

# ADVANCING ENVIRONMENTAL JUSTICE

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## EXECUTIVE SUMMARY

Throughout the nation and in Virginia, low-income and communities of color have borne the brunt of environmental harm from energy, industry, and agricultural development. Present and future climate impacts will only exacerbate this inequity. In 2020, Virginia passed the landmark Virginia Environmental Justice Act (VEJA) along with other legislation promoting environmental justice. However, draft guidance promulgated by the Department of Environmental Quality (DEQ) shows more work is needed to develop inclusive agency policies, ensure the meaningful involvement of environmental justice communities in permitting processes, and equitably distribute the benefits and burdens of economic development and environmental protection.

## CHALLENGE

Polluting facilities and other environmental hazards are more likely to be sited near marginalized communities, particularly low-income and communities of color,<sup>1</sup> creating disproportionate risks to their health and well-being. The VEJA attempts to address inequities by centering these communities during any environmental decision-making process, and thankfully, some progress has been made. In 2021, the State Air Pollution Control Board denied a permit for a compressor station in an African American community in Pittsylvania County – the first time the Board denied a permit on the basis of environmental justice.<sup>2</sup> In 2022, the James River Water Authority abandoned its effort to build a raw water intake on a sacred Monacan heritage site.<sup>3</sup>

However, Virginia has seen major setbacks in recent years. The DEQ 2023 draft guidance for environmental justice in the permitting process fell woefully short of the VEJA's mandate to promote environmental justice throughout state policy.<sup>5</sup> In 2022, the VEJA's meaningful involvement provision was eroded when permitting authority was transferred from Virginia's natural resource Citizen Boards to DEQ. Additionally, the Virginia Council on Environmental Justice, a citizen advisory council of the Secretary of Natural and Historic Resources, has a significant number of vacant positions, leaving many regions and constituencies without a voice in key environmental discussions.

In 2023, Congress circumvented judicial processes to advance the controversial Mountain Valley Pipeline despite permit denials and local pushback. In Richmond and Virginia Beach, commercial sterilizers are emitting ethylene oxide, a harmful gas that increases cancer risk; the Environmental Protection Agency is issuing new rules due to its toxicity.<sup>6</sup> A mega-landfill is being proposed adjacent to Pine Grove Elementary School, a historic African American schoolhouse in Cumberland County.<sup>7</sup> Planned gas pipeline projects with compressor stations in Prince George County and Petersburg would expose residents to increased air pollution,<sup>8</sup> and a proposed gold mine could threaten water quality across Central Virginia.<sup>9</sup>

## SOLUTION

State agencies have an outsized effect on Virginia's environmental justice communities through the permitting process and other activities. Agencies that impact public health or the environment should be required to develop and implement official policies that identify environmental justice communities, contain robust public participation plans for decision-making processes, and require the agency to consider the effects of its actions on environmental justice communities.

As Virginia's lead environmental agency, DEQ must promote and further environmental justice in all of its actions. However, DEQ's recent draft permitting guidance reviewed only ten "permits of concern" for environmental justice, rather than considering the cumulative impacts of pollution on communities from all permitted activities. DEQ must reevaluate the positions articulated in its latest draft guidance to ensure it meets the standards laid out in the VEJA.

Finally, the Virginia Council on Environmental Justice cannot support the mission of the VEJA without additional support. Due to the unique circumstances of this Council, which is specifically set up to share the perspectives of environmental justice groups across the state, the Council should be permitted to meet in a virtual or hybrid setting to conduct its business without putting undue burdens on its members.

## POLICY RECOMMENDATIONS

Fill all vacant positions to maintain the integrity and independence of the Virginia Council on Environmental Justice; allow virtual or hybrid Council meetings.

Require DEQ to put forth environmental justice permitting guidance that is consistent with the Virginia Environmental Justice Act.

Establish an Interagency Task Force for Environmental Justice, including the Secretariats of Natural and Historic Resources, Transportation, Commerce and Trade, Agriculture and Forestry, Health and Human Resources, and Emergency Management to track cumulative impacts and develop and implement official environmental justice policies.

Require all agencies to consult with members of affected environmental justice communities and Tribal Nations early in environmental permitting. Provide meaningful involvement opportunities throughout the permitting process through pre-application notices, public meetings, and communications using methods tailored to affected communities.

Ensure agencies consider whether the issuance of a permit would cause disproportionate adverse impacts on an environmental justice community. Encourage agencies to use their existing powers to require alternative sites or deny permits where appropriate.