

# ADMINISTRATIVE WATCH

ADDRESSING ENVIRONMENTAL, ENERGY AND NATURAL RESOURCE ISSUES



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## EPA Issues Technical Guidance For Assessing Environmental Justice In Regulatory Analysis

The United States Environmental Protection Agency's ("EPA's") latest publication demonstrates that issues relating to environmental justice will have a significant impact on regulatory actions in the near future and will be an important topic during the public comment period for proposed rules. On June 7, 2016, EPA issued the publication *Technical Guidance for Assessing Environmental Justice in Regulatory Analysis* ("Guidance"), which recommends technical approaches that EPA analysts can use to incorporate environmental justice concerns during the rulemaking process.

EPA defines "environmental justice" as "the fair and meaningful treatment 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." When evaluating proposed regulatory actions, EPA recommends analysts conduct an initial screening of environmental justice concerns to determine the appropriate level of analysis through the rulemaking process. Specific consideration should be given to "proximity of sources to low-income populations, minority populations, and/or indigenous peoples, unique exposure pathways, and a history of environmental justice concerns associated with the pollutant being regulated."

With respect to evaluating the environmental justice issues in Human Health Risk Assessments that are conducted to support a regulatory action, EPA's new Guidance provides factors to consider when designing various assessments during the planning, scoping, and problem formulation portions of the rulemaking process. These assessments stress the importance of considering disproportionate impacts on certain population groups or demographics due to a potential for increased vulnerability and susceptibility to environmental stressors.

This Guidance complements EPA's existing *Environmental Justice Action Development Process Guide* and is a significant component of "EJ 2020," which is a broader strategy to advance and address issues of environmental justice by the year 2020. EPA is currently seeking comments until July 7, 2016 on its draft *EJ 2020 Action Agenda*, which proposes integrating environmental justice concerns to all EPA actions, including the rulemaking considerations found in the Guidance, as well as permitting and enforcement actions.

Babst Calland attorneys will be monitoring EPA's use of the Guidance during the development of regulatory actions as well as EPA's implementation of the EJ 2020 strategy in general. If you have any questions regarding the Guidance or its potential impact on future EPA rules and regulations, please contact Hetal Dhagat at 412-394-5423 or [hdhagat@babstcalland.com](mailto:hdhagat@babstcalland.com), Amie Courtney at 412-394-6981 or [acourtney@babstcalland.com](mailto:acourtney@babstcalland.com) or any of our other environmental attorneys.