

IMPLEMENTING ENVIRONMENTAL JUSTICE

Gustavo Angeles // Sierra Club Virginia Chapter // gustavo.angeles@sierraclub.org
Jay Ford // Chesapeake Bay Foundation // jford@cbf.org
Benjamin Hoyne // Virginia Interfaith Power & Light // bhoyne@vaip.org
Rachel James // Southern Environmental Law Center // rjames@selcva.org

WHY IT MATTERS

Environmental Justice is “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.”¹¹ No one should have their health, home, or livelihood negatively impacted by the built environment around them. For too long, certain neighborhoods have suffered disproportionately from higher asthma rates, lower amounts of green space, and higher concentrations of pollution from living near heavy industries. Recent studies have found that communities of color are consistently exposed to higher levels of fine particulate matter air pollution,² and because of these exposures, communities of color experienced 7.5 times higher pediatric asthma rates and 1.3 times higher premature mortality from particulates compared with mostly White communities.³

It is long past time that all Virginians are treated fairly and are free from environmental hazards that negatively impact their health and wellness. There is no quick fix to centuries of injustice, but there are currently opportunities to create employment and new healthy resources in the very communities that have faced unfair treatment and disinvestment.

CURRENT LANDSCAPE

The movement for environmental justice (EJ) has roots in the civil rights movement of the 1960s and gained momentum throughout the 1970s and 1980s, as Black communities organized to oppose the siting of toxic facilities in their neighborhoods, and academics and government agencies began studying racial disparities in the siting of solid waste landfills.⁴ In the 1990s, the U.S. EPA created the Office of Environmental Justice and the National Environmental Justice Advisory Council, which holds public meetings to discuss EJ issues across the country.⁵ Executive Order 12898 (1994) directed federal agencies to identify and address the adverse environmental and health impacts that agency actions have on minority and low-income populations, and it established an Interagency Working Group to coordinate federal efforts to address environmental injustices.⁶

Virginia has lagged behind. Virginia established its first Advisory Council on Environmental Justice under Executive Order 73 (2017),⁷ and the council was reestablished under Executive Order 29 (2019).⁸ The General Assembly established the council as a permanent advisory body in the executive branch in 2020.⁹

In 2020, the General Assembly went further and passed the Virginia Environmental Justice Act (VEJA), which determined that it is “the policy of the Commonwealth to promote environmental justice and ensure that it is carried out throughout the Commonwealth.”¹⁰ Since that time, the integration of environmental justice into agency operations has been uneven. For example, Virginia Department of Environmental Quality (DEQ) commissioned a report with recommendations on EJ from a consulting group, but the agency has not acted upon or achieved several of

these goals.¹¹ In addition, the agency published draft guidance on how to incorporate EJ into permitting processes,¹² but the draft guidance failed to account for the full spectrum of adverse impacts and did not discuss the circumstances under which DEQ would deny a permit or impose additional permit conditions based on disproportionate impacts. To date, the guidance has not been finalized.¹³

OPPORTUNITIES

Virginia can improve its implementation of the Environmental Justice Act by following examples from across the nation. For instance, while DEQ’s EJ guidance for permitting sits on the shelf, Executive Order 14008 reinvigorated federal commitment by, among other things, directing EPA to provide real-time data on current pollution levels in fenceline communities.¹⁴ To carry this out, the agency is in the process of strengthening its scientific research processes to better understand cumulative adverse impacts.¹⁵ Establishing current exposure levels to a variety of environmental stressors is a necessary step for incorporating EJ into permitting decisions, and these new federal resources could assist Virginia DEQ in doing so.

The federal government recently broadened its approach to EJ with Executive Order 14096, which creates a “whole of government” approach to environmental justice.¹⁶ The Order includes the first-ever government-wide definition of environmental justice and applies it to all executive agencies (as opposed to the 13 agencies named in the 1994 EO).¹⁷ The Order directs all agencies to incorporate EJ into their decisions and activities, including “any agency rulemaking, guidance, policy, program, practice, or action that affects or has the potential to affect human health and the environment, including an agency action related to climate change.”¹⁸

Virginia should follow these examples by ensuring that all agencies of the Commonwealth provide for fair treatment and meaningful involvement of environmental justice and fenceline communities, whether in permit decisions or any other policy, program, or action.

TOP TAKEAWAYS

Virginia law defines 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.”

Implementing environmental justice will create a Commonwealth where every person will thrive, regardless of their racial, social, or economic background.

State departments and agencies should create ways to meaningfully involve environmental justice and fenceline communities in the decision-making process for agency activities, including permits, because people of color are disproportionately exposed to higher levels of pollution.