

Expanding AG EJ Practice — A Resource  
[State Energy and Environmental Impact Center, NYU School of Law](#)  
[WEACT for Environmental Justice](#)

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## **Introduction**

Environmental justice is a key aspect of the just transition to a clean energy future. As the nation's economy moves away from fossil fuels and toward renewable energy, it is essential that environmental justice communities are prioritized and included in this process. With such a fundamental transformation coming, the [communities that have, for decades, borne the brunt of environmental and public health harms](#) cannot be left behind. State attorneys general have an important role in enforcing these principles in partnership with the affected communities.

The State Energy and Environmental Impact Center has developed this resource in partnership with WE ACT for Environmental Justice to provide key information to state attorney general offices and others interested in expanding their work in the environmental justice practice area. This resource provides information on mapping tools for identifying environmental justice communities and gives background on attorney general sections and initiatives dedicated to environmental justice work. The resource will be continually updated. Please contact Bethany Davis Noll ([bethany.davisnoll@nyu.edu](mailto:bethany.davisnoll@nyu.edu)) for more information.

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[The State Energy & Environmental Impact Center at NYU School of Law](#) is a non-partisan academic center dedicated to the study and support of state attorneys general in their work defending and promoting clean energy, climate, and environmental laws and policies.

[WE ACT for Environmental Justice](#) strives to build healthy communities by ensuring that people of color and/or low-income residents participate meaningfully in the creation of sound and fair environmental health and protection policies and practices.

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## **Environmental Justice Overview**

Environmental justice refers to the disproportionately high burden of environmental and public health harms placed on communities of color and low-income communities. The practice of environmental justice maintains that all people have the right to live in a healthy and safe environment, and necessitates the fair treatment and inclusion of all communities, in particular communities of color and low-income communities, in the formation and enforcement of environmental laws and policies.

Additional resources on defining environmental justice:

[Learn About Environmental Justice, Environmental Protection Agency](#)  
[A Taxonomy of Environmental Justice, Robert Kuehn](#)  
[Environmental & Climate Justice, NAACP](#)

## Origins of the EJ Movement

The environmental justice movement began as a grassroots movement spurred and driven by community leaders and activists frustrated by poor environmental protection and disproportionately high levels of industrial activity in communities of color and low-income communities.

### 1982

Various social movements and hundreds of local struggles over several decades contributed to the rise of the EJ movement ([CalEPA Environmental Justice Program Update, 4](#)). Many advocates point to 1982 as a pivotal year when a landfill in the predominantly Black town of Afton in Warren County, North Carolina was selected as the dumping ground for soil contaminated with toxic polychlorinated biphenyls (PCBs) (*Id.*; Clifford Villa et al., *Environmental Justice: Law, Policy & Regulation*, 3-4, 2020). Organized protests led by members of the community attracted the attention of elected officials and national leaders on civil rights, environmental activism, and labor, many of whom came to North Carolina to join the protests. One of these leaders, Reverend Benjamin Chavis of the United Church of Christ Commission for Racial Justice, highlighted “environmental racism” as the reason the toxic waste was being brought to the town of Afton, which was 84% Black and located in one of the poorest counties in the state. While the protests did not successfully stop the dumping of PCBs in Afton, the demonstrations did provide the spark for the environmental justice movement as it is known today (Villa et al. at 4).

### 1983

The activism in Warren County gave rise to several studies and investigations that provided empirical evidence to support the decades of anecdotal evidence of the disproportionate burden of environmental harms borne by communities of color and low-income communities. In 1983, the Government Accountability Office (GAO) released a report finding that three of four major hazardous waste facilities in the Environmental Protection Agency (EPA) Region IV in the Southeast were located in majority Black neighborhoods ([GAO Report](#)).

### 1987

In 1987, a study commissioned by the United Church of Christ found that “race proved to be the most significant among variables tested in association with the location of commercial hazardous waste facilities” ([UCC Report at xii](#)). These foundational documents were essential in making the connection between race and adverse environmental impacts on human health, and underlined the need to act specifically to address the racialized impacts of environmental and health policies.

### 1991

Early activism also led to the First National People of Color Environmental Leadership Summit in Washington, D.C. in 1991, where grassroots activists drafted and adopted the 17 Principles of Environmental Justice. These Principles play a fundamental role in defining environmental justice and outlining the key considerations for ensuring environmental justice is achieved. The Principles are listed below.

1. Environmental Justice affirms the sacredness of Mother Earth, ecological unity and the interdependence of all species, and the right to be free from ecological destruction.
2. Environmental Justice demands that public policy be based on mutual respect and justice for all peoples, free from any form of discrimination or bias.

3. Environmental Justice mandates the right to ethical, balanced and responsible uses of land and renewable resources in the interest of a sustainable planet for humans and other living things.
4. Environmental Justice calls for universal protection from nuclear testing and the extraction, production and disposal of toxic/hazardous wastes and poisons that threaten the fundamental right to clean air, land, water, and food.
5. Environmental Justice affirms the fundamental right to political, economic, cultural and environmental self-determination of all peoples.
6. Environmental Justice demands the cessation of the production of all toxins, hazardous wastes, and radioactive materials, and that all past and current producers be held strictly accountable to the people for detoxification and the containment at the point of production.
7. Environmental Justice demands the right to participate as equal partners at every level of decision-making including needs assessment, planning, implementation, enforcement and evaluation.
8. Environmental Justice affirms the right of all workers to a safe and healthy work environment, without being forced to choose between an unsafe livelihood and unemployment. It also affirms the right of those who work at home to be free from environmental hazards.
9. Environmental Justice protects the right of victims of environmental injustice to receive full compensation and reparations for damages as well as quality health care.
10. Environmental Justice considers governmental acts of environmental injustice a violation of international law, the Universal Declaration on Human Rights, and the United Nations Convention on Genocide.
11. Environmental Justice must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants affirming sovereignty and self-determination.
12. Environmental Justice affirms the need for urban and rural ecological policies to clean up and rebuild our cities and rural areas in balance with nature, honoring the cultural integrity of all our communities, and providing fair access for all to the full range of resources.
13. Environmental Justice calls for the strict enforcement of principles of informed consent, and a halt to the testing of experimental reproductive and medical procedures and vaccinations on people of color.
14. Environmental Justice opposes the destructive operations of multi-national corporations.
15. Environmental Justice opposes military occupation, repression and exploitation of lands, peoples and cultures, and other life forms.

16. Environmental Justice calls for the education of present and future generations which emphasizes social and environmental issues, based on our experience and an appreciation of our diverse cultural perspectives.

17. Environmental Justice requires that we, as individuals, make personal and consumer choices to consume as little of Mother Earth's resources and to produce as little waste as possible; and make the conscious decision to challenge and reprioritize our lifestyles to ensure the health of the natural world for present and future generations.

Source: [United Church of Christ](#)

### 1992

In response to the growing grassroots movement, the EPA in 1992 established what would eventually be called the Office of Environmental Justice and convened the National Environmental Justice Advisory Council, which was tasked with making recommendations to the EPA on environmental justice issues (Villa et al. at 5).

### Clinton Era

In 1994, President Bill Clinton signed Executive Order 12898, a landmark Order that directed all federal agencies to incorporate environmental justice into their missions "by identifying and addressing...disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations" ([Executive Order 12898, §1-101](#)). The order also established the Interagency Working Group on Environmental Justice (EJ IWG), which convenes federal agencies to address critical environmental justice issues (*Id.* at § 1-102). The EJ IWG is tasked with "assist[ing] communities in building the capacity to promote and implement innovative and comprehensive solutions to address environmental justice issues" ([EPA website, "Overview of the EJ IWG"](#)).

### Bush Era

Under the administration of President George W. Bush, the obligation to focus on disproportionate impacts based on race and income was deemphasized in favor of redefining environmental justice to mean environmental protection for everyone (Villa et al. at 5).

### Obama Era

President Barack Obama's administration placed renewed attention on communities of color and low-income communities in the federal policymaking process. For example, in 2011, the EJ IWG agencies adopted a Charter and signed the Memorandum of Understanding on Environmental Justice and Executive Order 12898 (MOU) ([EJ IWG Charter](#); [EJ IWG Memorandum of Understanding](#)). The MOU functioned as a formal agreement among federal agencies to "recommit to addressing environmental justice through a more collaborative, comprehensive and efficient process." The Charter laid out a number of focus areas for the EJ IWG, including public participation, Title VI of the Civil Rights Act of 1964, Native Americans and Indigenous peoples, engagement with rural communities, and impacts from climate change. These efforts to refocus federal attention on addressing environmental justice diminished once again with the Trump administration (Villa et al. at 5-6).

## **Recent Focus on Environmental Justice**

The Biden administration has committed to prioritizing and elevating environmental justice issues across the federal government.

## *White House Activity*

In his first week in office, President Biden signed an executive order entitled “Tackling the Climate Crisis at Home and Abroad,” which lists delivering environmental justice as an essential piece of the administration’s climate policy, and promises a whole-of-government approach to addressing environmental justice issues ([Executive Order No. 14008](#)). The EO established two White House councils — the White House Environmental Justice Interagency Council (WHEJIC) to develop the federal government’s strategy for addressing current and historic environmental injustice, and the White House Environmental Justice Advisory Council (WHEJAC) to advise WHEJIC and the Council on Environmental Quality (CEQ) (*Id.* at § 220, 221). The EO also established the Justice40 Initiative, which sets a goal that 40 percent of the overall benefits of federal investments addressing climate change flow to disadvantaged communities (*Id.* at § 223). In addition, the EO called for CEQ to create a Climate and Economic Justice Screening Tool by July 2021 and for WHEJIC to submit a set of recommendations for updating Executive Order 12898 (*Id.* at §§ 222(a), 220(b)).

In May 2021, WHEJAC released a report providing recommendations on Justice40, the Climate and Economic Justice Screen Tool, and revisions to EO 12898 ([WHEJAC report on Justice40, screening tool, and EO 12898 revisions](#)). The report highlighted the need to ensure a fair and just distribution of investments when administering Justice40, and emphasized the importance of integrating and supplementing the Climate and Economic Justice Screening Tool with local community knowledge and data (*Id.* at 40, 65).

In July 2021, the Office of Management and Budget (OMB), CEQ, and the National Climate Advisor, in consultation with WHEJAC, released its interim implementation guidance for the Justice40 Initiative ([Justice40 Initiative Guidance Document](#)). According to the guidance, covered programs and investments within the scope of the Justice40 initiative will fall into the following categories: climate change, clean energy and energy efficiency, clean transportation, affordable and sustainable housing, training and workforce development, the remediation and reduction of legacy pollution, and the development of critical clean water infrastructure (*Id.* at 9). “Benefits” are defined as including “direct and indirect investments (and program outcomes) that positively impact disadvantaged communities” (*Id.* at 4). When determining benefits to disadvantaged communities, the guidance highlighted that “agencies should consult with stakeholders, including state, local, and Tribal governments, as well as Native communities, to ensure public participation and that community stakeholders are meaningfully involved in what constitutes the ‘benefits’ of a program” (*Id.* at 7). The guidance provided some input on the variables to consider when defining a disadvantaged community, such as income, racial and ethnic residential segregation, and linguistic isolation, but indicated further guidance on this definition will be developed (*Id.* at 2-3).

In addition, the guidance identified 21 federal pilot programs that will undertake an initial implementation of the Justice40 guidance. Some examples of the pilot programs include the Department of Homeland Security’s Flood Mitigation Assistance grant program ([FEMA overview of FMA grant](#)), EPA’s Drinking Water State Revolving Fund ([EPA overview of DWSRF](#)) and Brownfields program ([EPA overview of Brownfields Program](#)), and Housing and Urban Development’s grants for lead hazard reduction in homes ([HUD overview of lead hazards grant programs](#)). In developing implementation plans for these programs, the guidance directed agencies to consider certain guidelines for modifying the programs in order to maximize benefits to disadvantaged communities, such as fostering well-paying jobs, conducting outreach, and avoiding potential burdens to disadvantaged communities (Guidance Document at 10). In

September 2021, the pilot programs submitted implementation plans for maximizing benefits to disadvantaged communities ([White House Blog, “Delivering on Justice40”](#)). By mid-December, agencies were expected to submit methodologies for calculating and tracking these benefits. The White House is developing a Scorecard to make this information available to the public, which is expected to be released in early 2022.

### *Legislative Activity*

The administration and Congress also addressed environmental justice concerns through the COVID-19 relief bill, which President Biden signed into law in March 2021. The bill included specific provisions for environmental justice grants to support communities facing disparate impacts from the COVID-19 pandemic. The bill appropriated \$50 million to “identify and address disproportionate environmental or public health harms and risks in minority or low-income populations” and \$50 million for air quality monitoring ([H.R. 1319, § 6002](#)). The legislation also provided support to communities through additional funding for the Low Income Home Energy Assistance Program, for water utility bill assistance to low-income households, and for community health centers ([Earthjustice Press Release: Earthjustice Applauds the Passage of COVID-19 Relief Bill; H.R. 1319 - § 2911, 2912, 2601](#)).

The Build Back Better Act — which has passed the House of Representatives but not the Senate — includes over \$160 billion to be invested in a variety of environmental justice programs ([H.R. 5376](#); [Equitable & Just National Climate Platform, Fact Sheet: Environmental Justice Investments in the House Build Back Better Act](#)). Proposed environmental justice spending includes: over \$8 billion to reduce air pollution at ports and increase clean heavy-duty vehicle use, \$29 billion for the Greenhouse Gas Reduction Fund (which includes funding zero-emission technology in low-income communities), and \$30 billion for the Civilian Climate Corps (providing jobs and training for the clean-energy economy) (*Id.* at §§ 30101, 30102, 30103, 70202). Further, the Biden administration’s goal of delivering 40 percent of the infrastructure and climate investment benefits to disadvantaged communities will apply to the Build Back Better Act (Equitable & Just National Climate Platform Fact Sheet).

### *Federal Agency Activity*

Throughout the first year of the Biden administration, federal agencies have been taking steps to ensure they are engaging with and elevating environmental justice issues in a way that is consistent with President Biden’s January 2021 executive order. For example, EPA Administrator Michael Regan in April 2021 announced the following steps his agency will take to advance environmental justice:

- Strengthening enforcement of violations of cornerstone environmental statutes and civil rights laws in communities overburdened by pollution.
- Incorporating environmental justice considerations into EPA’s work, including assessing impacts to pollution-burdened, underserved, and Tribal communities in regulatory development processes and considering regulatory options to maximize benefits to these communities.
- Improving early and more frequent engagement with pollution-burdened and underserved communities affected by agency rulemakings, permitting and enforcement decisions, and policies.

- Consistent with the Biden administration’s Justice 40 initiative, considering and prioritizing direct and indirect benefits to underserved communities in the development of requests for grant applications and in making grant award decisions, to the extent allowed by law.
- *Source:* [EPA Press Release: EPA Administrator Announces Agency Actions to Advance Environmental Justice](#)

In October 2021, EPA published its draft strategic plan for fiscal 2022 through fiscal 2026, which prioritizes advancing environmental justice and civil rights ([Draft FY 2022-2026 EPA Strategic Plan](#)). According to the draft plan, EPA’s “ultimate goal” of making this a priority is “to achieve measurable environmental, public health, and quality of life improvements in the most overburdened, vulnerable, and underserved communities.” In order to achieve this goal, EPA says it will “work to increase the capacity of communities and Tribes working to address environmental justice and civil right concerns; embed environmental justice and civil rights in the Agency’s core work; and strengthen civil rights enforcement in communities overburdened by pollution” (*Id.* at 20).

EPA also addressed environmental justice concerns through rulemakings released in 2021. For example, EPA considered the effects of climate change, hazardous air pollutants, and economic impact through the lens of environmental justice as it relates to the hydrofluorocarbons (HFC) phasedown ([Beveridge & Diamond: “EPA Emphasizes Environmental Justice in HFC Phasedown”](#)). In November 2021, the EPA published a final rule to implement certain provisions of the December 2020 COVID-19 relief and spending legislation that initiated the phasedown of HFCs, a potent greenhouse gas ([86 Fed. Reg. 55116 \(2021\): Phasedown of Hydrofluorocarbons](#)). The rulemaking specifically addressed how EPA considered environmental justice concerns in its analysis, noting the higher percentage of low-income and Black communities located near HFC production facilities and the health risks associated with living near these facilities (*Id.* at 55127).

At the Department of the Interior (DOI), Secretary Deb Haaland in April 2021 signed a Secretarial Order aimed at “restoring transparency and integrity to the [Department’s] decision-making processes,” and specifically highlighted environmental justice as an area of focus in the agency’s efforts to address climate change ([DOI Secretarial Order No. 3399](#)). In DOI’s November 2021 report on the federal oil and gas leasing program, the agency called for “creating a more inclusive and just approach to managing public lands and waters” ([DOI Report on the Federal Oil and Gas Leasing Program](#)). Certain practices within the leasing and permitting process can leave out local community voices, especially Tribal voices, thus DOI recommended “undertak[ing] meaningful Tribal consultations and solicit[ing] public input more generally regarding its leasing and permitting processes” (*Id.* at 14).

The Federal Energy Regulatory Commission (FERC) in May 2021 appointed Montana Cole to a newly established position entitled Senior Counsel for Environmental Justice and Equity in an effort to more effectively incorporate environmental justice and equity concerns into FERC’s decision-making process ([FERC Press Release: Glick Names Montana Cole to Top Environmental Justice Post at FERC](#)). In July 2021, the Nuclear Regulatory Commission (NRC) released a request for comments as part of a “systematic review for how NRC programs, policies, and activities address environmental justice” ([86 Fed. Reg. 36307 \(2021\): Systematic Assessment for How the NRC Addresses Environmental Justice in Its Programs, Policies, and Activities](#)).



## **EJ Mapping**

As environmental justice activism and policy work continue to progress, local, state, and federal programs must first identify environmental justice communities.

### **EJ Mapping Background**

As defined by EPA, environmental justice communities (EPA uses the term "overburdened communities") are those minority, low-income, Tribal, or indigenous groups that are disproportionately burdened by the cumulative impacts of environmental abuse ([EPA "EJ 2020 Glossary"](#)). This concept of cumulative impact refers to the negative public health, environmental, and social effects that result from the combined exposures to pollution and improper land use that EJ communities are often subject to in this country ([Lee, 2020](#)). By tracking areas experiencing cumulative impacts, advocates have been able to identify the communities that are faced with consistently disproportionate environmental and social stressors, and work to better recognize and follow the proper path towards resolving the environmental issues that affect these communities ([Morello-Frosch et al., 2011](#)).

In order to address the environmental inequities of cumulative impacts, advocates must first be able to understand where they exist. The process of EJ mapping, first described by the Commission on Racial Justice's 1987 report *Toxic Wastes and Race in the United States*, was introduced as a tool for identifying the location of EJ communities and gathering direct information from the experiences of people living with the burdens of pollution ([UCC "Toxic Wastes and Race" Report](#)). While this first step of locating vulnerable communities exposed to high levels of pollution was a critical part of EJ advocacy and promoted more public participation, it did not guarantee sustained government action.

More recently however, technological advances have empowered the resurgence of EJ mapping tools. Over the last decade or so, combined with renewed focus on environmental justice at multiple levels, these newer tools have helped government agencies better confront the problem of disproportionate cumulative impacts in EJ communities.

The newer tools include digital mapping programs, Geographic Information Systems, and data collection tools like air quality monitors. By using mapping to overlay data about environmental burdens with community demographics and vulnerabilities, EJ community members and organizations can now show a direct relationship between public health and harmful environmental conditions. This evidence in turn enables EJ communities to press government agencies to pay attention to over-burdened areas and to take action on issues that contribute to cumulative environmental inequity. Access to these visual and data-based mapping tools provides EJ communities the validation and power needed to combat environmental hazards in their areas. The tool also plays a key role at government agencies as they seek to make environmental justice work central to their advocacy. In this section, we describe the tools that are available.

### **Models:**

#### *California's CalEnviroScreen Tool*

California led the way for states by recognizing the importance of EJ mapping tools in prioritizing decision making and community protection actions. It became the first state to deploy a widely

accepted EJ map with its CalEnviroScreen tool, which was made accessible to the public by CalEPA's Office of Environmental Health Hazard Assessment in 2013 ([CalEnviroScreen](#)). This tool was developed with the help of significant community participation, and features 21 indicators divided into four categories: exposure, environmental effects, sensitive populations, and socioeconomic factors. The data from these indicators is combined to calculate a peer-reviewed cumulative environmental health score for each census tract in the state. This scoring process gives users the ability to identify EJ communities based on pollution exposure, health, and socioeconomic vulnerability.

- [CalEnviroScreen Training](#)

Local California governments and organizations have widely accepted the CalEnviroScreen tool, which is currently in its fourth version and continues to be improved and updated by CalEPA and other state agencies. CalEnviroScreen data sets are more in depth than the nationally consistent data used by the EPA's EJSCREEN tool. Partnering groups, such as local schools and independent businesses conduct their own research to assist the state agencies in identifying relevant indicators and demographics for the mapping tool. CalEnviroScreen is now used for planning and procedures at the state and local levels, including the [California Air Resource Board's Community Air Protection Program](#), [CalEPA's EJ Enforcement Task Force](#), and the community funding under the state's [Greenhouse Gas Reduction Fund](#). The tool is additionally used to challenge and support governmental decisions, and provide data to EJ communities so that they may gain more power to speak for and defend themselves ([OEHHA](#), [CalEnviroScreen Training Videos](#)).

#### *The Environmental Protection Agency's EJSCREEN Tool*

Many federal government agencies have recognized the benefits of the ever-evolving EJ mapping tools, and have used these tools to create their own maps to protect the public health of vulnerable EJ communities. Federal agencies use these maps to steer governmental decision making and disseminate critical information on environmental hazards to the public. The public availability of these federal agency maps has made them an excellent resource for environmental justice advocates everywhere. The most commonly used tool is the EPA's EJSCREEN (released in 2015) ([EJSCREEN tool from EPA](#)). This mapping and screening tool uses nationally consistent data that federal agencies can use to identify potential EJ areas of concern. Unlike the CalEnviroScreen, the EJSCREEN data pools include a racial indicator, but also unlike CalEnviroScreen, the EJSCREEN pools do not include the health statistics of sensitive populations.

- [EPA EJSCREEN Training](#)

EJSCREEN is a publicly accessible web tool that allows users to assess cumulative impacts by overlaying eleven different environmental indicators and six specific demographic indicators at a census group level. The interactive web tool, located in the EPA's GeoPlatform, gives users access to a vast amount of data on the environmental and demographic indicators present in a given community so that they can define their own areas of interest. Users have the ability to generate ranked score reports for any combination of the environmental and demographic indicators, depending on the cumulative nature of the user's area and indicators of interest. These reports allow for comparison of ranked scores on a national, regional and local basis, and thus can be used by states without their own tools for mapping cumulative environmental

impacts. Users are additionally able to download EJSCREEN data and use it for a state mapping tool or combine it with additional local data on a Geographic Information System such as ArcGIS ([WebGIS Crash Course](#)).

### **Other State-Level Mapping Projects:**

The effectiveness of the EJSCREEN and CalEnviroScreen mapping tools has encouraged other state and local governments and EJ practitioners to develop their own EJ mapping tools through an easily replicable model derived from those two methodologies. This model involves the pairing of the CalEnviroScreen's community-participation-based processes and scoring formula with the data available through EJSCREEN along with any additional state and local data. State and local governments, communities, universities, and agencies across the country are capable of following and assisting with this EJ mapping model, as the necessary CalEnviroScreen and EJSCREEN information is easily accessible to the general public. The following states have already undertaken EJ mapping efforts that follow this common methodological approach:

#### *Washington*

In Washington, organizations from communities of color partnered with Front and Centered, the University of Washington, the Puget Sound Clean Air Agency, and the Washington Departments of Health and Ecology to develop an EJ map and mapping tool (the Washington Environmental Health Disparities Map or Washington EHD Map) to help promote climate policy that focuses on proper reinvestment into EJ communities ([WADOH, Washington Environmental Health Disparities Map](#)). This mapping effort, which involved extensive community engagement, including eleven public listening sessions, was organized by [Front and Centered](#) and community groups. Esther Min, a University of Washington Ph.D. student then paired the CalEnviroScreen scoring formula with the EJSCREEN data to create the Washington EHD mapping tool, which is now incorporated in legislative efforts at the state and local level in Washington state. For example, in 2019 the Clean Energy Bill utilized the EHD mapping tool to develop a cumulative climate impact tool ([Min et al., 2019](#)). Additionally, Washington is now funding a task force to evaluate how else the EHD mapping tool can be used to assist state actions.

#### *Illinois*

In 2016, Illinois enacted the Future Energy Jobs Act (FEJA) with the purpose of increasing jobs and development projects in the solar energy sector. The FEJA directed \$750 million in funding towards low-income solar energy programs, as well as a Solar for All program, which required that 25% of resources be used for the benefit of environmental justice communities ([Citizens Utility Board, "What is the Future Energy Jobs Act?"](#)). The Solar for All Program sought guidance from the public and community organizations on how to approach identifying disadvantaged areas and gathering data, and chose to use the CalEnviroScreen scoring formula paired with data from EJSCREEN data ([Illinois Solar for All, "Environmental Justice Communities"](#)).

#### *Maryland*

In Maryland, University of Maryland students and professors partnered with the [National Center for Smart Growth](#) and the [Maryland Environmental Health Network](#) to create an EJ mapping tool

to identify communities with EJ issues and improve governmental EJ decision making. The Maryland Environmental Justice Screen Tool was eventually created through the use of intensive community participation, the CalEnviroScreen scoring formula, and EJSCREEN and local data. The mapping tool is now accessible online to the general public via ArcGIS ([MD EJSCREEN website](#); [MD EJSCREEN presentation](#)).

### *Michigan*

At the University of Michigan, Professor Paul Mohai and his graduate students developed an EJ mapping tool with support of the [Michigan Environmental Justice Coalition](#). With the mapping tool, the group also authored a report, *Assessing the State of Environmental Justice in Michigan* ([Grier et al., 2019](#)). [Michigan's EJ mapping tool](#) was created with significant community engagement and relied on the CalEnviroScreen scoring formula and EJSCREEN data.

### *New Jersey*

In September 2020, the New Jersey legislature passed an EJ law which required the New Jersey Department of Environmental Protection (NJDEP) to develop a map identifying New Jersey communities that face disproportionate amounts of pollution ([N.J.S.A. 13:1D-157 to -161](#)). NJDEP identified these communities using the definitions from that legislation, which defines “overburdened community” as any census block group in which: “(1) at least 35 percent of the households qualify as low-income households; (2) at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or (3) at least 40 percent of the households have limited English proficiency” (*Id.* at 13:1D-158). Using this definition, NJDEP produced a publicly-available map of overburdened communities in the state ([NJDEP EJ website](#)).

### *Conclusion on State-Level Mapping Projects*

Over the next few years, many other states are expected to follow this same methodology and create their own EJ mapping tools. These maps give governments and organizations the ability to prioritize public-health-focused decision making through the visualization of pollution and the communities most harmed by the pollution’s cumulative impacts. For example, in New York the Climate Leadership and Community Protection Act was enacted in 2019 with the goal of working towards reduction of carbon emissions across the state ([NY State Climate Act website](#)). The CLCPA requires that 35-40% of the program’s benefits be directed to historically “disadvantaged” communities ([NY S6599, § 75-0117](#)). While state leaders have not yet decided on a methodology for identifying these vulnerable communities, a New York version of the CalEnviroScreen and EJSCREEN combination model is a potential option.

## **Resources on Screening and Mapping Tools**

Below is a compilation of additional resources on screening and mapping tools.

Lakshika Nishadhi Kurupparachchi et al., [A Comparison of Major Environmental Justice Screening and Mapping Tools](#), 6 *Envtl. Mgmt. & Sustainable Dev.* 59 (2017), available at [https://www.researchgate.net/publication/314866384\\_A\\_Comparison\\_of\\_Major\\_Environmental\\_Justice\\_Screening\\_and\\_Mapping\\_Tools](https://www.researchgate.net/publication/314866384_A_Comparison_of_Major_Environmental_Justice_Screening_and_Mapping_Tools).

Aubree Driver et al., [\*Utilization of the Maryland Environmental Justice Screening Tool: A Bladensburg, Maryland Case Study\*](#), 16 Int'l J. Env'tl. Res. & Pub. Health 348 (2019), available at <https://pubmed.ncbi.nlm.nih.gov/30691155/>.

Laura Grier et al., [\*Assessing the State of Environmental Justice in Michigan\*](#) (2019), [https://deepblue.lib.umich.edu/bitstream/handle/2027.42/149105/AssessingtheStateofEnvironmentalJusticeinMichigan\\_344.pdf?sequence=1](https://deepblue.lib.umich.edu/bitstream/handle/2027.42/149105/AssessingtheStateofEnvironmentalJusticeinMichigan_344.pdf?sequence=1).

CalEPA, [\*California Communities Environmental Health Screening Tool\*](#), Version 1.1 (2013 Update), <https://oehha.ca.gov/media/downloads/calenviroscreen/report/calenviroscreenver11report.pdf>.

Ryan Holifield, [\*Environmental Reviews and Case Studies: Accounting for Diversity in Environmental Justice Screening Tools: Toward Multiple Indices of Disproportionate Impact\*](#), 16 Env'tl. Prac. 77 (2014), available at <https://www.tandfonline.com/doi/abs/10.1017/S1466046613000574?journalCode=uevp20>.

Esther Min et al., [\*The Washington State Environmental Health Disparities Map: Development of a Community-Responsive Cumulative Impacts Assessment Tool\*](#), 16 Int'l J. Env'tl. Res. & Pub. Health 4470 (2019), available at <https://www.mdpi.com/1660-4601/16/22/4470>.

Citizens Utility Board, [\*Future Energy Jobs Act\*](#), <https://www.citizensutilityboard.org/future-energy-jobs-act/> (last visited Dec. 22, 2021).

## **EJ at State Offices**

In recent years, state attorneys general across the country have been working to expand their environmental justice work. On the federal front, state attorneys general have been pushing the federal government to ensure environmental justice impacts are considered in issues such as the development of air quality standards and greenhouse gas emissions regulations. In addition to these federal efforts, several AG offices have developed sections and initiatives exclusively dedicated to environmental justice work.

### **California**

California has several important measures that address environmental justice, one of the most significant being the California Environmental Quality Act (CEQA). CEQA was first passed in 1970, shortly after the National Environmental Policy Act (NEPA) was passed at the federal level, and is one of California's most important environmental laws ([CA OAG website, CEQA](#)). CEQA requires state and local agencies to disclose and evaluate the significant environmental impacts of proposed projects and to adopt all feasible mitigation measures to reduce or eliminate those impacts. In particular, CEQA requires government agencies to consider the environmental and public health impacts on communities already burdened with pollution when reviewing and permitting new projects ([CA OAG website, Environmental Justice](#)).

In 2016, California passed SB 1000 requiring local governments to identify “disadvantaged communities” in their jurisdictions and address environmental justice in their general plans ([CA SB 1000, § 1](#)). SB 1000 identifies disadvantaged communities as “an area identified by the California Environmental Protection Agency (CalEPA) pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation” (*Id.*). Section 39711 of the Health and Safety Code specifies that disadvantaged communities “shall be identified based on geographic, socioeconomic, public health, and environmental hazard criteria,” and include “[a]reas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation,” and “[a]reas with concentrations of people that are of low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment” ([CA HSC, § 39711](#)). CalEPA uses CalEnviroScreen to identify disadvantaged communities, which are defined as the top 25% scoring areas from CalEnviroScreen, and other areas with high amounts of pollution and low populations ([OEHHA website, SB 535 Disadvantaged Communities](#)).

By requiring proper consideration of environmental justice in local planning, SB 1000 seeks to “facilitate transparency and public engagement in local governments’ planning and decision making processes, reduce harmful pollutants and the associated health risks in environmental justice communities, and promote equitable access to health-inducing benefits, such as healthy food options, housing, public facilities, and recreation” ([CA OAG website, SB 1000](#)).

Since the passage of SB 1000, the state has also launched various initiatives to support these designated disadvantaged communities. For example, last year the state approved over 90 million dollars in grants for ten different projects in disadvantaged communities to combat pollution and climate change at a local level. Since 2016, the state has given over 600 million dollars to fund these kinds of projects ([CA Office of the Governor Press Release: California Awards \\$96 Million for Climate Projects in 10 Frontline Communities](#)).

#### *CA OAG’s Bureau of Environmental Justice*

In 2018, Former California Attorney General Xavier Becerra established the Bureau of Environmental Justice, becoming the first attorney general’s office to establish a dedicated environmental justice section. The Bureau’s mission is “to protect people and communities that endure a disproportionate share of environmental pollution and public health hazards.” ([CA OAG website, Environmental Justice](#)). In April 2021, Attorney General Rob Bonta announced the Bureau expanded its staff to include a total of 11 attorneys whose work focuses exclusively on environmental justice matters ([CA OAG Press Release: Attorney General Bonta Announces Expansion of Bureau of Environmental Justice](#)).

The Bureau’s primary areas of focus include ensuring compliance with CEQA and land use planning laws; penalizing and preventing illegal discharge to the air and water from facilities located in communities already burdened disproportionately with pollution; eliminating or reducing exposure to lead and other toxins in the environment and consumer products; remediating contaminated drinking water; and challenging the Federal Government’s actions that repeal or reduce public health and environmental protections.

In enforcing CEQA, the Office of the Attorney General (OAG) focuses on addressing impacts that affect the state’s “most vulnerable residents,” including “children, the elderly, and people

who already are bearing an unfair share of pollution” ([CA OAG website, CEQA](#)). One of the ways in which the OAG ensures compliance with CEQA is by filing comment letters on proposed projects. For example, in October 2022, the OAG filed a comment letter outlining the deficiencies in the Fresno Planning and Development Department’s Plan Amendment Application, Rezone Application, and Environmental Assessment when an area of southwest Fresno, a traditionally disadvantaged community, was rezoned from Mixed Use Residential to Light Industrial. The OAG asserts that this decision fails to consider “the whole of the Project, ignoring foreseeable indirect Project impacts, and inaccurately asserting that the Project is in compliance with local, regional, and state plans,” and the City’s environmental analysis “fails to properly analyze the Project’s environmental impacts as required by CEQA.” The OAG urged Fresno not to go through with the project for these reasons ([Comment letter re: Comment on Southwest Fresno Rezone Project, Plan Amendment Application No. P20- 01665, Rezone Application No. P20-01665 and the related Environmental Assessment No. P20-01665](#)).

The OAG has filed many similar comments letters under CEQA that point to the environmental justice impacts of proposed projects ([CA OAG website, Comment Letters Filed under the California Environmental Quality Act](#)). Speaking to *Grist*, former AG Becerra noted that the Bureau has “been able to get a lot of change — not by having to sue, but by working with the local governments, pointing out their deficiencies, and saying, ‘We hate to sue, but if you keep going on this course, that’s probably where we’re headed’” ([Grist, “This tiny but mighty California bureau is taking on polluters”](#)). For example, AG Bonta recently filed a comment letter in response to the Airport Gateway Specific Plan, which would permit the construction of over 9 million square feet of warehouse space in the cities of Highland and San Bernardino. AG Bonta argues that this development plan would likely violate several laws, including CEQA, as the plan does not properly disclose its effects on the already disadvantaged communities where these warehouses would be built. If this project goes forward, approximately 2,600 residents of a majority-Hispanic disadvantaged community in the area would be forced to relocate, and thousands of heavy-duty diesel trucks would flood the area, contributing to air pollution ([CA Office of the Attorney General Press Release: Attorney General Bonta Raises Legal Issues Regarding Proposed Warehouse Development Plan in Inland Empire](#)).

The OAG also files comment letters to ensure local governments comply with SB 1000 by addressing environmental justice in their general plans. For example, in a March 2021 comment letter responding to the City of Huntington Park’s update to its general plan, the AGP expressed concern that the city’s update failed to “identify disadvantaged communities or include EJ policies as required by SB 1000” ([Comment letter re: City of Huntington Park General Plan Update, Mar. 4, 2021, at 3](#)).

The OAG also ensures CEQA compliance by filing lawsuits challenging project approvals that violate the law. In July 2021, AG Bonta filed a lawsuit against the City of Fontana challenging its approval of the Slover and Oleander Warehouse Project in a neighborhood already overburdened by unhealthy air pollution ([Petition for Writ of Mandate, \*People of the State of California v. City of Fontana\*](#)). There are more than 20 warehouses within one mile of the project site, which also encompasses two public high schools ([LA Times, “California has a new battle plan against environmental injustice. The nation is watching”](#); [Washington Post, “The environmental cost of online shopping”](#); Petition at 2). The lawsuit points to multiple violations of CEQA in the project approval, including its “failure to appropriately analyze, disclose, and mitigate the project’s environmental impacts” (Petition at 2; [CA OAG Press Release: Attorney General Bonta Challenges Approval of Warehouse Project in South Fontana Neighborhood Already Overburdened by Unhealthy Air Pollution](#)). The OAG also intervened in a lawsuit challenging exemptions to petroleum refinery air monitoring state regulations adopted by a local

air pollution control district ([Motion to Intervene, Comite Progreso de Lamont et al. v. San Joaquin Valley Unified Air Pollution Control District](#)). According to the OAG, the exemptions would not allow the "full suite of pollutants" emitted from four petroleum refineries to go unmonitored in low-income communities and communities of color in the San Joaquin Valley (Motion to Intervene at 3, 11).

In response to the proliferation of warehouse development in California, the OAG developed and published best practices to "help lead agencies pursue CEQA compliance and promote environmentally-just development" when considering warehouse project proposals ([CA OAG "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act" at 1](#)). The document encourages proactive planning, robust community engagement, adequately considering project location, analyzing and mitigating air pollution and greenhouse gas emissions, and considering other impacts like noise pollution and traffic.

The OAG also engages in environmental justice work by bringing enforcement actions against unlawful polluters. State agencies, departments, and boards often refer to the OAG enforcement matters that affect environmental justice communities, such as diesel truck and passenger vehicle emissions violations, contamination of water resources, and pesticide drift ([CA OAG website: Environmental Justice](#); [CA OAG Press Release: Attorney General Becerra and California Department of Pesticide Regulation File Complaint Against Alpine Helicopter Service for Exposing California Communities to Public Health Risks](#)). For example, AG Bonta recently joined a lawsuit against the Port of Oakland for approving the Eagle Rock Aggregates Terminal project, alleging that this project would contribute to heavy amounts of pollution from construction materials and trucks in a community already grappling with some of the highest pollution levels in California ([CA OAG Press Release: Attorney General Bonta Intervenes in Lawsuit to Protect Environmental Justice Communities in West Oakland](#)).

## **Colorado**

### *Colorado EJ Developments*

Colorado has taken an innovative and leading approach to environmental justice, with most of the developments occurring in the Colorado Department of Public Health and the Environment (CDPHE), although other state agencies have also created environmental justice initiatives including the Colorado Energy Office, Colorado Department of Transportation, Colorado Parks and Wildlife, Colorado Oil and Gas Conservation Commission, and Colorado Public Utilities Commission. In 2021 the [Colorado Environmental Justice Act](#) was passed. It set out new environmental justice requirements across the state, created two environmental justice boards and a supportive infrastructure for the boards within the Department of Public Health and the Environment, and defined disproportionately impacted communities. The Department has created a [Colorado EJ Act Fact Sheet](#) which summarizes the provisions of the law.

In March 2023, CDPHE and EPA [released a final workplan to implement the joint 2022 memorandum on Advancing Environmental Justice through Enforcement and Compliance Assurance in Disproportionately Impacted Communities](#).

### *Overview of CDPHE*



The Department of Public Health and the Environment's unique structure pairs public health with environmental protection within one department and environmental justice work is spread out across the agency's 9 divisions and six offices, including the air pollution control and water quality control divisions and office of health equity. That structure allows the Department to see and address the intersections of environmental pollution and human health impacts directly. For example, two of the department's five self-designated "wildly important goals" in [Colorado Department of Public Health and Environment's 2019-2023 Strategic Plan](#) focus on air quality improvements (greenhouse gas emissions reductions and ozone reductions) to improve both health and environmental outcomes. As another example, the health facilities and emergency medical services division is set up to address both environmental and public health issues simultaneously. Similarly, the Department's water quality control division and disease control and public health response divisions were readily able to partner on wastewater surveillance as part of the response to the COVID-19 pandemic.

### *EJ Approach under the EJ Act*

The Department of Public Health and the Environment's approach to environmental justice begins with identifying disproportionately impacted communities and the harms they face. The Environmental Justice Act defines disproportionately impacted communities as: (1) census block groups with either more than 40% low-income households, or 40% people of color households, or 40% housing cost-burdened households, or (2) communities with a history of environmental racism perpetuated through exclusionary laws, or (3) communities where multiple factors cumulatively contribute to persistent public health and environmental disparities. The Department of Public Health and the Environment has developed the [Colorado EnviroScreen](#) tool to identify these disproportionately impacted communities.

The Department of Public Health and the Environment's approach to EnviroScreen strongly emphasizes transparency and accessibility. The code for the tool is entirely open source and available to the public, and the [GIS files of Colorado EnviroScreen are publicly available for download](#). Additionally, the tool is mobile friendly, bilingual (Spanish and English), and written to an eighth grade or lower reading level (which was achieved through using the [Hemingway application](#)).

After identifying these communities, the Department of Public Health and the Environment recently formed a work plan with the Environmental Protection Agency to address the disproportionate health issues faced by those who live in those communities. This work plan includes steps that will encourage more frequent inspections of polluters in these communities, improve enforcement against these polluters, and engage with those who are affected by this pollution. The Department of Public Health and the Environment and the EPA encouraged community members to comment on the plan, collecting feedback from public meetings. The final version of the work plan was released in March 2023 (CBS News, [Colorado residents can weigh in about enforcement of environmental issues where they live](#)).

Additionally, the Department of Public Health and the Environment's Air Quality Control Commission recently developed new rules for the Colorado Environmental Justice Act, which include updated methods to monitor sources of air pollution affecting disadvantaged communities, including hazardous air pollutants. The new guidelines also require environmental justice summaries to be prepared along "with any construction or operating permit application for each census block group in which a source is located." With these updated rules, polluters within the state are for the first time required to assess how hazardous air pollutant emissions

will affect disadvantaged communities (All4, [Colorado Air Quality Control Commission Adopts Environmental Justice Protections](#)).

The EJ Act also required the creation of two environmental justice-focused boards. The Environmental Justice Action Task Force is a short-term, 27-member board which is tasked with developing recommendations for consideration by the Colorado legislature and executive branch on such topics as best practices for the state to engage with disproportionately impacted communities and considering whether to revise the definition of disproportionately impacted communities. [Colorado's EJ Task Force maintains a public drive which has all of the publicly available information about its work and its draft recommendations](#). The Task Force is set to complete its work on November 14, 2022.

The Environmental Justice Advisory Board is a long-term 12-person board whose main task is to implement a grant program for projects designed to avoid, minimize, mitigate, or measure adverse environmental impacts in disproportionately impacted communities, as well as advising the environmental justice ombudsperson and responding to policy questions from the Governor or the Department of Public Health and the Environment. The grant program is funded through air quality enforcement penalty revenue. Like the Task Force, [Colorado's EJ Advisory Board also maintains a public drive with all of the publicly available information about its work](#).

The Act also created an environmental justice ombudsperson role, to facilitate communication between disproportionately impacted communities and the Department of Public Health and the Environment and EJ boards. In this role, the ombudsperson guides and engages in outreach to disproportionately impacted communities, coordinates with the Department of Public Health and the Environment and EJ boards, and builds and implements a process for accepting and handling complaints regarding environmental justice issues.

In addition to creating the boards and ombudsperson role, the Act also modified Colorado's air quality permitting rules to achieve greater greenhouse gas (GHG) reductions and to reduce air quality impacts on disproportionately impacted communities. Under the act, GHGs must be listed as air pollutants whose emissions must be reported to the Air Quality Control Commission. The Act places an annual fee on GHGs, and those fees fund the Department's work to reduce the greenhouse gas emissions, the work of the environmental justice ombudsperson, and outreach and engagement with disproportionately impacted communities. Further, the Act empowers the AQCC to adopt rules placing additional permit requirements on air pollution sources that affect disproportionately impacted communities (as a way to alleviate or prevent even greater air quality burdens). Finally, the Act also places GHG emissions reduction requirements on energy generators and the production of oil and gas in the state, and prioritizes these emission reductions in disproportionately impacted communities.

## **Illinois**

At the governmental level, the environmental justice work taking place in Illinois is focused on three major components: enforcement and outreach, legislation, and regulation.

Enforcement by the Office of the Illinois Attorney General consists of litigation aimed at holding polluters accountable for violations of environmental laws in environmental justice communities. For example, in October 2021, Attorney General Kwame Raoul filed a lawsuit that resulted in an interim order to hold Sims Metal Management, a metal shredding and recycling facility, accountable for emissions of volatile organic material (VOM) in the Little Village neighborhood in

Chicago ([IL AGO Press Release: Attorney General Raoul Files Lawsuit and Interim Order Against Sims Metal Management](#); [IL AGO complaint against Sims Metal Management](#); [Interim Order following IL AGO lawsuit against Sims Metal Management](#)). Little Village is a predominantly Mexican-American neighborhood with a large population of immigrants and blue-collar workers. Residents in Little Village face some of the highest rates of asthma, obesity, teen births, and mental illness in Chicago ([Little Village Environmental Justice Organization](#)). Little Village has been identified by the Illinois Environmental Protection Agency (IEPA) as an area of environmental justice concern, and uncontrolled VOM emissions from the Sims facility endangered the public health in an area already heavily impacted by health risks.

As another example – also in Little Village – Attorney General Raoul filed a lawsuit in May 2020 against a group of companies for their failure to adequately protect Little Village residents from particulate matter pollution resulting from the demolition of a smokestack at the former Crawford Electric Generating Station in their neighborhood ([IL AGO Press Release: Attorney General Raoul Files Lawsuit after Smokestack Demolition](#); [IL AGO complaint against company over smokestack demolition](#)). In November 2020, Attorney General Raoul announced a settlement requiring the defendants to pay \$370,00 to help fund a local community health and wellness program ([IL AGO Press Release: Attorney General Raoul Announces Settlement with Hilco over Smokestack Demolition](#); [IL AGO settlement with Hilco over smokestack demolition](#)). This lawsuit and the Sims Metal Management lawsuit were both based on referrals from the IEPA.

Another example comes from the state's capital of Springfield, where Attorney General Raoul announced consent orders that concluded a years-long suit against the Pillsbury Mills manufacturing facility. The residential neighborhood where this facility was located has historically been a low-income community where many people of color live (The State Journal-Register, [Voices still being raised about former mill](#)). The owners of the facility were charged with violating the Illinois Environmental Protection Act by contaminating the site and nearby areas with asbestos ([IL OAG Press Release: Attorney General Announces Consent Orders that Conclude Prolonged Legal Battle over Pillsbury Mills Site](#)).

Illinois also prioritizes community and stakeholder outreach and engagement in its environmental justice work. In November 2021, Attorney General Raoul launched an initiative “aimed at enhancing its focus on environmental justice issues throughout Illinois” ([IL AGO Press Release: Attorney General Raoul Announces Initiative to Enhance Environmental Justice Efforts throughout Illinois](#)). The initiative kicked off with a town hall discussion to inform the public about ways to engage with the office to enhance enforcement efforts in environmental justice communities. In preparation for the town hall, the office's Environmental Enforcement Division collaborated with several different divisions within the Attorney General's office, including the Public Interest Division and the Public Utilities Bureau. Attorney General Raoul's creation of new positions to foster an intersectional approach to investigations, including Counsel to the Attorney General on Social Justice and Equity, has been beneficial to intra-office coordination. This cross-division approach has been helpful as the Attorney General focuses on using this new initiative to build on the Sims Metal Management lawsuit and other similar investigations.

The state of Illinois has also taken legislative action, for example enacting the Illinois Environmental Justice Act in 2011, which created the Commission on Environmental Justice ([IEPA, Commission on Environmental Justice](#)). The commission, comprised of representatives of state agencies, affected communities, and regulated entities, reviews current laws and policies and makes environmental justice recommendations to state entities. Notably among its work, the commission informed the Illinois Power Agency's implementation of the Illinois Solar for All Program, to ensure the allocation of funding for new solar projects in environmental

justice communities ([Illinois Solar For All, Environmental Justice Communities](#)). The Illinois Legislature is also considering a bill that would make significant reforms to the state's permitting laws in order to promote environmental justice. The legislation would improve community engagement and require the permitting process for new sources of air pollution to include the review of cumulative impacts of air pollution sources ([IL HB4093](#); [Illinois Environmental Council Press Release: Chicago Environmental Justice Network Puts Forward Proposal To Address Cumulative Pollution Impact On Environmental Justice Communities](#)).

The Illinois legislature is also considering HB2520, which would expand the state's Environmental Protection Act and put several new measures in place to limit the impacts of air pollution on overburdened communities. With this law in place, the Illinois Environmental Protection Agency would be required to review underlying data to determine which communities in the state should be considered an EJ community on a yearly basis. Additionally, the owners of potential sources of pollution in areas that are designated EJ communities would be required to submit an EJ statement detailing how this pollution would affect the communities around it before beginning development, and new sources of pollution in these areas would be subject to a fee of \$100,000 (Recycling Today, [Illinois lawmakers propose EJ rules around construction](#)). Although the Bill did not pass in this year's legislative session, advocacy groups are looking to next year to implement these important measures (NRDC Action Fund, [2023 Illinois Legislative Session Round-Up](#)).

On the regulatory front, the Illinois Pollution Control Board (IPCB), sets the state's environmental standards ([IPCB Citizens' Guide](#)). The IPCB holds hearings on proposed rules to gather input from experts and the community. The Attorney General's office often participates in these proceedings. For example, Attorney General Raoul submitted a series of public comments to the IPCB in its proceeding adopting regulations on coal combustion residuals ([IPCB Case Details](#)).

The Illinois Attorney General is committed to seeking environmental justice for all within the state of Illinois by taking a comprehensive, collaborative approach to addressing environmental protection.

## **New Jersey**

In 2004, New Jersey Governor McGreevey signed Executive Order No. 96 as a call to the entire executive branch to consider the impacts of decision-making on health and the environment ([New Jersey Executive Order No. 96](#)). The EO also formally established the Environmental Justice Advisory Council (EJAC) to advise New Jersey's Department of Environmental Protection (DEP) on environmental justice issues (*Id.* at § 8).

In 2009, Governor Corzine issued Executive Order No. 131 which mandated the executive branch provide opportunities for all persons, regardless of race, ethnicity, color, religion, income, or education level to participate in decision-making involving environmental quality and public health ([New Jersey Executive Order No. 131 § 1](#)). The EO also required programs that provide and protect public health and the environment be reviewed periodically to ensure they (a) meet the needs of persons living in low-income communities and communities of color; and (b) address disproportionate exposure to environmental hazards (*Id.*).

In 2018, New Jersey Governor Phil Murphy signed Executive Order No. 23, which recognized that the state's "low-income communities and communities of color have been exposed to disproportionately high and unacceptably dangerous levels of air, water, and soil pollution, with

the accompanying potential for increased public health impacts” ([New Jersey Executive Order No. 23](#)). The EO directed DEP to develop administration-wide guidance for considering environmental justice in implementing statutory and regulatory responsibilities (*Id.* at § 1). In September 2020, DEP finalized and published this guidance in a report entitled *Furthering the Promise*, which serves as a framework for realizing New Jersey’s environmental justice goals ([NJ DEP, “Furthering the Promise” Report](#)). The report outlined several guiding principles of the state’s EJ work, including cultivating awareness consistently, empowering communities to participate in decision-making processes, and planning for and embracing change.

In September 2020, Governor Murphy signed a historic piece of environmental justice legislation that takes these principles further. The new statute requires DEP to evaluate the environmental and public health impacts of certain facilities on “overburdened communities” when reviewing permit applications ([N.J.S.A. 13:1D-157](#)). Overburdened communities are defined as any census block group in which at least 35 percent of the households qualify as low-income households, at least 40 percent of the residents identify as minority or as members of a state recognized Tribal community, or at least 40 percent of the households have limited English proficiency (*Id.* at 13:1D-158). The law directed DEP to publish a list of overburdened communities and provide notice to the 331 municipalities in which those communities are located (*Id.* at 13:1D-159). DEP produced that list, and used that information to create a publicly-available map identifying the overburdened communities within the state ([NJ DEP website, Environmental Justice](#)).

The legislation requires proposed new or expanded facilities to prepare an environmental justice impact statement assessing the environmental and public health impacts of the proposal, and to organize and conduct a public hearing in the overburdened community affected by the proposal (N.J.S.A. 13:1D-160). If the environmental justice impact statement determines a new facility will have a disproportionately negative impact on overburdened communities, a mandatory permit denial is required, unless the facility can show a “compelling public interest” (*Id.* at 13:1D-160(c)). For existing facilities proposing expansion or renewal, DEP may impose conditions on the permit after review of the environmental justice analysis shows the facility will cause or contribute to adverse environmental and public health stressors (*Id.* at 13:1D-160(d)). DEP will issue rules and regulations providing details for the permitting process in overburdened communities (*Id.* at 13:1D-161). In April 2023, Governor Murphy put the final regulations in place, and the state has now fully adopted the measures listed above ([NJ Office of the Governor Press Release: Governor Murphy Announces Nation’s First Environmental Justice Rules to Reduce Pollution in Vulnerable Communities](#)).

#### *NJ OAG’s Environmental Enforcement and Environmental Justice Section*

In December 2018, New Jersey Attorney General Gurbir Grewal created a new unit within the New Jersey Office of the Attorney General (OAG), Division of Law called the Environmental Enforcement and Environmental Justice Section ([NJ OAG Press Release: Attorney General, DEP File Lawsuits Across New Jersey Targeting Polluters in Lower-Income and Minority Communities](#)). In collaboration with DEP, the Section brings enforcement actions and promotes environmental justice in overburdened communities.

The OAG, representing DEP, files lawsuits in clusters, bringing anywhere from a few cases to a dozen cases at one time. Since 2018, the OAG has filed 45 environmental justice lawsuits and been awarded over \$20 million in judgments and settlements, in addition to bringing many responsible parties into environmental compliance ([NJ OAG Press Release: Acting AG Bruck, DEP Commissioner LaTourette Announce Seven New Environmental Enforcement Actions, Six](#)

[Environmental Justice Communities](#)). These enforcement actions include lawsuits to enforce all facets of environmental law such as air and water permit restrictions, to toxic and hazardous waste regulations enforcement, to illegal transportation and dumping of solid waste on public and private lands. In August 2018, the first EJ enforcement actions were filed against DuPont, ExxonMobil, 3M and other corporations whose industrial plants in New Jersey have left behind toxic chemicals ([NJ OAG Press Release: AG, DEP Announce “New Day” for N.J. Environmental Enforcement; State Files Six Major Lawsuits Focused on Contaminated Properties](#)). In three cases the OAG asserted “natural resource damage” claims for losses to the value and use of natural resources (*Id.*).

Since August 2018, the OAG has filed several separate sets of EJ lawsuits to address environmental issues around the state, including one in May 2021, one in October 2021, one in August 2022, and one in April 2023 ([NJ OAG Press Release: Attorney General Grewal, DEP Acting Commissioner LaTourette Announce Nine New Environmental Enforcement Actions, Seven in Environmental Justice Communities](#); [NJ OAG Press Release: Acting AG Bruck, DEP Commissioner LaTourette Announce Seven New Environmental Enforcement Actions, Six Environmental Justice Communities](#); [NY OAG Press Release: Acting AG Platkin, DEP Commissioner LaTourette Announce Seven New Environmental Enforcement Actions, Six in Environmental Justice Communities](#); [NJ OAG Press Release: AG Platkin and DEP Commissioner LaTourette Announce Eight New Environmental Justice and Environmental Enforcement Actions and Other Settlements](#)).

In his office’s most recent action in April 2023, Attorney General Platkin announced five EJ actions focused on forcing polluters to clean up their contamination and help pay for clean-ups already conducted by the DEP in Newark, Fort Lee, Milltown, and Camden ([NJ OAG Press Release: AG Platkin and DEP Commissioner LaTourette Announce Eight New Environmental Justice and Environmental Enforcement Actions and Other Settlements](#)). AG Platkin also recently reached a settlement with Slovay Specialty Polymers USA, LLC, that directs the company to conduct a cleanup at a site near West Deptford and pay damages to the public for this pollution ([NJ OAG Press Release: Attorney General Platkin and DEP Commissioner LaTourette Announce Proposed Settlement with Solvay Polymers Regarding “Forever Chemical” Pollution in and around West Deptford](#)). Additionally, the state has filed 20 lawsuits for natural resource damages since 2018 in an aggressive litigation campaign advocating for environmental justice ([NJ Spotlight News, Murphy administration uses ‘aggressive’ litigation to seek environmental redress](#)).

## **New Mexico**

In September 2020, New Mexico Attorney General Hector Balderas launched an initiative focused on equity and access to justice concerns. The Office of the Attorney General (OAG) appointed an advisory council comprised of representatives for marginalized communities. The council is engaging a wide range of stakeholders from these communities and will make recommendations to the OAG for direct engagement of state and federal agencies to address issues of racism and equity in natural resources and environmental policy. The focus of the initiative is on “making conservation, environmental protection, and natural resources management relevant and meaningful to all New Mexicans” ([NM OAG Press Release: AG Balderas Announces Natural Resources and Environmental Equity Initiative, Appointment of Equity Advisory Council](#)).

## Virginia

In 2020, the Virginia General Assembly passed the Environmental Justice Act (EJA), which established a statewide policy “to promote environmental justice and ensure that it is carried out throughout the Commonwealth, with a focus on environmental justice communities and fenceline communities.” ([VA CodeAnn. §§ 2.2-234-235](#)) The Act also codified the definitions of several environmental justice terms. The law defined “environmental justice” as “the fair treatment and meaningful involvement of every person, regardless of race, color, national origin, income, faith, or disability, regarding the development, implementation, or enforcement of any environmental law, regulation or policy.” Further, the EJA defined “fair treatment” as “the equitable consideration of all people whereby no group of people bears a disproportionate share of any negative environmental consequence resulting from an industrial, governmental, or commercial operation, program, or policy.”

In December 2021, Virginia Attorney General Mark Herring issued an official advisory opinion regarding the EJA at the request of Senator Ghazala Hashmi ([VA OAG Opinion re: Virginia Environmental Justice Act](#)). AG Herring determined that the EJA “imposes specific, enforceable duties on the Commonwealth to ensure that the policy is carried out,” and concluded that state agencies, particularly the Department of Environmental Quality, “must ensure that environmental justice, as defined in the Act, ‘is carried out’” when making permitting-related determinations (Opinion at 5; [VA OAG Press Release: New Opinion from Attorney General Herring Establishes Environmental Justice Policy](#)).

In January 2022, Attorney General Jason Miyares was sworn into office as Virginia’s 48th attorney general and the new AG’s stance is yet to be seen.

## Washington

In April 2020, Washington Attorney General Bob Ferguson launched a new environmental justice initiative with the goal of “strengthen[ing] environmental policies and enforcement with meaningful involvement from the people affected most by environmental issues like climate change and pollution” ([WA OAG Press Release: AG Ferguson rolls out environmental justice initiative in honor of Earth Day](#)). In partnership with Gonzaga University, AG Ferguson held an environmental justice symposium in March 2021 that featured four panels of academics, scientists, community members, and legal professionals addressing topics related to inclusion, air, water, and land ([Gonzaga University 2021 Environmental Justice Symposium: “Environmental Justice: Race, Poverty, and the Environment”](#)). Also as part of the initiative, the Office of the Attorney General (OAG) created a fellowship position to give a rising law student an opportunity to develop their expertise in environmental justice, as well as research and develop policy and legal proposals ([WA OAG Press Release: AG Ferguson rolls out environmental justice initiative in honor of Earth Day](#)).

In May 2021, Washington Governor Jay Inslee signed the Healthy Environment for All (HEAL) Act, a landmark law that places environmental justice principles front and center in climate and environmental policy. The law adopts many of the recommendations from the state’s Environmental Justice Task Force, made up of representatives from state agencies and advocacy and community-based organizations ([Washington State Environmental Justice Task Force Report](#)). The legislation defines environmental justice as the “fair treatment and meaningful involvement” of impacted communities in government processes, as well as the equitable distribution of resources and benefits of policies and government investments ([WA](#)

[S.B. 5141 § 2\(8\)](#); [Washington Nature, “HEAL Act is a major victory”](#)). Additional priorities in the legislation include requiring all state agencies covered by the law to conduct EJ assessments when considering “significant agency action” and to direct “40 percent of grants and expenditures that create environmental benefits to vulnerable populations and overburdened communities” ([WA S.B. 5141 §§ 14, 16\(2\)\(e\)](#); [Washington Nature, “HEAL Act is a major victory”](#)).

To address implementation of the HEAL Act, the OAG has created an environmental justice working group, and the OAG’s Policy Office has hired a specialist dedicated to EJ and HEAL Act implementation. In addition, the OAG has created dedicated Assistant Attorney General positions in both the Environmental Protection Division and Ecology Division, focused on environmental justice litigation and advocacy matters. In July 2022, the AGO released its draft community engagement plan in order to receive community input as it implements the HEAL Act. This plan will assist the AGO to identify overburdened communities, develop effective strategies to best engage with these communities, and utilize special tools to assist these communities as the HEAL Act moves forward ([Washington State OAG 2022 Environmental Justice Report](#)).

## **Multistate Advocacy**

In addition to EJ work within their respective states, attorneys general have also successfully coalesced to advocate for overburdened communities beyond their state borders.

In May 2021, a coalition of five attorneys general led by New York Attorney General Letitia James filed comments urging the Army Corps of Engineers to focus on environmental justice impacts in its reevaluation of the Clean Water Act Section 404 (dredge and fill) and Rivers and Harbors Act Section 10 (obstruction or alteration of navigable waters of the United States) permits granted to the Formosa Plastics petrochemical plant in St. James Parish, Louisiana ([Comment letter re: U.S. Army Corps of Engineers’ Reevaluation of FG LA, LLC, Clean Water Act Section 404 and Rivers and Harbors Act Section 10 Permit Decision \(MVN 2018-00159-CM\), May 24, 2021](#)). In August 2021, the Corps announced it will prepare an environmental impact statement for the plant, which will include analysis of the public health, environmental, climate, environmental justice, and cultural impact of the plant ([Corps Memo: Formosa Group Chemical Plant Environmental Impact Statement \(EIS\) and Referral for Decision, Aug. 18, 2021](#); [State Impact Center Press Release: Five AGs Filed Comments Urging Army Corps of Engineers to More Carefully Evaluate Formosa Plastics Plant](#)).

In May 2022, a coalition of seven attorneys general led by New York Attorney General Letitia James filed comments to the White House Council on Environmental Quality regarding the Climate and Economic Justice Screening Tool Beta Version. The tool is “intended to identify communities that exhibit conditions of underinvestment in energy, transit, housing, and water infrastructure, suffer disproportionate pollution burden, and need job training and employment.” And the attorneys general provide instruction on how to improve its function by taking into account race and ethnic injustice ([Comment letter re: Climate and Economic Justice Screening Tool Beta Version, 87 Fed.Reg. 10,176 \(Feb. 23, 2022\), May 25, 2022](#)).

In October 2022, a coalition of 20 attorneys general and the county attorney of Harris County, Texas filed comments in response to the EPA’s proposed rule, Safer Communities by Chemical Accident Prevention. The Obama EPA had finalized the original version of this rule in January 2017, but upon administration change the agency under Trump sought to delay the original



rule's effective date from 2017 to 2019 and a coalition of 11 state attorneys general fought back on that delay. Following a win for the attorneys general in 2018, the administration tried to instead rollback parts of the rule and faced steady opposition for the next two years from a growing coalition of attorneys general ([Comment letter re: Comments on Accidental Release Prevention Requirements: Risk Management Program Under the Clean Air Act \(Docket EPA-HQ-OEM-2015-0725\), Aug. 23, 2018](#)). With the administration shifting to Biden in 2020, the EPA was ordered to review the rollbacks leading to the proposed rule being commented on now. In their recent comments, the group urges the EPA to strengthen numerous aspects of this proposed rule to fully exercise their statutory power to prevent and address chemical accidents “to the greatest extent practicable.” Additionally, they applaud the proposed reinstatement of the 2017 safeguards that had been repealed in 2019 and the agency’s acknowledgement that facilities and manufacturers need to do more to protect fence-line communities ([Comment letter re: EPA’s Proposed Rule: Safer Communities by Chemical Accident Prevention \(Docket EPA-HQ-OEM-2022-0174\), Oct. 31, 2022](#)).

In January 2023, California AG Bonta, joined by a coalition of twelve AGs, supported the EPA’s findings that leaded aviation gasoline emissions from piston-engine planes contribute to air pollution putting public welfare at risk, especially in disadvantaged communities living near airports. The AGs note that this leaded fuel causes significant risks to public health as lead is known to contribute to various diseases and developmental delays in children. ([CA OAG Press Release: Attorney General Bonta Leads Multistate Comment Letter Supporting EPA Finding on Leaded Aviation Gas](#)).

Visit our [AG Actions Database](#) to learn about the most recent multistate actions on environmental justice.

## **EJ State Statutes**

Several states have started to address the disproportionate and inequitable effects that their low-income and minority communities have long faced through new statutes that impose permitting limits or enshrine additional environmental review requirements.

### **California**

Passed in 2016, [CA SB 1000](#) requires California localities to identify “disadvantaged communities” within their jurisdictions and address environmental justice in their general plans for land use. In their plans, cities and counties must identify objectives and policies to “reduce the unique or compounded health risks in disadvantaged communities [through] the reduction of pollution exposure, including the improvement of air quality, and the promotion of public facilities, food access, safe and sanitary homes, and physical activity.” These local governments must also work to increase community engagement in “public decisionmaking.”

### **Colorado**

In July 2021, Colorado passed [CO HB 21 – 1266](#) to address the environmental inequities experienced by “disproportionately impacted communities.” The bill envisions additional permitting requirements for pollution sources that affect disproportionately impacted

communities. It also sets out new requirements for identifying disproportionately impacted communities and monitoring new and modified sources of pollutants in these communities. The bill also calls for a task force to consider “a potential requirement that agencies prepare an environmental equity analysis for any state action that has the potential to cause negative environmental or public health impacts to a disproportionately impacted community.” The bill also envisions the potential for a consideration of cumulative impacts and instructs the task force to consider the impact of the analysis on permitting. The bill exempted agricultural sources from any additional conditions.

## **Illinois**

Passed in 2011, [Illinois’ Environmental Justice Act](#) recognizes that “certain communities in the State may suffer disproportionately from environmental hazards related to facilities with permits approved by the State.” The statute created the Commission on Environmental Justice and instructed it to develop criteria and regularly report to the Governor on options that address concerns of environmental justice. This legislative session, the Illinois legislature also considered HB2520, which would expand the state’s Environmental Protection Act and put several new measures in place to limit the impacts of air pollution on overburdened communities. With this law in place, the Illinois Environmental Protection Agency would be required to review underlying data to determine which communities in the state should be considered an EJ community on a yearly basis. Additionally, the owners of potential sources of pollution in areas that are designated EJ communities would be required to submit an EJ statement detailing how this pollution would impact the communities around it before beginning development, and new sources of pollution in these areas would be subject to a fee of \$100,000 (Recycling Today, [Illinois lawmakers propose EJ rules around construction](#)). Although the Bill did not pass in this year’s legislative session, advocacy groups are looking to next year to implement these important measures (NRDC Action Fund, [2023 Illinois Legislative Session Round-Up](#)).

## **Massachusetts**

[Massachusetts’ Climate Act](#), passed in 2021, requires an environmental impact report for state projects that will “cause damage to the environment” and will affect an “environmental justice population.” That analysis should address any existing unfair or inequitable public health and climate impacts, as well as the disproportionate health and environmental impacts that would likely result from a project. Massachusetts’ Department of Environmental Protection is also required to “evaluate and seek public comment on the incorporation of cumulative impact analyses in the assessment and identification of certain categories of permits and approvals.” The department has proposed a [Cumulative Impact Analysis Framework for Massachusetts Air Permits](#) for comment, which will ultimately be incorporated into permitting rules and used to evaluate the potential impacts that a project would have on the air emissions in or near environmental justice communities.

## **New Jersey**

[New Jersey's Environmental Justice Law of 2020](#) provides that the NJ Department of Environmental Protection shall deny a permit for a new facility if it would “cause or contribute to adverse cumulative” impacts on an overburdened community unless the department finds the new facility “will serve a compelling public interest in the community where it is to be located,” in which case a permit may be approved with conditions to protect public health. To make that determination, the law requires an assessment of the potential environmental and public health stressors that would result if a permit is approved or renewed in what the state defines as an “Overburdened Community.” The analysis culminates in an Environmental Justice Impact Statement, which must be published to provide an affected Overburdened Community an opportunity to weigh in on the permitting/renewal decision. In April 2023, Governor Murphy put the final regulations in place, and the state has now fully adopted the measures listed above ([NJ Office of the Governor Press Release: Governor Murphy Announces Nation's First Environmental Justice Rules to Reduce Pollution in Vulnerable Communities](#)).

## **New York**

In December 2022, Governor Hochul signed the [New York Bill S8830/A2103D](#) into law (WE ACT for Environmental Justice, [Governor Hochul Signs Landmark Environmental Justice Legislation Reducing the Cumulative Impacts of Pollution on Disadvantaged Communities](#)). This legislation requires the consideration of the cumulative impacts that proposed projects would have on “disadvantaged communities” that are already overburdened by the disproportionate siting of polluting facilities in their communities. The law explicitly prohibits the approval or renewal of permits for projects that may impose additional inequitable and/or disproportionate environmental burdens on a disadvantaged community.

## **Vermont**

[Vermont's 2022 Environmental Justice Act 154](#), citing to economic and scientific sources, makes explicit the need for the state to address disparities affecting “environmental justice focus populations” (“EJ populations”), such as cumulative and disproportionate environmental harms and a lack of access to “environmental benefits” (e.g., affordable clean renewable energy sources, healthy food, clean natural resources, and green spaces). The Act requires several state agencies, including the Agencies of Natural Resources, of Education, and of Agriculture, Food and Markets, to consider cumulative environmental burdens when making decisions about projects. These agencies must also adopt community engagement plans to ensure meaningful participation of EJ populations in evaluation of the agency's activities or programs. Beyond these requirements, the law sets a goal for agencies to begin directing investments that provide environmental benefits proportionately in EJ populations as compared to such investments made in other geographic areas of the state by July 2024.

To help agencies with these tasks, the Act instructs the Vermont Agency of Natural Resources to create and maintain an environmental justice mapping tool to clearly identify EJ populations. The law also sets forth a process for several agencies to review and resolve complaints alleging violations of Title VI of the Civil Rights Act of 1964 (which prohibits discrimination on the basis of race, color, or national origin in programs or activities that receive federal funding). This, and several other components of the Act, are to be overseen by an Environmental Justice Advisory Council.

## Virginia

In 2020, Virginia passed the [Virginia Environmental Justice Act](#). The statute establishes a statewide policy “to promote environmental justice and ensure that it is carried out throughout the Commonwealth, with a focus on environmental justice communities and fenceline communities.” The statute defines terms such as “fenceline community,” “meaningful involvement,” and “environmental justice.” The inclusion of this terminology lays a general foundation to be used in future related legislation.

## Washington

With [Washington’s Healthy Environment for All \(HEAL\) Act](#), passed in 2021, the state implemented many of the recommendations from the [Washington Environmental Justice Task Force](#) to reduce the environmental and health disparities of its low-income and people of color residents. One goal of the Act is to reduce the contamination of traditional foods, which results in “generational health and ecological problems, particularly on small reservations.” The state’s agencies are required (i) to create and adopt equitable community engagement plans to facilitate and support “the meaningful and direct involvement of vulnerable populations and overburdened communities,” and (ii) must conduct an “environmental justice assessment” for a significant agency action, which requires, where applicable, the use of cumulative environmental health impact analyses that consider “the effects of a proposed action on overburdened communities and vulnerable populations.

## In the Media

See the latest media coverage of how states and AG offices are advancing environmental justice by visiting our [“In the Media — States, AGs, and Environmental Justice”](#) web page.

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The [State Energy & Environmental Impact Center at NYU School of Law](#) is a non-partisan academic center dedicated to the study and support of state attorneys general in their work defending and promoting clean energy, climate, and environmental laws and policies.

[WE ACT for Environmental Justice](#) strives to build healthy communities by ensuring that people of color and/or low-income residents participate meaningfully in the creation of sound and fair environmental health and protection policies and practices.