



Environmental Justice: What to Know and Where to Start

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Background

Through major policy proposals, evolving regulatory requirements, and growing stakeholder pressure, environmental justice (EJ) is permeating our permitting and strategy landscape. Regularly, our oil and gas clients ask Adamantine to bring them up to speed with the query “What should I actually be doing?”

With the goalposts quickly moving and new EJ tools launched every few months, company leaders must prepare to engage positively and proactively. In this white paper, we explore what you need to know about the current EJ landscape and teach you about the tools to use, actions to take, and mistakes not to make while authentically incorporating EJ into your strategy.

Your first potential mistake: not pinpointing which meaning of “environmental justice” is at play in your situation. The definition is ever evolving and may depend on the group you are engaging. For our purposes, the U.S. Environmental Protection Agency’s (EPA) [definition](#) provides the right starting place: “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.” Whether a group is considered an “EJ community” depends on a growing set of demographic and environmental indicators, including race, income, age, unemployment rate, education, linguistic isolation, exposure to air pollution, and proximity to traffic.

It’s easy for company leaders to oversimplify both their definition of EJ and their understanding of what makes an EJ community. As a result, companies may attempt to address EJ interests and concerns superficially. To keep you from falling into such a trap, let’s first cover the basics.

Five Things You Should Know

Your learning about EJ will be a lifelong journey because your stakeholders’ expectations around EJ will continue to evolve. The important starting place is understanding five key points that are vital for oil and gas leaders:

1. Environmental justice communities are your stakeholders.
2. Environmental justice is driving expectations of your business.
3. Environmental justice is shaping the future of energy.
4. Environmental justice is gaining traction in the federal government.
5. Environmental justice tools are evolving — and can be conflicting.

1. Environmental justice communities are your stakeholders. At Adamantine, we have learned to ensure that our clients consider the “often-overlooked stakeholder.” EJ communities are at the top of this list: Their needs, interests, and concerns frequently go unnoticed. Regardless of regulatory requirements, oil and gas companies must identify and engage their stakeholders to anticipate risk and ensure mutually beneficial outcomes. Identifying the overlooked stakeholder requires robust research, thoughtful mapping, and taking advantage of new tools under development.

As the definition of an EJ community evolves over time, so will the likelihood that EJ communities are recognized as your stakeholders. Expectations are rising for oil and gas companies to answer for their impact on and consideration of the needs of these groups. As with any stakeholders, you need to know where they are located, what their needs and concerns are, and what the most effective, transparent ways are to engage with them meaningfully.

2. Environmental justice is driving expectations of your business. EJ advocates are demanding the following:

- Enhanced, transparent, and accessible avenues for meaningful participation in rulemaking, policymaking, and project-planning processes;
- Better routes for legal resolution; and
- Payments or beneficial outcomes to communities subject to environmental harms and discrimination.

These demands translate into expectations for your company to act.

Driving these expectations is a broad push to place EJ at the forefront of the mainstream environmental movement. Environmental organizations are facing growing pressure — from volunteers, donors, staff, and boards — to demonstrate a sincere commitment to prioritizing diversity, equity, inclusion, and EJ in their advocacy efforts. This trend recently was highlighted by a [hearing](#) in the House Committee on Natural Resources on EJ in the environmental movement. Committee members and witnesses alike called for making EJ a top priority.

At the same time that EJ is rising in the mainstream environmental movement, EJ advocates are increasingly discouraged by the lack of progress on the issue. Some examples:

- Activists have expressed concern over whether the Joe Biden administration can live up to its promises after two top EJ advisors made [sudden departures](#) early in 2022.
- EJ advocates were further disheartened when a beta version of the White House’s Climate and Economic Justice Screening Tool was released, revealing what [many](#) have considered a major flaw: an exclusion of race as an indicator for identifying EJ communities.

As a result, EJ advocates are taking their activism to the next level — elevating their demands and placing pressure not only on policymakers and regulators but on your company, too.

3. Environmental justice is shaping the future of energy. EJ advocates are effectively asserting themselves in conversations about energy innovations. Technologies being explored as decarbonization solutions by the oil and gas industry are facing pushback from EJ advocates.

For instance: Carbon capture, utilization, and sequestration (CCUS) and direct air capture have caught the attention of environmental advocates as technologies that will delay climate action by prolonging the use of fossil fuels and increasing pollution in marginalized communities. As a result, there has been a growing emphasis on EJ in CCUS permitting processes and impact assessments. The White House Council on Environmental Quality’s (CEQ) released [updated guidance](#) that emphasized EJ considerations and stakeholder engagement in CCUS deployment, development, and permitting.

In addition, the Department of Energy (DOE) [released a notice of intent](#) regarding a plan to offer \$2.54 billion in support of the development of CCS demonstration projects. In this notice, the Department said it would require applicants to provide detailed information on how they “will incorporate environmental justice, community engagement and consent-based siting, equity, and workforce development.”

Hydrogen and renewable natural gas also have been the focus of criticism related to EJ because of concerns over [siting facilities near](#) vulnerable communities.

4. Environmental justice is gaining traction in the federal government. EJ is being placed at the center of federal decision-making processes. Both the White House and Congress are pushing for an EJ-centric strategy for environmental, climate, and energy-related policy and rulemaking. At the same time, opponents of this government-wide EJ push are loudly voicing their concerns and skepticism, demonstrating the divisiveness and hyper-partisan nature of the issue.

In January 2021, President Biden issued the [Executive Order](#) on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, directing all federal agencies to integrate racial justice considerations into their rulemaking and processes. Since then, agencies have begun releasing new plans and guidance emphasizing protections and considerations for EJ communities. These include the EPA’s [Equity Action Plan](#), the Department of Justice’s “comprehensive [environmental justice enforcement strategy](#),” and the Federal Energy Regulatory Commission’s (FERC) [draft](#) of a decades-old policy for assessing proposed natural gas pipelines, potentially adding new EJ considerations. On April 15th, FERC also issued an [Equity Action Plan](#) that will serve as a “road map for FERC to build a culture and program that ensures the Commission is appropriately integrating environmental justice and equity issues into ... decision making and day-to-day operations.”

Congress also is fueling the EJ discussion. In February, the House Committee on Natural Resources held two hearings, on the topic of EJ and the flagship EJ bill, the Environmental Justice for All Act. Both hearings shone a spotlight on the key issues of the EJ agenda: accounting for cumulative impacts in federal agency decision-making processes; “meaningful,” “intentional,” and “longer” community engagement in those processes; and improving legal avenues for affected groups facing environmental discrimination. And in the long-awaited reconciliation bill, the [Inflation Reduction Act of 2022](#), is a \$60 billion investment in a series of environmental justice priorities and community grants.

5. Environmental justice tools are evolving — and can be conflicting. At the state and federal levels, agencies, regulatory bodies, and legislatures are developing and deploying screening tools to identify EJ communities. Using socioeconomic, environmental, and other data to identify communities most vulnerable to and impacted by environmental hazards, these tools are intended to guide and inform permitting decisions, strengthen community outreach and engagement, and direct resource and funding allocation.

The number of EJ screening tools is growing quickly. In 2015, the EPA released EJScreen, a mapping tool used to inform various EPA activities, programs, and decisions, including those related to permitting and enforcement. Earlier this year, the CEQ released an early version of its own Climate and Economic Justice Screening Tool. Several states, including California, Colorado, Connecticut, Illinois, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Virginia, and Washington, have developed their own screening tools. These tools are being used to guide various decisions made

by state-level departments and agencies, including those concerning resource allocation, public participation, environmental compliance enforcement, and more.

With so many EJ screening tools available, they may not agree with one another — leading to the identification of different affected communities as they map stakeholders. Chances are that identifying these multiple communities will eventually add to EJ expectations for your company.

Where to Start

Oil and gas leaders need to actively engage in the EJ dialogue so that they have a good handle on the situation. Here's where to start to build your own reservoir of resources:

- **Research EJ definitions and tools in your jurisdiction.** EJ screening tools, definitions, and guidance are being developed at the federal level. It is also likely that policymakers and regulatory agencies within your state are developing their own approaches and resources. It's a wise investment of time for your company to understand the different layers of assessments and expectations in your jurisdiction. This understanding will give you a better starting point from which to identify the entire range of EJ communities relevant to your operations.
- **Analyze the critiques.** Your EJ work will be more successful if you are familiar with the critiques of industry's approach to EJ. With some straightforward online research, you can steer clear of preventable mistakes. To go further, you can engage with community stakeholders to understand what matters to them and avoid repeating the past.
- **Empower internal voices.** Most likely, your company already has great EJ ambassadors. Through surveys, focus groups, town halls, or word of mouth, you can identify the people among your employees who are most interested in your company's impacts on EJ communities. These employees will also be well suited to craft engagement strategies with those communities. Employees who know or reside within EJ communities themselves will be empowered, informed ambassadors.
- **Open the history book.** Many communities have well-documented accounts of their history of being subject to environmental racism. Understanding the history that your EJ communities are likely well acquainted with will give your team rich and relevant perspective into those communities today.
- **Identify best practices.** Environmental NGOs, industry groups, and your peers are sharing best practices related to EJ that you can analyze and incorporate. To get you started, my top best practices include:
 - Take the initiative to put in place mechanisms to receive questions and concerns.
 - Document feedback, concerns, and input you receive and what you do with them. This includes the input you solicited prior to choosing locations or firming up plans prior to any permitting.
 - Make sure engagement runs both ways.

Actions You Can Take

The topic of EJ is so broad and evolving so fast that the question we get most often is “What should I actually be doing?” There are steps you can take today to make progress on EJ:

- **Do the homework.** Set up a small group of team members to lay the groundwork, as identified above. Engaging on EJ within your company requires being able to explain the current landscape and relevant considerations.
- **Introduce EJ considerations into key business functions.** Across your company, business functions are driving decisions that affect your EJ impact and relationships. By introducing the topic of EJ and its relevant considerations across operations, you can begin the process of integrating those considerations into business decisions. Company efforts across project siting, due diligence, planning, land negotiations, permitting, operations, and community investment all will be relevant to and affected by your evolving EJ strategy. Bringing in your internal stakeholders early will allow you to gather the insights and generate the buy-in to make sure screening tools, two-way engagement with stakeholders, and community input are incorporated at key junctures. Further, EJ considerations will be mission-critical to new business lines, such as decarbonization efforts.
- **Reach out to trusted partners.** As part of your EJ planning, reach out for informal conversations within your existing stakeholder communities. Your list of community stakeholders will continue to evolve as your research, strategy, and engagement develop.
- **Stay apprised.** There are several organizations keeping their collective finger on the pulse of EJ. (Our team loves [Resources for the Future’s webinar series.](#)) Identify a set of team members responsible for tracking development so your team can anticipate risks and opportunities.
- **Consider community investment through a new lens.** A smart way to incorporate EJ into your community relationships includes asking new questions when considering philanthropic investments:
 - Does this investment support the priorities the community has identified?
 - Is this investment good for the long term, or could it have unintended consequences when it concludes?
 - Does this investment empower enduring community prosperity?

These steps set the stage for meaningful engagement with EJ communities. Once your organization understands the breadth and importance of its EJ work, you’ll be in a good position to keep working within these communities. Your work will require organizational commitment because, at its heart, meaningful EJ work is about building trust — which means doing a lot of listening and learning. Then the work requires integrating EJ stakeholder interests into your company’s planning and operations — creating a virtuous cycle of trust, engagement, and action.

Mistakes Not to Make

Avoid making the mistakes that can hinder your ongoing EJ strategy:

- **EJ is not a “check-the-box” exercise.** It’s too easy to develop a superficial understanding of and response to EJ. We recommend avoiding any one-and-done statements or assessments. EJ will be a piece of your engagement and operations in perpetuity.

- **EJ isn't just about energy access.** Even though energy access is truly important to all communities, stakeholders do not view EJ solely through an energy access lens. Engaging in and speaking about EJ requires surveying the whole landscape of EJ interests and concerns, including direct impact on communities.
- **One EJ tool will not cut it.** It's important to consider the relevant tools and guidance that could be applicable to your operations. Otherwise, you run the risk of excluding an EJ community, leaving gaps in your stakeholder strategy, or missing an important requirement within the regulatory landscape.
- **EJ cannot be dismissed as a partisan game.** Like climate change, EJ is driving expectations of your business — despite seeming partisan. As we learned with climate change, the fact that an issue is or appears partisan doesn't insulate businesses from investor and regulatory pressures. Partisan or not, EJ is here to stay as a consideration core to environmental, energy, and climate policy and rulemaking.
- **Treating EJ as an issue for tomorrow will mean you miss opportunities.** EJ opposition today can derail future low-carbon opportunities. Ask yourself, "What am I doing with EJ today to ensure doors for emerging energy technologies remain open tomorrow?" Your company will need partners to build decarbonization business lines that work alongside EJ expectations, not against them.

EJ Evolution: Don't Wait to Get Started

Progress, pushback, and expectations around EJ will rapidly evolve over the next year. Game-changing leaders will make a concerted effort to keep abreast of the issues and work to incorporate EJ into their strategies. Addressing EJ can feel overwhelming and confusing, but game-changing leaders know that incremental progress is progress. Share our recommendations and lessons learned with your internal teams to plant the seed.

For more on how Adamantine can help your company navigate DEI- and EJ-related issues, check out our services [here](#).