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Four Things to Know About Environmental Justice

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Environmental justice (EJ) has become a driving theme in the mainstream energy and climate policy discourse, and EJ considerations have been at the forefront of the most substantial energy, climate, environmental, and infrastructure policy and personnel decisions of the new Biden-Harris administration. What exactly is environmental justice, how has it evolved in recent years, and how might environmental justice guiding concepts, analytical frameworks, and goals become actionable policy under this administration? These questions have significant implications for how stakeholders and businesses can pursue environmental justice and apply its precepts to their own operations.

1. What is Environmental Justice (EJ)?

The Environmental Protection Agency (EPA) [defines](#) EJ as “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.” Many different communities can experience various forms of environmental injustice; environmental non-governmental organizations (ENGOS), for that reason, often have a slightly broader definition, encompassing not only the impacts of environmental laws, but also housing, transportation, health care, and other systemic issues.

One infamous case of environmental injustice in recent years has been the water crisis in the city of Flint, Michigan—which, in 2016, was 57 percent Black—where local residents’ water supply was [switched](#) from Detroit’s water system to the Flint River, leading to high levels of lead in the water supply, an outbreak of Legionnaires’ disease, and a myriad of other social consequences. Other examples have occurred in [Indigenous](#) lands, impacting Native American tribes throughout the country, as well as the siting of highways and [pipelines](#) along routes that include marginalized or frontline communities, and the placement of [Superfund](#) sites often in low-income communities.

In recent years, EJ has been increasingly viewed through the broader lens of climate change. As the evidence of the worsening consequences of climate change mounts across the country, it is unsurprising that EJ concerns have become central to the national climate mitigation and adaptation discourse. Indeed, recent

The Global Energy Center promotes energy security by working alongside government, industry, civil society, and public stakeholders to devise pragmatic solutions to the geopolitical, sustainability, and economic challenges of the changing global energy landscape.



Now-Secretary of the Interior Deb Haaland speaks during a Senate Committee on Energy and Natural Resources hearing on her nomination in Washington, DC, in February 2021. Graeme Jennings/Pool via REUTERS

years have seen a groundswell of public dialogue and engagement over a range of social justice issues, particularly around systemic racial injustice permeating US social systems and governing institutions. Heightened awareness of these systemic problems has also prompted a more widespread awareness of their linkages, both historical and forward-looking, to environmental protection and climate change. The advent of the 2019 [Green New Deal](#) was in some ways a high-water moment in that evolution with its explicit reference to “systemic injustices” around the environment and impacts of climate change. The summer of 2020 saw a massive national reckoning on racial justice, driven by the murder of George Floyd, an unarmed Black man in Minneapolis, Minnesota killed by police while in custody. The trial of the police officer involved in that incident is currently underway. One month after the video of Mr. Floyd’s murder went viral, the [House Select Committee on the Climate Crisis Report](#) explored EJ issues surrounding the energy and climate nexus at length, with the report’s [summary](#) of its key EJ provisions emphasizing these linkages. The report acknowledges that EJ communities “are living with the effects of decades of inadequate public and private investment and the legacy of policy choices rooted in

racism,” and that “[t]hese communities also are more vulnerable to climate change.” The report recommends a range of policies to redress historic injustices while preparing EJ communities for the future.

Importantly, EJ is not a stand-alone issue. In recent years, there has been a growing discourse among academics and policymakers in a number of emerging disciplines related and adjacent to EJ. Among these, [Energy Justice](#) focuses specifically on the societal dimensions of energy access (e.g., adequate access to clean fuels, reliable electricity, and sufficient energy infrastructure). A modern understanding of Energy Justice, particularly as applied to the US context, prioritizes equitable access to and affordability of clean, low- and zero-emission energy, and non- or minimally-polluting energy infrastructure to underserved and marginalized communities. [Climate Justice](#) is another developing aspect of this discussion which is often viewed as closely related to, or a component of, EJ. Climate justice advocates argue that “climate change can have differing social, economic, public health, and other adverse impacts on underprivileged populations” and these disparities must be addressed in any mitigation and adaptation policies.



Demonstrators protest over the Flint, Michigan, contaminated water crisis outside of the venue where the Democratic US presidential candidates' debate was held in Flint, Michigan, in March 2016. REUTERS/Rebecca Cook

Finally, the concept of a [Just Transition](#) aims to ensure that the benefits of the energy transition are shared particularly among those workers and communities that are most vulnerable to a shift from conventional fuels and industries, such as fossil fuels. Just Transition generally refers to ensuring that workers and communities traditionally engaged in the fossil fuel industries have opportunities in the energy transition, and that they are not left behind by the move away from fossil fuels but rather will have opportunities for employment and social mobility in the sustainable economies of the future. This often includes marginalized and underserved communities traditionally at the heart of EJ, as well as workers and laborers throughout the economy.

2. How is the Biden-Harris Administration Approaching Environmental Justice?

The Biden campaign was clear in its support for EJ as a centerpiece of its energy and climate strategy, explicitly naming that plan: [“The Biden Plan for A Clean Energy Revolution and Environmental Justice.”](#) President Biden’s

plan promised a “whole-of-government approach” to the integration of EJ concerns throughout federal decision-making. It also includes community notification, targeted investment benefits to disadvantaged communities, and mitigation of future risks for these communities as they relate to the next public health emergency and, of course, climate change, effectively integrating the concepts of Environmental Justice, Energy Justice, and Just Transition all within a singular vision.

There are multiple areas where the Biden-Harris administration has telegraphed that it will integrate EJ into its climate governance strategy. One of these has been in the makeup of the Cabinet itself; the historic decision to nominate Rep. Deb Haaland of New Mexico and Michael Regan of North Carolina are two such examples. Secretary Haaland is the first Native American to lead the Department of the Interior, signaling a stronger voice for Native peoples, issues, and priorities at the agency responsible for the management of all federal lands and waters. Secretary Haaland’s appointment is especially significant given the tragic legacy of the US federal government’s broken treaty obligations with Native peoples and abuse of Native lands and resources, as well as



Now-EPA Administrator Michael Regan testifies before a Senate Environment and Public Works Committee hearing on his nomination, on Capitol Hill in Washington, DC, in February 2021. REUTERS/Brandon Bell/Pool

the integral role that Native communities (which have experienced decades of chronic federal under-investment) play in developing and managing conventional resources (e.g. oil, gas, and mining) and will play in managing the energy transition (e.g. use of tribal lands and waters for utility-scale renewable energy, long-distance transmission). Similarly, newly confirmed EPA Administrator Michael Regan, the first Black man to lead the agency, has also promised to reorganize and empower the EPA's Civil Rights Office to more fully enforce civil rights and pursue environmental discrimination cases. Also notable is the appointment of Shalanda Baker as the inaugural Deputy Director for Energy Justice at the Department of Energy, who has [spoken](#) on the need for elevating the voices of communities of color, particularly in energy infrastructure decisions.

On the policy front, the White House has been clear that EJ will inform all federal government actions and the re-regulatory process in the wake of the deregulatory push that defined the Trump administration. One of the Biden-Harris administration's first actions in the [Executive Order on Tackling the Climate Crisis at Home](#)

[and Abroad](#) was creating a new White House Environmental Justice Advisory Council, which will be tasked with directing all federal actions with respect to their impacts on EJ issues. Additionally, the Climate Crisis order also mandated that EPA enhance its enforcement mechanisms to address (and redress) environmental injustices in the form of pollution, air, water, and land degradation. EPA, for example, must coordinate with the Department of Justice to develop a comprehensive EJ enforcement strategy and must improve enforcement of all violations which have specifically impacted underserved communities. The administration has likewise mandated the development of a "Climate and Economic Justice Screening Tool," built off of the existing EPA tool "EJSCREEN," which will use geospatial technology to provide real-time insights on specific environmental threats in underserved communities. The executive branch is not moving on this issue alone; in Congress, the [Environmental Justice for All Act](#) of 2020 is a historically comprehensive piece of legislation that draws on an existing bedrock of US environmental laws (National Environment Policy Act (NEPA), Clean Air and Water Acts) as well as civil rights law to ensure that the

federal government “seek[s] to achieve environmental justice, health equity, and climate justice for all underserved communities.” Other bills, such as the GREEN Act and the Moving Forward Act, likewise acknowledge EJ issues and allocate incentives and resources to addressing them. In the Senate, the recently created Senate Environmental Justice Caucus, co-founded by Senators Tammy Duckworth (D-IL), Cory Booker (D-NJ), and Tom Carper (D-DE), is [taking steps](#) to secure congressional passage of the House Environmental Justice for All Act.

3. How Could EJ Impact Energy Infrastructure Siting and Permitting?

The Biden campaign proposal, “Build Back Better,” was recently formally sent to Congress as the White House’s [American Jobs Plan](#). The infrastructure package would commit \$2.2 trillion in historic public investment toward new sustainable energy infrastructure with high-quality, unionized jobs, using domestic content and supply chains. The American Jobs Plan builds upon the previously announced Justice40 Initiative, which emphasized spreading the benefits of high-quality jobs and federal investment to marginalized communities by expanding the federal effort around EJ significantly. In addition to allocating \$20 billion for new transportation infrastructure designed to “increase opportunity, advance racial equity and environmental justice, and promote affordable access,” \$50 billion for dedicated infrastructure resilience funding will specifically target vulnerable and tribal communities. A further \$5 billion will target “legacy pollution” and cumulative environmental degradation in frontline communities among other allocations. As the Biden-Harris administration presses ahead with its energy transition vision, it is very likely that EJ and related issues will have a significant role to play. How the federal government approaches EJ in permitting decisions will also have implications not just for approving new conventional energy infrastructure, but also for clean and zero-carbon infrastructure widely considered critical to any energy transition strategy.

The Federal Energy Regulatory Commission (FERC), for example, has statutory oversight of the country’s electricity and power generation markets as well as permitting of new interstate natural gas pipelines. In recent years, objections to new natural gas pipelines have increasingly included EJ justifications, such as the [opposition](#) of the Buckingham County freedmen’s community of Union Hill in Virginia to the location of a compressor

station for the now-defunct Atlantic Coast Pipeline. FERC Chairman Richard Glick has signaled that the agency will take a much more robust look at EJ issues in its review of pipeline infrastructure siting moving forward. Once FERC’s new senior-level environmental justice position is filled, project developers should expect FERC to cast a much sharper eye on how pollution and climate impacts affect marginalized and underserved populations. Localized impact mitigation may be required of developers to secure permits for new infrastructure.

Likewise, stakeholder voices representing these communities are likely to be given greater weight in decision-making than they have been accorded in the past. In late February, FERC [announced](#) a workshop on the formation of its new Office of Public Participation, which will include environmental justice and tribal issues among its focus topics. More broadly, heightened stakeholder influence as a component of EJ elevation has implications not just for conventional fossil fuel infrastructure, but also new clean energy infrastructure. Much of the proposed clean infrastructure investment plan would be national in scope, such as high-voltage power transmission or national electric railways. Such large-scale projects will often require siting approval from federal agencies (like FERC, the Department of Transportation, and others) as well as state and local permits or authorizations. Historically, even well-intended major infrastructure projects like these have in some instances resulted in concentrated negative impacts on marginalized communities, and especially communities of color. The build-out of the US National Highway System, for example, is often considered a key achievement of the 20th century; however, its construction from the 1950s to 1970s displaced an estimated 475,000 families as, according to one [analysis](#), “[c]ommunities of color paid a disproportionately high price for the nation’s modern transportation system, only to be denied the advantages it was supposed to deliver.” EJ criteria thus will need to be taken into account by project developers, operators, and investors throughout the energy sector as the implications are all-encompassing and not targeted exclusively to one particular industry or resource.

The Biden-Harris administration could also require deeper consideration of EJ issues in new regulations based on existing US environmental laws, specifically the Clean Air and Water Acts, as well as the implementation guidance for NEPA. The Clean Air Act, for example, provides the statutory foundation for EPA regulation of greenhouse gas (GHG) emissions. A new emissions regulation

could see enhanced, or additional specific requirements for the measurement, monitoring, and management of pollution (e.g., from coal power plants) around or in close proximity to EJ communities. Another key regulatory issue is the Social Cost of Carbon (SCC) metric used to “price” carbon emissions into all federal decision-making. Given the abundance of new research on the disproportionate costs of GHG pollution on EJ communities, it is probable that the final, enhanced SCC will account for EJ impacts with innovative metrics to fully acknowledge the true “costs” of emissions for these communities. Importantly, the federal SCC may influence how state and municipal governments account for the costs of carbon in their actions and approvals going forward, suggesting that the federal SCC has implications for businesses which do not regularly need or seek federal-level authorizations.

4. What Should Companies Do to Address EJ Concerns?

With the dialogue on environmental justice moving forward rapidly and significant changes to how the US government addresses EJ imminent under the Biden-Harris administration, companies which press ahead now on integrating EJ into the foundation of their business practices will likely prove more agile and flexible in response to any new mandates than their competitors.

1. Integrate EJ sincerely and transparently throughout business practices. In addition to educating employees, leadership, and perhaps shareholders about EJ issues and building internal understanding, businesses should pay attention to their workforces, from external suppliers to internal employees, and pursue diversity and inclusion as a strength, not a burden.

2. Consult with EJ communities early, often, and consistently. Corporate leadership should endeavor to make community engagement and consultation the gold standard within their industry, not a box to be checked, and encourage substantive input as decisions are made at every stage of a project’s development, construction, and operation.

3. Make minimizing negative impacts of operations on EJ communities a core corporate policy. Any major project will necessarily entail impacts, both positive and negative, for people and communities adjacent to it. It may be useful, for example, to consider voluntary alternatives or additions (e.g., adjusted routing, emissions capture technology) which may assuage community concerns and could also facilitate faster local, state, and federal environmental impact analyses.

4. Maximize benefits and opportunities associated with the business for EJ communities. Agile project developers should consider community benefits in a comprehensive way encompassing a range of local needs. These could include the addition of new, high-quality jobs in the local area, engagement with schools and local community colleges or technical institutions to partner on workforce training and development, and committing to long-term local investment and a stable community presence.

Federal policymaking and rulemaking can empower disadvantaged communities, tackle the climate crisis, and create opportunity for meaningful local economic activity for decades to come. Businesses which recognize these trends as a positive social development and choose to embrace them will position themselves as leaders within their industry and will be ready to adapt to any policy adjustments, federal or otherwise, as they are developed.

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