

Comment Number	Reviewer(s)	# of reviewers making similar comment	Comment Type	Applicable Section(s) in Document [No highlighting indicates comment mentioned a specific section; blue highlighting indicates IEC suggested appropriate section; N/A = not applicable]	Topic	Summary of Unique Comment [Font color code: Black - response needed Blue - topic too broad or not relevant to document]	Data Sources/References
1	Kathleen Schmid, New York City Law Department	2	Section-multiple	2.1, 2.2, 4.3,	Data	<p>Scope of data collection:</p> <ol style="list-style-type: none"> 1. Because the EJTG recommends using data provided by municipalities to inform human health risk assessment, this guidance could affect data collection by the New York City government; NYC and DEC already conduct EJ analyses and have collected data. 2. State/municipal agencies should be involved in defining scope of data collection, including geographic areas, for data to be used in EJ analyses. 3. EJTG should discuss privacy issues related to small-scale data collection. 4. EJTG should be clear about whether EPA will rely on data from local government if the appropriate level of detail is not available through national databases. Commenters are concerned that EPA may require New York City to generate data in response to requests from EPA. Comment notes that EPA does not have (or seek) regulatory authority to request data from city, but notes that as a matter of practicality, cities may be asked for data. EJTG should specify clear procedures and expectations for EPA staff seeking data. 5. "EPA has indicated that existing database will be sufficient for the data needed to conduct EJ analyses in accordance with the Draft EJ Guidance" - assertion may be unrealistic. [not clear where assertion is in EJTG] 	General reference to the fact that New York State DEC and New York City "already conduct sophisticated EJ analyses, and their thorough efforts to gather community data have highlighted difficulties in the type of information collection that the Draft EJ Guidance describes." The comment notes that the final guidance should specify how to address privacy, but the broader data collection efforts and prior analyses may represent useful resources.
1	Kathleen Schmid, New York City Law Department	2	Section-specific	2.2.1	Definition: population groups	OMB race and ethnic categories group together many subpopulations and may not accurately represent local EJ populations. Draft guidance should specifically address considerations relevant to areas with highly diverse populations, rapidly changing population groups, and elevated mean income levels.	
1	Kathleen Schmid, New York City Law Department	1	Section-multiple	4.3.3.3, Text Box 4.5	Analytical: geographic analysis	EJTG should discuss when geographic characteristics versus demographic characteristics are the appropriate measure. Sometimes impacts affect different population subgroups spread across an area; other time impacts are concentrated on everyone in an area. Different data collection may be needed (e.g., for ozone levels that mostly affect people without AC v. highway noise).	
1	Kathleen Schmid, New York City Law Department	1	Section-specific	5.3.2.1	Definition: hot spot	Clarification of terms and criteria: 1. Define threshold of pollution which makes an area a "hot spot" (p. 46).	

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1	Kathleen Schmid, New York City Law Department	1	Section-multiple	2.2.3, 3.2.2, Text Box 5.1	Definition: principally	2. Define level of consumption which indicates populations that "principally" subsist on hunting or fishing (e.g. 50% of total food intake, etc.). EJTG identifies these groups as a focus but does not define "principally."	
1	Kathleen Schmid, New York City Law Department	3	Section-multiple	2.4, Text Box 2.2, 4.3.3.2	Definition: disproportionate	3. Discuss how a decision-maker should determine that a discrepancy in impact is "disproportionate" (requiring a policy action) versus "difference."	
1	Kathleen Schmid, New York City Law Department	1	Section-specific	Glossary	Definition: cumulative	4. Define "cumulative impact" and "cumulative exposure."	
1	Kathleen Schmid, New York City Law Department	1	Section-specific	Glossary	Definition: adverse effects	5. For the glossary definition of "adverse effect", provide a threshold for when an organism's performance or ability to respond is reduced.	
1	Kathleen Schmid, New York City Law Department	1	Section-multiple	Text Box 5.6	Example: editorial	6. EJTG "does not adequately clarify the criteria for determining that a proposed rule or action creates or mitigates an EJ concern." Examples demonstrating the five steps of the HHRA and regulatory analyses would be helpful to readers.	
1	Kathleen Schmid, New York City Law Department	1	Document scope	N/A	Scope	Clarification of procedural expectations 1. EPA should ensure that proposed EJ analyses do not delay rulemaking. 2. EJTG should state that these guidelines do not apply to states and/or that states with their own method to address EJ concerns in rulemaking can continue to follow state procedures if those are sufficient to meet EPA policy objectives. 3. EJTG should specify clear procedures and expectations for EPA staff seeking data from cities (see "data" comments above).	
1	Kathleen Schmid, New York City Law Department	1	General	N/A	Data	3. EPA should require that all data and analyses used in regulatory analyses and HHRAs are made publicly available.	

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1	Kathleen Schmid, New York City Law Department	11	Section-specific	4.3.2.5	Community/stakeholder involvement	4. EPA should create a process to engage communities and stakeholders to ensure that EJ concerns are solicited. 5. EJTG should discuss the role of technology, including social media, apps, maps, etc. to provide access to data/engage affected communities. 6. EJTG should note that translation of outreach materials is an important component of engaging communities and should provide criteria that may affect certain demographics to help regulators determine when translation is necessary.	
2	Laura Massie, California Rural Legal Assistance, Inc.	1	Section-multiple	Glossary; Introduction; other	Definition: effect and impact	1. Change definitions of "effect" and "impacts" in glossary to explicitly include reductions in risk and improvement in health/environmental quality. Comment notes that Introduction of EJTG discusses "distribution of reductions in risk from EPA actions" but glossary definitions for "effects" does not clarify whether these reductions in risk are included with the terms "effects" and "impacts" throughout the document.	
2	Laura Massie, California Rural Legal Assistance, Inc.	1	Section-specific	2.2.2	Definition: low-income	2. Recommends defining "low income" based on HUD's income classification approach, which uses the Area Median Income (AMI). This system defines low-income, very low-income, and extremely low-income as households with an income of 80%, 50%, and 30% of AMI, respectively. Discussing this approach in the EJTG would give analysts better guidance for defining "low-income populations."	Housing and Urban Development income classification approach based on Area Median Income (AMI)
2	Laura Massie, California Rural Legal Assistance, Inc.	11	Section-specific	4.3.2.3	Community/stakeholder involvement	3. "EJTG should recommend early and thorough community involvement as a means of identifying and addressing data gaps." Includes "early, thorough, and culturally and linguistically competent community involvement in order to identify and address relevant data gaps."	
2	Laura Massie, California Rural Legal Assistance, Inc.	1	Section-specific	3.2.3	Example: suggestion	4. Commenters "commend" EPA for including a discussion in Section 3.2.3 on how physical infrastructure may be a factor in exposure to environmental stressors. They suggest that this section should mention community-level infrastructure issues such as lack of clean drinking water and wastewater treatment in rural areas as specific examples of infrastructure problems that may lead to increased exposure as many rural residents may rely on private wells and septic systems.	

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2	Laura Massie, California Rural Legal Assistance, Inc.	1	Section-multiple	4.3.2 and 4.3.3	Analytical: cumulative risk assessment	5. a. Although EJTG does mention cumulative impacts numerous times throughout the document, the sections pertaining to the analytical approach (4.3.2 and 4.3.3) do not include guidance on incorporating cumulative impacts to low-income and minority populations. "Given the recognition of the relevance of cumulative environmental health impacts, it is not clear why EJTG does not include consideration of these risks as part of its core analytic framework.	
2	Laura Massie, California Rural Legal Assistance, Inc.	1	Section-multiple	4.3.2 and 4.3.3	Analytical: HHRA	5. b. EJTG should consider recommending health impact assessment (HIA) instead of human health risk assessment approaches, or at least specifically state that EJ analyses should incorporate any and all components of HIA that would be necessary to provide an accurate assessment of health impacts.	
2	Laura Massie, California Rural Legal Assistance, Inc.	1	Section-specific	Appendix B	Analytical: geographic analysis	6. Because county-level analyses may not show significant differences between population groups, the EJTG should explicitly ("unequivocally") state that analyses should be at the Census-tract level. Because the document includes several examples of county-level analyses, it should be explicit about the potential pitfalls of this approach.	Jonathan London et al., Revealing the Invisible Coachella Valley: Putting Cumulative Environmental Vulnerabilities on the Map (UC Davis Center for Regional Change, 2013)
2	Laura Massie, California Rural Legal Assistance, Inc.	1	Section-specific	5.5.1	Costs: distributional	7. Section 5.5.1 should include health-related costs.	
2	Laura Massie, California Rural Legal Assistance, Inc.	1	Section-specific	6	Analytical: infrastructure	8. Commenters "appreciate EPA's candidness" on data/methodological gaps but had several recommendations on research priorities: a. Compare current physical infrastructure, including drinking and wastewater systems, to code requirements; evaluate how drinking and wastewater systems may influence exposures in rural areas	Author provided her comments on CalEnviroScreen as an example of data gaps in state/county data sources
2	Laura Massie, California Rural Legal Assistance, Inc.	1	Section-specific	6	Data	b. Study reliability of state and county agency data, as using flawed data may lead to inaccurate conclusions (commenters included as a separate attachment the authors' critique of CalEnviroScreen)	
2	Laura Massie, California Rural Legal Assistance, Inc.	1	Section-specific	6	Data	c. Air monitors in CA not always distributed in ways that measure EJ impacts. EJTG should evaluate whether distribution of current air monitors accurately capture exposures of low-income and minority populations (also analytical)	

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2	Laura Massie, California Rural Legal Assistance, Inc.	1	Section-specific	6	Analytical: low-income	d. EPA should conduct meta-analysis of definitions of low-income (e.g. Federal Poverty Guidelines, Free & Reduced Lunch participation, Supplemental Poverty Measures, HUD AMI, etc.) to understand how different definitions of low-income influence EJ analyses [also definition]	
3	George Alexeeff, Cal	1	General	N/A	Editorial	EJTG is well-written for both technical and non-technical audiences.	
3	George Alexeeff, Cal EPA, Office of Environmental Health Hazard Assessment	1	Section-specific	2.1	Definition: EJ concerns	Three main criteria for "EJ concerns" are clear.	
3	George Alexeeff, Cal EPA, Office of Environmental Health Hazard Assessment	1	Section-specific	1.1	Scope	Asking the same questions at multiple decisions points for the ADP is appropriate and provides framework for alternatives during the ADP which would prevent or mitigate EJ concerns.	
3	George Alexeeff, Cal EPA, Office of Environmental Health Hazard Assessment	1	Document scope	N/A	Scope	EJTG appropriately focuses on existing disparities and how actions may create or increase disparities.	
3	George Alexeeff, Cal EPA, Office of Environmental Health Hazard Assessment	1	Section-specific	5.4, ?	Analytical: geographic analysis	Reviewer recommends adding a "geographical element" to analyses and including analytical approaches/tools to analyze EJ concerns that are used by other institutions in the U.S. Also asks for examples of different approaches and tools.	
3	George Alexeeff, Cal EPA, Office of Environmental Health Hazard Assessment	1	Section-specific	Section 4 (review wrote: p. 19-32, Section B, Part 2)	Editorial	Commenters noted that guidance in Section B, part 2 "is thorough and comprehensive" and agree with the tiered approach presented.	

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3	George Alexeeff, Cal EPA, Office of Environmental Health Hazard Assessment	1	Section-specific	3.2.4, 3.2.5, 3.3, Text Box 3.1 (reviewer wrote: Section A, Part 2 (p. 17-18))	Example: suggestion	<p>Commenters note this section is "very limited in scope and lacks specifics and examples or models that have been used and applied by other agencies or institutions to address the same issue" Recommend including specific examples and models [listed to the right].</p> <p>Provides extensive justification for including CalEnviroScreen; should be carefully reviewed and considered.</p>	<p>1. Environmental Justice Screening Method: http://www.mdpi.com/1660-4601/8/5/1441</p> <p>2. Land of Risk Land of Opportunity: http://regionalchange.ucdavis.edu/ourwork/projects/ceva-sjv</p> <p>3. A Preliminary Screening Method to Estimate Cumulative Environmental Impacts: http://www.state.nj.us/dep/ej/docs/ejc_screeningmethods20091222.pdf</p> <p>4. CalEnviroScreen: http://www.oehha.ca.gov/ej/ces042313.html (quantitative analytical tool to assess EJ concerns using pollution burden and population characteristic factors)</p> <p>a. Development of CalEnviroScreen provides an example of meaningful public participation/community involvement (as described on p. 13-14), helps to answer the question in the EJTG on identifying and addressing disproportionate impacts (p. 16), and addresses the question "how did the actions taken under #1 and #2 impact the outcome of the final decision?".</p>
4	Salome Argyropoulos	1	General	N/A	Editorial	Entire comment is "I think it's wonderful that the EPA is now seeking Environmental Justice input/comments in its decision-making. This is a good step in the right direction. This gives individuals and groups the opportunity to voice their opinions on important matters that affect them, their community, and their world."	

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5	Robert McCarl, Boise State University	11	Document scope	N/A	Community/stakeholder involvement	<p>Comment is a letter initially written in response to Plan EJ 2014 (originally sent on 9/22/10). The letter is very critical of EPA's approach to EJ work and In the introduction to his letter, he writes "I do not think it is possible for a large federal agency like EPA to understand the important cultural and social implications of environmental injustice in our country . . . In my opinion, the EJ program as it is administered by EPA nationally, and by Region 10 regionally, is at best window-dressing and at worst, deception." In particular, the letter addresses the following points:</p> <ol style="list-style-type: none"> 1.The document should be written using language easily understood by non-professionals. By using agency jargon, the language of the document may exclude EJ populations from accessing the information in it. 2. EPA should not hold small municipalities financially responsible for clean-ups. 3. EPA should ensure that settlement money for clean-up of contaminated sites goes to the affected community members; should do a more thorough job of involving the community; companies who leave contaminated sites have the responsibility to clean them up. 4. EPA should support community-based action programs, including paying local individuals to provide insight on the needs/preferences of the community and have EPA staff live in the community; decisions should be bottom-up rather than top- down; EPA should not allow only outsiders to make decisions on behalf of the community in question; EPA should involve local community leaders to better understand community needs. 5. Respect for cultural areas should be a goal of EPA's EJ work. 6. Decentralize the grant funding process and involve members of communities with similar EJ issues to discuss their approaches 	
5	Robert McCarl, Boise State University	9	Section-multiple	1.2, 5.1, Text Box 5.1	Analytical: qualitative data	8. EPA should rely both on statistical analysis and on qualitative data, such as personal stories, when approaching EJ issues.	

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6a, b	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	General	N/A	General	Request for 60 day extension on comment period and postponement of SAB committee meeting to allow further consideration of the make up of the panel and for SAB members to consider public comments. In particular commentor states that EJTG does not have anyone on SAB panel who can sufficiently represent the regulated community, and that meeting before public comments are submitted is "not the way the SAB usually operates." Attached EPA letter suggests a response is already complete.	
7	Covanta Energy	11	Section-multiple	2.4, Text Box 2.4, 3.2.5, 4.3.2.5	Community/stakeholder involvement	Community involvement has two components: a) early knowledge and b) meaningful involvement. The EJTG should use concepts from the ADP including "early and meaningful involvement, transparency, and avoidance of disproportionate impacts".	
7	Covanta Energy	1	General: policy issue	N/A	Scope	Reviewer strongly agrees that the EJTG should offer guidance but not be prescriptive to allow for flexibility in rulemaking.	
7	Covanta Energy	11	Section-specific	Section 2	Community/stakeholder involvement	Section 2 should mention stakeholder groups and meetings. This approach would encourage "balanced information" from stakeholders and may help with the development of rules that would be less likely to face delays due to appeals.	
7	Covanta Energy	1	Section-multiple	Sections 3 and 4	Data	Reviewer recommends relying on available data and tools to assess susceptibility of populations of concern, although the reviewer recognizes performing in-depth cumulative impacts assessment may be necessary in certain cases.	
7	Covanta Energy	1	Section-specific	Section 4	Analytical: HHRA	Reviewer supports the flexibility built into the planning process for a HHRA.	
7	Covanta Energy	1	Section-multiple	N/A	Analytical: life-cycle analysis	During rulemaking, the "underlying science and data that is available needs to be considered." For a life cycle analysis, reviewer recommends assessing alternative scenarios to find "an overall solution with minimal global impacts."	

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7	Covanta Energy	1	Section-specific	4.3.2.5	Example: suggestion	Reviewer gives an example of how Covanta Energy assessed the Delaware County Resource Recovery Facility starting in 1995: - Sought out key stakeholders from the community and PA DEP early in the process and developed a community relations plan - Implemented an environmental review and provided funding for community programs Detailed information included in the comment; references a report [cited to the right]	Covanta Community Outreach and Environmental Justice Policy: http://www.covantaenergy.com/en/what-we-do/sustainability/environmentaloverview/environmental-justice-policy.aspx .
8	New York State Department of Environmental Conservation	1	General	N/A	General	NYSDEC "welcome[s]" this guidance and considers it "well-designed and thoroughly-researched".	
8	New York State Department of Environmental Conservation	1	Section-multiple	Text Box 1.1, other relevant sections	Data	Strengths of EJTG include advice on: - Disaggregating data to better understand spatial differences - Using latest demographic data available - Selecting comparison group	
8	New York State Department of Environmental Conservation	1	Section-specific	Section 4, 4.1	Analytical: HHRA	Strengths of EJTG include advice on: - Incorporating EJ concerns in HHRAs - Methods to identify potential EJ concerns and whether regulatory actions will mitigate those concerns	
8	New York State Department of Environmental Conservation	1	Section-specific	5.1	General	Reviewer supports the acknowledgement that disproportionate impacts may exist even in cases where rules reduce the overall burden.	
8	New York State Department of Environmental Conservation	1	Section-multiple	N/A	Example: editorial	Reviewer appreciates examples of how to apply recommendations in the EJTG.	
8	New York State Department of Environmental Conservation	1	Section-multiple	4.3.2, 4.3.2.5, other relevant sections	Example: editorial	Including specific examples of stakeholder and community involvement would strengthen the EJTG.	

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8	New York State Department of Environmental Conservation	1	Section-multiple	2.4, Section 5	Example: editorial	Including specific examples of how to mitigate disproportionate impacts would strengthen the EJTG.	
8	New York State Department of Environmental Conservation	1	Section-specific	4.1	Editorial	No Section 2.2.4 in the EJTG; change reference on p.20 (in section 4.1).	
8	New York State Department of Environmental Conservation	1	Section-specific	5.3.2.2	Editorial	The EJTG states that the EPA's National Air Toxics Assessment uses monitoring data. However, this program provides modeled data to the public and regulators to assess public health impacts. Commentor suggests changing language to say "modeled" data rather than monitoring.	
8	New York State Department of Environmental Conservation	1	Section-specific	Text Box 5.3	Example: editorial	Reviewer recommends the following changes to Text Box 5.3: - Local-scale air modeling has a confidence level close to that of source-level dispersion modeling (a lower confidence level than stated in Text Box 5.3). - Local-scale monitoring data has the highest confidence of the options listed. - Measured emissions are not the lowest confidence level data, as some facilities directly measure emissions.	
9	Mercatus Center at George Mason University	9	Technical approach	5.5.1	Costs: distributional	Reviewer states that EPA should include analyses of costs in the EJTG, as only two pages of the document currently focus on costs. This discussion should include BCA - and examination of the distribution of regulatory costs, impacts on employment of lower-income individuals, and changes to health status due to lower income as a result of the costs of regulation. Also cites Circular A-4 as requiring distributional analysis of costs.	
9	Mercatus Center at George Mason University	1	Technical approach	N/A	Definition: EJ	Discussion of EPA and Executive Order 12898 definitions of EJ. Detailed explanation of why EO definition requires EPA to consider disproportionate cost impacts of regulation on EJ communities.	
9	Mercatus Center at George Mason University	9	Technical approach	Section 5	Costs: distributional	Reviewer notes that costs from regulations affect environmental and health issues. EPA should interpret the definition of fair treatment to include the burden of additional costs of regulations on low-income populations.	

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9	Mercatus Center at George Mason University	9	Section-specific	5.5.1	Costs: distributional	Author strongly disagrees with the statement on p.51 which notes that assessing the distribution of costs when focusing on EJ concerns is often not necessary. EPA should be aware of how regulatory costs may be regressive (e.g. increases in consumer prices are a larger burden to low-income households, especially electricity, rent, and fuel). EPA should analyze how its regulations may increase the price of goods purchased by low-income populations. "Given the EPA's obvious concern for creating benefits for vulnerable populations in society, it is odd that the EPA is only looking at half of the equation."	Office of Management and Budget, Circular A-4, Regulatory Analysis (September 17, 2003).
9	Mercatus Center at George Mason University	9	Technical approach	Section 5	Costs: distributional	<p>Review notes that income is linked to EJ concerns in the following ways:</p> <ul style="list-style-type: none"> - Lower-income individuals have fewer resources to mitigate health and environmental concerns - Job loss correlated with health issues - Distributional impacts of job loss/creation of environmental rulemaking include loss of low-skilled/gain of higher-skilled jobs which may impact low-income individuals <p>EPA should consider impacts to employment and health (due to job loss) during rulemaking.</p>	<p>- "For a more detailed discussion of how regulations can alter risk-mitigation strategies for different income groups, see Diana Thomas, "Regressive Effects of Regulation" (Working Paper No. 12-35, Mercatus Center at George Mason University, Arlington, VA, November 2012), http://mercatus.org/publication/regressive-effects-regulation. "</p> <p>Keith Hall, "The Employment Costs of Regulation" (Working Paper No. 13-06, Mercatus Center at George Mason University, Arlington, VA, March 2013), http://mercatus.org/publication/employment-costs-regulation.</p> <p>- Sarah A. Burgard, Jennie E. Brand, and James S. House, "Toward a Better Estimation of the Effect of Job Loss on Health," <i>Journal of Health and Social Behavior</i> 48, no. 4 (2007): 369–384; Marcus Eliason and Donald Storrie, "Does Job Loss Shorten Life?" <i>Journal of Human Resources</i> 44, no. 2 (2009): 277–302; Mari Rege, Telle Kjetil, and Mark Votruba.(2009). "The Effect of Plant Downsizing on Disability Pension Utilization," <i>Journal of European Economic Association</i> 7, no. 4 (2009): 754–785; Daniel Sullivan and Till von Wachter, "Job Displacement and Mortality: An Analysis Using Administrative Data," <i>Quarterly Journal of Economics</i> 124, no. 3 (2009): 1265–1306; Kate W. Strully, "Job Loss and Health in the US Labor Market," <i>Demography</i> 46, no. 2 (2009): 221–246; and Martin Salm, "Does Job Loss Cause Ill Health?," <i>Health Economics</i> 18, no. 9 (2009): 1075–1089.</p>

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9	Mercatus Center at George Mason University	1	Section-specific	Section 4	Analytical: risk reduction	EPA should assess regressive effects of risk reduction strategies. It should identify the probability of exposure early in the regulatory process to help identify regulations with regressive outcomes. Reviewer notes that mitigating "low-probability mortality risks" rises with increased income and that lower-income populations face more non-environmental high probability mortality risks. Regulations addressing low-probability mortality risks may be regressive.	Fred Kuchler et al., "Health Transfers: An Application of Health-health Analysis to Assess Food Safety Regulations," Risk 10 (1999): 315; Randall Lutter and John F. Morrall III, "Health-health Analysis: A New Way to Evaluate Health and Safety Regulation," Journal of Risk and Uncertainty 8, no. 1 (January 1, 1994): 43-66; and Ralph Keeney, "Estimating Fatalities Induced by the Economic Costs of Regulations," Journal of Risk and Uncertainty 14, no. 1 (January 1, 1997): 5-23.
9	Mercatus Center at George Mason University	1	Technical approach	Section 5	Costs: distributional	Reviewer states that EPA should strive to create environmental regulations that are as cost-effective as possible, as environmental regulations are less cost-effective than regulations in other areas. Reviewer notes that "using a uniform value of a statistical life (VSL) across all individuals in society systematically overestimates benefits to the poor" except in cases where low-income individuals face higher risks from the regulated contaminant. Author recommends using a different VSL or measure of WTP to prevent overestimating benefits. EPA should present evidence of greater susceptibility and/or exposure to low-income or minority groups during the rulemaking process.	- Tammy O. Tengs et al., "Five-Hundred Life-Saving Interventions and Their Cost Effectiveness," Risk Analysis 15, no. 3 (1995): 369-390. - Cass Sunstein, "Are Poor People Worth Less than Rich People: Disaggregating the Value of Statistical Lives" (Working Paper 04-05, AEI-Brookings Joint Center For Regulatory Studies, Washington, DC, January 2004). - EPA, "Economic Analysis of the Formaldehyde Standards for Composite Wood Products Act Implementing Regulations Proposed Rule," (May 2013). - EPA, "Lead; Renovation, Repair, and Painting Program," 73 Fed. Reg. 78 (Apr. 22, 2008).
9	Mercatus Center at George Mason University	7	Section-specific	5.1	Analytical: distributional analysis	Reviewer recommends performing a distributional analysis of costs/benefits prior to proposed rulemaking. EPA should solicit feedback from low-income and minority populations on the impacts of proposed regulations on costs, including asking these populations their preferences for environmental regulations relative to costs (both on specific regulations and in general surveys). Sharing cost estimates makes the rulemaking process more transparent. One way EPA can provide this information is in an Advance Notice of Proposed Rulemaking (ANPRM).	
9	Mercatus Center at George Mason University	11	Section-specific	4.3.2.5	Community/ stakeholder involvement	Reviewer states that "EPA should not ignore the dignity people lose when they are no longer able to make choices about risk- reduction strategies in their own lives."	Exec. Order No. 13563, 76 Fed. Reg. 14 (Jan. 21, 2011).
9	Mercatus Center at George Mason University	9	Section-specific	1.1	Costs: distributional	In "Overarching Questions and Objectives for Analysis of Potential EJ Concerns", EPA should list distributional impacts of costs of rules.	

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9	Mercatus Center at George Mason University	1	Technical approach	Section 5	Analytical: health-health analysis	"The EPA should conduct a health-health analysis for vulnerable populations as part of its regulatory impact analyses."	
10	ASARCO	4	General: legal issue	Section 1 and 2	Legal	EJTG does not list the six types of rulemaking (monitoring, record-keeping, control technology-based standards, ecological risk- based standards, human health-risk based standards) nor does it clarify to which of these the EJTG applies. Reviewer states that the EJTG "practicably and lawfully apply only" to human health risk-based standards (e.g., NAAQS, MCLs, HHB-SWQS). The reviewer could not conceive of an example where the EJTG would apply to monitoring, record-keeping, and reporting rules. By statute, control technology-based standards cannot take into account human health or environmental risks, with very few exceptions. If EPA intends to apply the EJTG to environmental (ecological) risk-based standards (comment specifies water quality standards), it should provide concrete examples of how these standards could have disproportionate effects on minority and low- income populations and tribes in Section 4.	Control technology-based standards: - 61 Fed. Reg. 17358, 17363 (April 19, 1996) (Revised Standards for Hazardous Waste Combustors) - S. Rep. No. 228, 101st Cong. 1st Sess. 128-32 (1990). Ecological risk-based standards: - 40 C.F.R. § 131.10(a), 40 C.F.R. § 131.22(c), 40 C.F.R. § 131.21, 52 Ariz. Admin. Reg. 4708, 4873 (December 26, 2008) (Arizona Department of Environmental Quality Water Quality Standards)
10	ASARCO	1	Section-multiple	1.1, 2.4	Legal	EJTG "does not offer an explanation of its legal authority" other than the ADP Interim Process Guide and E.O. 12898. The only statutes cited by these two documents are those where courts have authorized EPA to set standards protective of sensitive subpopulations. EJTG should explain how court decisions on sensitive subpopulations (e.g., children) apply to minority and low- income populations and tribes.	- Coalition of Battery Recyclers Ass'n v. EPA, 604 F.3d 613, 618 (D.C. Cir. 2010) - Am. Lung Ass'n v. EPA, 134 F.3d 388, 389 (D.C. Cir. 1998) (quoting S. Rep. No. 91-1196 at 10)).
10	ASARCO	4	Document scope	Section 1 and 2	Scope	"The Guidance should be amended, therefore, to: (a) state the Guidance applies only to rulemakings that promulgate human health risk-based standards, i.e., NAAQS, MCLs, and HHBSWQS; (b) state the Guidance applies to such rulemakings only to the extent that the setting of the NAAQS, MCLs, or HHB-SWQS is based materially on the need to protect sensitive subpopulations; and (c) explain how low income and minority populations and federally recognized Indian tribes can constitute sensitive sub-populations in such rulemakings, with concrete examples."	

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10	ASARCO	1	Section-multiple	2.4, 5.1, Text Boxes 5.1, 5.2	Legal	Reviewer provides examples of court decisions where EJTG conflicts with the Administrative Procedure Act and other statutes: 1. NEPA/EIS example in Section 2.4 (promulgation not on factors considered in an EIS) 2. MATS example in Section 5.1 and Text Bow 5.1 (because MATS are control-based technology standards) 3. GHG Emissions Standards example in Text Bow 5.2 (same rationale as for MATS)	NEPA example (2.4) - Bowen v. Georgetown Univ. Hosp., 488 U.S. 204, 208 (1988) - Michigan v. EPA, 268 F.3d 1075, 1081, (D.C. Cir. 2001) MATS example (5.1) - 61 Fed. Reg. at 17363
10	ASARCO	1	Section-specific	5.4.4	Analytical: statistical significance	Inappropriate to state that "lack of statistical significance in a dose-response assessment is not necessarily dispositive in a rulemaking generally or the assessment of responses among minorities, low-income groups, or federally recognized Indian tribes in particular."	
10	ASARCO	9	Section-specific	5, 5.1, 5.4.4	Analytical: qualitative data	Inappropriate to state that qualitative analysis may be used to set human health risk-based standards. EJTG should clearly state that statutes require quantitative, not qualitative, analysis.	
10	ASARCO	1	Section-multiple	3.2 and 4.3.3.2	Legal	These sections should list the statutes that require or allow exposure assessment and definition of subgroups by race or income in the process of setting NAAQS, MCLs and HHB-SWQS.	
10	ASARCO	9	General: policy issue	Section 5	Costs: distributional	EJTG should consider social mobility and how economic benefits of industry (e.g., jobs) affect sensitive subpopulations.	
10	ASARCO	4	Section-specific	2.3	Definition: low-income	EJTG should clearly define "low-income populations" as the selection of the comparison group depends on this definition.	
10	ASARCO	3	Section-specific	2.4, ?	Definition: disproportionate	EJTG should define "disproportionate." It is not the role of the analyst/regulator to make a "policy judgment" on whether disproportionate impacts have occurred. Last paragraph of Section 2.4 incorrectly states that EPA is authorized to address disproportionate impacts by race or income and that EPA need not show that adverse affects are disproportionate to develop an action.	

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10	ASARCO	1	Technical approach	N/A	General	EJTG should not be finalized until the EJ Screen model is finished.	EJ Screen
10	ASARCO	1	Technical approach	N/A	Analytical: mathematical modeling	EJTG should include details on the role of mathematical modeling.	
10	ASARCO	1	Section-specific	4.2, ?	Legal	Reviewer supports increased opportunities for public participation. However, statutes do not authorize EPA to based human health risk-based standards on how that standard may affect public participation. The example given in Text Bow 4.2 is inappropriate, given that it is not a human health standard.	
10	ASARCO	4	Section-specific	Text Box 4.5	Scope	Reviewer does not think it appropriate to consider occupational exposures when setting NAAQS or MCLs. How this information would be used when setting HHB-SWQS should be explained in the EJTG.	
10	ASARCO	4	Section-specific	4.3.3.2	Scope	Section 4.3.3.2 should better explain how the location of a regulated source would affect the development of NAAQS, MCLs, and HHB-SWQS.	
10	ASARCO	1	Section-specific	5.2	Legal	"The statutes that authorize and govern the promulgation of NAAQS, MCLs and HHB-SWQS do not permit consideration of a 'social welfare function.'"	
10	ASARCO	1	Section-specific	5.5.1	Legal	"The statutes that authorize and govern the promulgation of NAAQS, MCLs and HHB-SWQS do not permit consideration of costs in determining the stringency of the standards. Section 5.5.1 of the Guidance should be amended accordingly."	

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11	Peabody Energy	1	General	N/A	General	"Peabody believes that these [EJ] goals are best advanced when societies make use of coal to deliver low-cost, reliable electricity - a critical factor that the EJ Guidance does not mention. This comment thus focuses on the EJ Guidance's failure to recognize coal's role in the advancement of human health and welfare for all peoples regardless of race, color, national origin or income." Outlines the five-step "Peabody Plan" to decrease energy poverty in the U.S (half of new power plants are coal-fired, replace traditional coal plants with super and ultra-supercritical plants, development of >100 projects worldwide to capture/store carbon, increase production of coal to gas/chemicals/liquids to decrease oil and natural gas usage, commercializing clean coal technologies). Reviewer states that a correlation between coal usage and life expectancy in the U.S. and energy usage and life expectancy worldwide exists.	-International energy agency 2010 world energy outlook: U.S. energy information administration electricity net generation: electric power sector: U.S. CDC (Cited several sources on life expectancy in U.S., including National Vital Statistics Report)
11	Peabody Energy	1	Section-multiple	1.1, 4.1	Costs: distributional	Increases in electricity prices due to environmental regulations disproportionately affect minority and low-income populations. Costs to consumers of environmental regulations can have negative health consequences. EJTG should state "other relevant effects by population" (p. 2, 19) include "1) access to energy generally and affordable and reliable electricity in particular; 2) the cost of electricity; and 3) the impact of an increase in the cost of electricity on public health and economic opportunity." Comment includes significant documentation for a number of arguments about impacts of energy costs in the economy.	<ul style="list-style-type: none"> - energy cost impacts on American families, 2001-2012 (American Coalition for Clean Cola Electricity, Feb 2012) - Who Pays a Price on Carbon? pp. 1-2 (National Bureau of Economic Research, August 2009) - The state of the nation's housing 2013, p. 15 (Joint Center for Housing Studies at Harvard University, 2013) - Daniel E. Klein and Ralph L. Keeney, Mortality reductions from use of low-cost coal-fueled power: an analytical framework (Twenty-First Century Strategies, Dec 2002) - M. Harvey Brenner, Health Benefits of Low Cost Energy: An econometric case study. J. of Air & Waste Management Assoc. (Nov 2005) - Economic Growth and Low-Cost Energy Drive Improved Public Health, The Annapolis Center for Science-Based Public Policy (2006) - W. Kip Viscusi. Safety at Any Price? Regulation (Fall 2002) - R. Hahn, R. Lutter, W. Kip Viscusi. Do federal regulations reduce mortality? AEI-Brookings Joint center for Regulatory Studies (Nov 2000) - Justice Alito, April 19, 2011. Transcript of Oral Argument before the U.S. Supreme Court in AEP v. Connecticut, No. 10-174, p.60.

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11	Peabody Energy	9	Section-specific	5.5	Costs: distributional	Economic costs should always be considered in an EJ analysis. Adverse health effects "would be expected to occur" if regulations lead to job loss and/or increases in energy costs for EJ populations. Reviewer states that exposure of concern may not cause increased risk. Both costs and non-health impacts should be taken into account.	See list above.
11	Peabody Energy	1	Section-specific	Section 3	Analytical: risk vs. exposure	Reviewer states that EJTG inappropriately focuses exclusively on exposure when analyses should focus on risk rather than exposure. The benefits of the industrial activity should be taken into account (e.g. jobs, cheaper electricity). Also notes that regulatory agencies overstate benefits by focusing on conservative risk assessments.	
12	Virginia Coal Association	1	Document scope	N/A	Scope	Review includes a discussion of the differences between permitting (necessarily site-specific) and enforcement (should be promoted fairly across the country). Reviewer notes that permitting should be done in a way that prevents unequal impacts and enforcement should be consistent. Reviewer states that "there is no proper role for environmental justice considerations in the adoption of environmental regulations". "The authors have done a thorough job of assembling a wealth of material, but the end result provides no meaningful guidance. The underlying reason for this result is that the basic concept of the project is flawed." Regulations that aim to protect certain groups lead to inequitable rules.	
12	Virginia Coal Association	1	Document scope	5.4.3	Scope	Reviewer notes the "futility" of developing regulations which account for small subsets of the population. Reviewer states that ". . . consideration must also be given to the fact that geography, geology, and industrial necessity often dictate location decisions which have nothing to do with racial or ethnic or socioeconomic considerations." Commentor also notes that crafting regulations that require GIS software "to understand" would be an administrative nightmare.	
12	Virginia Coal Association	1	Section-specific	5.4.4	Analytical: disproportionate impacts	Reviewer states that Section 5.4.4 shows the impossibility of determining whether significant disproportionate impacts exist, because statistical analysis cannot be consistently applied.	
12	Virginia Coal Association	9	Section-specific	5.5	Costs: distributional	Developing regulations to benefit certain groups may lead to higher costs for other groups, especially if data gaps exist. Case-by- case economic analysis leads to "bad" rulemaking.	
12	Virginia Coal Association	1	Section-specific	6	General	Reviewer believes that because this section ("Key Near-Term Research Priorities to Fill Key Data and Methodological Gaps") was left blank, it shows that EPA does not understand what should be researched.	

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13a	Federal Recycling and Remediation Coalition	1	General: policy issue	N/A	Scope	<p>Commentor states that E.O. 12898 states that an adverse effect must exist for an EJ analysis to be necessary. EJTG does not address how analysts will determine if a regulation will cause an adverse effect in EJ populations.</p> <p>Notes that EJTG says to use same assumptions as used for rulemaking to drive EJ analysis, but that DSW 2008 EJ analysis used non-compliance assumptions to develop EJ analysis. Says that every other example also assumed noncompliance.</p>	
13a	Federal Recycling and Remediation Coalition	1	Section-specific	Text Box 4.2	Example: editorial	<p>Example of 2008 definition of solid waste (DSW) rulemaking in EJTG assumes noncompliance when evaluating human health impacts, yet does assume compliance when calculating economic costs. Reviewer states that this example should be removed from the EJTG. Analysts should assume compliance with all legal requirements when calculating both baseline and control scenarios. EPA's analysis does not include both benefits and risks of rule, does not establish a baseline, does not analyze the environmental impact of the 2011 proposed rule, does not estimate probability of risk or whether it would result in "meaningful exposure" and does not include a sensitivity analysis. "The entire environmental justice analysis is based on two assumptions: that all material that is transferred is a waste and that facilities will violate the law."</p> <p>EPA used its EJ analysis of the 2008 DSW Rule "even though (1) the 223 damage cases identified by EPA are isolated incidents compared to the vast amount of valuable recycling activity that takes place in the U.S. with no environmental or public health impacts, (2) 31 of the damage cases (14%) involved facilities that had RCRA permits, and (3) many of the damage cases identified by EPA involve historic waste management practices, not modern recycling, and (4) as noted by EPA: "To date, no environmental problems have been reported at facilities claiming the DSW exclusions.""</p>	EPA proposed rule to amend DSW: 76 Fed. Reg. 44094 (July 22, 2011) EJ evaluation of DSW: 76 Fed. Reg. at 44109.

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13a	Federal Recycling and Remediation Coalition	1	Section-specific	Text Box 4.2	Legal	<p>Under Executive Orders 13563 and 13610, EPA should analyze existing regulations to reduce burden of regulations. EPA will not follow these executive orders if EJ analyses are performed similarly to the example of the 2008 DSW analysis. For the examples to the right, the reviewer noted that "it is clear that EPA could have found an EJ impact had it conducted an EJ analysis of these actions using the DSW EJ analysis as a model."</p> <p>Provides examples of SPCC Milk and Dairy deregulation and 2013 automobile shredder recycling, in both cases EJ wasn't done, and if 2008 DSW analysis had followed the same assumptions/methods, would have found no impact.</p>	<p>Several examples were EPA declined to perform an EJ analysis because regulations unlikely to have effects on human health or the environment:</p> <ul style="list-style-type: none"> - Spill Prevention, Control, and Countermeasure (SPCC) rule (deregulation of milk, 76 Fed. Reg. 21652) - Voluntary Procedures for Recycling Plastics from Shredder Residue." 78 Fed. Reg. 20640.5 (PCB regulations for recycling of automobile shredder residue); EPA Summary and Response to Comments On: Polychlorinated Biphenyls (PCBs); Recycling Plastics from Shredder Residue; Request for Public Comments, December 12, 2012 (77 FR 74006) EPA-HQ-OPPT-2012-0902, at 4. (EPA Document No. EPA-HQ-OPPT-2012-0902-0048). - 78 Fed. Reg. 46448; 78 Fed. Reg. at 46483-84 ("exemptions from the definitions of solid and hazardous waste for solvent-contaminated wipes" - Executive Orders 13563 and 13610 (decreasing regulatory burden)
13b	Federal Recycling and Remediation Coalition/ENVIRO N report	1	Section-specific	Text Box 4.2	Example: suggestion	Reviewer included the "Review of EPA's Draft Environmental Justice Analysis of the Definition of Solid Waste Rule" as a supplement to the comments on the DSW example in the EJTG. Since this document does not directly comment on the EJTG, it is not summarized here.	ENVIRON. 2011. Review of EPA's Draft Environmental Justice Analysis of the Definition of Solid Waste Rule. Prepared for API, Washington D.C. October.
14	Nye County, Nevada	1	General	N/A	Editorial	Overachieving comment on including more specifics and better defining steps.	
14	Nye County, Nevada	1	Section-multiple	"Adverse effect" appears in sections: 2.2, 3.3, 4.3.2.1, Glossary	Definition: adverse effects	The definition of "adverse effect" should be broadened to include factors such as lowered property values or accessible to public transit, rather than just as a biological effect. Only in section 5.5.2 addresses potential non-biological impacts.	
14	Nye County, Nevada	1	Section-specific	Text Box 5.6	Example: editorial	EJTG should detail how to define the scope prior to soliciting feedback from stakeholders. The example in Text Box 5.6 should be clear that the scope/geographic footprint should be decided on a case-by-case basis.	

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14	Nye County, Nevada	1	Section-multiple	4.3.3.3, other relevant sections	Analytical: geographic analysis	EJTG should address how to assess EJ concerns in "dispersed rural communities". Conventional approaches may not work well to accurately assess dispersed populations. Geographic boundary should be added to "minority, low-income, or indigenous populations, or tribes" to account for rural communities.	
14	Nye County, Nevada	1	Section-specific	5.4.3	Analytical: geographic analysis	Reviewer states EJTG should offer guidance on when to use area-based measures and when to use individual characteristics in an analysis. Reviewer gives the example of low-income rural areas within a county not considered low income.	
14	Nye County, Nevada	1	Technical approach	N/A	Data	EJTG should provide guidance on addressing privacy issues if data will be collected as part of an EJ assessment. Members of rural communities may be hesitant to share information if they are worried about privacy.	
14	Nye County, Nevada	2	Section-specific	5.5	Data	EJTG should outline how demographic data will be obtained if not available in national databases and whether it plans to rely on local governments to provide public health and demographic data (which may be expensive for local municipalities)	
14	Nye County, Nevada	1	Section-specific	5.5	Scope	EJTG should explicitly address assessment of rural populations. Notes that in Section 5.5 that discusses CAFOs used comparison data for rural areas that may be difficult to find in other cases.	
15	South Carolina Department of Health and Environmental Control	11	Section-multiple	4.3.2.5	Community/stakeholder involvement	Reviewer strongly supports community involvement (DHEC has been recognized by EPA; has been starting "EJ Leadership Academy") and stakeholder participation in the rulemaking process and suggests that EPA analysts visit community at the beginning of an assessment to better understand local concerns. (this comment is restated strongly at the end; early community involvement is critical). EPA should work with local leaders and state and local governments early in the scoping process. EPA should offer explanations in easy to understand terms, solicit public comments, and document how previous public comments influenced rulemaking. Also says that EPA should document effectiveness of efforts to elicit comments from communities. Not clear that current efforts are working.	
15	South Carolina Department of Health and Environmental Control	1	Section-specific	4.3.2.1	Analytical: HHRA	EJTG should provide a timeline for determining the scope of risk assessments of EJ concerns (in "Regulatory, Risk and Social Context" section).	

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15	South Carolina Department of Health and Environmental Control	9	Section-specific	5.1	Data: qualitative	Reviewer considers "qualitative information from local communities [to be] extremely important in dealing with environmental issues" and disagrees with the EJTG statement that quantitative data is preferred over qualitative ("creates an issue of treating citizens as numbers"). Also notes that "generalized information such as population demographics and statistics may not fully depict actual local issues."	
15	South Carolina Department of Health and Environmental Control	11	General	N/A	Community/stakeholder involvement	Suggests involving community members in the writing process for future EJ guidance documents.	
15	South Carolina Department of Health and Environmental Control	9	General	N/A	Data: qualitative	Suggests creating a pilot program where EPA funds states to collect qualitative data at the local or state level. Reviewer notes that the EJTG may create expectations that state environmental departments will be conducting similar EJ analyses. Commentor notes twice that reduced EPA funding has placed pressure on state agencies to be "co-regulators" and "if it is determined that state and local air programs are intended to incorporate EPA's environmental justice principles into practice" DHEC is concerned about resource availability and funding.	
15	South Carolina Department of Health and Environmental Control	9	Section-multiple	Sections 4 and 5	Data: qualitative	EJTG should clarify the methods analysts will use to acquire qualitative data.	
15	South Carolina Department of Health and Environmental Control	5	Section-multiple	4.3.2.2, Text Box 4.1	Analytical: cumulative risk assessment	When conducting a cumulative risk assessment, professionals from a number of disciplines should be involved; DHEC questions the [EPA] analysts' qualifications to accurately assess these complex components, and the document does not make clear the process for obtaining cumulative risk information.	

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15	South Carolina Department of Health and Environmental Control	9	Section-specific	Text Box 5.1	Data: qualitative	Reviewer is concerned that the method to find and apply qualitative data as outlined in the example of mercury exposure through fish consumption often does not exist and that EPA should conduct local level studies to ensure this type of data is available. Reviewer gives example of using region- and water body-specific data on mercury levels in fish in South Carolina. Reviewer also says that use of "best judgment" (p. 38) is provided without a specific process for obtaining qualitative data, and therefore in most cases DHEC predicts that the decision will be made without qualitative data. DHEC wants EPA to conduct local evaluations to gather qualitative information.	
15	South Carolina Department of Health and Environmental Control	9	Section-specific	4.2	Analytical: qualitative data	Suggests use of qualitative data in HHRA. DHEC finds it curious that EJTG spends much time on quantitative HHRA definitions and direction, but little detail on how qualitative information may be helpful.	
15	South Carolina Department of Health and Environmental Control	1	Section-specific	4.3.2.1	Analytical: HHRA	EJTG should provide more detail on the analytical objectives for a HHRA.	
16	Air Permitting Forum	1	General	N/A	General	EJTG as current written will likely cause delays in promulgating rules, and thus delays in emissions reductions.	
16	Air Permitting Forum	4	Section-specific	4.1, ?	Costs: procedural	The process outline on pages 19 to 20 (section 4.1) "adds overly burdensome process requirements to rulemaking." Reviewer is concerned about the time and effort necessary to conduct an EJ analysis as the EJTG describes new analytical steps in the rulemaking process, rather than just the inclusion of EJ concerns within existing analyses.	
16	Air Permitting Forum	1	Section-specific	4.1	Legal	EJTG expects differences in exposures, health, and environmental outcomes to be analyzed and be incorporated into the analysis early in the process for each EJ population of concern, even for technology-driven rules whose statutory criteria do not include EJ concerns.	

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16	Air Permitting Forum	4	Section-multiple	1.1, 1.2, 5.1	Costs: procedural	The final guidance should cover the "substantial resources, costs, and delays to the rulemaking process" due to these guidelines. Vague descriptions of expected analyses in the EJTG may lead to further delays due to confusion about how to implement these guidelines. Reviewer notes concerns about limited EPA resources to complete EJ analyses in a timely manner; limited resources will delay rules. The EJTG should clarify the relative importance of tasks described to assist analysts with allocating limited resources and should outline expected costs associated with rulemaking. EJTG does not analyze the resources, costs, or delays associated with the guidance.	
16	Air Permitting Forum	4	Section-multiple	First two pages of Section 5, including Section 5.1; Section 4	Scope	EJTG is "open-ended and contains no clear criteria" for when to apply EJ analyses and when recommendations have been met. Section 4 should provide guidance on when differences in exposures and/or health and environmental outcomes should lead to further analysis. "Regulators have no off-ramps for their environmental justice analysis." "Where quantitative risk information ... is unavailable, the guidance directs analysts to consider ... qualitative information or ... literature." Commentor notes that "there are no rules for which the procedures in the Draft EJ Guidance are inapplicable." Provides "no guidance or criteria for regulators to conclude <i>based on that analysis that</i> potential environmental justice concerns are not present for a given regulatory action."	
16	Air Permitting Forum	1	General: legal issue	N/A	Legal	The Agency should clarify that the EJTG is not legally enforceable/legally binding beyond the disclaimer already in EJTG. On the website, and in any distributed information, should note that statutes drive the rulemaking.	
16	Air Permitting Forum	1	Section-multiple	Section 6, other relevant sections	General	EPA should finish Section 6 and any other updates to the document and resubmit the entire document for another round of comments.	

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17a	EarthJustice	1	General	N/A	General	<p>Strongly supports EPA's efforts to address EJ issues. "The importance of incorporating EJ into rulemaking cannot be over emphasized . . . The Draft Technical Guidance provide[s] mechanisms for improved deliberation about these costs and the need for environmental stewardship."</p> <p>Also provides extensively documented baseline discussion that communities of color and other EJ communities are currently subjected to disproportionate risks, and those are being exacerbated by government action at various levels. Discusses example of Mossville, Louisiana showing lax environmental laws that have created exposures in the town.</p>	
17a	EarthJustice	3	Section-multiple	Text Box 2.2, Section 2.4	Definition: disproportionate	<p>Definition of "disproportionate impact" should clarify that this term refers to "a factual conclusion" (e.g., results of statistical analysis and not a policy decision) and includes "impacts within population groups." Reviewer notes that it is important to assess differences in impacts within population groups of concern, due to characteristics that may increase vulnerability or susceptibility of members of these populations.</p>	<p>1. Draft Title VI Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs (Draft Recipient Guidance) and Draft Revised Guidance for Investigating Title VI Administrative Complaints Challenging Permits (Draft Revised Investigation Guidance), 65 Fed. Reg. 39,650, 39,681-2 (outlining method for investigating disproportionality in the Title VI context).</p> <p>2. NAT'L RESEARCH COUNCIL OF THE NAT'L ACADEMIES, SCIENCE AND DECISIONS: ADVANCING RISK ASSESSMENT 109, 113 (National Academies Press 2009) ("People differ in susceptibility to the toxic effects of a given chemical exposure because of such factors as genetics, lifestyle, predisposition to diseases and other medical conditions, and other chemical exposures that influence underlying toxic processes...[T]he committee proposes an alternative framework for both cancer and noncancer end points that accounts more explicitly for variability in susceptibility....").</p>

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17a	EarthJustice	2	Section-multiple	Section 1, Glossary; throughout document if wording is changed	Definition: minority	EJTG should either better define "minority" or use the term "people of color."	<p>1. Hope Yen, Associated Press, 'Cultural Generation Gap': Most US Babies are Minorities, Census Shows, NBC NEWS (June 23, 2011), http://www.nbcnews.com/id/43506967/ns/us_news-life/t/cultural-generation-gap-most-us-babies-are-minorities-census-shows/</p> <p>2. Sam Roberts, Census Benchmark for White Americans: More Deaths Than Births, NY TIMES (June 13, 2013), http://www.nytimes.com/2013/06/13/us/census-benchmark-for-white-americans-more-deaths-than-births.html? r=0.</p>
17a	EarthJustice	4	Section-multiple	2.2.2, other relevant sections if definition changed	Definition: low-income	EJTG should "highly recommend" that analysts use a broader definition of "low-income populations" than the poverty level. Reviewer suggests using the Cal EPA definition of at least twice the poverty level.	<p>1. KINSEY ALDEN DINAN, NAT'L CTR. FOR CHILDREN IN POVERTY, BUDGETING FOR BASIC NEEDS: A STRUGGLE FOR WORKING FAMILIES 2 (2009), available at http://www.nccp.org/publications/pdf/text_858.pdf. 24 NPR, Henry J. Kaiser Family Found. & John F. Kennedy School of Gov't, Poverty in America: VII. Personal Experience with Economic Problems, NPR (2001), http://www.npr.org/programs/specials/poll/poverty/staticresulsts6.html.</p> <p>2. CAL. EPA & OFFICE OF ENVTL. HEALTH HAZARD ASSESSMENT ("OEHHA"), CALIFORNIA COMMUNITIES ENVIRONMENTAL HEALTH SCREENING TOOL, VERSION 1 (CALENVIROSCREEN 1.0): GUIDANCE AND SCREENING TOOL 89 (2013), available at http://www.oehha.ca.gov/ej/pdf/042313CalEnviroScreen1.pdf.</p> <p>3. Additional data on economic indicators that can assist in designating populations as "low-income" is available at: http://www.basiceconomicsecurity.org/. (Economic Security Database, WIDER OPPORTUNITIES FOR WOMEN (2013), http://www.basiceconomicsecurity.org/).</p>

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17a	EarthJustice	2	Section-multiple	1.1, Glossary	Definition: population groups	EJTG should expand definition of "population groups of concern" and encourage analysts to incorporate as many factors as possible including "hazard proximity, local land uses, air pollution exposures and its estimated health risk, and social and health vulnerability." Lower SES metrics should include level of education, household income below national median, working people with disabilities, and linguistic minorities.	1. James L. Sadd et al., Playing It Safe: Assessing Cumulative Impact and Social Vulnerability through an Environmental Justice Screening Method in the South Coast Air Basin, California, 8 INT'L J. ENVTL. RES. & PUB. HEALTH 1441 (2011). 2. EC/R Memo, Prepared for EPA, OAQPS, Risk and Technology Review – Final Analysis of Socio-Economic Factors for Populations Living Near Secondary Lead Smelting Facilities (Dec. 2011), Docket ID EPA-HQ-OAR-2011-0344-0161, available at http://www.regulations.gov/contentStreamer?objectId=0900006480f848d9&disposition=attachment&contentType=pdf .
17a	EarthJustice	9	Section-multiple	Sections 4 and 5	Data: qualitative	EJTG should enhance its explanation of how to incorporate qualitative data into regulatory analyses.	1. Example of EPA incorporating EJ concerns: Hazardous and Solid Waste Management System: Identification and Listing of Special Wastes; Disposal of Coal Combustion Residuals from Electric Utilities (Proposed Rule), 78 Fed. Reg. 35,129 (June 21, 2010) (Docket ID EPA-HQ-RCRA-2009-0640). 2. Uncertainty around EPA methods to evaluation EJ concerns: Comments of Earthjustice, Environmental Integrity Project, Sierra Club, Natural Resources Defense Council, Southern Alliance for Clean Energy, Southern Environmental Law Center, Physicians for Social Responsibility, Clean Air Task Force, Kentucky Resources Council, Environmental Justice Resource Center (Nov. 19, 2010), Docket ID EPA-HQ-RCRA-2009-0640, at 196, available at http://earthjustice.org/sites/default/files/us_epa_proposal_disposal_coal_comb_residue.pdf (raising the concern that though EPA had examined racially disproportionate impacts, the agency had not examined the impact of selecting one regulatory option over another).

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17a	EarthJustice	5	Section-multiple	3.2.4, 4.3.2.1	Analytical: cumulative risk assessment	EJTG should include discussion of multiple exposures and cumulative risk. Section 4.3.2.1 should include information on factors that may increase vulnerability/susceptibility to exposure to environmental contaminants. EJTG should include recommendations from the Environmental Justice Strategic Enforcement Assessment Tool (EJSEAT) in including factors such as "percent of population with limited English proficiency, infant mortality, and low birth weight births." EJTG should refer readers to EPA documents on cumulative risk assessment.	<ol style="list-style-type: none"> 1. CAL. EPA & OFFICE OF ENVTL. HEALTH HAZARD ASSESSMENT ("OEHHA"), CALIFORNIA COMMUNITIES ENVIRONMENTAL HEALTH SCREENING TOOL, VERSION 1 (CALENVIROSCREEN 1.0): GUIDANCE AND SCREENING TOOL 89 (2013), available at http://www.oehha.ca.gov/ej/pdf/042313CalEnviroScreen1.pdf. 2. U.S. EPA, OFFICE OF POLICY, ECON., & INNOVATION, EPA'S ACTION DEVELOPMENT PROCESS: INTERIM GUIDANCE ON CONSIDERING ENVIRONMENTAL JUSTICE DURING THE DEVELOPMENT OF AN ACTION (July 2010), available at www.epa.gov/environmentaljustice/resources/policy/ej-rulemaking.html 3. U.S. EPA OFFICE OF ENFORCEMENT & COMPLIANCE ASSURANCE, ENVIRONMENTAL JUSTICE STRATEGIC ENFORCEMENT ASSESSMENT TOOL (May 24, 2012), available at www.epa.gov/environmentaljustice/resources/policy/ej-seat.html.

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17a	EarthJustice	7	Section-multiple	5.1, 5.3.2.3	Analytical: distributional analysis	EPA analysts should consider the distribution of both environmental benefits and burdens; currently the EJTG only discusses how to analyze distribution of burdens. Communities may be "burdened by inaction" if a proposed regulatory action only benefits other areas. Reviewer gives five examples including "1) access to green space, 2) access to transportation, 3) emergency response times, 4) EPA's air toxics standards, and 5) environmental enforcement activities." The references for each of these five topics are listed in the following cells.	<ol style="list-style-type: none"> 1. CLIFFORD RECHTSCHAFFEN ET AL., ENVIRONMENTAL JUSTICE: LAW, POLICY & REGULATION 58-71 (2nd ed. 2009). 2. DOUGLAS MASSEY & NANCY DENTON, AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS, (Harvard Univ. Press 1993) 3. Mark Settles, The Perpetuation of Residential Racial Segregation in America: Historical Discrimination, Modern Forms of Exclusion, and Inclusionary Remedies, 14 J. LAND USE & ENVTL. L. (1998), available at http://www.law.fsu.edu/journals/landuse/vol141/seit.htm 4. Miller v. City of Dallas, No. Civ.A. 3:98-CV-2955-D, 2002 WL 230834 (N.D. Tex. Feb. 14, 2002) ("plaintiffs entitled to trial on claims that continuing disparities in municipal services violated Equal Protection Clause") 5. African-American Citizens Sue City of Rochelle, Georgia Over Decades of Sewage Dumping, EARTHJUSTICE (May 2, 2013) http://earthjustice.org/news/press/2013/african-american-citizens-sue-city-of-rochelle-georgia-over-decades-of-sewage-dumping

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17a	EarthJustice	7	Section-multiple	5.1, 5.3.2.3	Analytical: distributional analysis	Access to green space "is an environmental justice issue."	<p>1. Smart Growth and Open Space Conservation, EPA (Oct. 30, 2012) http://www.epa.gov/smartgrowth/openspace.htm.</p> <p>2. Viniece Jennings et al., Promoting Environmental Justice Through Urban Green Space Access: A Synopsis, 5 ENVTL. JUST. 1 (2012), available at http://www.srs.fs.fed.us/pubs/ja/2012/ja_2012_jenning_s_001.pdf.</p> <p>3. NAT'L PARK SERV., HEALTHY PARKS, HEALTHY PEOPLE US STRATEGIC ACTION PLAN 5 (2011), available at http://www.nps.gov/public_health/hp/hphp/press/1012-955-WASO.pdf.</p> <p>4. U.S. DEPT. OF THE INTERIOR, DRAFT SAN GABRIEL WATERSHED AND MOUNTAINS SPECIAL RESOURCE STUDY AND ENVIRONMENTAL ASSESSMENT 219 (2011), available at http://parkplanning.nps.gov/document.cfm?documentID=43639. See also ROBERT GARCÍA & SETH STRONGIN, HEALTHY PARKS, SCHOOLS AND COMMUNITIES: MAPPING GREEN ACCESS AND EQUITY FOR SOUTHERN CALIFORNIA (2011), available at http://www.mapsportal.org/thecityproject/socalmap/ComprehensiveSocalReport.html; THE CITY PROJECT & CAL. STATE PARKS, PARK POOR, INCOME POOR, AND PEOPLE OF COLOR (2010) available at http://www.cityprojectca.org/blog/archives/6059.</p> <p>5. U.S. DEPARTMENT OF INTERIOR, DRAFT SAN GABRIEL WATERSHED AND MOUNTAINS SPECIAL RESOURCE STUDY AND ENVIRONMENTAL ASSESSMENT, supra note 46, at 231.</p>

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17a	EarthJustice	7	Section-multiple	5.1, 5.3.2.3	Analytical: distributional analysis	Transportation access may burden EJ communities (e.g. a highway through a community where many households cannot afford cars).	<p>1. Guide to Sustainable Transportation Performance Measures, EPA (Oct. 30, 2012) http://www.epa.gov/smart-growth/transpo_performance.htm.</p> <p>2. Robert D. Bullard et al., <i>The Routes of American Apartheid</i>, 15 F. FOR APPLIED RES. & PUB. POL'Y 66 (2000); Robert García & Thomas A. Rubin, <i>Crossroad blues: the MTA Consent Decree and just transportation</i>, in <i>RUNNING ON EMPTY</i> (Karen Lucas ed., 2004); EDWARD W. SOJA, <i>SEEKING SPATIAL JUSTICE</i> vii, ix, x, xii-xiii, vii-viii (2010); KEVIN STARR, <i>COAST OF DREAMS: CALIFORNIA ON THE EDGE, 1990-2003</i> 553-54 (2004).</p>
17a	EarthJustice	7	Section-multiple	5.1, 5.3.2.3	Analytical: distributional analysis	Differences in disaster and emergency response efforts may further harm low-income communities.	<p>1. MANUAL PASTOR ET AL., <i>IN THE WAKE OF THE STORM: ENVIRONMENT, DISASTER, AND RACE AFTER KATRINA</i> (Russell Sage Foundation 2006).</p> <p>2. <i>Comm. Concerning Cmty. Improvement v. City of Modesto</i>, 583 F.3d 690, 709 (9th Cir. 2008). (Difference in response time of emergency services may be violation of civil rights).</p>
17a	EarthJustice	7	Section-multiple	5.1, 5.3.2.3	Analytical: distributional analysis	Sources of hazardous air pollutants (section 112 of CAA) disproportionately affect people of color and low-income populations.	<p>1. EC/R Memo, Prepared for EPA, Risk and Technology Review – Final Analysis of Socio-Economic Factors for Populations Living Near Secondary Lead Smelting Facilities at 9-10; EC/R Memo, Prepared for EPA, Risk and Technology Review – Analysis of Socio-Economic Factors for Populations Living Near Hard Chromium Electroplating Facilities at 7-8, EPA-HQ-OAR-2010-0600-0601, available at http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2010-0600-0601.</p> <p>2. National Emissions Standards for Hazardous Air Pollutants From Secondary Lead Smelting, Final Rule, 66 Fed. Reg. 555, 579 (Jan. 5, 2012) (“The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population.”).</p>

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17a	EarthJustice	7	Section-multiple	5.1, 5.3.2.3	Analytical: distributional analysis	Enforcement of environmental laws may be more lax in communities of color and low-income communities.	1. John A. Hird, Environmental Policy and Equity: The Case of Superfund, 12 (2) J. POL'Y ANALYSIS & MGMT. 323 (1993); Marianne Lavelle & Marcia Coyle, Unequal Protection: The Racial Divide in Environmental Law, 15 (3) NAT'L L.J. (September 21, 1992); Richard J. Lazarus, Pursuing 'Environmental Justice': The Distributional Effects of Environmental Protection, 87 NW. U. L. REV. 787 (1993); D. Wernette & L. Nieves, Minorities and Air Quality Non-Attainment Areas: A Preliminary Geo- Demographic Analysis (June 1991) (Paper read at Socioeconomic Energy and Research Conference, at Baltimore, MD). 2. LAWYER'S COMM. FOR CIVIL RIGHTS UNDER LAW, NOW IS THE TIME: ENVIRONMENTAL INJUSTICE IN THE U.S. AND RECOMMENDATIONS FOR ELIMINATING DISPARITIES 35-36 (June 2010).
17a	EarthJustice	9	Section-multiple	5.5.1; Text Box 5.7	Costs: distributional	Because small cost increases can have a significant impact on low-income households, EPA should consider the distribution of costs of regulatory actions.	
17a	EarthJustice	1	Section-specific	4.3.2.3	General	EJTG should require "written documentation explaining why a proposed action does not raise EJ concerns." This documentation should include information on whether a rule will decrease but not eliminate environmental harm or disparities.	
17a	EarthJustice	11	General	N/A	Community/stakeholder involvement	EJ communities should be given the opportunities to review the EJTG. These communities may have expertise in how to best "assess EJ concerns, factors that influence exposures and susceptibility to exposures, and how to involve communities in decision-making processes." EPA should expand its outreach to EJ communities. Comments for the EJTG were solicited online, and many households in EJ communities do not have internet access.	1. Principles of Environmental Justice, EJNET.ORG (Apr. 6, 1996), http://www.ejnet.org/ej/principles.html ("Environmental Justice demands the right to participate as equal partners at every level of decision-making..."). 2. Thom File, Computer and Internet Use in the United States: Population Characteristics, U.S. CENSUS BUREAU (May 2013), available at http://www.census.gov/prod/2013pubs/p20-569.pdf .

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17a	EarthJustice	11	Section-specific	Section 4	Community/stakeholder involvement	EJTG should "highly recommend" that analysts consult with members of affected EJ communities when developing HHRAs. Information from EJ communities can provide information such as emissions sources which may not be listed in state directories and areas where community members congregation (e.g., houses of worship, playgrounds).	1. PASTOR ET AL., AIR POLLUTION AND ENVIRONMENTAL JUSTICE: INTEGRATING INDICATORS OF CUMULATIVE IMPACT AND SOCIO-ECONOMIC VULNERABILITY INTO REGULATORY DECISION-MAKING 136 (Cal. Air Resources Board 2010), available at http://www.arb.ca.gov/research/apr/past/04-308.pdf . 2. CAL. EPA & OEHHA, SENSITIVITY ANALYSES OF THE CALENVIROSCREEN MODEL AND INDICATORS 6 (2013), available at http://www.oehha.ca.gov/ej/pdf/061213CalEnviroScreenSensitivity.pdf .
17a	EarthJustice	1	Section-specific	4.3.2.5	Community/stakeholder involvement	"EPA should incorporate the National Environmental Justice Advisory Council's (NEJAC) public participation recommendations into the Draft Technical Guidance" including encouraging community involvement in rule/regulation-making process by working with community leaders to initiate community participation.	NAT'L ENVTL. JUSTICE ADVISORY COUNCIL, MODEL GUIDELINES FOR PUBLIC PARTICIPATION: AN UPDATE TO THE 1996 NEJAC MODEL PLAN FOR PUBLIC PARTICIPATION 4-9 (2013), available at http://www.epa.gov/environmentaljustice/resources/publications/nejac/recommendations-model-guide-pp-2013.pdf .
17a	EarthJustice	1	Technical approach	N/A	Example: suggestion	EJTG should provide guidance on how to address EJ impacts once they are identified. Reviewer says that one good example is the Federal Transit Administration (see citation to right).	1. FED. TRANSIT ADMIN., ENVIRONMENTAL JUSTICE POLICY GUIDANCE FOR FEDERAL TRANSIT ADMINISTRATION RECIPIENTS, FTA C 4703.1 at 5 (Aug. 15, 2012). See also FED. TRANSIT ADMIN., TITLE VI REQUIREMENTS AND GUIDELINES FOR FEDERAL TRANSIT ADMINISTRATION RECIPIENTS, FTA C 4702.1B at Chap. III-11 to 12, Chap. IV-15 to 16, Chap. IV-19 to 20 (Oct. 1, 2012).
17a	EarthJustice	1	Section-multiple	Text Box 2.3 and general	Example: editorial	Text Box 2.3 should include information on the outcome of the suggested analyses (whether they determined if the proposed rule had disproportionate impacts) and if the analyses affected the outcome of the final rule. General comment that EPA should improve the examples it provides to guide users (cites Text Boxes 2.3 and 5.2 - below)	
17a	EarthJustice	9	Section-specific	Text Box 5.2	Analytical: qualitative data	EJTG should include information on whether the qualitative analysis influenced the final rule. Also describe (if it had no influence) what information might have been dispositive.	

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17a	EarthJustice	1	Section-specific	Section 4	Analytical: HHRA	EJTG should include a discussion of the limits of risk assessment. EPA should update the draft guidance on cumulative risk assessment and include information from that guidance in the EJTG. EPA should "direct" decision makers to consider that EJ communities face both increase exposure and vulnerability to environmental contaminants. "EPA must recognize that where there is disproportionate impact by race or socioeconomic status, this increases the health risk associated with an environmental hazard."	<ol style="list-style-type: none"> 1. Ken Sexton & Stephen H. Linder, The Role of Cumulative Risk Assessment in Decisions about Environmental Justice, 7 INT. J. ENVTL. RES. & PUB. HEALTH 4037 (2010). 2. Earthjustice, Comments Submitted to Environmental Protection Agency, RE: Request for Information and Citations on Methods for Cumulative Risk Assessment (June 2013), Docket ID EPA-HQ-ORD-2013-0292-0133 3. CAL. EPA & OEHHA, CUMULATIVE IMPACTS: BUILDING A SCIENTIFIC FOUNDATION (Dec. 31, 2010), available at http://oehha.ca.gov/ej/pdf/CIRreport123110.pdf 4. Rachel Morello-Frosch et al., Understanding the Cumulative Impacts of Inequalities in Environmental Health: Implications for Policy, 30 (5) HEALTH AFF. 879 (2011) (citing J. Clougherty & L. Kubzansky, A Framework for Examining Social Stress and Susceptibility in Air Pollution and Respiratory Health, 117(9) ENVTL. HEALTH PERSPECT. 1351 (2009).
17a	EarthJustice	2	Section-multiple	2.3; 5.4.2; Text Box 2.1	Analytical: comparison group	EJTG should highlight the importance of defining comparison groups when doing risk assessments or differential impact analyses, especially to Sections 2.3 and 5.4.2 and Text Box 2.1. The choice of comparisons groups can influence the outcome of the analysis, including whether an analysis finds a difference between EJ communities and control populations. The methodology outlined in Text Box 2.1 (unit-hazard coincidence) may not accurately account for proximity to environmental hazards.	<ol style="list-style-type: none"> 1. Paul Mohai, The Demographics of Dumping Revisited: Examining the Impact of Alternate Methodologies in Environmental Justice Research, 14 VA. ENVTL. L.J. 615, 648 (1995) 2. Paul Mohai & Robin Saha, Reassessing Racial and Socioeconomic Disparities in Environmental Justice Research, 43 (2) DEMOGRAPHY 383, 384 (2006). ("Showing hazardous waste facility siting disparately impacted people of color when compared to those populations in zip codes not hosting a facility but not showing a disparate impact when compared to those populations in census tracts without hazardous waste facilities but located in a Standard Metropolitan Statistical Area that already possesses a facility.") 3. Robert W. Williams, The Contested Terrain of Environmental Justice Research: Community as Unit of Analysis, 36 SOC. SCI. J. 313, 323 (1999).

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17a	EarthJustice	1	Section-specific	Appendix B	Example: suggestion	Add more resource suggestions to Appendix B. Suggests adding three studies listed to right.	<p>1 James Sadd et al. Playing It Safe: Assessing Cumulative Impact and Social Vulnerability through an Environmental Justice Screening Method in the South Coast Air Basin, California, 8 INT'L J. ENVTL. RES. & PUB. HEALTH 1441 (2011).</p> <p>2. George V. Alexeeff et al., A Screening Method for Assessing Cumulative Impacts, 9 INT'L J. ENVTL. RES. & PUB. HEALTH 648 (2012); see also Laura Meehan August et al., Methodological Considerations in Screening for Cumulative Environmental Health Impacts: Lessons Learned from a Pilot Study in California, 9 INT'L J. ENVTL. RES. & PUB. HEALTH 3069 (2012).</p> <p>3. Rachel Morello-Frosch et al., Understanding The Cumulative Impacts of Inequalities in Environmental Health: Implications for Policy, 30 HEALTH AFF. 879 (2011).</p>
17a	EarthJustice	1	Section-multiple	Text Boxes 4.3 and 4.5	Analytical: HHRA	Example questions for incorporating EJ concerns during planning and scoping for HHRAs in Text Boxes 4.3 and 4.5 only require yes or no answers. Changing the wording of these questions to be open-ended would better guide analysts. Alternatively, EPA should change these questions to a matrix to help analysts understand how to proceed based on their yes or no responses. Add table that lists available dose-response functions and relevant studies.	
17a	EarthJustice	1	Section-specific	Text Boxes 4.4	Example: suggestion	Add state and county databases to list of resources in Text Box 4.4. These data sources will help in the identification of environmental hazards and communities attributes. Add CalEnviroScreen 1.0 to this list.	CalEnviroScreen: http://www.oehha.ca.gov/ej/ces042313.html (quantitative analytical tool to assess EJ concerns using pollution burden and population characteristic factors)
17a	EarthJustice	1	General: policy issue	N/A	Scope	EJTG should apply to other agencies/entities where EPA has oversight authority (e.g. CAA, CWA, RCRA administered by states).	

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17b	EarthJustice	5	Technical approach	Section 4	Analytical: cumulative risk assessment	Document details methods to improve the HHRA process to better incorporate EJ concerns. "EPA must update its approach to account for the cumulative impacts and risks faced from early-in-life exposure (including childhood) and from exposure to multiple sources, as well as the increased vulnerability from socioeconomic stressors, and multiple pollutant and pathway exposures." Assessments should include the perspective of residents of affected communities. EPA should develop guidance for cumulative risk assessment and use methods that fully assess impacts to EJ communities in place of current HHRA approaches.	
18	Amy Kyle, UC Berkeley	1	General	N/A	General	Reviewer states that EJTG presents information in a logical and clear manner, connects the reader to other relevant documents, and focuses on providing assessment in the context of rulemaking.	
18	Amy Kyle, UC Berkeley	1	General: policy issue	N/A	Scope	EJ concerns should be part of the formulation of regulatory options, rather than considered only after options are defined. This method would ensure that EJ concerns are integrated into the rulemaking process from the start.	
18	Amy Kyle, UC Berkeley	1	Section-multiple	2.2, 3.2.2, 3.3	Analytical: life-stage	Reviewer states that the process outlined in the EJTG for incorporating life stages into analyses is repetitive. The EJTG appears to require analysts to establish that children are a sensitive population for each rule and only after they have determined disproportionate impacts to minority, low-income, and indigenous populations.	
18	Amy Kyle, UC Berkeley	5	Section-multiple	Section 4, Text Box 4.1	Analytical: cumulative risk assessment	Suggests inclusion of cumulative impacts. In areas exposed to multiple environmental stressors "it seems pointless and wasteful of time and money to demonstrate that things are better elsewhere."	
18	Amy Kyle, UC Berkeley	2	Section-multiple	2.2.1, Glossary	Definition: minority	Reviewer notes that "minority" generally refer to communities of color, who may not necessarily be the minority in their local area.	
18	Amy Kyle, UC Berkeley	1	Section-multiple	2.2, 2.3, 3.2.2	Editorial	Reviewer suggests expanding discussion of subsistence users/communities. Reviewer notes that "unique exposure pathway" on p.16 really refers to higher consumption patterns.	
18	Amy Kyle, UC Berkeley	11	Section-multiple	2.2, 2.3, 3.2.2	Community/stakeholder involvement	EPA should engage with subsistence communities to understand practices.	

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18	Amy Kyle, UC Berkeley	1	Section-specific	3.2.3	Analytical: infrastructure	Reviewer agrees with discussion of how infrastructure affects communities, but states that it should also include children's infrastructure (schools, etc.).	
18	Amy Kyle, UC Berkeley	1	Section-multiple	Section 4 and 5	Analytical: HHRA	Risk assessment and cost-benefit assessment may not be the best methods to understand EJ concerns. Risk assessment may be too quantitative of an approach to accurately model EJ issues. Reviewer asks EPA to consider the possibility that risk analysis and CBA may be incompatible with EJ concerns, and should consider other approaches (not specified).	
19	Center for Health, Environment & Justice	1	Section-specific	Section 2	Definition: EJ community	EJTG should define the term "EJ community". Reviewer notes that 12898 and other materials do not define the "EJ communities" which suffer from disproportionate impacts.	
19	Center for Health, Environment & Justice	1	Document scope	N/A	Scope	Because the EJTG is a guidance document and not binding, EJ communities may become one of the users of the document. The document should be written for a wide audience. Reviewer is also disappointed that document is optional and therefore may not be widely used by Agency staff.	
19	Center for Health, Environment & Justice	4	General: policy issue	N/A	Scope	EJTG should describe what actions policy and decision makers at EPA would take if a proposed rule creates an EJ concern or if an EJ concern is already present prior to the implementation of a rule.	
19	Center for Health, Environment & Justice	4	General: policy issue	Section 2	Scope	EJTG should provide a list of "practical actions" EPA would take "upon identifying EJ communities" to mitigate disproportionate effects of environmental contaminants on EJ communities. Reviewer notes that guidance doesn't mention what actions should be taken. Suggests adding a list of mitigating actions that cover many circumstances and can be selected for specific circumstances. (actions not specified).	
19	Center for Health, Environment & Justice	4	Section-multiple	2.2, ?	Definition: low-income	"Low-income population" not well defined.	
19	Center for Health, Environment & Justice	1	Section-specific	2.4	Definition: disproportionate	Add text box with examples where analysts have identified situations with disproportionate impacts and no disproportionate impacts to give the reader a clearer understanding of the term.	
19	Center for Health, Environment & Justice	1	Section-specific	Text Box 4.1	Definition: cumulative impact	EJTG should refer readers to the appropriate EPA documents on cumulative impacts. The short discussion in the EJTG does not provide enough detail.	

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19	Center for Health, Environment & Justice	1	Technical approach	Section 3	Example: suggestion	Occupation should be added to factors which influence exposure. Low-income and minority populations are disproportionately employed in occupations that may increase their exposure to environmental contaminants.	
20a	Arizona Mining Association	1	Document scope	N/A	Scope	<p>The bulk of this comment is a detailed questioning of the entire premise and practice of identifying EJ issues; focused on "assumption" that industrial facilities cause exposures. The reviewer makes many points but it is not clear how many of them are within the scope of the EJTG. Specific information is:</p> <p>EPA should clarify how the EJTG will be applied and its impact on the rulemaking process. The scope of the EJTG appears much broader than E.O. 12898.</p> <ol style="list-style-type: none"> 1. Focus appears to be on equalizing exposure or proximity to sources, rather than focusing on "disproportionately high and adverse" effects as stated in the E.O. Reviewer notes that EPA seems to equate proximity to industrial facilities with "environmental harms and risks" 2. The approach outlined in EJTG seems to ignore that environmental factors are rarely the most important health impact in a given community. 3. More broadly, EPA must consider "the human health impacts of its actions." Reviewer asserts with extensive argument that EPA's actions "designed to identify and address incremental differences" "may exacerbate some of the primary drivers known to be responsible for dramatic patterns of adverse health outcomes observed in minority and low-income populations." Cites a CDC document that asks for focus on fewer and more critical (and modifiable) health drivers in developing policy (not specific to EPA). 4. Discusses cancer clusters and asserts that linking them to industrial activities is "demonstrably false." 	<ul style="list-style-type: none"> - Attached Comment 20b, an overview of the economic impact of mining in Arizona. - U.S. Department of Health and Human Services Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report, Supplement Vol. 60 at p. 9. - U.S. Department of Health and Human Services. Healthy People 2010: Understanding and Improving Health. 2nd ed. Washington DC: U.S. Government Printing Office, 2000 ("Healthy People") at 12. - Thun, M. J. and Sinks, T. (2004), Understanding Cancer Clusters. CA: A Cancer Journal for Clinicians, 54: 273–280. doi: 10.3322/canjclin.54.5.273. - Goodman, M., Naiman, J.S., Goodman, D. and LaKind, J.S. (2012), Cancer Clusters in the USA: What do the last twenty years of state and federal investigations tell us? Crit. Rev. Toxicol. 2012 July; 42(6): 474-490. doi:10.3109/10408444.2012.675315. - Brender, J. D., Maantay, J. A., and Chakraborty, J., Residential Proximity to Environmental Hazards and Adverse Health Outcomes. American Journal of Public Health, Supplement 1, 2011, Vol. 101, No. S1. - Cheng, E.J. and Kindig, D.A., Disparities in Premature Mortality Between High- and Low-Income US Counties, Prev Chronic Dis 2012;9:110120.
20b	Arizona Mining Association	1	General	N/A	General	Reviewer provided supplemental document detailing the economic impact of Arizona mining companies (does not directly comment on EJTG).	L. William Seidman Research Institute. 'The Economic Impact of The Mining Industry on The State of Arizona – 2011. W. P. Carey School of Business, Arizona State University.

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21	Anonymous	1	General: policy issue	N/A	Scope	EJTG should clarify implications for other federal (e.g. Army Corps 404 removal fill permitting program) and state agencies on incorporating EJ into rulemaking.	
21	Anonymous	5	Section-specific	Section 4	Analytical: cumulative risk assessment	HHRA should incorporate cumulative risk assessment to better reflect real-world exposures. Comment gives example of exposure values calculated differently for owner-occupied and renter-occupied housing units; discusses assumption that renters live shorter times in homes (7 years) than mortgage holders (30 years). Asserts that urban residents will "stay urban" and have higher exposures.	http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/ahr2011-3-demographics.pdf
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	General: policy issue	N/A	Scope	Reviewer states that the EJTG is "extremely flawed" and that EPA should withdraw the document, proceed with "significant revisions", and provide another round of public comments as it is "not workable" in its current form. Reviewer notes seven main issues: 1. "Failure to acknowledge the protective and conservative regulatory framework that is already in place." EJTG does not recognize conservative/protective nature of existing EPA regulations, which are designed to protect sensitive populations.	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	Document scope	N/A	Scope	2. "Failure to articulate what EJ requires in the context of environmental benefits." EJTG does not explain goals of both focusing on distribution of both burdens and risk reduction. "Is it reasonable to expect that each EPA regulatory action will benefit equally all racial, ethnic, and income groups?"	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	4	General: policy issue	N/A	Scope	3. "Failure to limit or tailor the EJ analysis to match the scope of the EJ issue." Completing a full EJ analysis on every proposed regulatory action could cause long delays. No connection between scope of potential EJ concerns that may be caused by regulation and scope of analysis necessary to fully understand EJ issues.	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	4	General	N/A	Costs: procedural	4. "Failure to address the huge workload burden imposed by this new guidance." No guidance given on how increased workload would fit into budget.	

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22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	Section-specific	4.3.2.3: Model and tool identification	Analytical: HHRA	5. "Failure to articulate why the traditional default inputs currently used in human health risk assessments (HHRA) may be inadequate in the context of EJ." EPA should cite which traditional defaults in HHRAs are not adequate to reflect EJ concerns, and should provide supporting evidence for this conclusion; reviewer is surprised that EPA did not substantiate the statement about traditional inputs.	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	General: policy issue	N/A	General	6. "Failure to identify needed resources." Unclear if OEJ or EPA program offices would perform EJ analyses and whether results would be consistent across rulemaking.	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	General: policy issue	1.1	General	7. "Inappropriate reliance on EPA's 2004 'Toolkit.'" Reviewer states that the Toolkit offers a "confrontational approach" and is "severely flawed".	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	Section-multiple	Section 1; entire document	Scope	Section outlines numerous (reviewer counts 15) objectives. The "needlessly complex structure severely limits the utility" of the EJTG to communicate to analysts or the lay reader. Reviewer counts 28 recommendations listed in each section which do not connect back to the four main objectives outlined in Section 1. [also editorial] Notes use of "abstract and undefined terms" [not specified]	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	2	Section-multiple	Section 1 and 2	Analytical: comparison group	EJTG does not offer guidance on best practices for selecting comparison groups. Reviewer worries that selection of comparison group may be arbitrary as no perfect group likely exists based on exposure and demographic make up. Further detail on how to select comparison group should be added to guide. Notes that significant differences often exist and may not be relevant.	Leslie Kish, Survey Sampling 163 (1965).

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22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	4	Section-specific	Section 2	Definition: low-income	EJTG offers a "dramatic expansion" the term "income populations of concern."	Refers to definition provided in 59 Fed. Reg. 7629 (1994).
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	Section-specific	Section 3	Data	Reviewer states that the EJTG does not provide information on how to obtain data on "personal responsibility factors" such as "nutrition, smoking, stress, crime" nor explains how these factors would be incorporated into a regulatory analysis. Reviewer believes these factors to be outside the scope of EPA rulemaking.	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	Section-specific	Section 3	General	Reviewer believes many documents cited in Section 3 to be "ideological position papers." Does not think that Section 3 should have non-technical (defined by reviewer) sociological citations and terms, e.g., "Social context." Asserts that it is inappropriate for a guidance to instruct analysts to "be receptive to untested 'conceptual frameworks' that identify 'potential pathways' through which non-environmental exposures 'may' interact with environmental exposures." Review notes that there are no clear instructions on how to treat or use these sources. Also questions the necessity of highlighting key reasons why health risks may be unevenly distributed across population groups."	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	Section-specific	4.3	Editorial	Delete "the burden of health problems and potentially disproportionate environmental exposures associated with race/ethnicity and income may overlap with other susceptibility factors such as lifestage, genetic predisposition, or pre-existing health conditions . . ." as it is not relevant to the HHRA planning process. Also note that "other susceptibility factors" are not a direct EJ concern and should not be included in an EJ technical assessment document.	

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22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	Section-specific	4.3.2.1	Definition: complementarities	Clarify "complementarities" ("An analyst should identify any complementarities between the triggering statutory authority and E.O. 12898 regarding identifying and addressing potentially disproportionate risks.")	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	Section-specific	4.3.3.3	Analytical: HHRA	EPA should offer more evidence when suggesting that analysts calculate higher risk for certain population characteristics (e.g. educational attainment) and clarify whether EPA should customize HHRAs to specific population groups.	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	Section-specific	4.3.3.5	Analytical: HHRA	EJTG mentions an "analysis plan" in two sentences toward the end of Section 4 and nowhere else in the document. EPA should clarify whether the intent is to for analysts to create another document during the HHRA process.	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	Section-specific	Section 5.1	Scope	EPA should clarify why the EJTG focuses on distribution of benefits when E.O. 12898 focuses only on adverse impacts and offer information on relevant analytical tools or policy guidelines. EJTG offers no examples of cases where the Agency has incorrectly assumed that no EJ concerns exists because a proposed regulation is likely to decrease adverse impacts. EJTG could be interpreted to imply that a proposed rule that does not benefit EJ populations would need to be revised (gives example of a New Source Performance Standard under the CAA that benefits those downwind that happen not be EJ populations).	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	Section-specific	5.3.2.2	Analytical: proximity-based analysis	The discussion of proximity-based analytical approaches should clearly state that actual data should always be used over proximity-based methods. Unclear how analysts would evaluate whether risks are correlated with proximity metrics. Reviewer recommends rewriting the section to state clearly that preference is always for actual data, and only where data is [sic] not reasonably available and cannot be generated should EPA give consideration to using "proximity" as a surrogate.	

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22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	General: policy issue	N/A	Scope	"How will this new study be reconciled with competing obligations to conduct cost benefit analysis, small business impacts, and unfunded mandates?"	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	General: legal issue	N/A	Legal	"What is the authority under this guidance to overturn the risk characterization protocols under the enabling statutes?"	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	4	General	N/A	Costs: procedural	"What are the man-hour burdens this new analysis will entail, and on whom will they fall?"	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	General: legal issue	N/A	Legal	"Absent clarity in the prioritization of factors and in the relevance demanded of theories of impact that "may" be considered in these analyses, has the Agency opened the door to considerable litigation?"	
22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	General: legal issue	N/A	Legal	"Under what authority can the EPA deem half the U.S. population to constitute EJ constituents?"	

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22	Ross Eisenberg, Business Network for Environmental Justice, National Association of Manufacturers	1	General	N/A	General	"Should environmental or health benefits achievable for part of the population be denied, not because they come at the expense of another part of the population, but simply because not all will share benefits equally?"	