

# Plan EJ 2014

## Legal Tools Development



Plan EJ 2014 is EPA's roadmap for integrating environmental justice into its programs and policies.



## LEGAL TOOLS DEVELOPMENT

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### Implementation Plan

September 2011

**Led by**  
Office of General Counsel

U.S. Environmental Protection Agency  
Washington, D.C. 20460



## PLAN EJ 2014 AT A GLANCE

Plan EJ 2014 is the U.S. Environmental Protection Agency (EPA)'s roadmap to integrating environmental justice into its programs and policies. The year marks the 20<sup>th</sup> anniversary of the signing of Executive Order 12898 on environmental justice. Plan EJ 2014 seeks to:

- Protect the environment and health in overburdened communities.
- Empower communities to take action to improve their health and environment.
- Establish partnerships with local, state, tribal, and federal governments and organizations to achieve healthy and sustainable communities.

As the EPA's overarching environmental justice strategy, Plan EJ 2014 has three major sections: Cross-Agency Focus Areas, Tools Development Areas, and Program Initiatives.

### **The Cross-Agency Focus Areas are:**

- Incorporating Environmental Justice into Rulemaking.
- Considering Environmental Justice in Permitting.
- Advancing Environmental Justice through Compliance and Enforcement.
- Supporting Community-Based Action Programs.
- Fostering Administration-Wide Action on Environmental Justice.

### **The Tools Development Areas are:**

- Science.
- Law.
- Information.
- Resources.



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## 1.0 INTRODUCTION

Plan EJ 2014 established a road map to help the U.S. Environmental Protection Agency (EPA) integrate environmental justice into its programs. The Plan outlined five cross-Agency focus areas. The five focus areas are:

1. Incorporating Environmental Justice into Rulemaking.
2. Considering Environmental Justice Concerns in EPA's Permitting Process.
3. Accelerating Compliance and Enforcement Initiatives.
4. Supporting Community-Based Action Programs.
5. Fostering Administrative-Wide Action on Environmental Justice.

In addition, Plan EJ 2014 identifies four tools to support the cross-Agency efforts. One of the tools relates to identifying opportunities to use existing legal authorities to advance environmental justice. The Office of General Counsel (OGC) has been assigned primary responsibility for this tool. This implementation plan discusses the goal, strategy, and activities associated with the development and dissemination of information about EPA's environmental justice-related legal authorities.

### 1.1 Goals

The goal of this Initiative is to provide legal assistance to EPA policy makers and other Agency decision makers to advance their environmental justice objectives. Our vision is that the Agency will use law as a tool to advance environmental justice. By providing advice on EPA's discretionary legal authorities to advance environmental justice, OGC will support the five cross-Agency focus areas. In particular, OGC's advice will help EPA officials to (1) implement forward-leaning environmental justice policies with acceptable legal risk; and (2) identify new opportunities to promote their environmental justice policy objectives. This initiative will advance Administrator Lisa Jackson's environmental justice priority, her commitment to the rule of law, and EPA's overarching mission to protect human health and the environment.

### Goals At-A-Glance

To provide legal assistance to EPA policy makers and other Agency decision makers to advance their environmental justice objectives.

### 1.2 Organizational Structure

OGC will give leadership to Plan EJ 2014's focus areas by helping EPA to integrate environmental justice into its day-to-day business. As the chief legal adviser to the EPA, OGC provides ongoing legal support for Agency rules and policies, case-by-case decisions (such as permits and response actions), and legislation, which includes all of Plan EJ 2014's elements. OGC's practice areas include all of the Agency's programs (i.e., land, air, water, etc.), as well as cross-cutting law areas that including environmental justice, tribal law, and civil rights. OGC regularly interfaces with all the EPA program offices and regions, as well as EPA's ten Offices of Regional Counsel.

## 2.0 IMPLEMENTATION

### 2.1 Strategies

OGC will accomplish its goal of providing legal assistance to EPA policy makers and other Agency decision makers to advance their environmental justice objectives by providing legal support to each cross-Agency focus area workgroup.

#### Using the National Environmental Policy Act to Address Environmental Justice

The National Environmental Policy Act (NEPA) is an important tool that can be used to advance the goals of environmental justice. A 1994 Executive Order requires that all federal agencies identify and address disproportionately high and adverse human health or environmental impacts on minority, low-income and tribal populations. In April 2011, the Assistant Administrator of the EPA's Office of Enforcement and Compliance Assurance reemphasized those requirements in a memo urging EPA offices across the country to enhance efforts to consider environmental justice in fulfilling their NEPA responsibilities.

EPA is required to review all Environmental Impact Statements (EIS) drafted by federal agencies and to make those reviews public, as mandated under Section 309 of the Clean Air Act. This review responsibility puts the EPA in a unique position to monitor how well Federal agencies comply with the Executive Order. Furthermore, the Presidential memo that transmitted the Executive Order states that the EPA, "shall ensure that the involved agency has fully analyzed environmental effects on minority communities and low-income communities, including human health, social, and economic effects."

OGC's activities will promote a sound legal framework for the tools and programs developed by the five focus area workgroups. We will use the resources of OGC and the Offices of Regional Counsel, both at the staff and senior leadership levels, to develop our advice to Plan EJ 2014's workgroups. The persons primarily responsible for coordinating the development and communication of this advice will be the counseling attorneys assigned to each workgroup, in collaboration with senior Agency attorneys and the General Counsel. OGC will conduct this activity contemporaneously with the work of the five cross-Agency focus areas. OGC will participate in the stakeholder outreach implemented by each focus area that we serve.

### 2.2 Activities

OGC will provide legal support to each cross-Agency focus area workgroup through the following activities:

- Activity 1: Counseling attorneys will serve as workgroup members for each cross-Agency focus area. These attorneys are drawn from OGC and its regional offices.
- Activity 2: Regional Counsels and OGC Associate General Counsels will convene regularly to identify legal issues and develop advice in support of the five focus areas.
- Activity 3: The General Counsel will provide active oversight, direction, and decision making on all aspects of Plan EJ 2014, in consultation with the EPA's Senior Leadership.
- Activity 4: OGC will convene a group of senior attorneys from across the federal government to promote the integration of environmental justice into their agencies' actions.



## 2.3 Community Engagement and Stakeholder Outreach

OGC will participate in the stakeholder outreach implemented by each focus area that we serve.

## 2.4 Adjustments

The Office of General Counsel might adjust this implementation plan after a period of implementation.

## 3.0 DELIVERABLES

This portion of the implementation plan incorporates by reference the deliverables, schedules, measures, and reports identified in the implementation plans for the five cross-Agency focus areas. For information, please contact David Coursen, 202-564-0781, [Courses.David@epa.gov](mailto:Courses.David@epa.gov).

**For more information on Plan EJ 2014, visit the U.S. Environmental Protection Agency's Office of Environmental Justice website at: <http://www.epa.gov/environmentaljustice/plan-ej/>**