

EPA Proposes Expedited Release of Environmental Justice Data

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The Freedom of Information Act (FOIA) was passed to help citizens stay informed about government activities. While improving the availability of information under FOIA has been a long-term goal for the executive branch, consistent with its focus on environmental justice (EJ) issues, the US Environmental Protection Agency (EPA) has announced a proposed rule to help expedite the release of data relevant to environmentally overburdened communities.

The proposed rule, issued on November 17, 2022, is available [here](#). Comments on the proposed rule are due by December 19, 2022.

The Proposed Rule in the EJ Context

The Biden Administration has focused extensively on EJ issues. (See our discussion of efforts over the past year [here](#).) The intent of the FOIA-focused proposed rule is to prioritize the release of information relevant to environmentally overburdened communities. To do this, the rule identifies several conditions that must apply in order to obtain expedited release of environmental justice data:

- Requests must “pertain to an environmental justice-related need.”
- The data sought must “be used to inform an affected community.”
- Requestors must specify how they will convey the information to the affected community.
- EPA will use EJSCREEN to review whether the affected community may be disproportionately impacted. EJSCREEN, as we have previously blogged, is EPA’s tool providing environmental and socioeconomic data to help identify environmentally overburdened communities. Here, EPA will utilize EJSCREEN to look at 12 environmental factors and five demographic factors to assess the impacted community.
- Information sought for the “commercial interest of the requestor” will be excluded from review.

Broader Context for the Proposed Rule

The proposed rule also seeks to undo a Trump-era EPA final rule that gave political appointees broad discretion over FOIA requests, including withholding portions of documents based on responsiveness to the request and making final determinations on requests. That rule has been the subject of several lawsuits challenging the rule's substance, as well as its implementation without following the notice and comment requirements for federal rules. The Biden EPA's proposed rule seeks to replace many of the Trump-era policies. The proposed rule is in addition to the efforts of other executive agencies like the DOJ to [help streamline the FOIA process](#) in the interest of transparency.

This is the latest in a series of policy shifts the Biden Administration has made in order to center environmental justice in its operations. We have previously blogged about the Biden Administration's EJ efforts, including most recently our 2022 end-of-year wrap up [here](#).

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