



Environmental Justice and Environmental Law

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Environmental
Practicum
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Environmental Justice - History



- Deep Roots
 - United Church of Christ *Toxic Wastes and Race in the United States* (1987); GAO studies
 - *National Law Journal* series
 - 1992 Environmental Justice Act
 - E.O. 12,898
- Initial strong legal efforts to identify enforceable EJ rights for both permitting and enforcement
- Roadblocks
 - Equal Protection and Due Process challenges: intent
 - Title VI: private right of action
 - Difficulties of proof

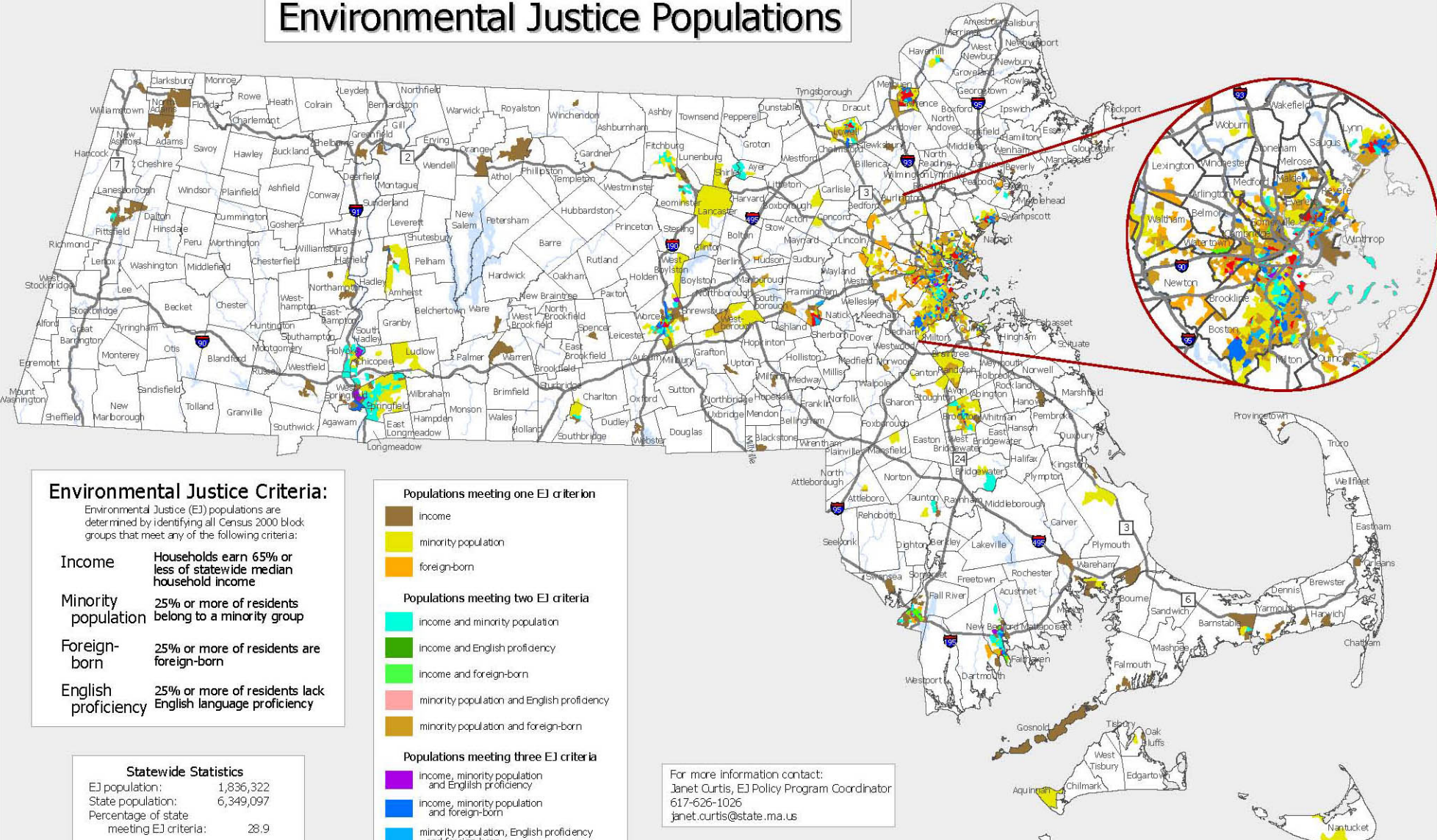
Key EJ Issues for Environmental Law



How will environmental justice concerns affect:

- Development of rules and public notice procedures
- Permits for facilities
- The decision to pursue enforcement, both civil and criminal
- Sentencing and punishment

Environmental Justice Populations



Environmental Justice Criteria:

Environmental Justice (EJ) populations are determined by identifying all Census 2000 block groups that meet any of the following criteria:

- Income** **Households earn 65% or less of statewide median household income**
- Minority population** **25% or more of residents belong to a minority group**
- Foreign-born** **25% or more of residents are foreign-born**
- English proficiency** **25% or more of residents lack English language proficiency**

Statewide Statistics

EJ population:	1,836,322	
State population:	6,349,097	
Percentage of state meeting EJ criteria:	28.9	
	sq. miles	acres
EJ areas:	387	247,766
State area:	8,091	6,349,097
Percentage of state meeting EJ criteria:	4.8	

- Populations meeting one EJ criterion**
- income
 - minority population
 - foreign-born
- Populations meeting two EJ criteria**
- income and minority population
 - income and English proficiency
 - income and foreign-born
 - minority population and English proficiency
 - minority population and foreign-born
- Populations meeting three EJ criteria**
- income, minority population and English proficiency
 - income, minority population and foreign-born
 - minority population, English proficiency and foreign-born
 - income, English proficiency and foreign-born
- Populations meeting all four EJ criteria**
- income, minority population, English proficiency and foreign-born

For more information contact:
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EJ and Environmental Enforcement

- History: need to process complex data to identify highest priority sites and issues
- EPA has worked hard to develop EJ Geographic Information Systems
 - Region 6 Multimedia Targeting List
 - Environmental Justice Index
 - Early stage implementation issues
 - EJSCREEN



Latest Developments



- Plan EJ 2014 (legal tools) & EJ guidance on permitting
- Accelerated review and enforcement of Title VI administrative petitions
 - *Rosemere*
- Challenges to legal boundaries for remedies
 - Equal Protection limits?
 - Minimized by careful crafting of goals and targets
- State activity
 - EJ challenge to implementation of AB32

EJ – the Legal Bottom Line



- EJ has not yielded a bright legal test for either intentional discrimination or disparate impact
- It has had strong influence on EPA's (and other agencies') priorities and choices
- As a result, while not a typical legal obligation enforceable in court, you must account for it in environmental legal strategy and litigation



Questions?

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