

The Business Case for Environmental Justice

Tanya Nesbitt, Thompson Hine LLP
ELI, Summer School Series

July 20, 2023

This presentation is intended for the general information of individuals and organizations on matters of current interest. It is not legal advice. Participants should not act on the information in this presentation without professional counsel. Participating in or viewing this presentation is not intended to establish and does not establish an attorney/client relationship with Thompson Hine LLP.

© 2022 THOMPSON HINE LLP. ALL RIGHTS RESERVED.



THOMPSON
HINE

ATLANTA | CHICAGO | CINCINNATI | CLEVELAND | COLUMBUS | DAYTON | NEW YORK | WASHINGTON, D.C.

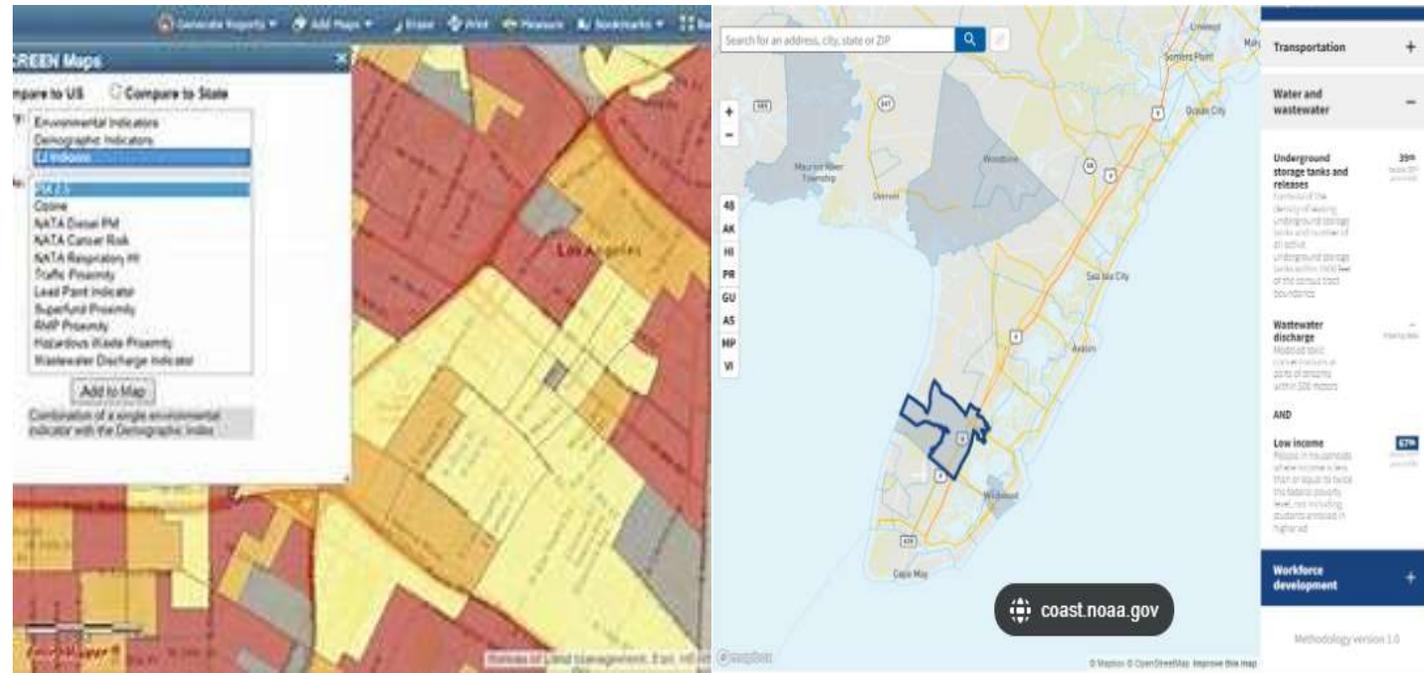
SmartPath

Why Businesses Should Care?

- Corporate Citizenry
- Climate Change Impacts Businesses too
- Financial Benefit
- Corporate Stakeholders
- Brand/Reputational Management
- Litigation Risks

How Do We Know if Our Business Will Impact an EJ Community?

- EJ Screen
- Climate and Economic Justice Screening Tool



Title VI of the Civil Rights Act of 1964

Prohibits recipients of federal financial assistance (states, grantees, etc.) from discriminating based on race, color, or national origin in any program or activity.

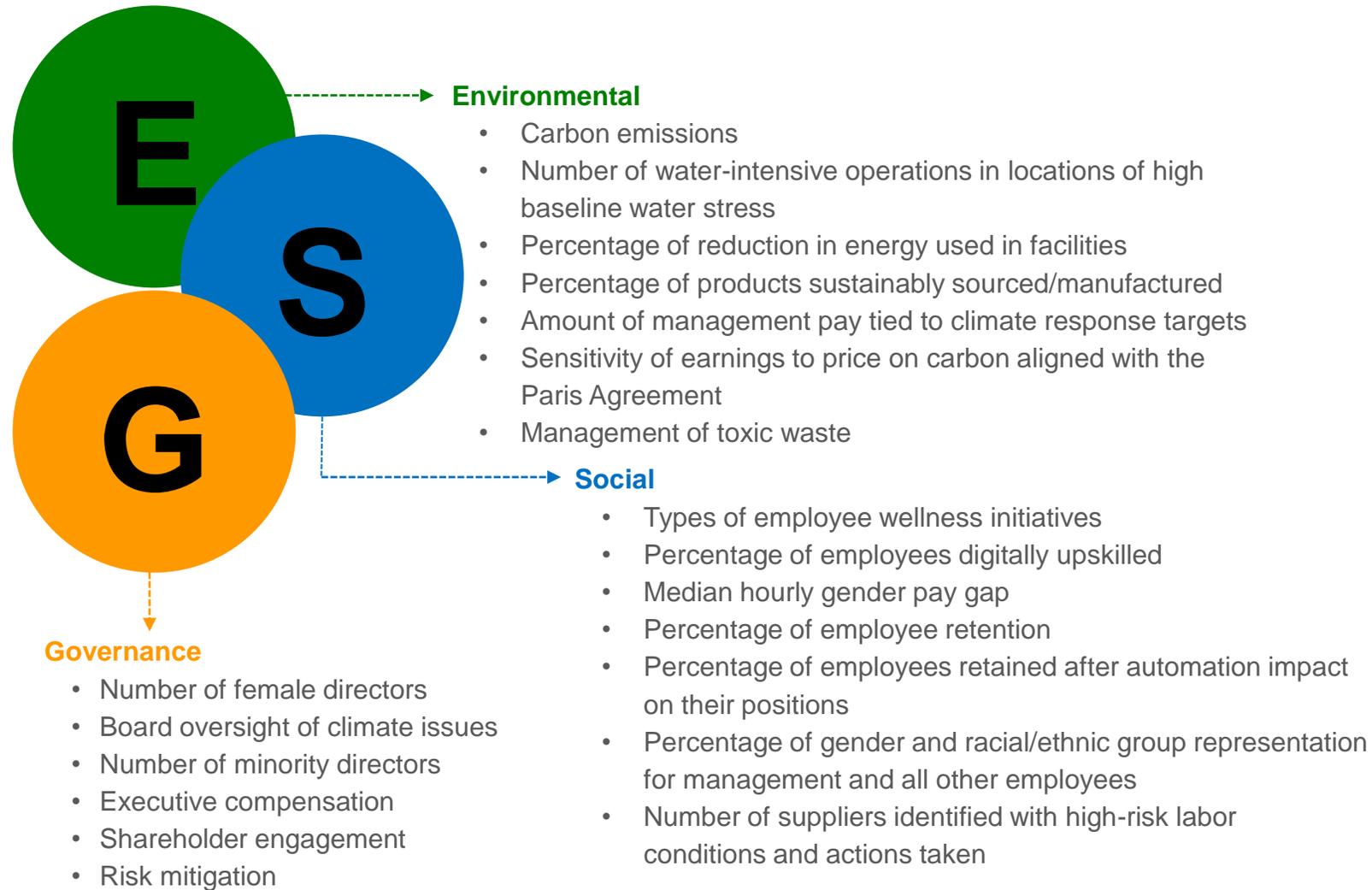
E.O. 12898 directs federal agencies to identify and address, as appropriate, disproportionately high adverse human health and environmental effects of their programs, policies, and activities on minority populations and low-income populations.

EPA's Office of Civil Rights is responsible for the Agency's administration of Title VI, including investigating administrative complaints.



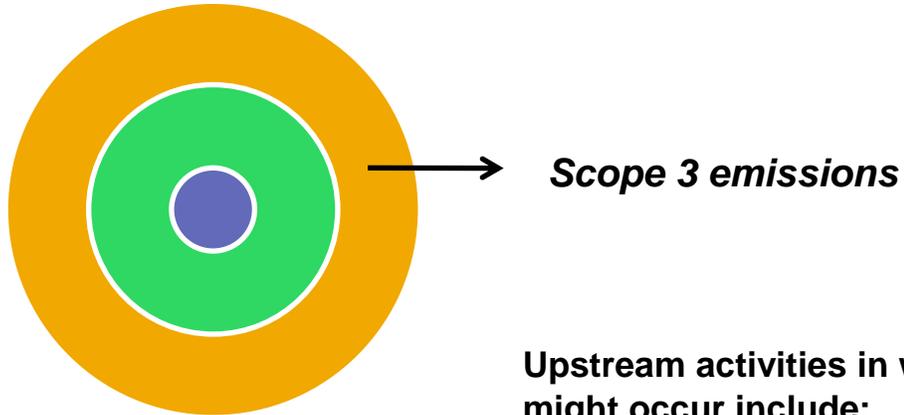
Intersection between ESG & Environmental Justice

What Is ESG?



ESG represents a range of nonfinancial factors that exhibit how a company acts toward its employees, vendors, and customers.

GHG Emissions: Scope 3 Emissions



Upstream activities in which Scope 3 emissions might occur include:

- A company's purchased goods and services;
- A company's capital goods;
- A company's fuel and energy related activities not included in Scope 1 or Scope 2 emissions;
- Transportation and distribution of purchased goods, raw materials, and other inputs;
- Waste generated in a company's operations;
- Business travel by a company's employees;
- Commutes by a company's employees; and
- A company's leased assets related principally to purchased or acquired goods or services.

Downstream activities in which Scope 3 emissions might occur include:

- Transportation and distribution of a company's sold products, goods, or other outputs;
- Processing by a third party of a company's sold products;
- Use by a third party of a company's sold products;
- End-of-life treatment by a third party of a company's sold products;
- A company's leased assets related principally to the sale or disposition of goods or services;
- A company's franchises; and
- Investments by a company.

ESG and Sustainability Projects

Zero waste projects focused on source reduction and recycling

Water quality, conservation and efficiency projects

Sustainable transportation using electric, hydrogen, and hybrid vehicles

Smart metering, smart grid technologies, and LED lighting

Renewable energy including microgrids and storage systems

Environmental Justice as Part of ESG

- **Companies need to proactively assess and prioritize EJ as part of enterprise-wide management.**



ESG REPORTING AND PERFORMANCE REQUIREMENTS ARE EXPANDING



MANDATORY DISCLOSURES ARE BECOMING MORE COMMON ON ISSUES LIKE FORCED LABOR AND CONFLICT MINERALS



KEY GOVERNMENT INITIATIVES LIKE THE IRA HAVE BOTH ESG AND EJ CONSIDERATIONS

Potential Hurdles ?



Best Practices and Recommendations

- ✓ Focus early on local community engagement
- ✓ Start with community campaigns/strategic partnerships
- ✓ Think strategically about philanthropy
- ✓ Engage with local politicians
- ✓ Understand what is going on at the local zoning board
- ✓ Equip local business managers to be community ambassadors
- ✓ Rely on trade associations to help with best practices
- ✓ Develop an internal/external EJ Council
- ✓ Prepare plan to “cut through noise” and determine what true community wants/needs are

Questions?

**Tanya Nesbitt, Partner
Thompson Hine LLP**

Tanya.Nesbitt@Thompsonhine.com

O: 404.407.3605 | M: 470.557.2449

