

IMPROVING ENVIRONMENTAL ENFORCEMENT & TRANSPARENCY FOR A CLEANER, HEALTHIER VIRGINIA

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EXECUTIVE SUMMARY

Environmental laws are meaningless without adequate enforcement measures to back them up. Together our recommendations look to address the status quo enforcement approaches in Virginia and increase the public's understanding of pollution in their communities. Fenceline communities¹ across Virginia are overburdened with pollution from facilities in violation of their pollution limits. By providing DEQ adequate funding, authority, and capacity to pursue enforcement and compliance actions, especially in or near environmental justice communities, Virginians can have a cleaner and healthier environment in which to live.

CHALLENGE

Over the last two decades, the Department of Environmental Quality (DEQ)'s budget has been cut by \$37 million per year and the number of agency staff has reduced by a third. A majority of the permit fees are outdated, set in statute, and do not cover the increased volume and complexity of permits for polluters.² A lack of adequate funding, staffing, and statutory authority to robustly pursue enforcement actions (including inspections, sampling, and monitoring), hold polluters accountable, process permits, and engage the public has jeopardized the health of Virginia's air, land, and water. In turn, the health of fenceline communities – oftentimes communities of color and low-income communities who are overburdened by a disproportionate number of pollution sources – suffer as a result.³ Without necessary legislative changes, DEQ will not be able to fulfill its mission of protecting and enhancing Virginia's environment while promoting “the health and well-being of the citizens of the Commonwealth.”⁴

Likewise, unlike other Bay states in the region, Virginia does not require any annual enforcement and compliance reporting from DEQ. The annual reports serve as an important tool to not only inform the public about DEQ's enforcement activities, putting a spotlight on pollution trends and noncompliant sectors, but to build awareness among state legislators about DEQ's enforcement needs. Without this information, legislators, scientists, and other stakeholders will not be able to access key information about the state's response to illegal pollution in their communities.

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SOLUTION

Virginia's DEQ needs adequate funding to ensure the agency has the capacity to pursue enforcement measures and bolster existing monitoring and compliance programs, with a focus on protecting frontline communities. In order to do so, DEQ must have the authority to respond to its budgetary and programmatic needs by increasing permit fees and having the ability to pursue certain enforcement actions, like issuing on-the-spot fines for minor violations. DEQ should have the authority to issue deterrent-based penalties that result in changed behavior from bad actors, or polluters who consistently violate the law or their permit terms.

On a similar front, the legislature must establish an Environmental Justice Enforcement Division within the Virginia Attorney General's office to pursue enforcement actions in pollution hot spots in or near environmental justice communities. This division should work with DEQ's recently-established Environmental Justice Office to pursue initiatives such as increased

community-based air monitoring, restored ambient air toxics monitoring, and the expanded air quality monitoring for particulate matter and ozone — positively impacting Virginia's environmental justice enforcement. DEQ can also ensure its environmental justice goals are better met by seeking out and utilizing a Virginia-based Environment Justice screening tool, similar to those utilized in other states in the region.

Lastly, the legislature must also ensure that DEQ has full funding to produce the required annual enforcement and compliance reports. These reports will allow the Virginia General Assembly and the public to better understand DEQ's enforcement needs and compliance levels across certain pollution sectors.

**Volunteers Install New Living Shoreline -
Irvington, Va**

Image credit: Carleigh Starkston



POLICY RECOMMENDATIONS

Restore funding to DEQ to pre-recession levels and provide DEQ authority to periodically increase permit fees and maximum assessed penalties (on an inflation based scale) to cover program implementation costs, issue stipulated penalties, and collect on-the-spot fines for minor violations.

Ensure DEQ has clear authority to regulate certain types of pollution and pursue enforcement actions for unlawful pollution discharges.

Direct DEQ to submit annual enforcement and compliance reports to the General Assembly highlighting the agency's annual performance results, and the amount of collected penalties, fines, and fees.

Create a dedicated Environmental Justice Enforcement and Compliance division within the state Attorney General's office.