

Appendix F:
Evaluative Criteria for Compliance:
Executive Order 12898
(“Federal Actions to Address Environmental Justice in
Minority Populations and Low-Income Populations ”)

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CENTER FOR THE STUDY OF AMERICAN BUSINESS PROJECT ON REGULATORY OVERSIGHT

EXECUTIVE ORDER 12898: ("ENVIRONMENTAL JUSTICE") PROCEDURAL REQUIREMENTS		
QX#	EVALUATIVE CRITERION	EXECUTIVE ORDER CITATION
P1	Is the regulation a covered action under Executive Order 12898?	1-101. Agency Responsibilities. To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, <u>each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on monitoring populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.</u>
P2	Is the regulation identified in the agency's environmental justice strategy?	Sec. 1-103. Development of Agency Strategies. (a) Except as provided in section 6-605 of this order, <u>each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)-(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations.</u> In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

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EXECUTIVE ORDER 12898:
("ENVIRONMENTAL JUSTICE")
ANALYTIC REQUIREMENTS

QX#	EVALUATIVE CRITERION	EXECUTIVE ORDER CITATION
A1	Does the regulation address an environmental and human health risk that is disproportionately high and adverse across race, national origin or income? If yes:	Sec. 3-302. Human Health and Environmental Data Collection and Analysis. To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, <u>Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations[.]</u>
A1	a	
A2	Does the regulation address facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations? If yes:	Sec. 3-302(b): In connection with the development and implementation of agency strategies in section 1-103 of this order, <u>each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action.</u> Such information shall be made available to the public, unless prohibited by law[.]
A2	a	

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A3	<p>Does the regulation address facilities subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act and expected to have a substantial environmental, human health, or economic effect on surrounding populations?</p> <p>If yes:</p>	<p>Sec. 3-302(c): Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001-11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public, unless prohibited by law.</p>
A3	<p>a Has the agency collected, maintained and analyzed information on the race, national origin, income level and other readily accessible and appropriate information?</p>	

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Risk assessment:			
A4	a	Does any risk assessment underlying the regulation include diverse segments of the population, including segments at high risk from environmental hazards?	3-301. Human Health and Environmental Research and Analysis. (a) <u>Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.</u> (b) <u>Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.</u>
A4	b	Does any risk assessment underlying the regulation identify multiple and cumulative exposures?	
A4	c	Does any risk assessment underlying the regulation assess and compare environmental and human health risks across race, national origin or income?	Sec. 3-302(b): In connection with the development and implementation of agency strategies in section 1-103 of this order, <u>each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law; and</u> (c): <u>Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001-11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations.</u> Such information shall be made available to the public, unless prohibited by law.
A4	d	Where the regulation addresses facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, does any risk assessment underlying the regulation estimate the relative risks posed by such facilities or sites?	
A4	e	Where the regulation addresses facilities subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act and expected to have a substantial environmental, human health, or economic effect on surrounding populations, does risk assessment underlying the regulation estimate the relative risks posed by such facilities?	

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Economic analysis:			<p>3-302. Human Health and Environmental Data Collection and Analysis. To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;</p> <p>(b) In connection with the development and implementation of agency strategies in section 1-103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law; and</p> <p>(c): <u>Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001-11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations.</u> Such information shall be made available to the public, unless prohibited by law.</p>
A5	Does the economic analysis assess and compare environmental and human health risks borne by populations identified by race, national origin, or income?		
A6	a	Does the economic analysis determine whether the regulation addresses disproportionately high and adverse human health or environmental effects on minority populations and low-income populations? If yes:	
A6	a	1 Does the economic analysis determine whether the regulation reduces such risks?	
A6	b	Does the economic analysis determine whether the regulation addresses disproportionately high and adverse environmental health and safety risk with disproportionately high and adverse effects on minority and low-income populations? If yes:	

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A6	b	1	Does the economic analysis determine whether the regulation reduces such risks?	

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DECISION MAKING REQUIREMENTS

QX#	EVALUATIVE CRITERION	EXECUTIVE ORDER CITATION
D1	Did the agency's rulemaking decision address any disproportionately high and adverse human health or environmental effects on minority and low-income populations identified in risk assessment and economic analysis?	1-101. Agency Responsibilities. To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, <u>each Federal agency shall</u> make achieving environmental justice part of its mission by identifying and <u>addressing</u> , as appropriate, <u>disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.</u>

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	None.	6-609. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. <u>This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, or any other person with this order.</u>

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