

VIRGINIA DEPARTMENT OF TRANSPORTATION
ENVIRONMENTAL DIVISION
INSTRUCTIONAL AND INFORMATIONAL MEMORANDUM

DIRECTED TO: District Environmental Managers District Environmental Staff Central Office Environmental Division Staff District L&D Staff District Project Managers District Civil Rights Staff	
GENERAL SUBJECT: Environmental Justice	NUMBER: IIM-ED-714.1
SPECIFIC SUBJECT: Environmental Justice Identification, Outreach and Analysis Requirements	DATE: 9/1/2022
	SUPERSEDES: EM-NEPA-714 Interim guidance dated May 17, 2022
APPROVED: <div style="text-align: right; margin-right: 50px;"> Christopher J Swanson For Public Distribution 2022.09.06 17:28:50-04'00' </div>	

BACKGROUND

On June 23, 2022, the Virginia Department of Transportation (VDOT) Environmental Division and Federal Highway Administration (FHWA) Virginia Division office reached agreement on a programmatic approach for identification of and outreach to areas that meet the definition for an Environmental Justice (EJ) community during project development.

This Instructional and Informational Memorandum (I&IM) applies to the technical analyses to support National Environmental Policy Act (NEPA) documentation being completed on behalf of FHWA.

EJ analyses are prepared in accordance with the definitions, methodologies, and guidance provided in:

- [Executive Order \(EO\) 12898](#);
- [Council on Environmental Quality's \(CEQ\) Environmental Justice Guidance Under the National Environmental Policy Act \(1997a\)](#);
- [U.S. Department of Transportation's \(USDOT\) Order 5610.2\(c\) Actions to Address Environmental Justice in Minority Populations and Low-Income Populations \(2021 revision\)](#);
- [FHWA's EJ Order 6640.23A FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations \(2012\)](#); and
- [FHWA's Guidance on Environmental Justice and NEPA \(2011\)](#).

PURPOSE

The intent of this document is to provide direction to complete outreach, identification and analysis of areas that meet the definition for an EJ community and determine potential impacts for the purposes of NEPA documentation in a manner consistent with FHWA expectations and the guidance listed above.

The requirements in this I&IM replace 1) EM-NEPA-714 and 2) interim guidance issued by VDOT Environmental Division on May 17, 2022.

REQUIREMENTS

Identification, outreach, analysis, and documentation requirements for projects are based on the NEPA Class of Action and level of potential impacts associated with the project.

Preliminary Identification

All projects shall, at the earliest possible time in project development, be evaluated using [EJSCREEN](#). The [Justice40 Transportation Disadvantaged Census Tracts \(Historically Disadvantaged Communities\)](#) mapping tool may be used to supplement data obtained through EJScreen to provide additional detail on the communities in a project area. Information on **Low Income** and **People of Color** is required for identification for the purposes of EJ analysis. Other information generated from EJScreen shall be considered supplemental only. If low-income or minority populations are present (as revealed by data from EJScreen and other relevant information sources), this constitutes an EJ community and there is the potential for impacts.

See *Appendix A* for how to obtain information from EJScreen.

NEPA Documentation

Programmatic Categorical Exclusions (PCEs)

Note that PCEs cannot be used when it is determined there to be a Disproportionately High and Adverse Effect (DHAE) to an area that meets the definition for an EJ community from the project, per VDOT's PCE Agreement with FHWA. To demonstrate there is no DHAE, documentation in VDOT's Comprehensive Environmental Data and Reporting application (CEDAR) to support the PCE must indicate that the project does not involve any of the following:

- Major traffic disruptions;
- More than minor amounts of temporary or permanent right-of-way acquisition or more than limited displacements;
- Community Disruptions; or
- Disruptions of emergency services.

When an Environmental Reevaluation for Plans, Specifications and Estimates Authorization (EQ-200) and Environmental Reevaluation for Right of Way Authorization (EQ-201) are prepared for the project, the Environmental Point of Contact (EPOC) (which may be the District Environmental Planner (DEP), District Environmental Manager (DEM), or their designee) shall reconfirm that the plans, specifications, and estimates for the project do not indicate any DHAE in assessing Question 3 on the forms. This shall be informed by plan review, site visits, and discussion with the project team as appropriate and documented accordingly in CEDAR by the EPOC. If confirmation of no DHAE is not achievable because

of changes to impacts, the EPOC shall consult with the DEM and the Central Office NEPA Programs Manager.

If a public hearing is determined to be required for a PCE, the Central Office NEPA Programs Manager, DEM, as well as the appropriate VDOT District Civil Rights contact and [Virginia Department of Environmental Quality \(DEQ\) Regional EJ Coordinator](#) shall be engaged by email to ensure proper notification is made to areas that meet the definition for an EJ community. Willingness to hold a public hearing shall be shared with the DEQ Regional EJ Coordinator.

Categorical Exclusions (CEs)

The EPOC shall use the appropriate template scoping letters, which request input from localities and others to identify areas that meet the definition for an EJ community that could be impacted or have expressed interest in the proposed project. This information shall be used to inform outreach for the project, documented on the CE form, and included in the project record in CEDAR.

Once a study area and/or potential impacts are known, VDOT, locality, and/or consultant staff shall send certified mail to the owners and tenants of properties that could be displaced or could require partial acquisition. This mailing will invite owners and tenants to contact the assigned Project Manager (PM) at any time during the development of the NEPA document to discuss the project, its potential impacts, and potential mitigation strategies. The PM shall be available to meet by appointment, by phone, by virtual meeting, or otherwise as appropriate and shall be accompanied by the DEM or designee. Any input received through this outreach shall be documented in the NEPA document and in the CEDAR project record.

The CE shall document findings of the mapping tools identified in Appendix A, document input from the scoping letters, and clearly document the EJ outreach that has occurred to date, in addition to planned outreach.

When announcing public availability of the CE and/or public hearing, the Central Office NEPA Programs Manager, as well as the appropriate VDOT District Civil Rights contact and DEQ Regional EJ Coordinator shall be engaged by email to ensure proper notification is made to areas that meet the definition for an EJ community that could be impacted or have expressed interest in the proposed project.

If a public hearing occurs, VDOT Civil Rights shall share results of demographic survey with the DEM. This information shall be documented in the project record in CEDAR.

When an EQ-200 and EQ-201 are prepared for the project, the EPOC shall reconfirm that the plans, specifications, and estimates for the project do not indicate any DHAE in assessing Question 3 on the forms. This shall be informed by plan review, site visits, and discussion with the project team as appropriate and documented accordingly in CEDAR by the EPOC. If confirmation of no DHAE is not achievable because of changes to impacts, the EPOC shall consult with the DEM and the Central Office NEPA Programs Manager.

Build/No Build Environmental Assessments (EAs)

The EPOC shall use the appropriate template scoping letters, which request input from localities and others to identify areas that meet the definition for an EJ community that could be impacted or may be

interested in the proposed project. This information shall be used to inform outreach for the project, documented in the EA, and included in the project record in CEDAR.

Once a study area and/or potential impacts are known, VDOT, locality, and/or consultant staff shall send certified mail to the owners and tenants of properties that could be displaced or could require partial acquisition. This mailing will invite owners and tenants to contact the assigned PM at any time during the development of the NEPA document to discuss the project, its potential impacts, and potential mitigation strategies. The PM shall be available to meet by appointment, by phone, by virtual meeting, or otherwise as appropriate and shall be accompanied by the DEM or designee. Any input received through this outreach will be documented as part of a request for a FHWA NEPA decision. VDOT and FHWA will review and consider the comments made during the outreach opportunities to inform potential mitigation opportunities that are to be included in the NEPA document.

When announcing the public availability of the EA and any public meetings, the Central Office NEPA Programs Manager, as well as the appropriate VDOT District Civil Rights contact and DEQ Regional EJ Coordinator shall be engaged by email to ensure proper notification is made to areas that meet the definition for an EJ community that could be impacted or have expressed interest in the proposed project. When a hearing occurs, VDOT Civil Rights shall share results of demographic survey with the DEM. This information shall be used to inform outreach for the project, documented in the EA, and included in the project record in CEDAR.

The EA shall document findings of the mapping tools identified in Appendix A, document input from the scoping letters, and clearly document the EJ outreach that has occurred to date, in addition to planned outreach.

When an EQ-200 and EQ-201 are prepared for the project, the EPOC will reconfirm that the plans, specifications, and estimates for the project do not indicate any DHAE in assessing Question 3 on the forms. This shall be informed by plan review, site visits, and discussion with the project team as appropriate and documented accordingly in CEDAR by the EPOC. If confirmation of no DHAE is not achievable because of changes to impacts, the EPOC shall consult with the DEM and the Central Office NEPA Programs Manager.

Merged Process NEPA Documents (multi-alternative EAs and all Environmental Impact Statements (EISs))

When scoping occurs, letters to localities and others shall request input to identify areas that meet the definition for an EJ community that could be impacted or may be interested in the proposed project. This information shall be used to inform outreach for the project, documented in the EIS or EA, and included in the project record in CEDAR. During scoping, the Central Office NEPA PM will meet with and document input from representatives from the relevant locality/localities, MPO(s), and/or TPO(s) during scoping to further assess the presence of and appropriate outreach to areas that meet the definition for an EJ community. A community outreach list shall be developed as early as possible and maintained throughout the NEPA process to identify relevant organizations and other entities.

The NEPA PM, supported by District Communications or other staff, shall organize community meetings to support public outreach at each concurrence point and for hearings associated with the EA/EIS. This level of outreach will be confirmed with FHWA prior to concurring on environmental analysis methodologies.

When announcing CIMs, public availability of the EA or EIS, and public hearings, the appropriate VDOT District Civil Rights contact and DEQ Regional EJ Coordinator shall be engaged by email to ensure proper notification is made to areas that meet the definition for an EJ community that could be impacted or have expressed interest in the proposed project. When a hearing occurs, VDOT Civil Rights shall share results of demographic survey with the DEM. This information shall be used to inform outreach for the project, documented in the EA, and included in the project record in CEDAR.

If more than six months passes between the public review of the NEPA document and a request for FHWA NEPA decision, and the delay is the result of issues related to community resources or EJ communities, the NEPA PM will organize additional meetings to inform the community of the status of the NEPA decision.

Determining Impacts and DHAE

In order to determine whether a project has DHAE on areas that meet the definition for an EJ community, a stepwise process shall be followed:

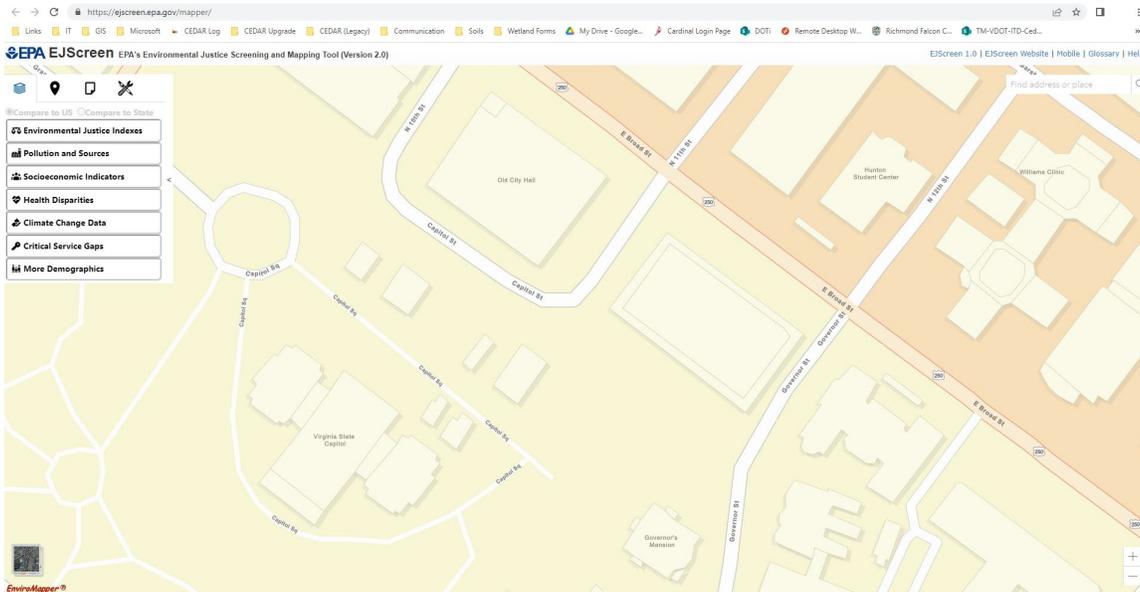
1. Assess the demographics of the population relative to a project area using EJSCREEN as detailed in Appendix A.
2. Determine how the project interacts with that population. Project documentation shall include an assessment of whether the project involves:
 - a. Major traffic disruptions
 - b. More than minor amounts of temporary or permanent right-of-way acquisition or more than limited displacements
 - c. Community disruptions
 - d. Disruption of emergency services
3. If a project involves any of the conditions listed above, assess and document whether the impact is borne predominantly by areas that meet the definition for an EJ community.
4. If a project is found to have DHAE to areas that meet the definition for an EJ community the EPOC shall consult the CO NEPA Programs Manager and DEM to appropriately document the finding and any necessary mitigation measures.

Project Documentation

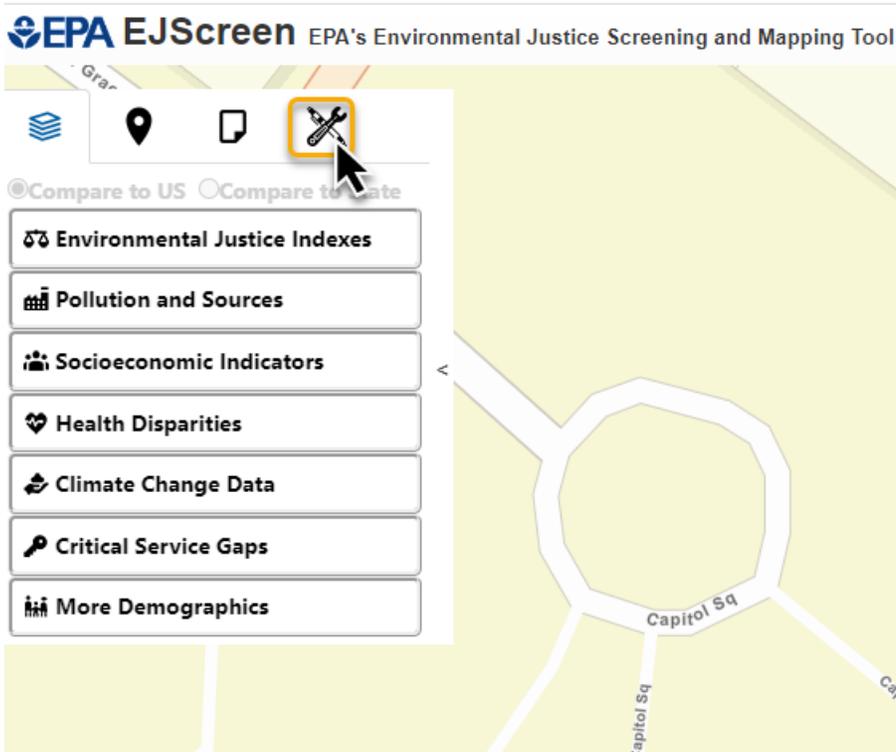
Reports detailing results of EJSCREEN and Justice40 evaluations shall be part of applicable projects' record in CEDAR.

Appendix A: Using EJSCREEN

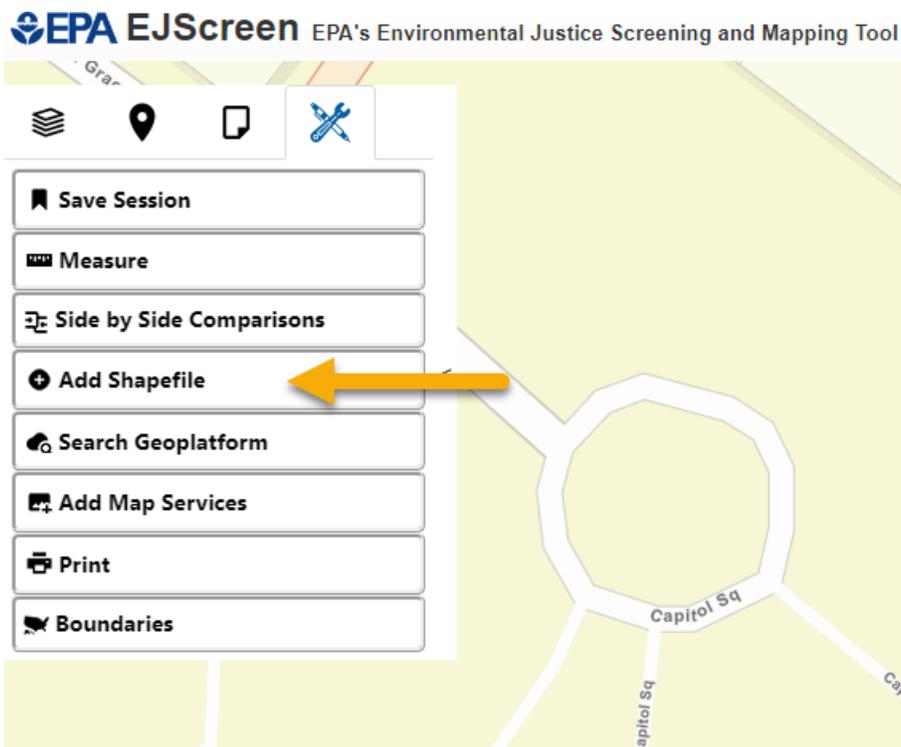
Step 1: Open the EJSCREEN mapper (<https://EJScreen.epa.gov/mapper/>)



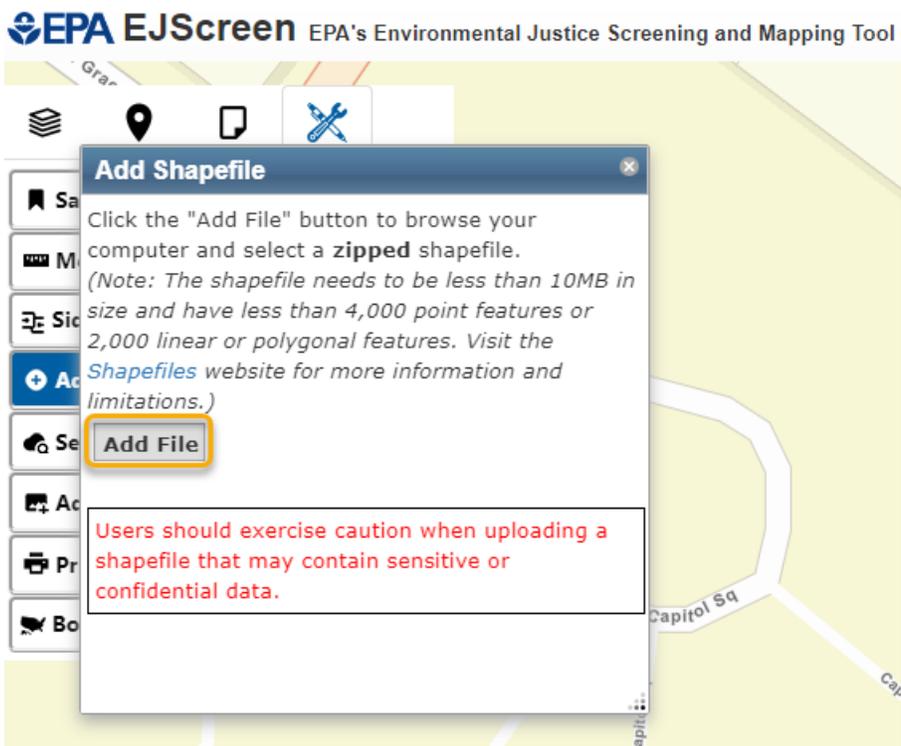
Click on the **Tools** tab of the menu



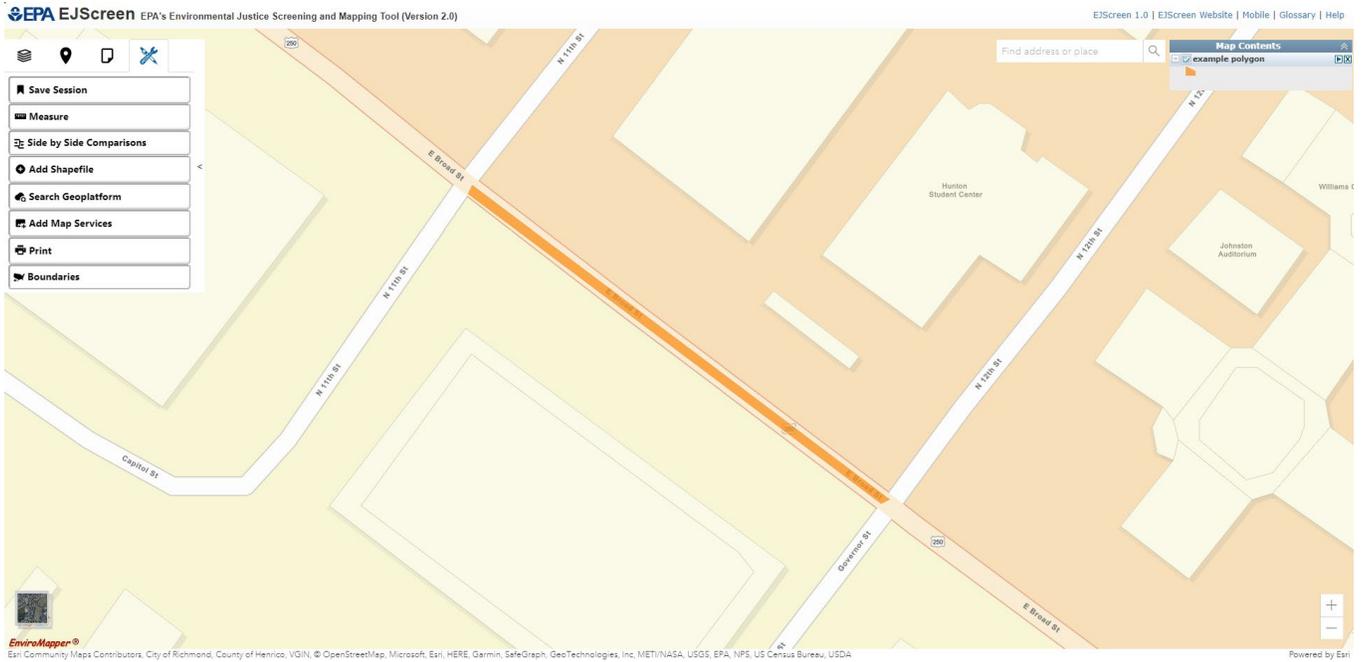
Select Add Shapefile



Click the **Add File** button to browse your computer and select a zipped shapefile (Note: if your project does not have a shapefile, a map may be drawn in EJSCREEN to generate results)

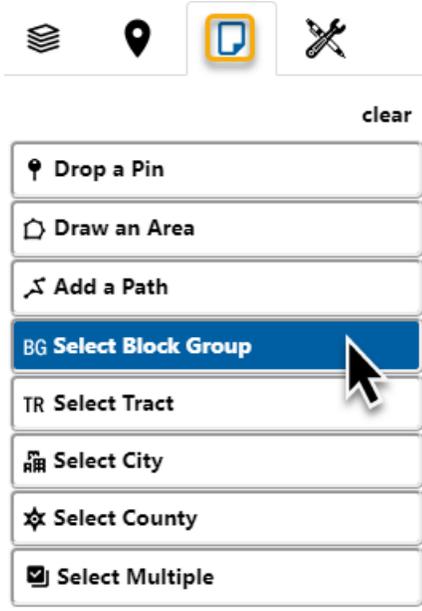


Once you select your file, it will be added to the map:

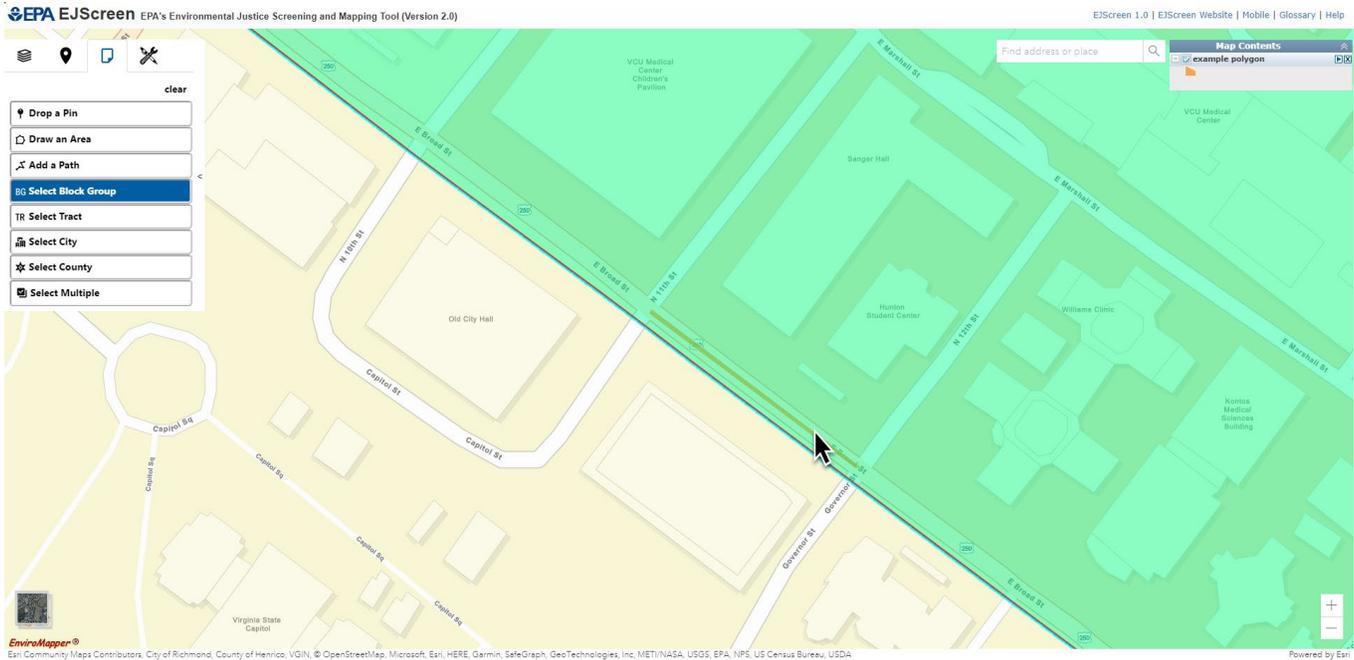


Generating Results

Open the **Report** Toolbar
Click on **Select Block Group**

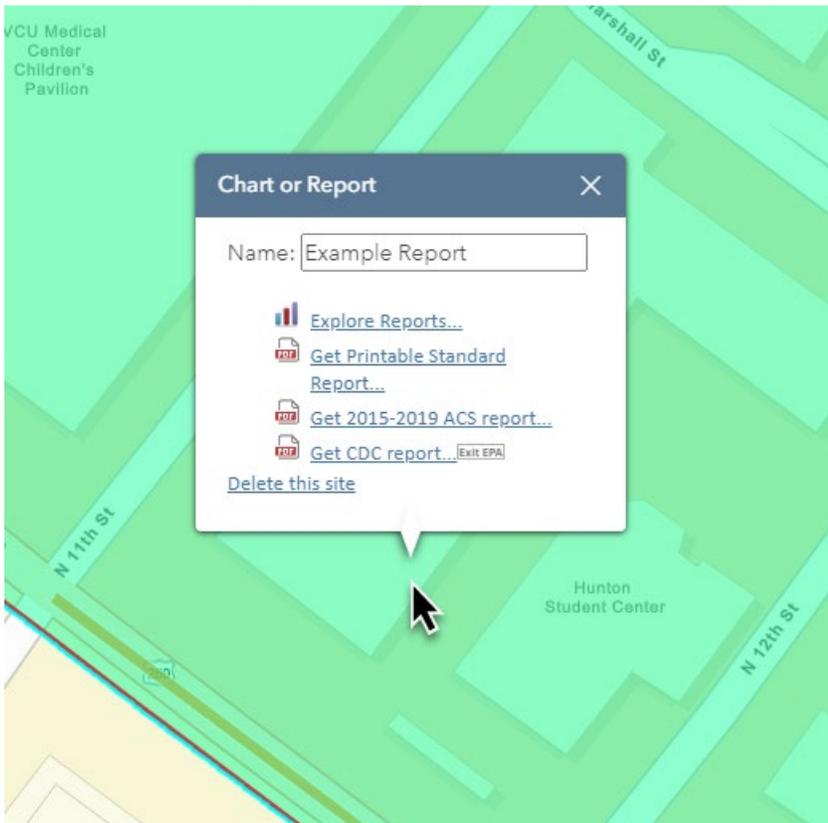


And Click on where your project is located



This should highlight the Block Group in which your project is located.

Click on the **highlighted Block Group** to open the report options



Here you can name a report, and select several report outputs

Click on **Explore Reports** at the top

This will open a report view, where you can preview all the data and unselect all except for **Low Income** and **People of Color** under the **Socioeconomic Indicators** tab. Click on the **Get Data Table** button at the bottom right

The screenshot shows the 'Explore Reports' interface. The 'Socioeconomic Indicators' tab is selected. Under the 'Demographic Index' section, 'People of Color' and 'Low Income' are checked. A bar chart displays the population percentage for various indicators compared to state, regional, and USA percentiles. A 'Get Data Table' button is highlighted with an orange arrow pointing to the 'Tabular View' table below.

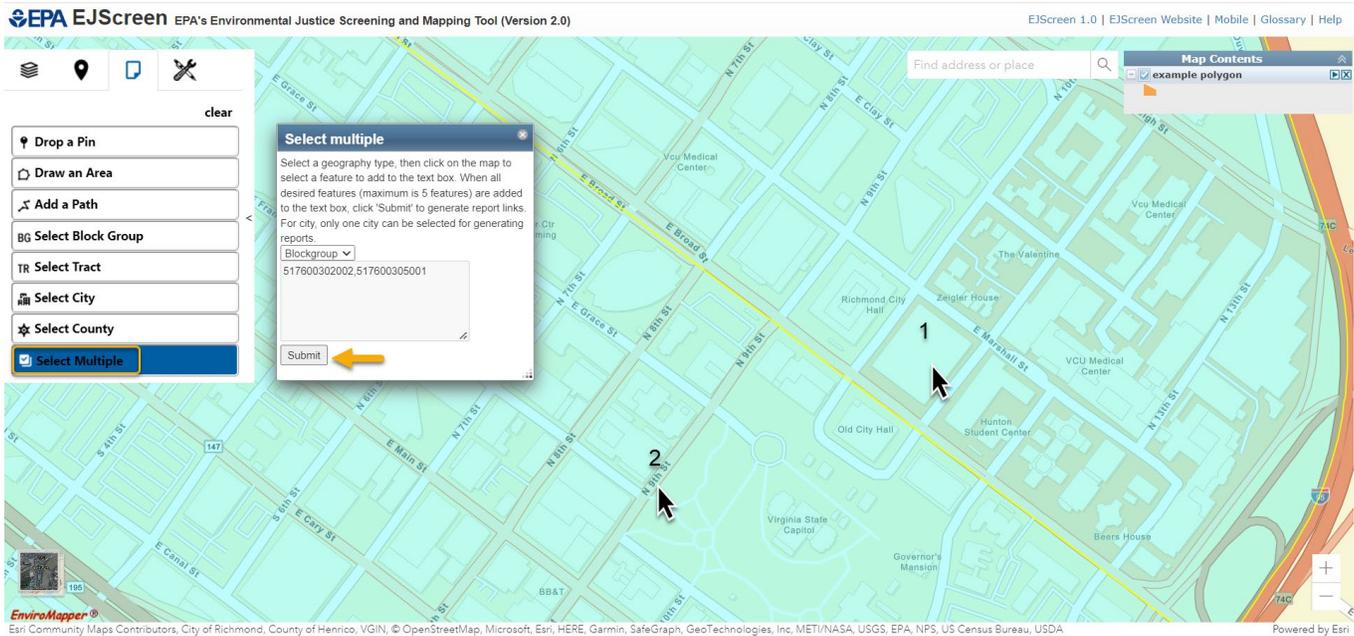
This should open a tabular view of the data, which can be exported as a CSV file, by clicking on the **Save** button on the right upper corner of the table



This will download a CSV to your local computer, which can be opened and viewed, as well as saved as a document in CEDAR (note that only **Low Income** and **People of Color** rows are required; other outputs are supplemental only).

#	Category	Selected Variables	Value	State Avg.	%ile in State	EPA Region Avg.	%ile in EPA Region	USA Avg.	%ile in USA
1	EJ Index	EJ Index for Particulate Matter 2.5			83		82		73
2	EJ Index	EJ Index for Ozone			82		81		74
3	EJ Index	EJ Index for 2017 Diesel Particulate Matter			88		86		80
4	EJ Index	EJ Index for 2017 Air Toxics Cancer Risk			87		88		81
5	EJ Index	EJ Index for 2017 Air Toxics Respiratory HI			85		85		77
6	EJ Index	EJ Index for Traffic Proximity			98		98		96
7	EJ Index	EJ Index for Lead Paint			69		71		62
8	EJ Index	EJ Index for Superfund Proximity			83		81		77
9	EJ Index	EJ Index for RMP Facility Proximity			95		92		87
10	EJ Index	EJ Index for Hazardous Waste Proximity			99		95		94
11	EJ Index	EJ Index for Underground Storage Tanks			87		86		79
12	EJ Index	EJ Index for Wastewater Discharge			81		80		70
13	Environmental	Particulate Matter 2.5 (ug/m3)	8.14	7.55	77	8.2	42	8.74	37
14	Environmental	Ozone (ppb)	40.5	40.1	60	41.9	31	42.6	35
15	Environmental	2017 Diesel Particulate Matter (ug/m3)	0.468	0.238	96	0.267	90-95th	0.295	80-90th
16	Environmental	2017 Air Toxics Cancer Risk (risk per MM)	50	31	99	30	95-100th	29	95-100th
17	Environmental	2017 Air Toxics Respiratory HI	0.5	0.36	99	0.34	95-100th	0.36	95-100th
18	Environmental	2017 Air Toxics Cancer Risk (risk per MM)	6200	660	98	680	98	710	98
19	Environmental	Lead Paint	0	0.21	13	0.35	6	0.28	11
20	Environmental	Superfund	0.083	0.11	63	0.15	51	0.13	60
21	Environmental	RMP Facility	1.8	0.38	97	0.63	91	0.75	89
22	Environmental	Hazardous	13	0.65	99	1.9	98	2.2	97
23	Environmental	Underground	3.3	1.8	80	2.7	75	3.9	69
24	Environmental	Wastewater	6.70E-05	6.2	49	33	34	12	28
25	Demographic	Demographic People of Color	80%	32%	98	30%	97	30%	95
26	Demographic	Demographic Low Income	60%	38%	78	33%	79	40%	72
27	Demographic	Demographic Unemployment	100%	25%	100	27%	100	31%	100
28	Demographic	Demographic Linguistically Isolated	27%	5%	99	5%	99	5%	98
29	Demographic	Demographic Less Than High School Education	0%	3%	53	3%	55	5%	45
30	Demographic	Demographic Under Age 5	0%	10%	5	10%	4	12%	4
31	Demographic	Demographic Over Age 64	0%	6%	4	6%	4	6%	4
32	Demographic	Demographic Unemployment	0%	15%	1	16%	0	16%	0

*If you have multiple Block Groups you need to include, use the **Select Multiple** tool, set to **Block Group**



Select each individual Block Group by clicking on them, then click submit
You will then be able to generate a composite report of all your selected Block Groups

