

**Workshop E:
Environmental Justice (EJ) and Environment,
Social, Governance (ESG): Developments,
Trends, and Impacts from Recent Rulemaking**

March 19, 2024

Presented by:

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What is Environmental Justice?

Environmental Protection Agency's Environmental Justice Strategy, issued April 3, 1995.



Goal - “No segment of the population, regardless of race, color, national origin, or income, as a result of EPA’s policies, programs, and activities, suffers disproportionately from adverse human health or environmental effects, and all people live in clean, healthy and sustainable communities.”

E.O. 14008, *Tackling the Climate Crisis at Home and Abroad*

“To secure an equitable economic future, the United States must ensure that environmental and economic justice are key considerations in how we govern.”

-President Biden, January 27, 2021



E.O. 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*

“[T]he Federal Government should pursue a comprehensive approach to advancing **equity** for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Affirmatively advancing equity, civil rights, racial justice, and equal opportunity is the responsibility of the whole of our Government. .”

-President Biden, January 20, 2021



What is Environmental Justice?

Administrator Regan's 8/29 Memorandum on EPA's Commitment to Environmental Justice

- Environmental Justice 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.
- Fair treatment means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

What is Environmental Justice?

Dw

FY 2022-2026 EPA Strategic Plan (March 2022)

Goal 1: Tackle the Climate Crisis

Goal 2: Take Decisive Action to Advance Environmental Justice and Civil Rights

- Objective 2.1 Promote EJ and Civil Rights at the Federal, Tribal, State, and Local Levels
- Objective 2.2 Embed EJ and Civil Rights into EPA's Programs, Policies and Activities
- Objective 2.3 Strengthen Civil Rights Enforcement in Communities with EJ Concerns

Goal 3: Enforce Environmental Laws and Ensure Compliance.

USEPA Policy on Environmental Justice in Air Permitting

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USEPA policy on Environmental Justice in Air Permitting

Provides an interim operating framework for identifying, analyzing, and addressing environmental justice concerns in the context of Clean Air Act (CAA) permitting

- Intended to implement Executive Orders 14008, 12898, and 13985
- Also Title VI of the Civil Rights Act of 1964 and other federal civil rights laws
- Sets forth 8 Principles for consideration of EJ in air permitting decisions
- **Goal:** “to improve and consistently practice meaningful stakeholder involvement and fair treatment at all stages of the permitting process, promote issuance of air permits containing terms that are appropriately protective of public health and the environment consistent with applicable environmental laws, and improve transparency in the permitting process”

USEPA's Principles for Addressing Environmental Justice in Air Permitting

- Issued December 22, 2022
- Intended to Implement Executive Orders 14008, 12898, and 13985
 - Direct agencies to make achieving environmental justice and equity a part of their mission.
- Also intended to implement Title VI of the Civil Rights Act of 1964 and other civil rights laws with respect to recipients of EPA financial assistance

Goal: “to improve and consistently practice meaningful stakeholder involvement and fair treatment at all stages of the permitting process, promote issuance of air permits containing terms that are appropriately protective of public health and the environment consistent with applicable environmental laws, and improve transparency in the permitting process.”

USEPA's Principles for Addressing Environmental Justice in Air Permitting

Sets Forth 8 Principles

1. Identify communities with potential environmental justice concerns:

- EPA regions and permitting authorities can use EJScreen or other GIS and mapping tools to identify potential EJ communities
- Screen for pre-existing stressors, including other pollution sources and non-pollution stressors
- Potential Civil Rights concerns

USEPA policy on Environmental Justice in Air Permitting

8 Principles (Cont'd)

2) Engage early in the permitting process to promote meaningful participation and fair treatment:

- OAR encourages permitting authorities to identify those permitting actions that may have a disproportionately high and adverse effect on communities, including those with environmental justice concerns, preferably before the permit application is submitted.

USEPA policy on Environmental Justice in Air Permitting

8 Principles (Cont'd)

3) Enhance public involvement throughout the permitting process:

- **When a permitting action may result in disproportionately high and adverse human health or environmental effects on a community, including one with environmental justice concerns, it is important that the permitting authority and permit applicant provide the affected community with meaningful opportunities to provide input into the decisions that will impact residents' lives.**

USEPA policy on Environmental Justice in Air Permitting

8 Principles (Cont'd)

4) Conduct a “fit for purpose” environmental justice analysis:

- When a permitting action may result in disproportionately high and adverse human health or environmental effects on a community, including one with environmental justice concerns, permitting authorities are encouraged to conduct an environmental justice analysis of appropriate scope to inform the permitting decision.

USEPA policy on Environmental Justice in Air Permitting

8 Principles (Cont'd)

4) Conduct a “fit for purpose” environmental justice analysis:

An environmental justice analysis accomplishes two important policy objectives:

(1) it addresses the principle of fair treatment by further evaluating adverse and disproportionate impacts and identifying ways to prevent or mitigate such impacts; and

(2) it addresses the principle of meaningful involvement by fostering enhanced community engagement in the permitting decision.

USEPA policy on Environmental Justice in Air Permitting

8 Principles (Cont'd)

5) Minimize and mitigate disproportionately high and adverse effects associated with the permit action to promote fair treatment.

When a permitting action may result in disproportionately high and adverse human health or environmental effects on a community, including one with environmental justice concerns, permitting authorities can promote fair treatment by fully examining all relevant statutory and regulatory authorities, including discretionary authorities, to **develop permit terms and conditions to address or mitigate identified air quality impacts to the extent feasible.**

USEPA policy on Environmental Justice in Air Permitting

8 Principles (Cont'd)

6) Provide federal support throughout the air permitting process:

When a permitting action by an EPA recipient may result in disproportionately high and adverse human health or environmental effects on a community, including one with environmental justice concerns, **EPA will be available to collaborate with the permitting authority to provide technical support, guidance, and recommendations to address these effects on the community, including cumulative effects.**

USEPA policy on Environmental Justice in Air Permitting

8 Principles (Cont'd)

7) Enhance transparency throughout the air permitting process (Cont'd)

It is important that permitting authorities provide transparency in decision making throughout the air permitting process with consideration of the specific needs of the community. **The administrative record for the permitting action should be readily available** in a format and location that is easily accessible to the affected community.

USEPA policy on Environmental Justice in Air Permitting

8 Principles (Cont'd)

8) Build capacity to enhance the consideration of environmental justice in the air permitting process:

“EPA’s capacity to confront environmental justice challenges will depend on a coordinated, long-term effort with our regulatory partners, stakeholders, and affected communities nationwide.”

USEPA/DOJ Air EJ Enforcement Case Study

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USEPA policy on Environmental Justice in Air Permitting

Enforcement Case Study

USEPA v. Denka Performance Elastomer, et al. Civ Action 2:23-cv-735 (ED LA 2023)

- **Alleges that carcinogenic chloroprene emissions from Denka's plant caused an imminent and substantial endangerment to public health and welfare**
- **Released excessive emissions of chloroprene, a hazardous chemical and likely human carcinogen, used to produce neoprene**
- **Nearby school and residential community**
- **Complaint relies on Section 303 of the CAA**
 - **Asserts Imminent and Substantial Endangerment**
- **Does not allege civil rights violation**

NEW SEC Regulations on Climate- Related Disclosures

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NEW SEC Finalized Regulations on Climate-Related Disclosures

**The Enhancement and Standardization of Climate-Related Disclosures for Investors
Final Rules issued by the SEC on 3/6/2024**

Will be effective 60 days after publication in the Federal Register

Require Climate-Related Disclosures in Registration Statements and Periodic Reports

NEW SEC Proposed Regulations on Climate-Related Disclosures

- **Investors have expressed a need for this information on risks in valuing the securities they currently hold or are considering purchasing.**
- **Investors also seek climate-related information to assess a registrant's management and board oversight of climate-related risks so as to inform their investment and voting decisions.**
- **“The information will assist investors in making decisions to buy, hold, sell, or vote securities in their portfolio.”**
- **Regulations are intended to standardize disclosures.**

NEW SEC Proposed Regulations on Climate-Related Disclosures

Specifically, the final rules will require a registrant to disclose:

- 1. Climate-related risks that have had or are reasonably likely to have a material impact on the registrant's business strategy, results of operations, or financial condition;**
- 2. The actual and potential material impacts of any identified climate-related risks on the registrant's strategy, business model, and outlook;**
- 3. A quantitative and qualitative description of material expenditures for mitigation or adaptation measures**

NEW SEC Proposed Regulations on Climate-Related Disclosures

Required Disclosures (cont'd):

- 4. Any oversight by the board of directors and any role of management in assessing and managing material climate-related risks;**
- 5. Any processes for identifying, assessing, and managing material climate-related risks and how such processes are integrated into the overall risk management system;**
- 6. Information about climate-related targets or goals, that have materially affected or are reasonably likely to materially affect the registrant's business, results of operations, or financial condition.**

NEW SEC Proposed Regulations on Climate-Related Disclosures

Required Disclosures (cont'd):

- 7. For Large Accelerated Filers (LAFs) and Accelerated Filers (AFs) not otherwise exempted, information about material Scope 1 GHG emissions and/or Scope 2 GHG emissions;**
- 8. For Registrants required to disclose Scope 1 and/or Scope 2 emissions, a phase-in of the reporting obligation**
- 9. The capitalized costs, expenditures and losses incurred as a result of severe weather events and other natural conditions, such as hurricanes, tornadoes, flooding, drought, wildfires, and sea level rise**
 - subject to applicable one percent and de minimis disclosure thresholds**

NEW SEC Proposed Regulations on Climate-Related Disclosures

Required Disclosures (cont'd):

- 10. The capitalized costs, expenditures, and losses related to carbon offsets and renewable energy credits or certificates (RECs) if a material component of a registrant's plans to achieve its disclosed climate-related targets or goals, disclosed in a note to the financial statements; and**
- 11. If estimates and assumptions used to produce financial statements were materially impacted by risks and uncertainties associated with severe weather events, disclosed climate-related targets, or transition plans, a qualitative description of how such estimates and assumptions were impacted.**

NEW SEC Regulations on Climate-Related Disclosures

Modeled on the Taskforce on Climate-Related Financial Disclosures (TCFD) Framework and the Greenhouse Gas (GHG) Protocol

Proposed rules would create a new Subpart 1500 to Regulation S-K

Also would add a new Article 14 to Regulation S-X

NEW SEC Regulations on Climate-Related Disclosures

Regulation S-K

- Requirements applicable to the content of the non-financial statement portions of filings
- **Legal proceedings (Item 103)** - requirements for disclosure of environmental legal proceedings arising under any Federal, State, or local laws regulating the discharge of materials into the environment or for the purpose of protecting the environment.
- **Risk Factors (Item 105)** – material factors that make an investment speculative or risky.
- **MD&A (Item 303)** – provide material information relevant to an evaluation of cash flows
 - must focus on material events and uncertainties known to management

NEW SEC Regulations on Climate-Related Disclosures

Existing Disclosure Obligations (Cont'd)

Regulation S-X – prescribes how registrants should disclose financial statements for SEC filings. Sets forth requirements for consolidated balance sheets, income statements, and cash flow statements, and notes to financial statements

NEW SEC Regulations on Climate-Related Disclosures

Greenhouse Gas Protocol (GHG Protocol)

Provides uniform methodology for measuring and reporting the seven greenhouse gasses covered by the Kyoto Protocol

- carbon dioxide
- Methane
- nitrous oxide
- Hydrofluorocarbons
- Perfluorocarbons
- Sulfur hexafluoride
- nitrogen trifluoride

NEW SEC Regulations on Climate-Related Disclosures

GHG Disclosures

- **Disclosure required for a large accelerated filer (“LAF”), or an accelerated filer (“AF”) whose Scope 1 (Direct Emissions) and/or Scope 2 emissions (from generation of electricity used by the Company) are material**
- **Attestation Requirement**
- **No requirement to disclose Scope 3 emissions (all other indirect emissions)**
 - Includes emissions up and down the supply chain
 - Employee commuting or business travel
- **Smaller Reporting Companies (“SRCs”) and Emerging Growth Companies (“EGCs”) are exempt from GHG disclosure requirements**

California GHG Initiatives

California GHG Initiatives

SB 253 - The Climate Corporate Data Accountability Act

- **Signed into law 10/7/2023**
- **Requires large businesses operating in California to publicly report their Greenhouse Gas Emissions**
 - **US businesses with revenues greater than \$1B USD doing business in California**
 - **Includes public and private businesses**

California GHG Initiatives

SB 253 - The Climate Corporate Data Accountability Act (cont'd)

- **Must report comprehensive GHG emissions**
 - **Scope 1 and 2 emissions reporting required starting in 2026**
 - **Scope 3 emissions reporting required starting in 2027**
 - **Third-party assurance required for reports**
 - **GHG Data must be submitted to digital reporting platform**
 - **GHG Emissions data will be made available on CARB's website**
 - **CARB will provide reporting oversight**

California GHG Initiatives

SB 261 - The Climate-Related Financial Risk Act

- Also signed into law 10/7/2023
- Mandates that large US businesses operating in California to bi-annually disclose climate-related financial risks and their mitigation strategies to the public.
- Applies to businesses with annual revenues over \$500M USD
 - US businesses with revenues greater than \$1B USD doing business in California
 - Includes public and private businesses

California GHG Initiatives

SB 261 - The Climate-Related Financial Risk Act (cont'd)

- **Affected organizations will need to provide a climate-related financial risk report detailing the physical and transition threats they face as a result of climate change,**
 - **Must include the measures they're taking to mitigate and adapt to those risks**
 - **Must include full emissions inventory including Scope 3 emissions**
- **Submissions will be reviewed by the Climate-Related Risk Disclosure Advisory Group for adequacy**
- **Violations are subject to penalties up to \$50,000 per reporting year.**

California GHG Initiatives

AB 1305 - The Voluntary Carbon Market Disclosures Act

- **Also signed into law 10/7/2023**
- **Imposes disclosure requirements for entities that either market, sell, and/or purchase voluntary carbon offsets.**
 - **Intended to increase transparency in the voluntary carbon market**
 - **Requires disclosure of information regarding carbon offsets on entity's website**
 - **Penalties for noncompliance are up to \$2,500 per day, not to exceed \$500,000**

California GHG Initiatives

AB 1305 - The Voluntary Carbon Market Disclosures Act (cont'd)

- **An entity that purchases or uses voluntary carbon offsets shall disclose on the entity's internet website the following information:**
 - a) **The name of the business entity selling the offset and the offset registry or program;**
 - b) **The project identification number, if applicable.**
 - c) **The project name as listed in the registry or program, if applicable.**
 - d) **The offset project type, including whether the offsets purchased were derived from a carbon removal, an avoided emission, or a combination of both, and site location.**

California GHG Initiatives

AB 1305 - The Voluntary Carbon Market Disclosures Act (cont'd)

- **An entity that purchases or uses voluntary carbon offsets shall disclose on the entity's internet website the following information (cont'd):**
 - e) **The specific protocol used to estimate emissions reductions or removal benefits.**
 - f) **Whether there is independent, 3rd Party verification of company data and claims listed.**
 - g) **This section does not apply to entities that do not operate within the state, or do not purchase or use voluntary carbon offsets sold within the state.**
 - h) **The offset project type, including whether the offsets purchased were derived from a carbon removal, an avoided emission, or a combination of both, and site location.**
 - i) **Disclosures shall be updated annually.**

Congressional Oversight of ESG Issues

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Dw Congressional Hearings on Alleged ESG Violations

Senate Finance Committee Hearings on Investigation of Alleged Connections between Leather Supply Chain and Illegally Deforested Land and Human Rights Abuses in the Brazilian Amazon

- **June 22, 2023 Hearing on Cattle Supply Chains and Deforestation of the Amazon**
- **July 24, 2023 Senate Inquiry Letter from Senator Ron Wyden, Chairman of the Senate Committee on Finance, to the CEO of Lear Corporation**
 - **Posed specific follow-up questions regarding leather sourcing practices**

Congressional Hearings on Alleged ESG Violations

Senate Finance Committee Hearings (cont'd)

- Triggered by Report from the Environmental Investigation Agency (EIA), an NGO
 - Asserts that Lear Corporation, the largest automotive leather supplier, sourced its leather from illegal Brazilian cattle suppliers
 - Allegedly sourced cattle from areas of Amazon used for illegal cattle production
 - Alleged rainforest deforestation
 - Alleged human rights abuses
 - Alleged “cattle laundering”
 - Response referenced compliance with voluntary industry standard of the Leather Working Group
 - Relies upon self-certification of suppliers

QUESTIONS?

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Workshop E: Environmental Justice (EJ) and ESG: Developments, Trends, and Impacts from Recent Rulemaking

**March 19, 2024
11:30 AM – 12:45 PM**

Farshid Kiani, P.E., Manager of Consulting Services (Trinity Consultants, Richmond, VA)



trinityconsultants.com

Environmental Justice (EJ) Goal

Assure new laws, rules, policies, public investments, and industrial, commercial, and municipal operations **do not cause disparate adverse environmental, health, or safety impact on disadvantaged, vulnerable communities**

- **minority, low-income**, indigenous, linguistically isolated, limited education, young, elderly
- overburdened, distressed communities
- climate exposed
- limited access to open spaces, water resources, playgrounds, outdoor recreational facilities



Two key components of EJ initiatives: fair treatment and meaningful involvement of EJ communities.

Range of EJ Screening Tools Based on Publicly Available Data

Analysis Tools / Data

- **EJScreen**
- Climate & Economic Justice Screening Tool (CEJST)
- CalEnviroScreen
- TRI Search Plus
- **Risk Screening Environmental Indicators (RSEI)**
 - **EasyRSEI Dashboard**
- AirToxScreen
- National Air Toxics Assessment (NATA)
- National Emissions Inventory (NEI)
- Enforcement and Compliance History Online (ECHO)
- ECHO Notify
- Census / American Community Survey (ACS) Data
- EPA Power Plants & Neighboring Communities Mapping Tool
- RAND Environmental Racism Tool
- EnviroMapper for EnviroFacts
- ArcGIS
- Talkwalker (social analytics, media monitoring)
- Ambient Monitoring, Next Gen monitoring, FLIR cameras
 - OLD MACT, Gasoline Distribution regs
- Cumulative / Health Risk Assessments
 - Dispersion Models
 - EPA Cumulative Risk Guide
 - EPA Human Health Risk Assessment Protocol (HHRAP)
 - EPA Hazardous Air Pollutant Exposure Model (HAPEM)
 - EPA 2003 Framework for Cumulative Risk Assessment (CRA)
 - California Hot Spots Analysis & Reporting Program (HARP)
 - BREEZE Risk Analyst

What is RSEI?

- ▶ Unitless scores tied to individual facilities that account for the size, fate, transport, population & toxicity of chemicals released.
 - if Site A has RSEI score 10 times higher than Site B, Site A has a potential for risk 10 times higher than Site B.
- ▶ RSEI Cancer Score is based on Toxic Release Inventory (TRI) submittals.
- ▶ RSEI Scores are available from 2012-2021.
- ▶ RSEI Scores do not describe a level of risk (e.g., # of excess cancer cases) and should only be used to compare to other RSEI scores (relative comparison).
- ▶ <https://www.epa.gov/rsei>

EasyRSEI Dashboard (1/3)

EPA EasyRSEI Dashboard Version 2.3.11
TRI data is from the Reporting Year 2021 National Analysis Dataset (released October 2022)

Location

Number of TRI Reporting Facili...

103

Number of TRI Reports

2,517

Number of TRI Reporting Years

10

Total RSEI Score

33,565,815

This map allows you to view and select facilities by location. You can further refine your selection (by chemical, year, etc.) using the button at the top right, or click Summary or Analysis at the left to investigate your data further. Click Report for a printable summary of RSEI data for your current selection.

Map Current Selection
Find TRI Facilities Near You
Select Facilities Using Filters

Searching on this tab will add facilities to your selection set. Any other selections (e.g., by year, chemical, industry, etc.) also will be maintained and only facilities that meet all the selections will be shown on the map.

State/Territory

- Ohio
- Alabama
- Alaska
- American Samoa

County

- BUTLER, OH
- CLERMONT, OH
- HAMILTON, OH
- ABBEVILLE, SC

City

- CINCINNATI, OH
- CIRCLEVILLE, OH
- CLEVELAND, OH
- CLYDE, OH

ZIP Code

- 45204
- 45209
- 45212
- 45214

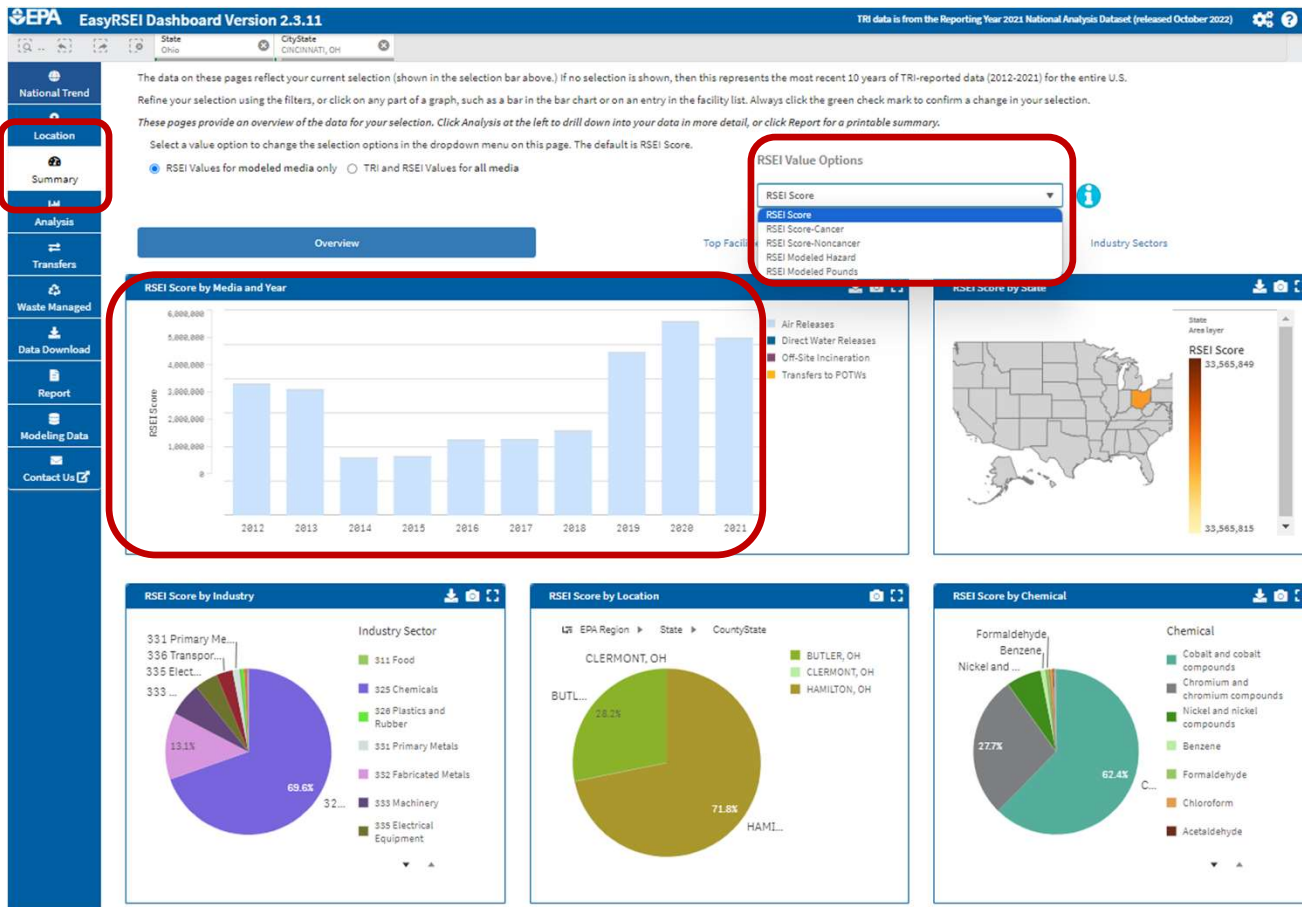
Tribe

- Absentee-Shawnee Tribe ...
- Agua Caliente Band of Ca...
- Ak-Chin Indian Community
- Alabama-Coushatta Tribe...

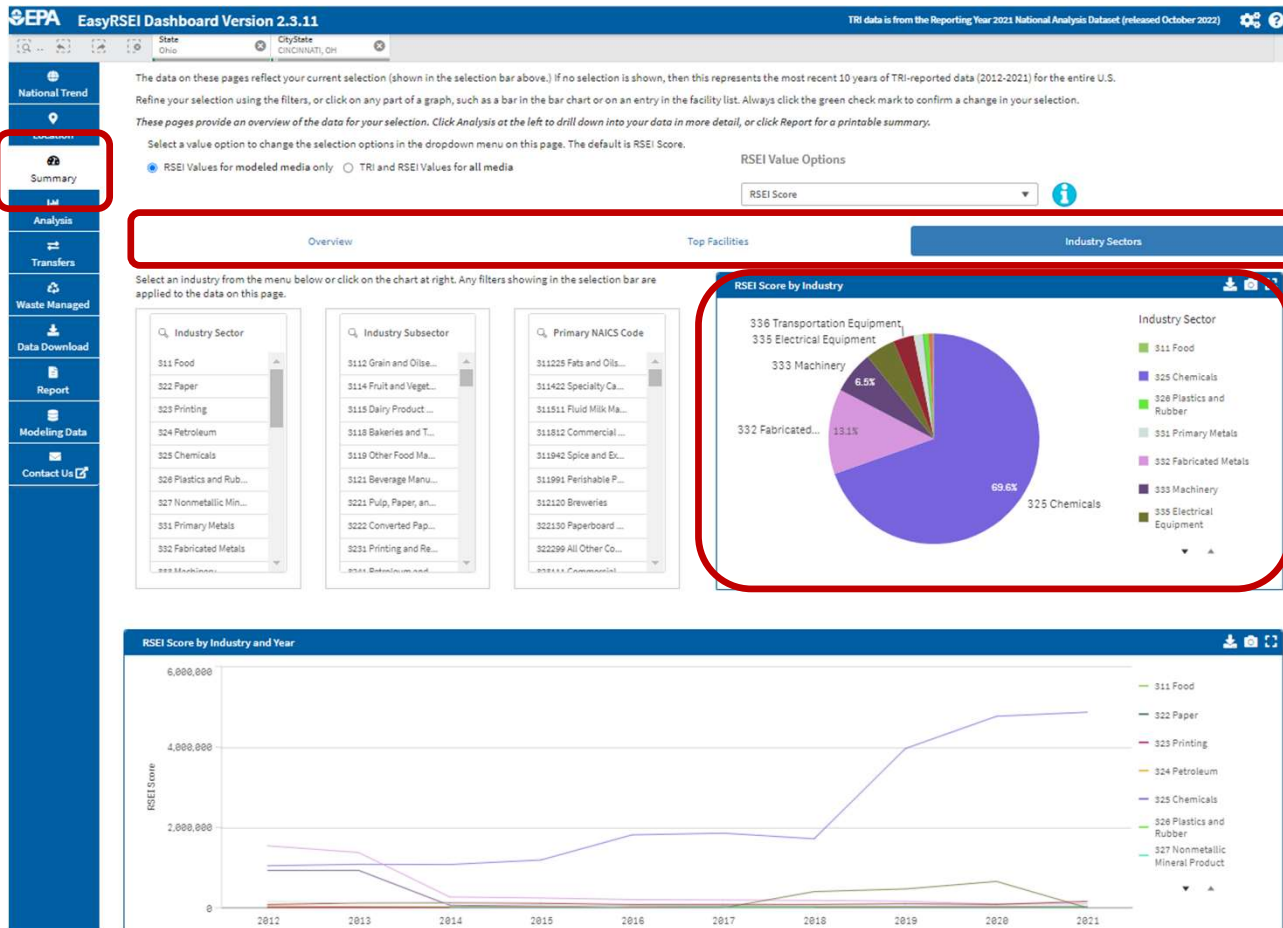
Note: TRI facilities located in Indian country must indicate the relevant tribe on annual TRI reporting forms. For TRI facilities within 10 miles of Indian country, EPA uses the US Census Bureau 2014 tribal boundary layer data and Bureau of Land Management Alaska State Office data. The tribal boundary locations identified are suitable only for general spatial reference and do not necessarily reflect EPA's position on any Indian country locations or boundaries, or the land status of any specific location.

Map of TRI Facilities

EasyRSEI Dashboard (2/3)



EasyRSEI Dashboard (3/3)



How can it be used out of context? (1/2)

ProPublica Report published back in 2021 – “The Most Detailed Map of Cancer-Causing Industrial Air Pollution in the U.S.”

- ▶ Includes all facilities reporting under TRI from 2014 - 2018
- ▶ Calls out specific facilities
- ▶ Main page has a list of the facilities with biggest impacts
- ▶ Clicking on a facility will show explicit cancer risk values
- ▶ Compared to EPA threshold of 100 in 10^6 (1 in 10,000)
- ▶ Cumulative impact which shows individual Facility contributions
- ▶ Also lists the compounds driving these risks
- ▶ Based on EPA’s Risk-Screening Environmental Indicators (RSEI) model

How can it be used out of context? (2/2)

Compounding Issues

- 1) TRI data is typically conservative
 - Historically, no reason not to be
- 2) No delineation between specific compounds – PAC example
 - TRI doesn't ask for specific PAC's – IUR assigned to total, but there are significant differences in specific PAC IURs
- 3) RSEI Modeling Data is conservative
 - Fugitive sources especially, 10m x 10m ground level
 - Median stack heights lower the highest stacks, usually the most emissions
- 4) GLC multiplied directly by IUR – no consideration for exposure
 - No one is absorbing GLC 24/7 for 70 years
- 5) IUR represents upper-bound excess cancer risk
- 6) Not a substitute for a refined health risk assessment – RSEI website states this clearly

EPA's Air Emission Reporting Rule (AERR)

▶ What is **AERR**?

- The AERR is an EPA regulation (40 CFR 51, Subpart A) that requires states, local agencies, and some tribes to report annual air emissions data of criteria pollutants.
 - Currently, AERR requires reporting of criteria pollutants and precursors (CAPs), but hazardous air pollutant (HAP) emissions reporting is voluntary.
 - Data used to create National Emissions Inventory (NEI) used for air quality modeling, rulemaking, risk assessments, emission factor development, etc.
- ▶ Proposed rule with AERR updates published August 9, 2023

Proposed AERR Key Changes

- ▶ Criteria Pollutants (CAPs)
 - Converting some triennial reporting requirements to annual
- ▶ Hazardous Air Pollutants (HAP)
 - Adding new HAP reporting requirements
 - If States do not incorporate the new HAP reporting into SIPs, sites must report directly to EPA (via *CAERS*)
- ▶ Requires mobile source emissions reporting, including portable emergency engines, forklifts, mine vehicles, etc.

Proposed AERR Key Changes

- ▶ Additional data being requested
 - Unit-specific release point locations (lat./long.), stack exhaust parameters, control equipment identification and effectiveness, regulatory applicability, etc.
 - Per Table 2A
- ▶ All stack test reports must be submitted (if not already submitted via *CEDRI*)
- ▶ Required information cannot be marked Confidential
 - Including throughput data (in stack tests & annual reporting)

New HAP Reporting Applicability Criteria

▶ Title V Major Sources

- Report all HAP emitted

▶ Sites with a Primary NAICS on Table 1C

- Report each HAP with actual emissions \geq Table 1B thresholds
 - Also report *incidental* CAP (e.g., VOC, PM₁₀, PM_{2.5})
- ▶ Table 1B thresholds vary by individual HAP (1.1E-07 tpy to 10 tpy!)
- ▶ The first report will be required May 31, 2026, and annually thereafter


New HAP Reporting Applicability Criteria

► Table 1C Primary NAICS:

NAICS	Description
21xxxx, 22xxxx, 3xxxxx except 311811	Industrial and manufacturing industries.
4247xx	Petroleum and Petroleum Products Merchant Wholesalers.
481xxx	Scheduled Air Transportation.
486xxx	Pipeline Transportation.
4883xx	Support Activities for Water Transportation.
493xxx	Warehousing and Storage.
5417xx	Scientific Research and Development Services
54199x	Other Professional, Scientific, and Technical Services.
56191x	Packaging and Labeling Services.
5622xx	Waste Treatment and Disposal.

NAICS	Description
5629xx	Waste Management and Remediation Services.
61131x	Colleges, Universities, and Professional Schools.
62211x	General Medical and Surgical Hospitals.
62231x	Specialty (except Psychiatric and Substance Abuse) Hospitals.
811121	Automotive Body, Paint and Interior Repair and Maintenance (except small entities)
8122xx	Death Care Services.
812332	Industrial Launderers.
92214x	Correctional Institutions.
927xxx	Space Research and Technology.
928xxx	National Security and International Affairs.

EJScreen

- ▶ EJScreen is a mapping and screening tool to screen for potential disproportionate environmental burdens and harms at the community level
- ▶ **September 2023** – EPA announced updates (**EJScreen 2.2**)
- ▶ 13 Environmental indicators 
- ▶ 7 Demographic Indicators
 - Low-Income;
 - Minority;
 - Unemployment rate
 - *Less than high school education;*
 - *Linguistic isolation;*
 - *Individuals under age 5; and*
 - *Individuals over age 64.*
- ▶ 13 EJ Indexes
 - *A function of single environmental factor with demographic information.*
 - *At this time, EJ Indexes cannot be combined i.e., for each environmental indicator, one standard EJ Index is available.*

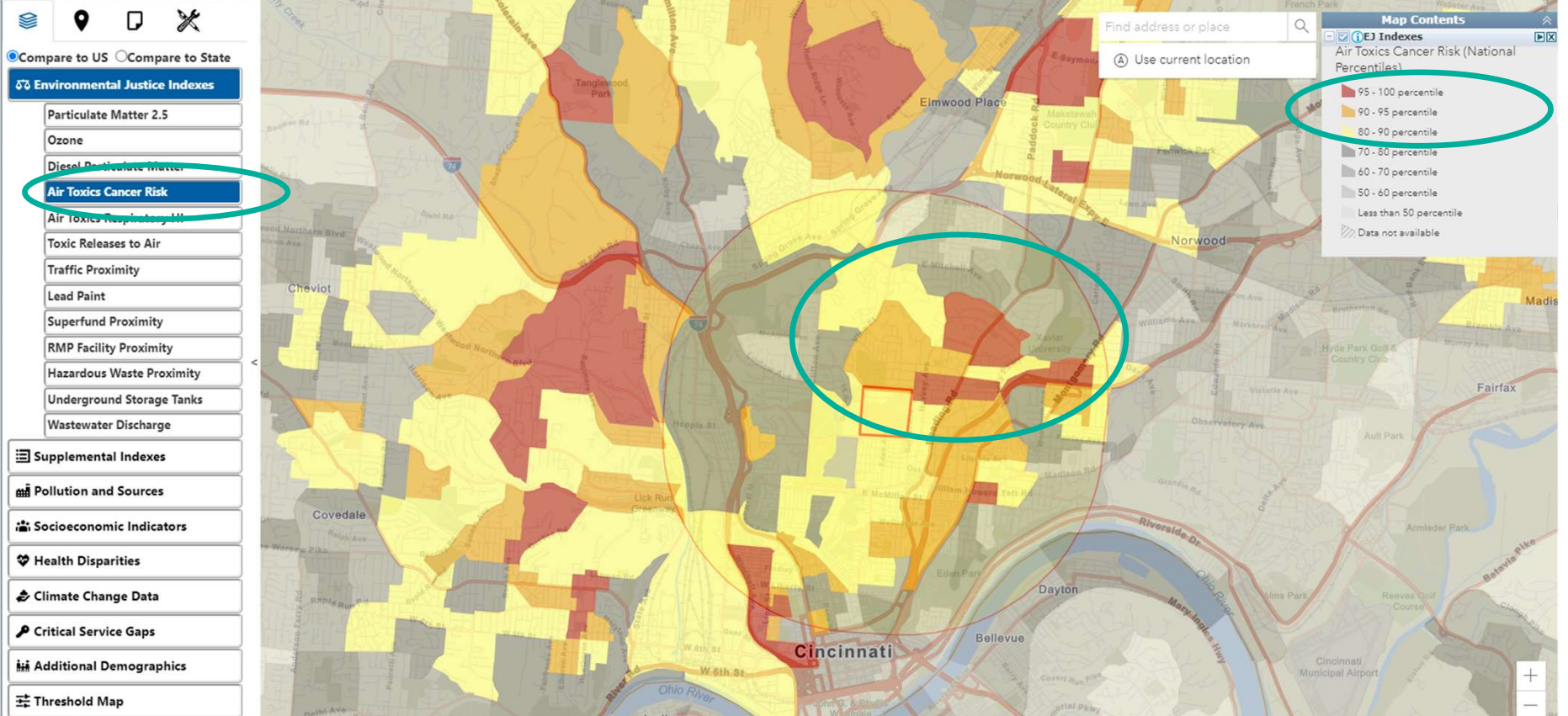
- PM_{2.5}
- Ozone
- Diesel PM
- Air Toxics Cancer Risk
- Air Toxics Respiratory HI
- Toxic Releases to Air
- Traffic Proximity and Volume
- Lead Paint
- Superfund Proximity
- RMP Proximity
- Hazardous waste Proximity
- UST and Leaking UST
- Wastewater Discharge

How the EJ Index Works

- ▶ The EJ Index uses the concept of “excess risk” by looking at how far above the national average the block group demographics are.
 - *Access the environmental and demographic information and compare against rest of the state, region, and the nation.*
- ▶ **EJ Index** = (Environmental Indicator)
x (Demographic Index for Block Group – Demographic Index for US)
x (Population Count for Block Group)
- ▶ EJScreen reports each indicator or index value as a “**percentile**”
 - All percentiles are population percentiles.
- ▶ A percentile in EJScreen tells us roughly what percent of the comparison population (state, region, US) lives in a block group that has a lower value.
 - *For example, 95 US population percentile means:*
 - *95% of the US population has a lower value or*
 - *only 5% of the US population has a higher value.*

Please note: Territory data (except Puerto Rico) is not available as comparable to the US. It is only comparable to the territory itself by using the 'Compare to State' functionality. Likewise, some of the indicators may not be

The screenshot displays the EPA EJScreen web application interface. On the left, a vertical toolbar contains several icons: a map, a location pin, a document with a location pin (circled in red), and a crosshair. Below these icons is a 'clear' button. The main toolbar includes the following options: 'Drop a Pin', 'Draw an Area' (highlighted with a red circle), 'Add a Path', 'BG Select Block Group', 'TR Select Tract', 'Select City', 'Select County', and 'Select Multiple' (checked). A search bar at the top right contains the text 'Find address or place' and a magnifying glass icon, with a '(A) Use current location' option below it. A 'Chart or Report' dialog box is open in the center, featuring a 'Name' field with 'Test' entered, a 'Buffer' field set to '2 mi' (circled in red), and an 'Add to Map' button. The dialog also includes links for 'Explore Reports...', 'EJScreen Community Report', and 'Delete this site'. The background is a map of Cincinnati, Ohio, showing the Ohio River, major roads like I-75 and I-74, and various neighborhoods. The map is powered by EnviroMapper and includes a copyright notice for TomTom, Garmin, SafeGraph, GeoTechnologies, Inc., MFT/USDA, USGS, EPA, NPS, USDA, and USFWS.



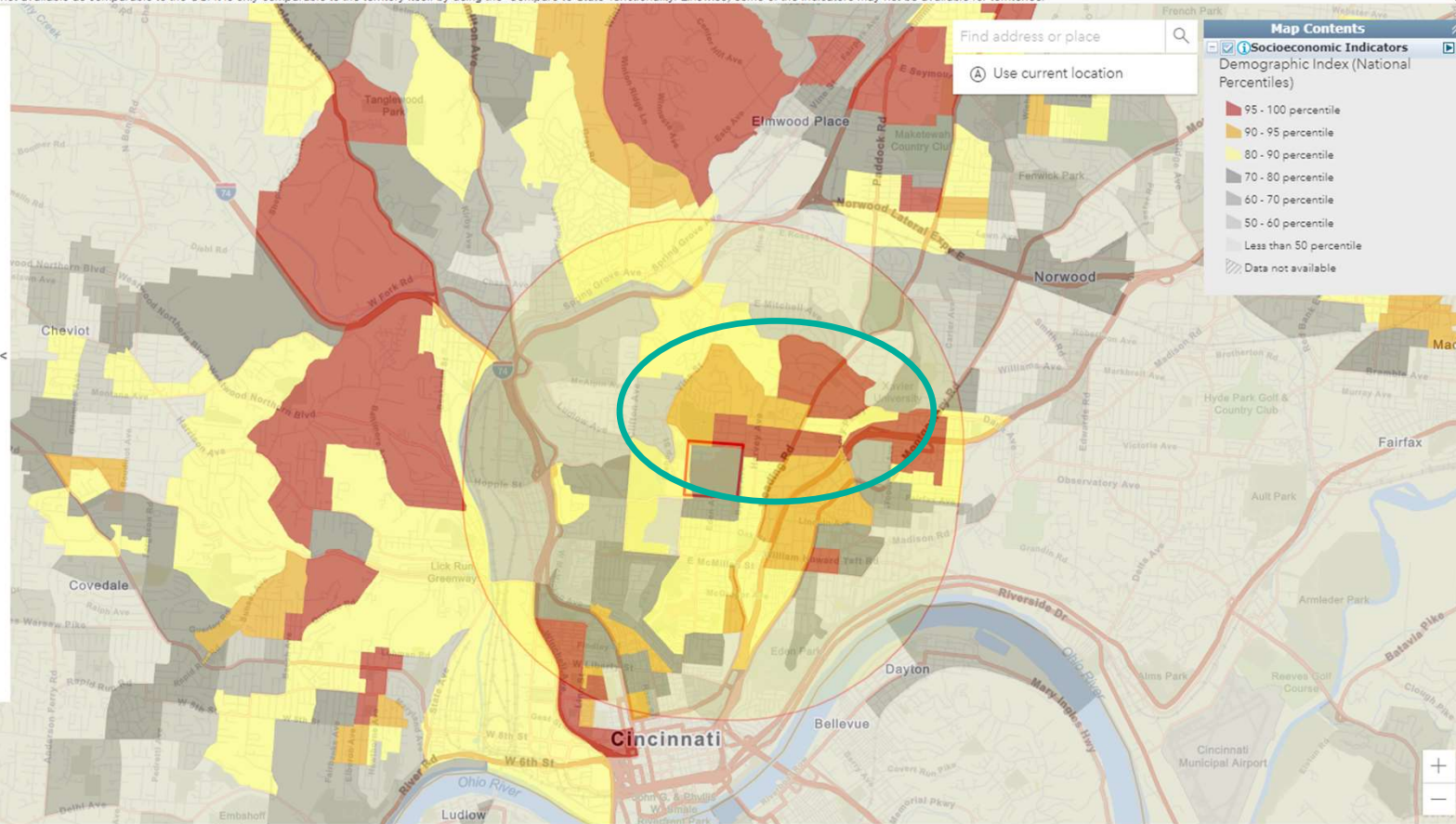
EJScreen is intended to focus agency attention on neighborhoods with **EJ Indexes** of 80% and above.

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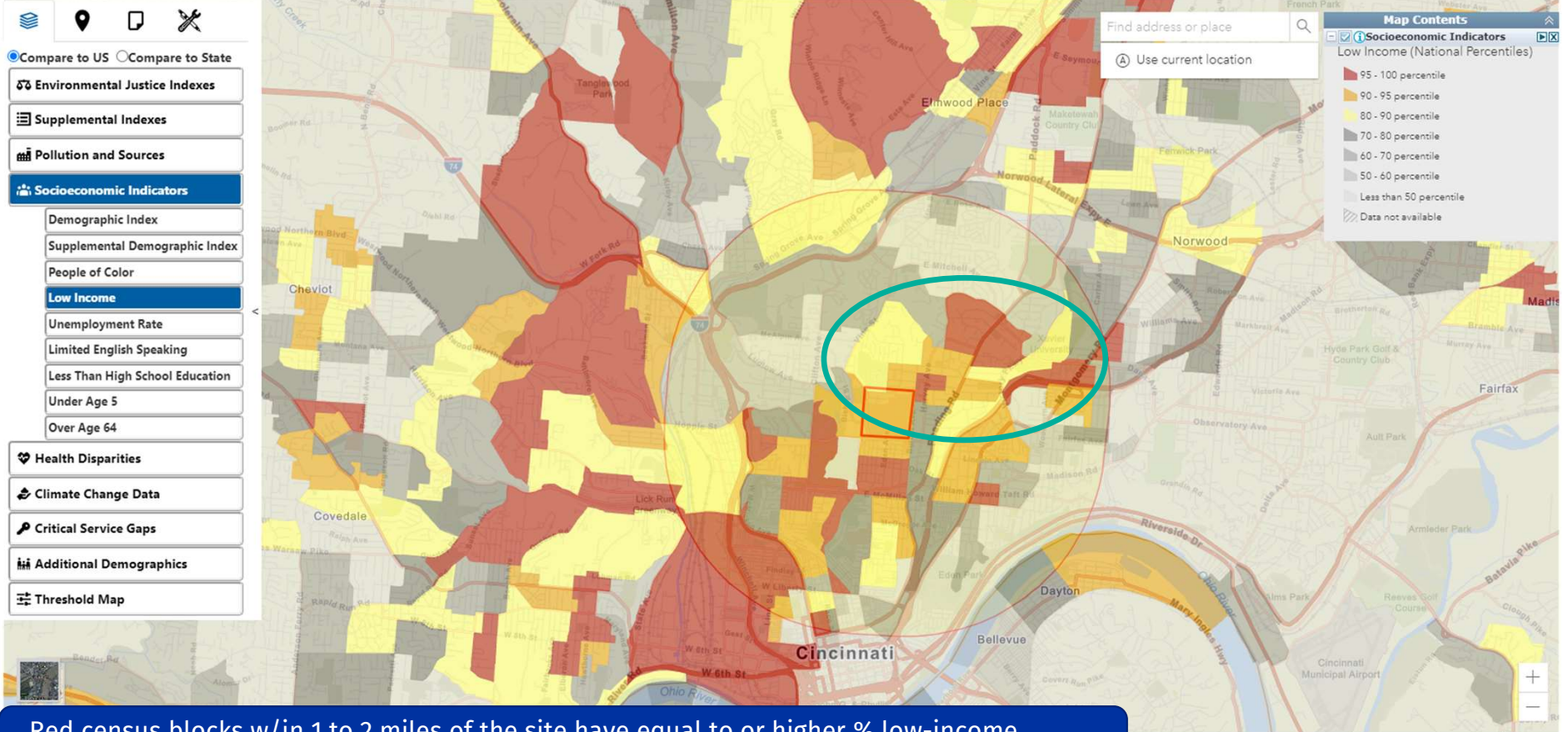
Map navigation icons: Home, Location, Print, Full Screen, Refresh

Compare to US Compare to State

- Environmental Justice Indexes
- Supplemental Indexes
- Pollution and Sources
- Socioeconomic Indicators**
 - Demographic Index**
 - Supplemental Demographic Index
 - People of Color
 - Low Income
 - Unemployment Rate
 - Limited English Speaking
 - Less Than High School Education
 - Under Age 5
 - Over Age 64
- Health Disparities
- Climate Change Data
- Critical Service Gaps
- Additional Demographics
- Threshold Map



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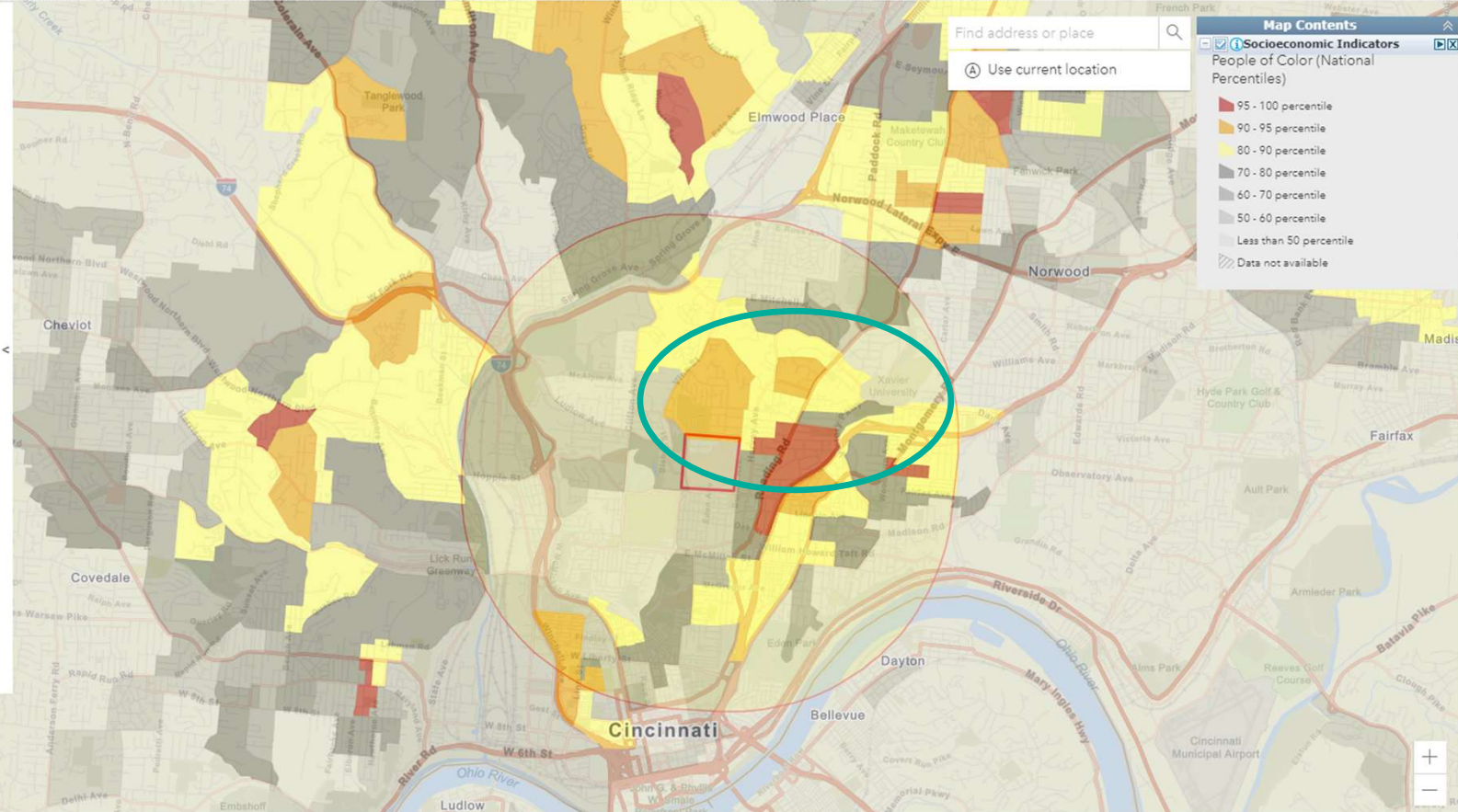
Red census blocks w/in 1 to 2 miles of the site have equal to or higher % low-income populations compared to where 95% to 100% of the US population lives.

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Home Location Mobile Print

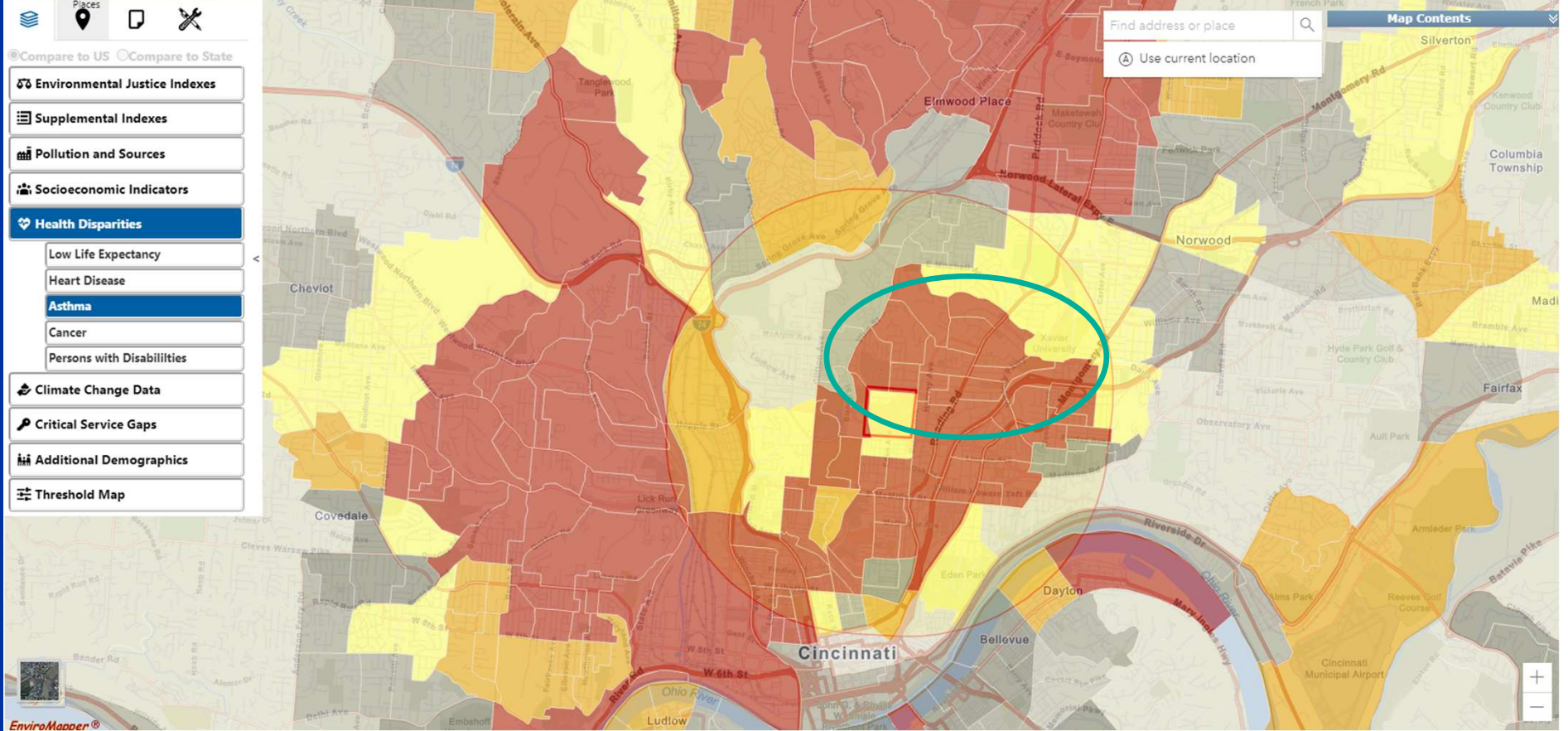
Compare to US Compare to State

- Environmental Justice Indexes
- Supplemental Indexes
- Pollution and Sources
- Socioeconomic Indicators**
 - Demographic Index
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- Health Disparities
- Climate Change Data
- Critical Service Gaps
- Additional Demographics
- Threshold Map

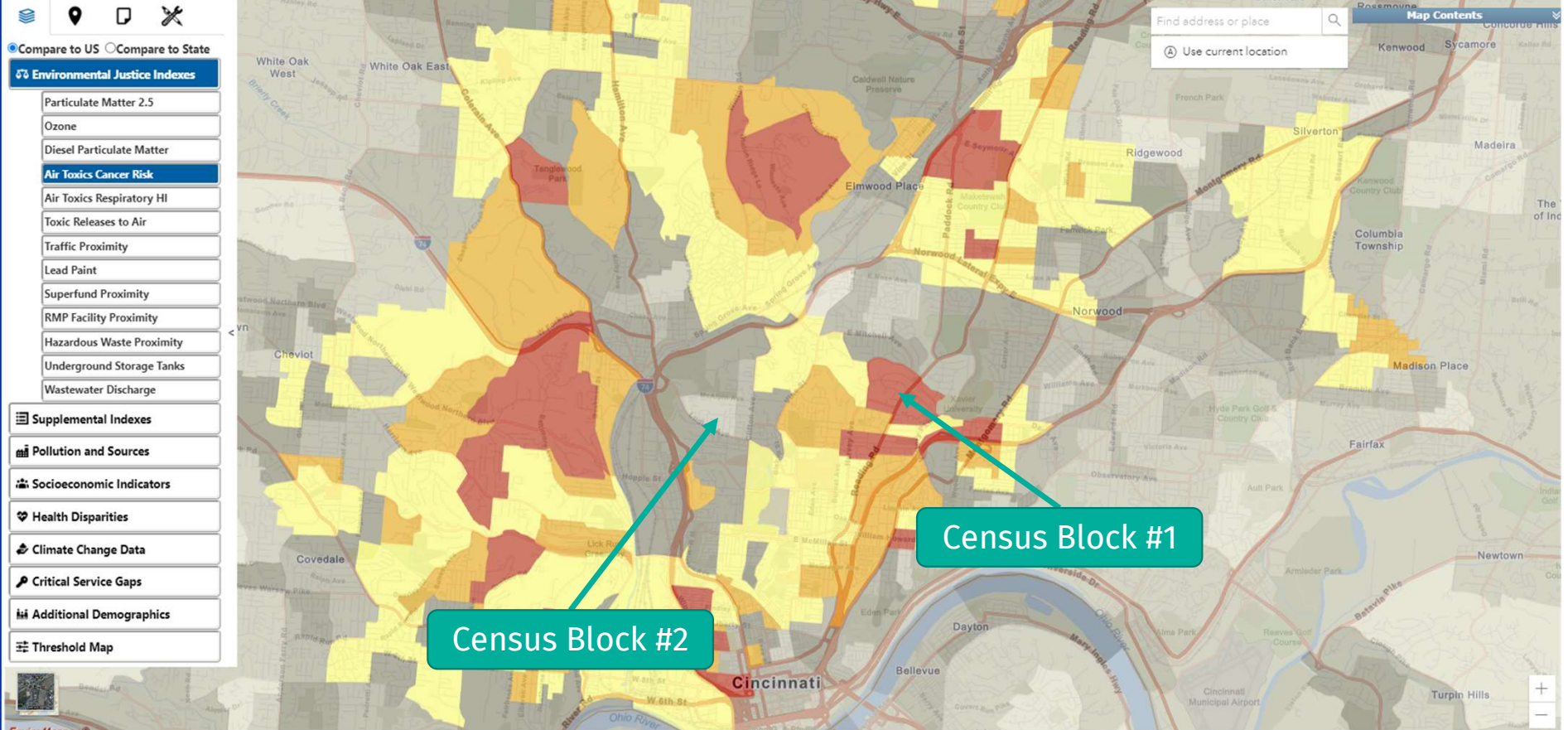


EnviroMapper

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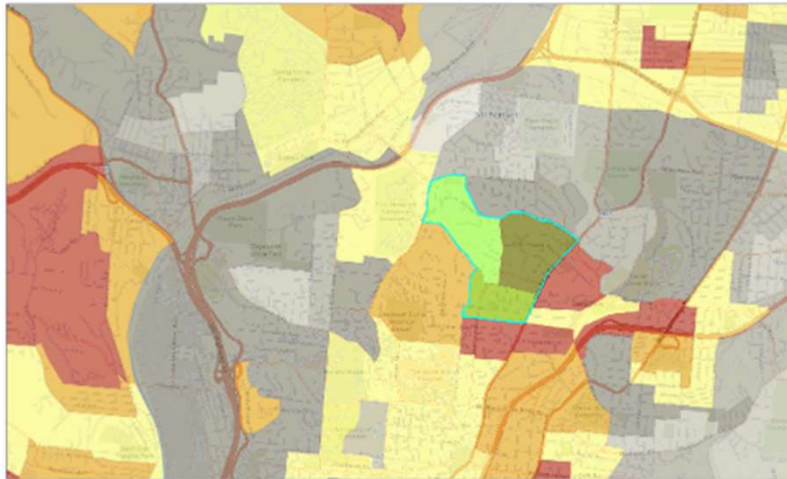


Please note: Territory data (except Puerto Rico) is not available as comparable to the US. It is only comparable to the territory itself by using the 'Compare to State' functionality. Likewise, some of the indicators may not be available for territories.



EJScreen Report Summaries

EJSCREEN report summary for **census block #1**

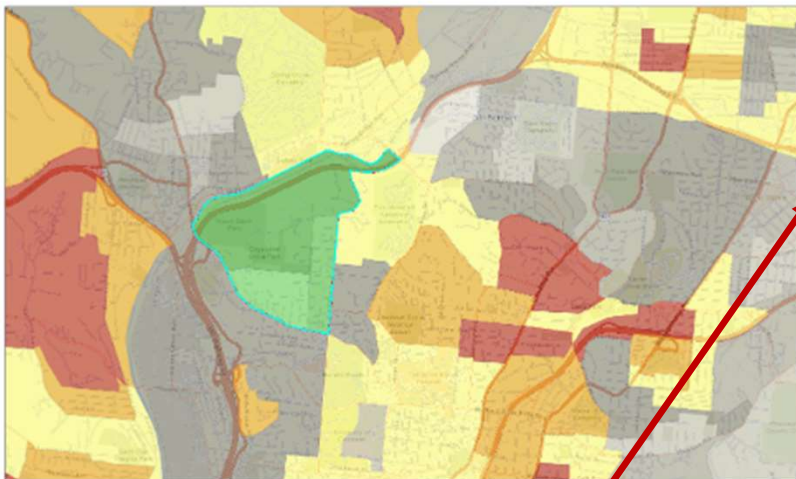


SELECTED VARIABLES	VALUE	STATE AVERAGE	PERCENTILE IN STATE	USA AVERAGE	PERCENTILE IN USA
POLLUTION AND SOURCES					
Particulate Matter ($\mu\text{g}/\text{m}^3$)	10.2	9.18	98	8.08	93
Ozone (ppb)	66.7	61.4	94	61.6	84
Diesel Particulate Matter ($\mu\text{g}/\text{m}^3$)	0.542	0.261	98	0.261	93
Air Toxics Cancer Risk* (lifetime risk per million)	30	22	82	25	52
Air Toxics Respiratory HI*	0.4	0.25	96	0.31	70
Toxic Releases to Air	37,000	10,000	96	4,600	97
Traffic Proximity (daily traffic count/distance to road)	170	110	81	210	71
Lead Paint (% Pre-1960 Housing)	0.53	0.44	61	0.3	75
Superfund Proximity (site count/km distance)	0.096	0.094	76	0.13	65
RMP Facility Proximity (facility count/km distance)	1.5	0.49	91	0.43	93
Hazardous Waste Proximity (facility count/km distance)	6.5	1.3	97	1.9	92
Underground Storage Tanks (count/km ²)	5.7	2.9	83	3.9	80
Wastewater Discharge (toxicity-weighted concentration/m distance)	0.0087	0.47	59	22	66
SOCIOECONOMIC INDICATORS					
Demographic Index	80%	28%	97	35%	95
Supplemental Demographic Index	27%	14%	93	14%	91
People of Color	90%	24%	95	39%	89
Low Income	71%	33%	92	31%	94
Unemployment Rate	15%	6%	90	6%	91
Limited English Speaking Households	0%	1%	0	5%	0
Less Than High School Education	18%	10%	84	12%	78
Under Age 5	11%	6%	89	6%	89
Over Age 64	17%	18%	54	17%	58
Low Life Expectancy	29%	21%	95	20%	98

*Diesel particulate matter, air toxics cancer risk, and air toxics respiratory hazard index are from the EPA's Air Toxics Data Update, which is the Agency's ongoing, comprehensive evaluation of air toxics in the United States. This effort aims to prioritize air toxics, emission sources, and locations of interest for further study. It is important to remember that the air toxics data presented here provide broad estimates of health risks over geographic areas of the country, not definitive risks to specific individuals or locations. Cancer risks and hazard indices from the Air Toxics Data Update are reported to one significant figure and any additional significant figures here are due to rounding. More information on the Air Toxics Data Update can be found at: <https://www.epa.gov/press/air-toxics-data-update>.

EJScreen Report Summaries

EJSCREEN report summary for **census block #2**




Same as Census Block #1

SELECTED VARIABLES	VALUE	STATE AVERAGE	PERCENTILE IN STATE	USA AVERAGE	PERCENTILE IN USA
POLLUTION AND SOURCES					
Particulate Matter ($\mu\text{g}/\text{m}^3$)	10.3	9.18	99	8.08	94
Ozone (ppb)	66.5	61.4	92	61.6	83
Diesel Particulate Matter ($\mu\text{g}/\text{m}^3$)	0.54	0.261	97	0.261	92
Air Toxics Cancer Risk* (lifetime risk per million)	30	22	82	25	52
Air Toxics Respiratory HI*	0.4	0.25	96	0.31	70
Toxic Releases to Air	19,000	10,000	91	4,600	96
Traffic Proximity (daily traffic count/distance to road)	220	110	86	210	76
Lead Paint (% Pre-1960 Housing)	0.72	0.44	76	0.3	87
Superfund Proximity (site count/km distance)	0.082	0.094	71	0.13	60
RMP Facility Proximity (facility count/km distance)	0.82	0.49	82	0.43	85
Hazardous Waste Proximity (facility count/km distance)	5.2	1.3	94	1.9	89
Underground Storage Tanks (count/km ²)	5.5	2.9	82	3.9	79
Wastewater Discharge (toxicity-weighted concentration/m distance)	0.016	0.47	66	22	71
SOCIOECONOMIC INDICATORS					
Demographic Index	24%	28%	56	35%	40
Supplemental Demographic Index	10%	14%	35	14%	37
People of Color	24%	24%	68	39%	43
Low Income	24%	33%	40	31%	44
Unemployment Rate	2%	6%	30	6%	29
Limited English Speaking Households	4%	1%	89	5%	72
Less Than High School Education	2%	10%	19	12%	20
Under Age 5	3%	6%	29	6%	30
Over Age 64	20%	18%	63	17%	65
Low Life Expectancy	20%	21%	45	20%	60

*Diesel particulate matter, air toxics cancer risk, and air toxics respiratory hazard index are from the EPA's Air Toxics Data Update, which is the Agency's ongoing, comprehensive evaluation of air toxics in the United States. This effort aims to prioritize air toxics, emission sources, and locations of interest for further study. It is important to remember that the air toxics data presented here provide broad estimates of health risks over geographic areas of the country, not definitive risks to specific individuals or locations. Cancer risks and hazard indices from the Air Toxics Data Update are reported to one significant figure and any additional significant figures here are due to rounding. More information on the Air Toxics Data Update can be found at: <https://www.epa.gov/air-toxics-data-update>.

EPA's 8 Principles for Addressing EJ in Air Permitting (12/22/2022)

- ▶ Identify communities with potential environmental justice concerns
- ▶ Engage early in the permitting process to promote meaningful participation and treatment
- ▶ Enhance public involvement throughout the permitting process
- ▶ **Conduct a “fit for purpose” environmental justice analysis**
- ▶ Minimize and mitigate disproportionately high and adverse effects associated with the permit action
- ▶ Provide federal support throughout the air permitting process
- ▶ Enhance transparency throughout the air permitting process
- ▶ Build capacity to enhance the consideration of environmental justice in the air permitting process



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

December 22, 2022

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Principles for Addressing Environmental Justice in Air Permitting

FROM: Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation

JOSEPH GOFFMAN
Digitally signed by
JOSEPH GOFFMAN
Date: 2022.12.22
11:23:37 -0500

TO: Air and Radiation Division Directors
Regions I-X

I am pleased to share the attached “Principles for Addressing Environmental Justice in Air Permitting” for your immediate use. These principles provide an interim operating framework for identifying, analyzing, and addressing environmental justice concerns in the context of Clean Air Act (CAA) permitting as EPA continues to build more tools and explore additional opportunities to advance environmental justice and equity with our co-regulatory partners, communities, and other stakeholders. EPA regional air permitting staff are encouraged to apply these eight principles in developing federal CAA permit decisions. Regions are equally encouraged to share these principles with state, tribal, and local partners and to work proactively and collaboratively with those partners to facilitate consideration and application of these principles in their air permitting actions.

I want to thank the national EPA workgroup that developed these principles and supporting information resources for EPA permit writers. The principles reflect a number of best practices the regions have developed over many years, including early identification of potential environmental justice concerns in specific locations and early, ongoing engagement with communities throughout the permitting process. The principles also recognize the various types of Clean Air Act permits and the need to determine the appropriate scope of an environmental justice analysis on a case-by-case basis. Similarly, opportunities for addressing disproportionately high and adverse effects associated with a permitting action may also vary from one situation to another. The principles encourage consideration of all relevant statutory and regulatory authorities available to develop permit terms and conditions to address or mitigate identified air quality impacts to the extent

Air Toxics In Ohio

- ▶ SB 265 codified existing Air Toxics Policy and associated guidance – ORC 3704.03(F)
- ▶ 303 contaminants listed in OAC 3745-114-01 - effective on 12/01/2006
- ▶ Increases above 1 tpy will need to be evaluated
- ▶ Only emissions from proposed new source/modified unit must be evaluated - now in ORC 3704.03(F)(4)(b) per SB 265
- ▶ Includes list of source types/emissions that do not have to be evaluated – now in ORC 3704.03(F)(4)(f) per SB 265
 - “Many combustion sources” are exempt, but...
 - Natural gas engines (and turbines) specifically identified as ineligible for exemption if formaldehyde > 1 tpy
- ▶ Exempts pollutants regulated by applicable national standard (e.g., MACT, PSD, etc.) – now in ORC 3704.03(F)(4)(e) per SB 265
 - Final version published 5/9/17 removed NSPS!
- ▶ Worst-case for modeling means maximum hourly emissions of the “air toxic” with lowest TLV

Air Toxics In Kentucky and Indiana

▶ KY

- Case-by-Case - When requested, a facility would typically model site-wide air toxics against EPA's Regional Screening Levels
- <https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables>
 - ◆ Will be looking at resident air levels
- Only residential receptors will need to be evaluated (industrial or fence line receptors can be excluded)

▶ IN

- Applies to project that have PTE > 10/25 tpy of individual/total HAP
- Compare to risk levels in Integrated Risk Information System (IRIS)
- Compliance is demonstrated at the property line

How can EJ impact me?

- ▶ **Legislation, Rule Development, & Policies**
- ▶ **Agency Procedures**
 - ◆ Tools & methodologies for identifying EJ communities
 - ◆ Public participation, community engagement
 - ◆ Impact assessment
 - ◆ Monitoring
 - ◆ Inspections & enforcement
- ▶ **Funding & Direction of Resources**
- ▶ **Litigation**
 - ◆ Title VI Civil Rights Act complaints, lawsuits



EJ and Civil Rights in Permitting

(EPA and DOJ influence on State Agencies)

EPA Interim EJ and Civil Rights in Permitting FAQs - Aug 2022



Environmental Protection Agency

Interim
Environmental Justice and Civil Rights in
Permitting
Frequently Asked Questions

1. Why is it important for permitting programs to ensure consideration of environmental justice and comply with federal civil rights laws, including Title VI of the Civil Rights Act of 1964, as well as state civil rights and environmental justice laws?
2. What are EPA's responsibilities under federal environmental justice policy, including with respect to permitting?
3. What responsibilities do EPA staff and managers with permit issuance and review responsibilities have to ensure compliance with civil rights laws by recipients of EPA financial assistance?
4. What is the relationship between EJ and civil rights compliance, particularly in the context of environmental permitting?
5. **Does an entity's full compliance with the federal environmental laws in carrying out its permitting programs and decisions equate to compliance with the federal civil rights laws?**
6. How could a permitting decision raise a statutory civil rights compliance concern about intentional discrimination, or have a discriminatory effect?
7. In addition to federal civil rights laws, what other laws and regulations support consideration of environmental justice in permitting?
8. How can states and other recipients screen for EJ and civil rights concerns with respect to their permitting programs and decisions?
9. **If the screening analysis indicates that a proposed permitting action raises civil rights and/or environmental justice concerns, what additional steps can a permitting program consider to address EJ concerns and ensure compliance with Title VI?**
10. What are promising practices in conducting an EJ analysis?
11. What is a disparate impact analysis under Title VI?
12. How would EPA consider "cumulative impacts" within the Title VI disparate impact analysis?
13. What if a Title VI disparate impact analysis by a permitting program concludes that the permit decision will have adverse disparate impacts on the basis of race, color, or national origin (including LEP status)?
14. What are some examples of measures that a permitting program may be able to take to mitigate adverse and disproportionate impacts and/or develop and implement less discriminatory alternatives?
15. When and how should permitting programs conduct community engagement?
16. How does tribal consultation differ from community engagement?
17. What are some resources on environmental justice, civil rights, and tribal consultation? How do I get additional information or provide feedback on the FAQs?

EPA Interim EJ and Civil Rights in Permitting FAQs (1/5)

FAQ #5

Does an entity's full compliance with the federal environmental laws in carrying out its permitting programs and decisions equate to compliance with the federal civil rights laws?

► EPA's answer – **No.**

Compliance with the requirements of federal environmental laws with respect to permitting activities and decisions does not necessarily mean compliance with federal civil rights laws.

Enforcement of federal civil rights laws and implementation of environmental laws are complementary. Used together, these laws help to ensure the non-discriminatory protection of human health and the environment.

EPA Interim EJ and Civil Rights in Permitting FAQs (2/5)

FAQ #9

If the screening analysis indicates that a proposed permitting action raises civil rights and/or environmental justice concerns, what additional steps can a permitting program consider to address EJ concerns and ensure compliance with Title VI?

► EPA's answer

- Conduct an appropriately scoped EJ analysis or disparate impact analysis as needed.
- Prevent or mitigate any adverse disproportionate impacts that would otherwise violate Title VI.
- To the extent mitigation included in the permit is not sufficient to address adverse and disproportionate impacts that would otherwise violate Title VI; consider implementing mitigation outside the context of the permit.

Considerations for Existing Operations

- ▶ Evaluate potential for EJ at existing operations
 - ◆ Surrounding demographics, neighboring sources, environmental indicators, EJ indexes
 - ◆ Historic commenters & your relationship with community & elected officials
 - ◆ Assess permitting and compliance exposure
 - ◆ Consider impacts of “normal” operations AND non-routine emissions events
- ▶ Understand and gain confidence in publicly disclosed data from a cumulative perspective
 - ◆ Els, TRI, Tier II, DMRs, ACC, semiannual reports, etc.
 - Improve or correct excessively conservative or inaccurate release estimates
 - ◆ Regular multimedia audits, anticipate EJ-triggered inspections
- ▶ Include EJ evaluation in MOC decision-making, sustainability goals, corporate ESG
 - ◆ Reduce exposure, P2 opportunities, emissions mitigation to improve RSEI/AirToxScreen/NATA, regular review and update of EJ data

Considerations for Projects

- ▶ Include EJ analysis early in siting suitability assessment
 - ◆ EJScreen and other tools
- ▶ Add into scope and schedule trackers EJ recommendations / risk mitigation
 - ◆ **Scope:**
 - Consider offsite impacts assessment and quantitative analysis to demonstrate no disproportionate impacts and/or identify solutions to impacts
 - Even if not explicitly required, consider modeling
 - ◆ **Schedule:**
 - Consider possible public comments, hearings, EPA influence
 - Consider effective community communication

Questions?



Biographical Information

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Mr. Kiani serves as a Senior Consultant in Trinity's Columbus, Ohio Office and is a P.E. in the State of Ohio. His experience includes Prevention of Significant Deterioration (PSD) permitting in Ohio and West Virginia, air dispersion modeling analysis, Maximum Achievable Control Technology (MACT) compliance assistance, New Source Performance Standards (NSPS), Title V compliance management, emission inventory development, Toxic Release Inventory Reports (TRIs), and digital solutions. He has helped clients in chemical manufacturing, petroleum refining, and general manufacturing sectors with air quality permitting and consulting services as well as implementation of digital solutions for utility industry. Mr. Kiani earned a B.S. degree in Civil Engineering from Babol University of Technology in Iran and an M.S. with honors in Environmental Engineering from the University of Kansas.

Kevin G. Desharnais, Member and Practice Co-Chair
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Kevin Desharnais, an environmental litigator and counselor with over two decades of experience, advises clients on environmental matters covering all environmental media, including such areas as air and water permitting and enforcement, hazardous waste management, Superfund liability, and remediation of contaminated sites. He has represented clients in numerous federal and state court proceedings and administrative tribunals, defended clients against citizen enforcement suits, and negotiated resolutions of permitting and enforcement disputes with administrative agencies across the country.

Kevin also has broad experience advising clients regarding environmental due diligence and the allocation of environmental liabilities in corporate and real estate transactions. He also has extensive experience advising clients with regard to environmental due diligence in the development of renewable energy projects, including compliance with NEPA and state equivalent statutes, endangered species and migratory bird impacts, and wetland issues.