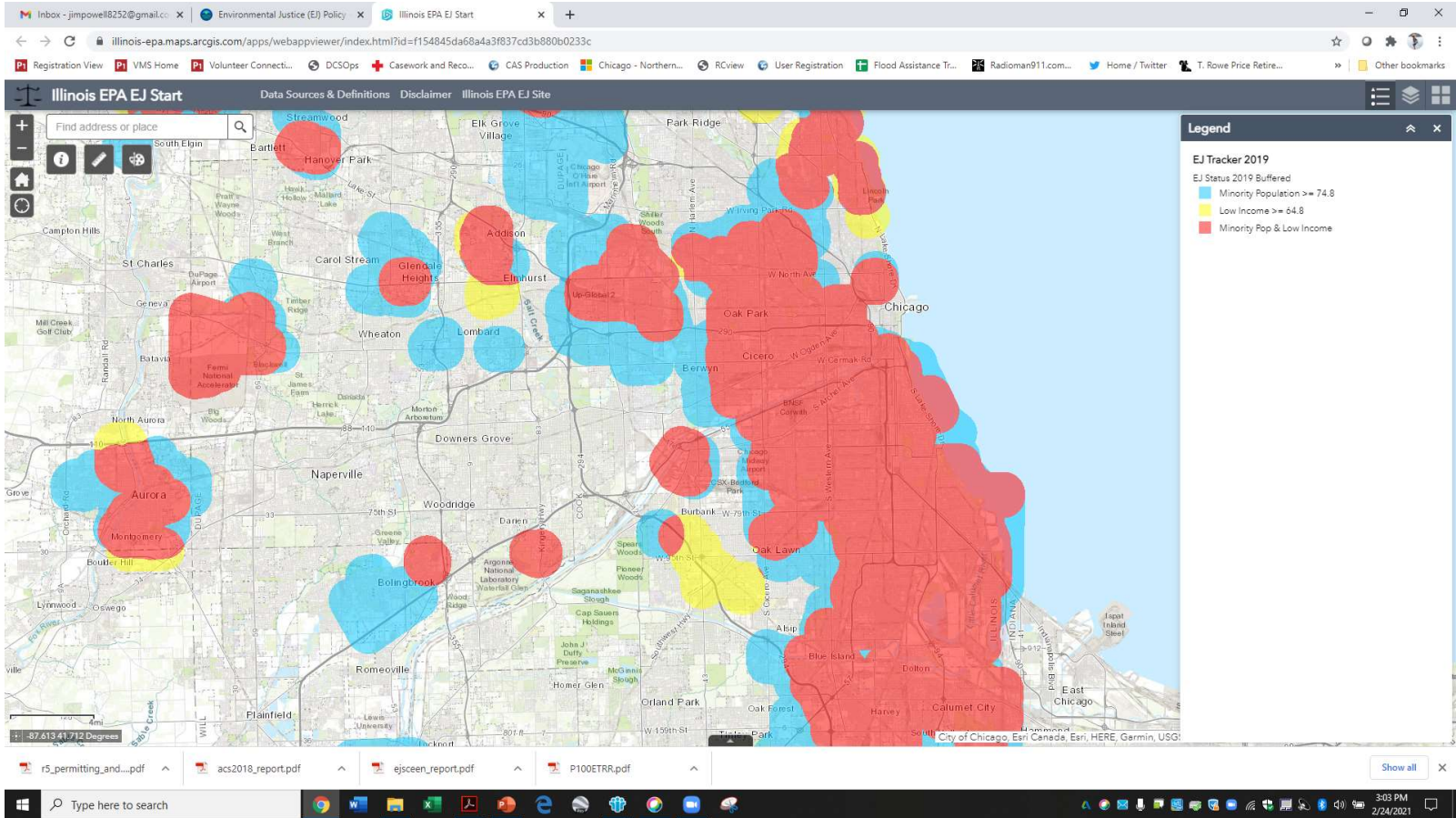
- Region EJ program works regularly with community organizations in a variety of ways including by hosting and attending community meetings. Region 5 has a strong relationship with co-regulators at the state and local level. Collaborate with states on geographic initiatives and provide the states with technical support including training.
- Region works to achieve EJ in its enforcement, permitting, and community-based work, as part of a comprehensive national commitment to consider EJ in all aspects of EPA's decision-making process:
- Enforcement programs assure compliance with federal laws that protect public health and the environment, holding all facilities to an equal standard wherever they are located and focusing our attention on areas where there are potential disproportionate impacts.
- Permitting programs ensure that permits are issued in accordance with federal law and that surrounding communities are equally protected.
- Community-based work brings a full range of program resources to communities living with EJ concerns. Working with community residents and organizations, we partner with other federal, state, and local agencies to address these concerns and make a visible difference.

Illinois EPA



- The Illinois Environmental Protection Agency (Illinois EPA) is committed to protecting the health of the citizens of Illinois and its environment, and to promoting environmental equity in the administration of its programs to the extent it may do so legally and practicably. The Illinois EPA supports the objectives of achieving environmental equity for all citizens of Illinois.
- "Environmental Justice" is based on the principle that all people should be protected from environmental pollution and have the right to a clean and healthy environment. EJ is the protection of the health of the people of Illinois and its environment, equity in the administration of the State's environmental programs, and the provision of adequate opportunities for meaningful involvement of all people with respect to the development, implementation, and enforcement of env. laws, regulations, and policies.

EJ Start



EJ on Projects Prior to 2021




- Rockford Energy Center
- Reliant Aurora

Rockford Energy Center

Energy Justice Network
Map BETA

Home People Groups **Facilities** Events Resources About Login

NRG Rockford II Energy Center




 168 MW

Address

136 Harrison Ave
Rockford, IL 61104
United States

Winnebago County
Latitude: 42.23856
Longitude: -89.10049
Year Opened: 2002
Water Source: Not Applicable

Edits

[Log In](#) to edit this entry
[Suggest a Change to this Entry](#)

Take Action

[Request Control of this Facility](#)

Environmental Justice Analysis

Distance (miles)	0	2.5	5	10	25
American Indian		0.8%	0.5%	10 mile radius	
Asian	7.0%	3.5%	2.2%	2.5%	2.0%
Black	45.4%	25.7%	25.0%	17.1%	10.2%
Hispanic	31.4%	30.8%	19.2%	13.9%	11.9%
White	13.7%	37.4%	51.0%	64.3%	74.0%
Population	628	20k	92k	195k	373k
Income	\$20k	\$30k	\$38k	\$46k	\$58k

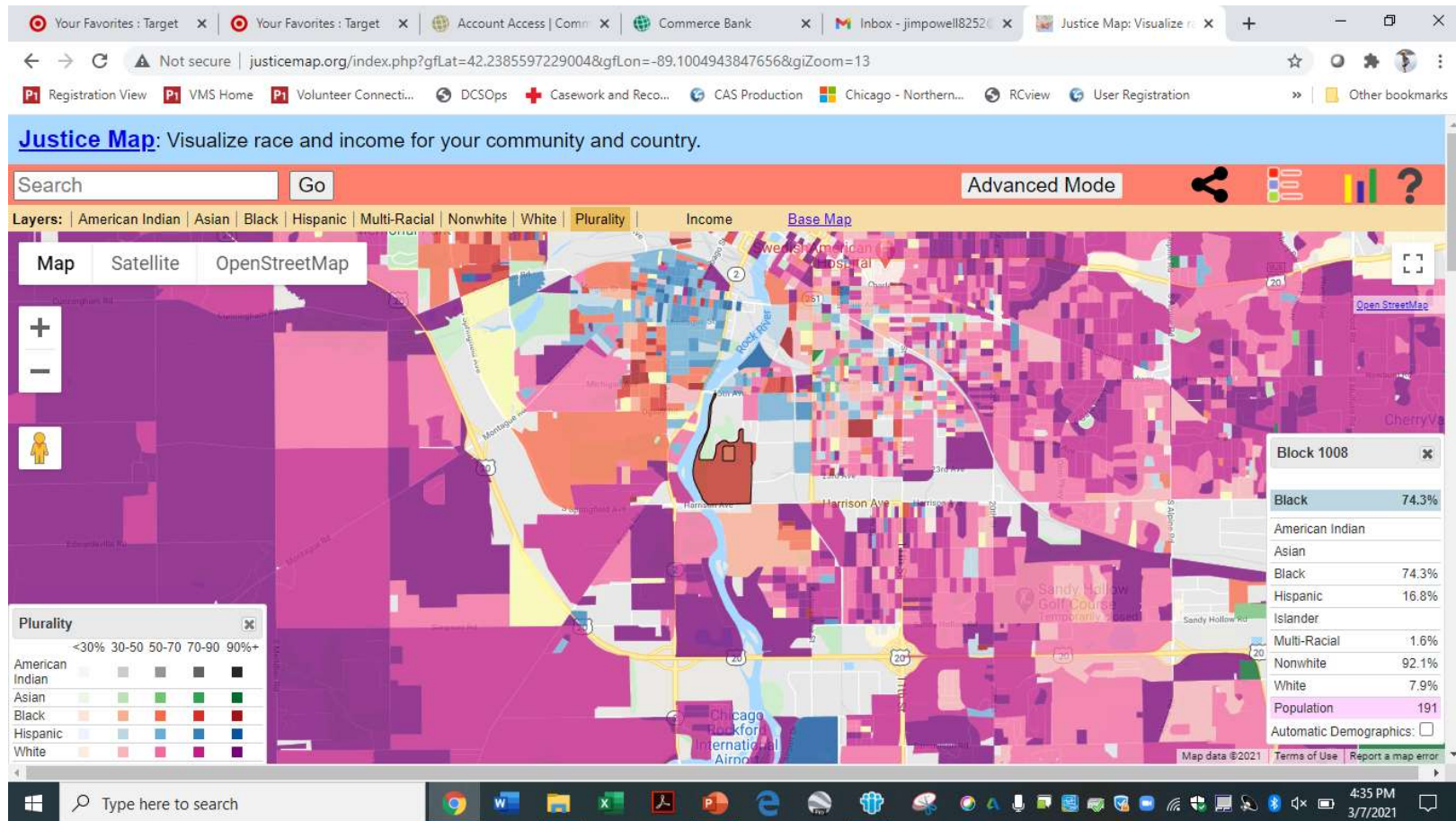
[Visualize demographics on Justice Map](#)

CORPORATIONS

Name	Relation	Ownership
NRG Energy, Inc	Owner	100%

Windows taskbar: 4:33 PM 3/7/2021

Justice Map – Rockford Site



Reliant Aurora

Aurora

355 MW

Address

2909 North Eola Road
Aurora, IL 60504
United States
DuPage County
Latitude: 41.8151
Longitude: -88.2265
Year Opened: 2001
Water Source: Well

Edits

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Environmental Justice Analysis

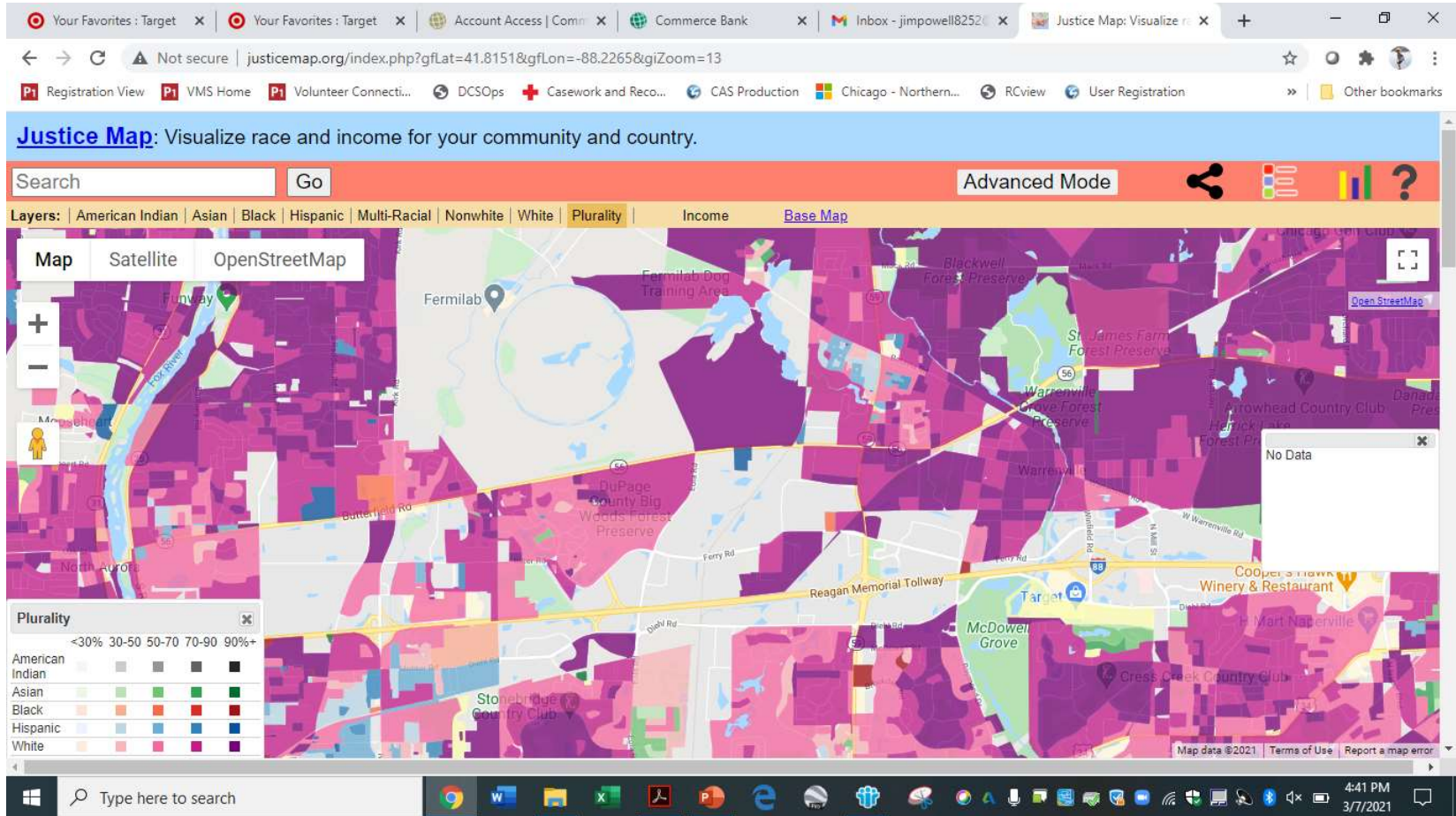
Distance (miles)	0	2.5	5	10	25
American Indian	0.3%	0.6%	0.4%	0.4%	0.4%
Asian	8.1%	9.0%	11.6%	7.0%	8.3%
Black	4.0%	7.5%	7.5%	6.4%	6.3%
Hispanic	13.6%	20.4%	16.6%	25.8%	18.6%
White	72.1%	60.7%	62.3%	59.3%	65.3%
Population	1,979	15k	70k	447k	2,108k
Income	\$79k	\$96k	\$93k	\$88k	\$91k

[Visualize demographics on Justice Map](#)

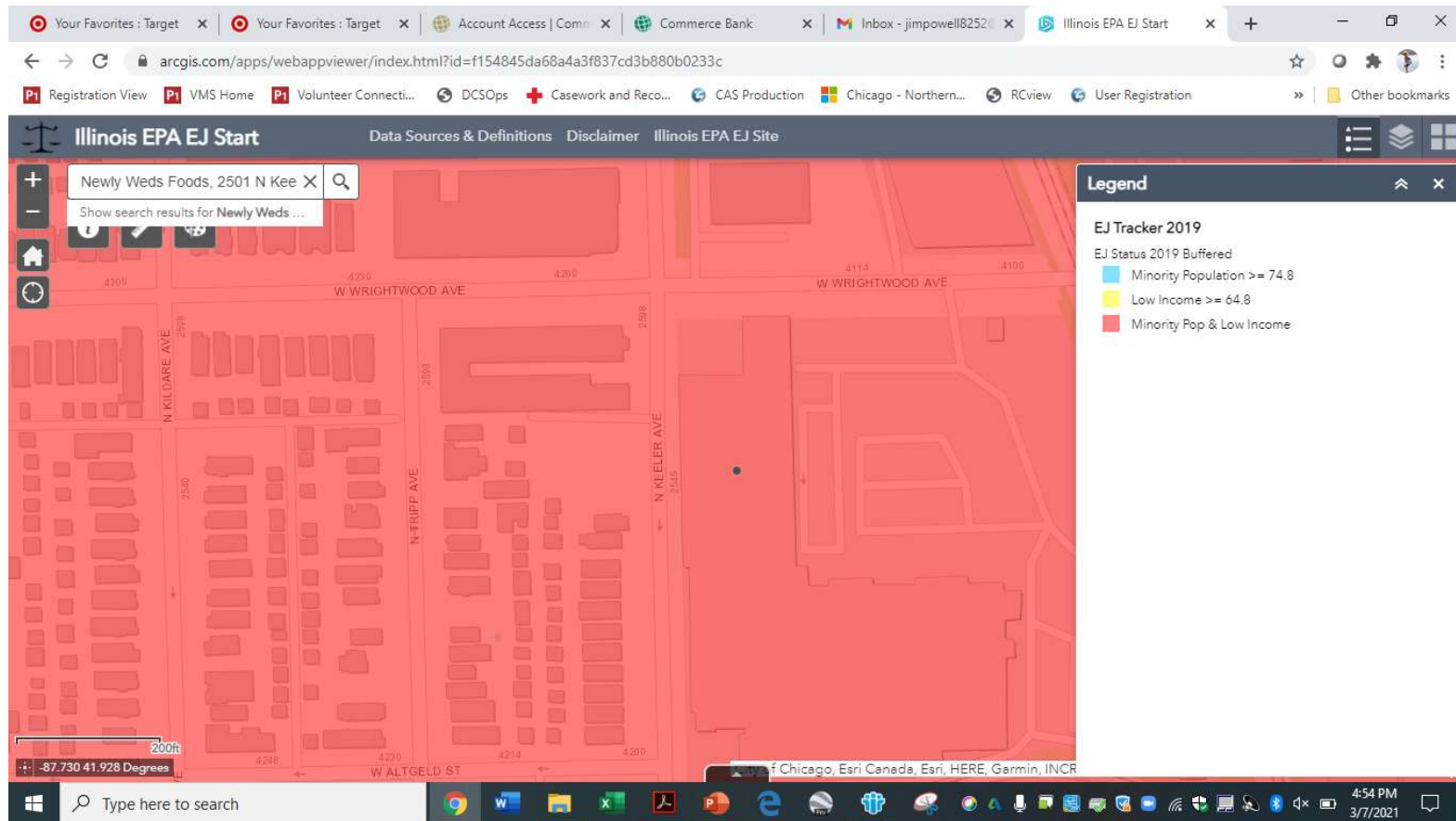
CORPORATIONS

Name	Relation	Ownership
Reliant Energy Wholesale Generation LLC	Owner	100%

Aurora Site



Post 2021 EJ for a Minor Source Permit



Newly Weds Foods, 2501 N Kee X

Show search results for Newly Weds ...

200ft

javascriptvoid(0); Degrees

Basemap Gallery

- Charted Territory Map
- Colored Pencil Map
- Community Map
- Dark Gray Canvas
- Firefly Imagery Hybrid
- Human Geography Dark
- Human Geography Map
- Imagery
- Imagery Hybrid
- Light Gray Canvas

EJ Screen



- EJ mapping and screening tool that provides EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators.
- Users choose a geographic area; the tool then provides demographic and environmental information for that area. All of the EJSCREEN indicators are publicly-available data.
- EJSCREEN simply provides a way to display this information and includes a method for combining environmental and demographic indicators into EJ indexes.

EJ Screen



- Developed by EPA to highlight places that may be candidates for further review, analysis or outreach to support the agency's EJ work. EPA is releasing EJSCREEN to the public in part to be more transparent about how the agency considers EJ in its work.
- Additionally, it is important to understand that EJSCREEN is not a detailed risk analysis. It is a screening tool that examines some of the relevant issues related to EJ, and there is uncertainty in the data included.

Purposes and Uses of EJSCREEN



- EJSCREEN allows users to access high-resolution environmental and demographic information for locations in the United States, and compare their selected locations to the rest of the state, EPA region, or the nation.
- The tool may help users identify areas with:
 - Minority and/or low-income populations
 - Potential environmental quality issues
 - A combination of environmental and demographic indicators that is greater than usual
 - Other factors that may be of interest

EJ Screen Indexes

The 11 EJ Index names are:

- National Scale Air Toxics Assessment Air Toxics Cancer Risk
- National Scale Air Toxics Assessment Respiratory Hazard Index
- National Scale Air Toxics Assessment Diesel PM (DPM)
- Particulate Matter (PM_{2.5})
- Ozone
- Lead Paint Indicator
- Traffic Proximity and Volume
- Proximity to Risk Management Plan Sites
- Proximity to Treatment Storage and Disposal Facilities
- Proximity to National Priorities List Sites
- Wastewater Discharge Indicator



EJ Screen Data Sources

- Toxics Release Inventory (TRI)
- Risk Management Plan (RMP)
- National Emissions Inventory (NEI)
- Greenhouse Gas Reporting Program (GHGRP)
- Clean Air Markets Programs (CAMP)
- National Response Center (SPILLS)
- Excess Emissions Reports (WebFIRE)
- Compliance and Emissions Data Reporting Interface (CEDRI)
- Resource Conservation and Recovery Act (RCRA)



State EJ Tools

- CalEnviroScreen
 - <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>
- Colorado Demo EJ Map
 - <https://mappingforej.berkeley.edu/>
- Maryland Environmental Justice Screen Tool
 - <https://www.ceejhlab.org/mid-atlantic/projects/2019/2/2/md-ejscreen>
- DEQ North Carolina Community Mapping System
 - <https://deq.nc.gov/outreach-education/environmental-justice/deq-north-carolina-community-mapping-system>
- Washington Environmental Health Disparities Map
 - <https://www.doh.wa.gov/DataandStatisticalReports/WashingtonTrackingNetworkWTN/InformationbyLocation/WashingtonEnvironmentalHealthDisparitiesMap>
- What's in my neighborhood – Minnesota PCA
 - <https://www.pca.state.mn.us/data/whats-my-neighborhood>
- New Jersey Environmental Justice Mapping Tool
 - <https://njdep.maps.arcgis.com/apps/webappviewer/index.html?id=34e507ead25b4aa5a5051dbb85e55055>

Considering EJ in Permitting

- Provided guidance to EPA regions on incorporating enhanced public participation for priority EPA-issued permits.
- Provided recommended practices for business and industry on engaging neighboring communities.
- Developed framework and analytic tools to help EPA/State and Local permit writers and managers decide when and how to conduct an EJ analysis for a permit and what, if any, permit terms or other actions may be appropriate to address EJ concerns
- This framework and analytic tools provide information to permitting offices on issues such as:
 - screening for enhanced outreach and EJ analysis
 - conducting enhanced outreach
 - conducting EJ analysis
 - identifying appropriate permit terms and conditions and other outcomes that may result from the permitting process, such as a good neighbor agreement

One bad example

- <https://youtu.be/UzkFYVsNRFE>

Thanks for your time and attention

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