

Environmental Justice For All

A Fifty-State Survey Of Legislation, Policies, and Initiatives



**Section of Individual
Rights & Responsibilities
American Bar Association**

**Public Law Research Institute
Hastings College of the Law
University of California**

**Section of Environment,
Energy, and Resources
Co-Sponsor**

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Steven Bonorris, Senior Editor and Report Manager

Associate Editors: Jodene Isaacs and Kara Brown

Contributors:
Caitlin Crary
Hillary Gross
Hannah Shafsky
Stephanie Stuart
Paul Tokarz
John Yun

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Steven Bonorris, Editor

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ALABAMA

Policies

Alabama is in the process of developing an environmental justice (“EJ”) policy, though the Alabama Department of Environmental Management (“ADEM”) does not currently provide specific environmental justice information on its website. Once the program is created, it will likely be housed within the Public Relations Department and will begin as a policy initiative implemented within various state departments.

that area.”⁹ The Commission also suggested strengthening community notification to review hazardous waste siting permits in order to increase community input in the planning process.

Statute

Anti-Concentration Regulations

Alabama addresses environmental justice concerns through hazardous waste anti-concentration laws. Alabama sets both substantive and procedural requirements for the placement of hazardous waste treatment or disposal facilities. No more than one commercial hazardous waste treatment facility or disposal sites may be situated within a county.¹⁰ Commercial hazardous waste treatment or disposal sites may not be situated until the legislature receives and approves a written proposal addressing socioeconomic issues.¹¹ In considering whether to approve a siting request, legislators must take into account the “social and economic impacts of the proposed facility on the affected community, including changes in property values, community perception, and other costs.”¹² Alabama’s siting law also provides for notice and opportunity for public comment and the possibility of a public hearing before issuance of any permit for a hazardous waste treatment, storage or disposal facility.¹³

The anti-concentration laws apply only to commercial hazardous waste sites. Thus, opponents of other undesirable land uses cannot rely upon the statute to challenge other types of projects. However, Alabama law allows residents to file environmental justice-related complaints with the state's seven-member Environmental Management Commission.¹⁴

Contact

Alabama Department of Environmental Management
Telephone: (334) 271-7700
Website: <http://www.adem.state.al.us>

ALASKA

Alaska does not have formal environmental justice policies or laws. However, a manual was published by the Department of Conservation that addresses environmental justice type issues. *Seven Generations* was designed for people in rural Alaska desiring to accomplish environmental planning and management using a community based approach.¹⁵ The intended audience is rural Native-American tribes, and the manual assists communities with identifying environmental issues of concern such as drinking water quality and waste storage.¹⁶ It provides

⁹ *Id.*

¹⁰ ALA. CODE § 22-30-5.1(c) (2003).

¹¹ *Id.* at § 22-30-5.1(c) & (d).

¹² *Id.* at § 22-30-5.1(d)(1).

¹³ *Id.* at § 22-30-12(g).

¹⁴ *See generally, id.* § 22-22A-6.

¹⁵ Alaska Department of Conservation, *Seven Generations: Addressing Village Environmental Issues For Future Generations of Rural Alaska* (2001), available at <http://www.state.ak.us/local/akpages/ENV.CONSERV/dsps/compasst/7generations/7gen.htm> (Last visited Oct. 10, 2003).

¹⁶ *Id.*

practical information for local communities on how to organize and advocate solutions to environmental problems.

ARIZONA

Statutes

Although Arizona does not have formal EJ laws, the state has addressed environmental equity concerns in a statute that requires disclosure of information to affected communities. Arizona law requires the Arizona Department of Environmental Quality (“DEQ”) to provide notification of any major permit application to counties, cities, or towns that may be affected by a permitting decision.¹⁷ To implement the spirit of this law, DEQ has instituted its Public Notification Policy, directing its Air Quality, Water Quality, Hazardous Waste, and Solid Waste Divisions to “proactively support the Environmental Justice program and when deemed necessary by DEQ management, notify the environmental justice population affected within thirty-one (31) days of receipt of permit applications.”¹⁸

EJ Program

The Arizona DEQ is committed to protecting low-income and minority communities from disparate impacts associated with permitting facilities that violate the Civil Rights Act. Responsibility for coordinating and responding to concerns about environmental justice issues or complaints rests with the Counselor to the Director of DEQ.¹⁹

to discuss project status.²⁴ CABs duties include providing comments to DEQ on cleanup goals, methods and other issues; representing the community located around the site; participate in community outreach with respect to the project; and make visits to the clean-up site.²⁵ Rather than merely advising the state regarding community views and needs as most environmental justice-oriented advisory groups do, CABs serve a two-pronged function by providing feedback in the other direction to the community.

Contact

Richard W. Tobin II, Counselor to the Director
Arizona Department of Environmental Quality
1110 West Washington Street
Phoenix, AZ 85007
Telephone: (602) 771-2391
e-mail: tobin.richard@ev.state.az.us

ARKANSAS

Statutes

Environmental Equity Act

In 1993, Arkansas passed the Arkansas Environmental Equity Act, which addresses environmental justice issues in the siting context.²⁶ The Arkansas legislature explicitly recognized that high impact solid waste disposal facilities tended to be concentrated in lower-income or minority communities.²⁷ The legislature passed the law to “prevent[] communities from becoming involuntary hosts to a proliferation of high impact solid waste management facilities.”²⁸

The statute creates “a rebuttable presumption against permitting the construction or operation of any high impact solid waste management facility . . . within twelve (12) miles of any existing high impact solid waste management facility.”²⁹ This presumption may be rebutted by showing either the lack of other suitable sites or the presence of incentives that have prompted the host community to accept the siting of the facility (such as increased employment opportunities, host fees, financial contributions to the community infrastructure, compensation for decreased property values, or subsidization of community services).³⁰ The Arkansas Department of Environmental Quality (“AR DEQ”) may not process any application for a permit subject to Arkansas Code Annotated § 8-6-1504 until the affected local and regional authorities have issued definitive findings regarding the criteria required by this statute.³¹

²⁴ *Id.*

²⁵ *Id.*

²⁶ ARK. CODE ANN. § 8-6-150 (Michie 2003).

²⁷ *Id.* § 8-6-1501(b).

²⁸ *Id.*

²⁹ *Id.* at § 8-6-1504(a)(1).

³⁰ *Id.*

³¹ *Id.* at § 8-6-1503.

Performance Partnership Agreement

Arkansas has signed a performance partnership agreement with US Environmental Protection Agency (“US EPA”). The agreement includes a section on environmental justice listing the following goals: (1) to enhance effectiveness in complying with Title VI of the Civil Rights Act of 1964;³² (2) to provide multi-media information to community and grassroots organizations; (3) to conduct audits of possible environmental injustices throughout the states; and (4) to develop strategies to safeguard the health and safety of communities impacted by possible environmental injustices.³³

In broad terms, US EPA and AR DEQ vowed to bridge the gap between regulatory agencies and the minority and low-income communities that they serve. The agencies agree that this can be accomplished through better dissemination of environmental information; the use of computer based mapping databases; collecting data on environmental injustices within the state; the development of strategies to protect the health and safety of communities; and soliciting input from minority and low-income communities in facility siting decisions.³⁴

Contact

Marcus C. Devine, Director
Arkansas Department of Environmental Quality
Telephone: (501) 682-0744

CALIFORNIA

Statutes

Governor’s Office of Planning and Research

In 1999, the legislature passed California’s first environmental justice law, SB 115 (Solis), designating the Governor's Office of Planning and Research (“OPR”) as the lead agency for environmental justice programs and of the state’s “environmental and state planning programs.”³⁵ The relevant duties of the OPR include recommending and implementing state policies with regard to land-use and growth planning; carrying out a program of policy research for the Governor and Cabinet; providing technical planning advice to local governments; and advising project proponents and government agencies on provisions of the California Environmental Quality Act.³⁶

³² Title VI of the Civil Rights Act of 1964, *as amended* 42 U.S.C. §§2000d to 2000d-7 (2003)(providing that “No person . . . shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”)

³³ *Performance Partnership Agreement Between the Arkansas*

program at CalEPA.”⁴⁶ Among its goals, the report seeks to provide guidance on (1) improving the public’s meaning access and participation in hearings; (2) integrating EJ goals into the process of forming and implementing environmental policy; and (3) improving data collection efforts.⁴⁷

Recent EJ Statutes

In the last three years, California has passed eight laws pertaining to environmental justice, with the state continuing to emphasize a multi-agency approach to EJ issues.⁴⁸

Assembly Bill 1390 (Firebaugh, 2001)⁴⁹

AB 1390 extends until January 1, 2007, the policy enacted in the 2001-02 State Budget that directs air districts to target at least 50 percent of the \$48 million General Fund appropriated for three diesel emission reduction programs to environmental justice communities. The law exempts small air districts from this requirement. It also makes federal agencies eligible to receive grants to purchase Zero Emission Vehicles that would be located in low income and minority communities.

Assembly Bill 1553 (Keeley, 2001)⁵⁰

AB 1553 requires OPR to adopt guidelines for local agencies when addressing environmental justice issues in its general plans. OPR would be required to adopt the guidelines by July 1, 2003. OPR recently issued the second draft of the General Plan Guidelines.⁵¹ These guidelines may be “the most comprehensive in the United States,” and include a “host of issues forecasting the direction of the movement.”⁵²

Senate Bill 32 (Escutia, 2001)⁵³

SB 32 authorizes local governments to investigate and cleanup small parcels of property contaminated with hazardous waste. The bill requires CalEPA to conduct scientific peer review of screening values, or advisory numbers estimating cleanup efforts are needed for developing a property. Most pertinent for this EJ survey, SB 32 requires the development of a guidance document to assist citizen groups, community-based organizations, environmental organizations and others in understanding the complicated factors and procedures used for making site investigation and remediation decisions, furthering the ability of community groups to participate meaningfully in decisions with environmental justice implications.⁵⁴

⁴⁶ CalEPA Advisory Committee on Environmental Justice, *Recommendations to the Interagency Working Group on Environmental Justice*, available at http://www.calepa.ca.gov/EnvJustice/Documents/2003/7_11Report.pdf / (Last visited Aug. 20, 2003).

⁴⁷ *Id.*

⁴⁸ CalEPA, *Legislation: Environmental Justice Program*, <http://www.calepa.ca.gov/EnvJustice/Legislation/> (Last visited July 29, 2003).

⁴⁹ CAL. HEALTH & SAFETY CODE §§ 43023.5, 44260.

⁵⁰ CAL. GOV’T CODE §§ 65040.2 and 65040.12.

⁵¹ Available at http://www.opr.ca.gov/planning/PDFs/2003_General_Plan_Guidelines_Second_Draft.pdf (July 2003) (Last visited Aug. 28, 2003).

⁵² Telephone interview with Romel Pascual, Assistant Secretary for Environmental Justice, CalEPA (July 29, 2003).

⁵³ CAL. HEALTH & SAFETY CODE §§ 57008, 57009, and 57010 and §§ 25401 *et seq.*

⁵⁴ *Id.* at § 57008(e).

Senate Bill 828 (Alarcón, 2001)⁵⁵

SB 828 adds deadlines for developing an interagency environmental justice strategy affecting boards, departments and offices within the CalEPA. Subsequently, the bill will require each of the CalEPA boards, departments, and offices, by December 31, 2003, to review, identify, and address program obstacles impeding environmental justice.

Assembly Bill 2312 (Chu, 2002)⁵⁶

within 300 feet of the waste facility of the upcoming hearing.⁶³ Further, the law requires the enforcement agency to consider “environmental justice issues when preparing and distributing the notice to ensure that the notice is concise and understandable for limited-English-speaking populations.”⁶⁴

Assembly Bill 1360 (Steinberg, 2003)⁶⁵

The law directs the Office of Environmental Health Hazard Assessment (OEHHA) at CalEPA to develop “environmental indicators,” or “scientific measurements of environmental conditions or trends.”⁶⁶ AB 1360 requires OEHHA to develop and maintain the environmental indicator system to provide a means for evaluating the effectiveness of CalEPA's efforts in improving “environmental quality and protecting public health throughout the state, including environmental quality and public health in low-income communities and communities of color.”⁶⁷

Other Statutes

The following statutes address a core concern of the EJ movement, namely, avoiding the undue concentration of environmental risks upon EJ populations, particularly in the core areas of waste disposal and power generating facilities.

Hazardous Waste Facility Permit Requirements

California has created enhanced public participation mechanisms in its hazardous waste permit regime.⁶⁸ In enacting the law, the legislature intended “to establish specific means to give the concerned public a voice in decisions relating to the siting and issuing of permits for hazardous waste facilities; and to establish a process for appealing local decisions on applications for land use approval for hazardous waste facilities.”⁶⁹ Before a new facility can be approved, public notification of the application must be made through newspapers, posted notices in the community, and direct mailings to adjacent property owners.⁷⁰ The siting requirements also create a mechanism allowing any interested party to appeal a land use decision “made by a local agency for a specified hazardous waste facility project with the Governor or the Governor's designee.”⁷¹ When an appeal is filed, a special appeal board is convened and an administrative review of the local agency findings ensues.⁷²

Thermal Powerplant Permitting

California requires applications for the siting of a thermal powerplant to address disproportionate impacts “in a manner consistent with Section 650410.12 of the Government

⁶³ *Id.* at § 44004(h)(1)(A).

⁶⁴ *Id.* at § 44004(h)(1)(C).

⁶⁵ The relevant provisions are to be codified at CAL. PUB. RES. CODE §§ 71800-02.

⁶⁶ *Id.* at § 71080(b).

⁶⁷ *Id.* at § 71081(a)(2).

⁶⁸ CAL. HEALTH & SAFETY CODE § 25199 *et seq.* (Deering's 2003).

⁶⁹ CAL. HEALTH & SAFETY CODE § 25199(c).

⁷⁰ *Id.* at § 25199.7.

⁷¹ *Id.* at § 25199.9.

⁷² *Id.*

Environmental Justice and Context-Sensitive Planning.”⁷⁹ The Guide is the first document of its kind to address environmental justice in California transportation planning.⁸⁰

CalTrans also provides grants to promote environmental justice, and will offer an estimated \$3 million in the 2003-04 fiscal year, with six possible application categories: Context-Sensitive Planning, Community Planning, Partnership Planning, Statewide Planning, Transit Technical Assistance, and Transit Professional Development.⁸¹

Contacts

Sandra Salazar-Thompson, Project Director, Environmental Justice
Governor’s Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044
Telephone: (916) 324-6660

Romel Pascual, Assistant Secretary for Environmental Justice
Office of the Secretary
California Environmental Protection Agency
1001 I Street
PO Box 2815
Sacramento, CA 95812
Telephone: (916) 324-8425
e-mail: envjustice@calepa.ca.gov

COLORADO

Supplemental Environmental Projects

Colorado Department of Public Health and Environment Agency-wide Supplemental Environmental Projects Policy

Colorado allows violators of environmental laws and regulations to reduce the amount of their fines by funding an approved project benefiting the environment, as part of the settlement of an enforcement action.⁸² These beneficial projects are formally known as Supplemental Environmental Projects (“SEPs”). SEPs must not involve any action required by local, state or federal law, and approval of SEPs is at the discretion of the Colorado Department of Public Health and Environment (“CDPHE”).⁸³ While SEPs may be used to mitigate some or all of a civil penalty, “the cost of a SEP will generally exceed the amount of penalty mitigation offered in exchange.”⁸⁴ SEPs are attractive to the violator for their public relations value and their

⁷⁹ California Department of Transportation, <http://www.dot.ca.gov/hq/tpp/offices/epar/titleVIandEJ.htm> (Last visited July 31, 2003).

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Colorado Department of Public Health and Environment Agency-wide Supplemental Environmental Projects Policy*, at p. 1, <http://www.cdphe.state.co.us/ap/sep/SEPPolicy.pdf> (Last visited June 22, 2003).

⁸³ *Id.*

⁸⁴ *Id.*

ability to be deducted as a business expense, unlike a civil penalty.⁸⁵ The five categories of approvable SEPs are: (1) pollution prevention projects; (2) pollution re

commitment that “no segment of the population

communities, community-based nonprofit organizations, environmental organizations, health care providers, local government, academic institutions and business/industry.¹¹⁷

In addition to establishing the CIAC, the legislature created a Community Ombudsman position to serve as a liaison between DNREC and local communities statewide. The Community Ombudsman “shall engage communities in identifying and understanding environmental issues and addressing or resolving environmental problems, advocate for communities, assist communities in obtaining information on environmental issues, and serve as a point of contact for the Department with communities and community organizations.”¹¹⁸

CIAC released a report in March 2001 that contains several recommendations for facilitating and implementing community participation in environmental permitting and decisionmaking.¹¹⁹ However, it is unclear if or how the recommendations from the 2001 report have been implemented at DNREC.

Contact

Delaware Dept. of Natural Resources and Environmental Control
Telephone: (302) 739-4764
Website: <http://www.dnrec.state.de.us>

DISTRICT OF COLUMBIA

EJ Program and Services

The District of Columbia has an EJ program within the Department of Health, Environmental Health Administration division. The purpose of the program is to ensure fair treatment of residents when the Department implements environmental health programs, issues permits, or enforces District environmental health laws.¹²⁰ Another goal of the program is to reduce disparate impacts and focus public attention on environmental health issues through education and outreach.¹²¹

The EJ program is staffed by an EJ Coordinator who responds to public concerns and educates communities on how to participate in environmental decisionmaking proceedings.¹²² The EJ Coordinator may also comment on the potential EJ impacts of projects subject to Department’s environmental review process.¹²³

The Office of Enforcement, Compliance & Environmental Justice is currently implementing a project to improve auto repair shops’ compliance with environmental rules and

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Report of the Community Involvement Advisory Committee, supra* note 114.

¹²⁰ Interview with Kendolyn Hodges-Simons, Environmental Justice Coordinator, District of Columbia Department of Health (Oct. 16, 2003).

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

health care professionals and providers, and elected officials.¹³² The Board is required to “identify the community environmental health needs and types of services which should be provided.”¹³³ The Board has stopped meeting however, due to discontinued funding for fiscal year 2002.¹³⁴

Siting of Hazardous Waste Facilities

The Department of Environmental Regulation must notify each local government within three miles of a proposed hazardous waste facility within thirty days of the receipt of a complete application to construct the facility.¹³⁵ In addition, a notice must be published in a local newspaper, alerting the affected communities and helping to avoid disproportionate concentration of hazardous waste facilities within minority and low-income communities.¹³⁶

Brownfield Redevelopment Act

Florida has an extensive brownfields program that addresses environmental justice concerns. The preamble of the brownfields statute states that minority and low-income communities are disproportionately impacted by environmentally hazardous sites. And that “the existence of brownfields within a community may contribute to, or may be a symptom of, overall community decline, including issues of human diseases and illness, crime, educational and employment opportunities, and infrastructure decay.”¹³⁷ Furthermore, the statute states that there is a need for the health and risk exposure assessments of minority and poverty populations around environmentally hazardous sites in this state.¹³⁸

Local governments responsible for brownfields redevelopment must utilize advisory committees for “the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area...and environmental justice.”¹³⁹ The advisory panel should be drawn from residents from the area surrounding the brownfield area.¹⁴⁰

EJ Programs and Services

Partnership with Academia

Unlike the majority of states, administering environmental justice programs within the bureaucratic framework of state government, Florida has adopted a university-based approach. In this model, most environmental justice efforts are implemented outside of the state’s Department of Environmental Regulation.

¹³² *Id.* at § 381.1015(2).

¹³³ *Id.*

¹³⁴ National Academy of Public Administration,

The Center for Environmental Equity and Justice (“CEEJ”) was created by the Florida legislature in 1998 to “conduct and facilitate research, develop policies, engage in education, training, and community outreach activities with respect to environmental equity and justice issues.”¹⁴¹ According to the statute, the center is administered through the Environmental Sciences Institute at Florida Agricultural & Mechanical University. In addition to conducting environmental justice research and training in Florida, CEEJ also “maintains the state’s birth-defects registry, which can be used to determine whether there are links between birth defects and environmental conditions.

Center for Urban Transportation Research

Under a mandate from the Florida Highway Administration, the Florida Department of Transportation in conjunction with researchers at the Center for Urban Transportation Research at the University of South Florida completed a report on environmental justice and community impact assessment for the state’s transit agencies.

The objective of the project was to provide the state’s transit agencies with information related to environmental justice and social equity using community impact assessment techniques. The ultimate goal of the project is encourage transit planners to keep environmental justice concerns in mind when planning, and to use the community impact assessment data to better transportation in all communities.

In order to facilitate their objectives, project researchers conducted both phone interviews and written surveys to determine the current awareness regarding environmental justice and social equity issues. The research results were compiled into a booklet entitled *Environmental Justice and Community Impact Statement for Transit Agencies*.¹⁴²

Supplemental Environmental Projects

In 1998, Florida’s legislature passed the Accidental Release Prevention and Risk Management Planning Act, providing a framework for the delegation of authority from US EPA under the federal Clean Air Act. The law specifies enforcement authorities and remedies for violations of the reporting requirements for the accidental release of air-borne pollutants.¹⁴³

The legislature authorized the Department of Community Affairs (“DCA”) to “offer and accept the use of emergency planning, training, and response-related Supplemental Environmental Projects, consistent with the guidelines established by the United States Environmental Protection Agency,”¹⁴⁴ in the exercise of DCA’s enforcement authority. In furtherance of the “overarching goal” of environmental justice, the US EPA’s SEP guidelines encourage the targeting of “SEPs in communities where environmental justice concerns are

¹⁴¹ Center for Environmental Equity and Justice, www.famu.edu/acad/colleges/esi/CEEJ/mission.html (Last visited July 1, 2003).

¹⁴² Research conducted by Beverly Ward, Ph.D, at the Center for Urban Transportation Research at the University of Southern Florida.

¹⁴³ Fla. Stat. § 252.934 *et seq.* (2002).

¹⁴⁴ Fla. Stat. § 252.940(d)(3).

present.”¹⁴⁵ Accordingly, the Florida SEP program incorporates environmental justice principles by reference.

Contact

Florida Department of Environmental Protection
Telephone: (850) 922-5438
Website: <http://www.dep.state.fl.us>

GEORGIA

Statutes

Anti-Concentration Law for Solid Waste Facilities

Georgia prohibits municipal solid waste disposal facilities from locating inside or within one half mile of a city or county’s border without that entity's permission.¹⁴⁶ The state also limits the number of solid waste facilities that may be sited within a given area.¹⁴⁷ Before siting a solid waste disposal facility there must first be “at least one public meeting to discuss waste management needs of the local government or region and to describe the process of siting facilities to the public.”¹⁴⁸ The statute also requires the permitting agency to notify the general public in the newspaper of the place and time for meetings where siting decisions will occur.¹⁴⁹

Policy

As part of “Transit Share,” the Transportation Improvement Program (“TIP”) administered by the Georgia Regional Transportation Authority (“GRTA”) includes fiscal, land use, and environmental considerations as part of its agenda. The Board passed a resolution giving relative approval of the Fiscal Year 2001-FY2003 TIP and included a Benefits and Burden analysis relating to Environmental Justice.¹⁵⁰ This is an example of an agency implementing environmental justice into the early stages of its planning process.

Contact

Ted Jackson, Quality Assurance Manager
Georgia Department of Natural Resources
Telephone: (404) 657-5739

¹⁴⁵ US EPA, *Final EPA Supplemental Environmental Projects Policy Issued*, 63 Fed. Reg. 24796 (May 5, 1998).

¹⁴⁶ GA CODE ANN. § 12-8-25 (2003).

¹⁴⁷ *Id.* at § 12-8-25.4.

¹⁴⁸ *Id.*

HAWAII

Statutes

Contact

Hawaii Department of Health
Office of Environmental Quality Control
235 S. Beretania St., Suite 702
Honolulu, HI 96813
Telephone: (808) 586-4185

Receipt of Complaint

The environmental justice officer will develop a process for “investigating, responding

1021 North Grand Ave. East (#38)
P.O. Box 19276
Springfield, IL 62794-9276
Telephone: (217) 524-1284

INDIANA

Policy and Programs

Environmental justice efforts in Indiana are coordinated through the Indiana Department of Environmental Management (“IDEM”). IDEM has initiated several policies and programs to address EJ issues including an EJ Strategic plan. The plan provides information to EJ communities on their participation in decisionmaking and uses computer mapping technology to identify EJ areas of concern.

Environmental Justice Strategic Plan

One of its first goals of the plan is the identification of geographic areas of environmental justice concern.¹⁶⁹ A second, supporting goal is IDEM's plan to take an interagency approach to ensure that information is available to community residents. In order to implement its environmental principles, IDEM facilitates the opportunity for all

the information. The guide is a tool designed to help state residents participate in the making of environmental statutes and regulations, and permitting decisions.

Mapping “Indiana Areas of Potential Concern”

Using the 2000 U.S. Census data, IDEM has created four maps that identify potential areas of environmental concern based on factors such as race and income.¹⁷⁴ In addition to

contact/clearinghouse within the Department to

Website: <http://www.nr.state.ky.us/nrepc/dep/dep2.htm>

LOUISIANA

EJ Programs and Services

The state of Louisiana began addressing the issue of environmental justice in 1992 when the Louisiana Department of Environmental Quality (“LDEQ”) developed a “conceptual approach to Environmental Justice” and contracted with Louisiana State University for an environmental equity study.¹⁸⁴

MARYLAND

Statutes

In 1997, Maryland enacted House Bill 1350, establishing the Maryland Advisory Council on Environmental Justice (“MACEJ”).¹⁹⁷ MACEJ’s mission is to develop and examine recommendations on environmental justice policy and direction. Maryland has adopted a working model for decisionmaking from the National Conference of State Legislators, and MACEJ has created three subcommittees to provide general and expert assistance. The particular subcommittees focus on (1) public outreach, education and participation; (2) state and local interagency coordination; and (3) environmental health concerns and research.¹⁹⁸

In addition to HB 1350, Maryland also passed House Joint Resolution 6 in January 2000.¹⁹⁹ This legislation addressed environmental justice concerns within Anne Arundel County. The resolution requires the Department of the Environment, in consultation with the MACEJ, to develop a plan to promote environmental justice in Anne Arundel County because of its high cancer mortality rate.²⁰⁰ Further, the resolution states that additional industrial activity should not proceed in the county and no further environmental permits should be issued in designated areas of concern.²⁰¹

Children’s Environmental Health

Pursuant to the recommendation of the MACEJ Advisory Council, the Legislature created an Advisory Council to address the environmental health needs of children.²⁰² The Legislature recognized that “[h]igher rates of poverty are one of the factors that place children of ethnic and minority communities at disproportionate risk for environmental exposures, due to inadequate housing, poor nutrition, and limited access to health care.²⁰³ The Advisory Council was given the tasks of identifying environmental hazards that may affect children’s health and recommending solutions to those hazards through interdisciplinary problem solving and coalition building.²⁰⁴

EJ Programs and Services

Commission on Environmental Justice and Sustainable Communities

In March 2001, former Governor Paris Glendening created Maryland’s Commission on Environmental Justice and Sustainable Communities (“Commission”) by executive order.²⁰⁵ The Commission is comprised of fifteen members appointed by the governor from these several interest groups such as: affected communities concerned with environmental justice, business organizations, environmental organizations, health experts on environmental justice, local

¹⁹⁷ MD. CODE ANN., Art. 41, § 18-315 (2003).

¹⁹⁸ *Id.*

¹⁹⁹ H.R.J. Res. 6, 2000 Leg., 414th Sess. (Md. 2000).

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² MD. HEALTH GEN. CODE § 13-1502 (2003).

²⁰³ *Id.* at § 13-1502 (a)(3).

²⁰⁴ *Id.* at § 13-1502 (b)(2).

²⁰⁵ Exec. Order No. 01.01.2001.01, Commission on Environmental Justice and Sustainable Communities (Mar. 9, 2001), *reprinted in* 28-7 Md. Reg. 674 (April 6, 2001).

government, and the general public with interest or expertise in environmental justice.²⁰⁶ The Commission was authorized to operate for two and a half years and to facilitate environmentally safe and sustainable communities for all Maryland residents.

The Commission's mandate included: (1) advising state agencies on environmental justice and related community issues; (2) assessing the adequacy of State and local government laws and regulations to address the issue of environmental justice and sustainable communities; and (3) developing criteria to assess whether communities of the State may be experiencing environmental justice issues.²⁰⁷ In 2003, the legislature permanently extended the charter of Commission on Environmental Justice and Sustainable Communities, which will continue to make annual reports to the Governor's office.²⁰⁸ Other duties include assessing the impact of state laws and policies on environmental justice, as well as advising the Governor and state agencies about environmental justice issues.

Maryland Department of Transportation's Assessment Tool

The Maryland Department of Transportation has issued Environmental Justice Guidelines for the State's Highway Administration Projects ("Guidelines"). The Guidelines are meant to provide project teams with the framework to analyze environmental justice issues within the transportation decisionm

Performance Partnership Agreement

EOEA has translated its environmental justice policy into seven languages, and made them available on its website.²²²

EJ Programs and Services

Alternative Media Outlets and EJ Mailing List

Since the policy was issued just last October, Massachusetts' environmental justice program is still being developed.²²³ However, the MEOEA's Environmental Justice Coordinator, Tony Chaves, points to some specifi

Transportation Planning

Massachusetts outlined its solid waste management strategy for the next decade in a policy document published in 2000.²³² The plan explicitly takes into account environmental justice and requires that “the impact of facilities’ operations relative to the cumulative impacts from all sources on health and the environment in the affected area” should be addressed.²³³ Furthermore, the plan indicates that the Massachusetts Department of Environmental Protection was to revise the solid waste facility site assignment regulations to include several criteria that will further protect the interests of communities near proposed solid waste facilities. The proposed regulations included “notification to communities with significant minority populations in their primary language, increased setbacks to provide larger buffers between the facilities and nearby residents, and evaluation of cumulative impacts associated with new or expanded solid waste facilities.”²³⁴

Supplemental Environmental Projects

In the settlement of environmental enforcement cases, MDEP may allow violators to reduce the magnitude of their penalties by the costs associated with an environmentally beneficial project, known as a Supplemental Environmental Project (“SEP”).²³⁵ MDEP defines SEPs as actions a regulated entity is not legally required to perform that will “improve, protect or reduce risks to public health, safety or welfare, or the environment at large.”²³⁶ In exercising its discretion to approve a SEP, MDEP will consider several factors such as whether the violator attempted to avoid non-compliance, how the violator responded to non-compliance, and the economic consequences of the non-compliance.²³⁷ MDEC’s policy indicates that environmental justice is one of the overarching goals of the SEP program, though the department does not list it as a category of SEP nor consider it a formal factor in determining whether to allow a SEP.²³⁸

Performance Partnership Agreement

In its 2002 PPA with US EPA, Massachusetts DEP promised to increase staff awareness of environmental equity, and further integrate environmental equity objectives into DEP’s programs and policies.²³⁹ In addition, environmental justice has been identified as a US EPA Region I strategic priority for Massachusetts in the draft 2004-2005 PPA currently under negotiation between DEP and US EPA.²⁴⁰

²³² Massachusetts Department of Environmental Protection, *Beyond 2000: Solid Waste Master Plan: Massachusetts Renews its Commitment to Waste Reduction, Recycling and Re-use* (Dec. 20, 2000), available at <http://www.state.ma.us/dep/bwp/dswm/files/swmp.doc> (Last visited Oct. 10, 2003).

²³³ *Id.* at pp. 1-5.

²³⁴ *Id.*

²³⁵ MDEP, *Interim Policy on Supplemental Environmental Projects*, at p. 1, available at www.state.ma.us/dep/enf/enf97005.pdf (Last visited Oct. 15, 2003).

²³⁶ *Id.* at p. 6.

²³⁷ *Id.* at p. 3.

²³⁸ *Id.* at p. 4 (language mirroring that used in US EPA, *Final EPA Supplemental Environmental Projects Policy Issued*, *supra* note 145).

MOEA also sponsors the Minnesota Sustainable Communities Network (“MnSCN”), a web portal that promotes discussions and information sharing about sustainable communities among interested groups and individuals.²⁴⁵ The website links users to information on sustainability and specific projects hosted by member groups. One of the member groups makes small grants ava

Website: <http://opc.deq.state.ms.us/epd/forms.asp>

MISSOURI

Policy

The Missouri Department of Natural Resources (“MDNR”) Fiscal Year 2000 Plan

well as whether the degree to which the impacts

incorporate into the department's daily decisions or actions.²⁶⁵ Currently, NH DES is in the

EJ Programs & Services

NJ DEP City-Focused Enforcement Initiatives

P.O. Box 402
506 East State Street, Floor 2
Trenton, NJ 08625-0402
Telephone: (609) 984-9742

NEW MEXICO

Policy

Recognition of Disparate Environmental Impacts

Although New Mexico does not have an environmental justice policy, the state recognizes that there is a need to address the issue.²⁸⁴ According to the current Secretary of New Mexico's Environment Department ("NMED"), "[the NMED] needs to look at issues of environmental justice--why pollution-creating facilities are too often put in poor, minority communities . . ." ²⁸⁵ While the state does not appear to have any concrete plans to implement a formal environmental justice program, leaders from NMED have held a series of environmental and economic justice-oriented meetings with environmental activist groups to "find ways to connect on issues of shared importance."²⁸⁶ Furthermore, in a current state press release, the NMED Secretary pledges to "enforce the environmental laws that are on the books [to promote environmental justice]."²⁸⁷

Contact

New Mexico Environment Department
Telephone: (800) 219-6157
Website: <http://www.nmenv.state.nm.us/>

NEW YORK

Policies

Environmental Justice Advisory Group

In October 1999, the New York State Department of Environmental Conservation ("NY DEC") created the Office of Environmental Justice to address environmental justice concerns and ensure community participation in the state's permitting process.²⁸⁸ The Environmental Justice Advisory Group was also created at that time, and is responsible for developing recommendations for an Environmental Justice Permit Policy for the state, prioritizing environmental justice issues, and recommending procedures that can be used to address these

Navigator” which is NY DEC's GIS interface for interactive mapping of facilities of environmental interest.²⁹⁷

Contact

beliefs can also create a hostile environment

Lazarus Government Center
P.O. Box 1049
Columbus, OH 43216-1049
Telephone: (614) 644-2782

OKLAHOMA

The authors did not find any relevant environmental justice programs, policies, or statutes for the state of Oklahoma.

OREGON

Policy

Environmental Justice Advisory Board

On August 1, 1997, Oregon Governor John Kitzhaber issued Executive Order 97-16 creating the Governor's Environmental Justice Advisory Board (Advisory Board).³⁰⁷ This Board was created to supplement and add to the recommendations issued by the Oregon Environmental Equity Citizen Advisory Committee in 1994.³⁰⁸ In early 1999, the Advisory Board issued a report containing policy recommendations for the state.

The Advisory Board defines environmental discrimination as any policy, practice, or directive that generates environmental impacts

geographic regions of the State.³¹¹ The Advisory Board will continue to define environmental justice issues and advise state agencies as well as address developments since the issuance of the 1999 Report.³¹²

Supplemental Environmental Projects

In settling an environmental enforcement case, Oregon Department of Environmental Quality (“ODEQ”) may allow violators to mitigate their penalties by completing a Supplemental Environmental Project (“SEP”).³¹³ In considering whether to approve a SEP, ODEQ encourages several types of projects, including those that result in “environmental enhancement or restoration, environmental justice (addressing any undue burden of environmental hazards historically placed on minority and low income groups), and increased public awareness and education.”³¹⁴

Contact

Governor's Environmental Justice Advisory Board
Office of the Governor
160 State Capitol
Salem, OR 97310
Telephone: (503) 378-5116

PENNSYLVANIA

EJ Programs & Services

Pennsylvania established the Environmental Justice Work Group in 1999 to review Pennsylvania Department of Environmental Protection’s (“PA DEP”) programs and ensure equity in PA DEP’s environmental protection efforts. The Work Group completed a report in June 2001 recommending that the PA DEP: (1) implement a 10-step procedure for the permitting of certain activities in minority and low-income communities that would require enhanced public participation and assessments of cumulative and disparate impacts; (2) require greater community involvement in the monitoring of facilities; (3) create additional means to ensure the adequate enforcement and appropriate assessment of penalties; and (4) establish the Environmental Justice Advisory Board in order to facilitate communication with communities.³¹⁵

³¹¹ Oregon Executive Order EE-00-05 (April 2000), available at http://arcweb.sos.state.or.us/governors/Kitzhaber/web_pages/governor/legal/execords/eo00-05.pdf (Last visited Oct. 6, 2003).

³¹² *Id.*

³¹³ Oregon Dept of Environmental Quality, *Civil Penalty Mitigation for Supplemental Environmental Projects* (Sept. 23, 2000), available at www.deq.state.or.us/programs/enforcement/enforcementSEPDDir.pdf (Last visited Oct. 15, 2003).

³¹⁴ *Id.* at p. 2.

³¹⁵

Environmental Justice Advisory Board

The Environmental Justice Advisory Board was created in response to the recommendations made by the Environmental Justice Work Group Report.³¹⁶ The Advisory Board will make suggestions on implementing the recommendations made in the Environmental Justice Work Group Report. The Advisory Board has completed an action plan that details how the agency will phase in the recommendations from the 2001 report.³¹⁷ The Advisory Board is active and further refining and implementing the goals of the 2001 Report.³¹⁸

On-Line EJ Discussion Areas

PA DEP's commitment to encouraging public participation is seen in its Environmental Justice Advisory Board ("EJAB") on-line discussion area.³¹⁹ Like that of many states, the PA DEP's EJAB is responsible for advising the PA DEP on how to implement its environmental justice policy.³²⁰ The on-line discussion area allows citizens to post comments related to four of its subcommittees.³²¹ However, as of this writing, there are only two messages posted to any of the subcommittee discussion areas.³²² It is not clear whether this lack of use is attributable to lack of interest or a lack of awareness of its existence.

Office of Environmental Advocate

The Pennsylvania Office of Environmental Advocate ("POEA") was also created as a result of the Environmental Justice Work Group Report.³²³ The office was set up "as a point of contact for Pennsylvania's residents."³²⁴ Its goal is to "increase communities' environmental awareness and involvement."³²⁵ The POEA staff includes Regional Advocates charged with ensuring environmental justice compliance in certain regions of Pennsylvania.³²⁶

Telephone: (888) 723-3721

Alisa Harris, Director
Office of Environmental Advocate
Telephone: (717) 783-5630
e-mail: aharris@state.pa.us

RHODE ISLAND

Statute

Environmental Remediation Processes

The statute mandates that the Rhode Island Department of Environmental Management (“RI DEM”) consider the effects of environmental remediation on the populations surrounding each site.³³⁶ RI DEM must develop and implement a process to “ensure community involvement throughout the investigation and remediation of contaminated sites. The process is to include, but is not limited to, the following components: (1) notification to abutting residents when a work plan for a site investigation is proposed; (2) adequate availability of all public records concerning the investigation and clean-up of the site, including, where necessary, the establishment of informational repositories in the impacted community; and (3) notification to abutting residents, and other interested parties, when the investigation of the site is deemed complete by the department of environmental management.”³³⁷

Policy

RI DEM has created a Strategic Planning and Policy Section to carry out “important functions related to integrating, prioritizing and measuring efforts to achieve the Department's ten vision goals.”³³⁸ The Section is coordinating the implementation of the policy document, “Goals for Environmental Equity.”³³⁹

environmental equity provisions.³⁴³ The study will focus on public notice, interagency issues, cumulative impacts, and “opportunities for proactive and community-based decisionmaking.”³⁴⁴

EJ Programs & Services

Outdoor Recreation and Community Farming Programs

One aspect of RI DEM’s environmental equity focus is on “Open Space and Recreation Opportunities.”³⁴⁵ RI DEM recognizes that “[e]ven small pockets of greenspace/openspace in urban areas have many positive environmental, quality of life and public health impacts including environmental revitalization, air quality improvements, energy savings, etc.”³⁴⁶ In addition to making urban, disadvantaged communities healthy and environmentally sound, RI DEM also seeks to make those areas desirable places to live.³⁴⁷ One way that RI DEM encourages more recreational resource development in disadvantaged communities is to consider the “geographic disparities in the allocation of recreational resources throughout the state when considering grant applications.”³⁴⁸

Partnership with Academia

Potential Exposure Analysis

In 2001, the Rhode Island Office of Strategic Planning and Policy hired two graduate students from Brown University to conduct a GIS analysis “to consider the size and significance of separate and aggregated environmental impacts, geographic and demographic information.”³⁴⁹ This study analyzed the proximity of populations to environmental risks including, among other things, air emissions, wastewater treatment facilities, and power plants.³⁵⁰ The students mapped demographic, racial, and income census data and compared it to pollution source data.³⁵¹ The study provided the state with a quantifiable method for identifying populations that are exposed to a disproportionate amount of environmental hazards.³⁵² After completing the study,³⁵³ the students conducted a similar study on a finer scale, focusing on the city of Providence.³⁵⁴

Performance Partnership Agreement

RI DEM’s PPA with US EPA incorporates RI DEM’s 2002-2003 Strategic Workplan; RI DEM has identified environmental equity (defined as “the equal rights to environmental quality and protection from environmental degradation”) as a strategic priority.³⁵⁵ RI DEM noted its

³⁴³ *Id.*

³⁴⁴ *Id.* at p. 20.

³⁴⁵ *Id.*

³⁴⁶ *Id.* at p. 13.

³⁴⁷ *Id.*

³⁴⁸ *Id.*

³⁴⁹ See *Environmental Equity in Rhode Island, Progress Report*, *supra* note 341.

³⁵⁰ *Id.* at p. 8.

³⁵¹ *Id.* at pp. 8-12. The pollution source data included, among other things, locations of power plants, hazardous waste generators, and auto body shops.

³⁵² *Id.* at p. 8.

³⁵³ Amanda B. Aretz and Rachael E. Moeller, *Air Quality and Comparative Exposure* http://envstudies.brown.edu/thesis/2002/moeller/title_page.htm (Last visited June 23, 2003).

³⁵⁴ *Environmental Equity in Rhode Island, Progress Report*, *supra* note 341.

³⁵⁵ Rhode Island Dept. of Environmental Mgmt and US EPA, *Performance Partnership Agreement* (FY 2002-2003), at p. 5, available at <http://www.state.ri.us/dem/pubs/plan2002/ppa0203.pdf> (Last visited Oct. 22, 2003).

intention to address environmental equity in the “early stages of planning and decision-making, rather than through after-the-fact challenges to...individual permit decisions.”³⁵⁶ The policy requires RI DEM “to report on and publicly evaluate its efforts on an annual basis.”³⁵⁷

In addition, RI DEM and US EPA have identified the joint target of “ensur[ing] environmental equity for all Rhode Islanders,” with an indicator of success in this goal the amendment of RI DEM’s “policies and regulations ... to incorporate environmental equity considerations by 2003.”³⁵⁸

Contact

Rhode Island Department of Environmental Management
235 Promenade Street
Providence, RI 02908
Telephone: (401) 222-6800

Michele Musselman, Policy Analyst
Office of Strategic Planning and Policy
Telephone: (401) 222-3434, ext. 7245
e-mail: mmussel@dem.state.ri.us.

SOUTH CAROLINA

EJ Programs & Services

The Department of Health and Environmental Control (“DHEC”) does not have a formal environmental justice policy, but it has previously studied environmental justice issues. In 1995, Ms. Lill Mood, a registered nurse formerly with DHEC, organized a Future Search Conference where she brought together a balanced group of stakeholders to find common ground on environmental justice issues.³⁵⁹ Under the direction of DHEC, Ms. Mood conducted two studies: one on siting and one on enforcement in order to identify gaps or weaknesses in the process.³⁶⁰ The studies helped the DHEC focus on what areas are particularly vulnerable, and as a result, DHEC collaborated with US EPA on a Community Based Environmental Protection Project in one of those areas.³⁶¹ The studies also made several recommendations to DHEC with respect to implementing public participation into the permitting process, though these were never formally acted upon.³⁶²

The Office of Environmental Quality Control (“EQC”), the environmental regulatory arm of DHEC, currently has an EJ Coordinator who addresses community concerns with respect to EQC permitting and other activities.³⁶³ The EJ Coordinator has participated in the EQC

³⁵⁶ *Id.* at 6.

³⁵⁷ *Id.*

³⁵⁸ *Id.* at Appendix C.

³⁵⁹ Electronic mail from Lill Mood, Dept. of Health and Env. Control (Nov. 4, 2000) (on file with authors).

³⁶⁰ *Id.*

³⁶¹ *Id.*

³⁶² Telephone interview with Nancy Whittle, EJ Coordinator at DHEC (Oct. 15, 2003).

³⁶³ *Id.*

Public Participation Plain Language Taskforce, which is developing ways for EQC to disseminate information to the public about permitting and other agency actions.³⁶⁴ The goal of the program is to encourage greater public participation by providing information in non-technical terms.³⁶⁵

Contact

Nancy Whittle, EJ Coordinator
Office of Environmental Quality Control
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201
Telephone: (803) 898-3432
Website: <http://www.scdhec.net/>

SOUTH DAKOTA

3. Establish a statewide Environmental Justice Committee consisting of community members and Department representatives to be in charge of implementing the state's environmental justice plan.³⁷¹
4. Collaborate with local government and industry representatives in addressing environmental justice concerns.³⁷²

Recently, there have been several staff trainings on Title VI and environmental justice issues.³⁷³ However, the current status of Tennessee's environmental justice efforts is in flux, as the Policy Office at TDEC is currently being reorganized.³⁷⁴

Contact

Tennessee Department of Environmental Conservation
Environmental Assistance Center
Telephone: (888) 891-8332
Website: <http://www.state.tn.us/environment/eac/>

TEXAS

Regulations

In distributing funds under the Clean Water Revolving Fund³⁷⁵ and the Drinking Water Revolving Fund,³⁷⁶ Texas requires that a project must comply with federal Executive Order 12,898, which requires federal agencies to incorporate environmental justice principles into their missions.³⁷⁷

EJ Programs & Services

Environmental Equity Program

In 1993, the Texas Natural Resource Conservation Commission (“TNRCC”) created an Environmental Equity Program (“Program”) to improve communications between government, local communities, and neighboring industries.³⁷⁸ As part of the Program, TNRCC established an Environmental Equity Office to address complaints and citizens' actions relating to TNRCC activities.³⁷⁹ The goals of the Program are to:

1. Help citizens and neighborhood groups participate in the regulatory process;
2. Serve as the agency contact to address allegations of environmental injustice;
3. Ensure that agency programs that substantially affect human health or the environment operate without discrimination;

³⁷¹ *Id.*

³⁷² *Id.*

³⁷³

4. Promote greater use and analysis of demographic information for areas surrounding proposed facilities or sites;
5. Give greater attention to the environmental and human health conditions affecting minority and low-income communities; and thoroughly consider all citizens' concerns and handle them fairly.

To help facilitate these goals, TNRCC has set up a toll-free number to enable individuals to raise environmental equity concerns.³⁸⁰

State and Tribal Environmental Advisory Panel

In 1999, TNRCC created the State and Tribal Environmental Justice Advisory Panel, which meets quarterly in various communities to exchange information and develop solutions to local concerns.³⁸¹

Contact

Environmental Equity (MC-108)
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78711-3087
Telephone: (512) 239-4000
Website: <http://www.tnrcc.state.tx.us/comm/opa/envequ.html>

Jimmie Fernandez
Office of Public Assistance
Telephone: (512) 239-2566

UTAH

Performance Partnership Agreement

The PPA between the Utah Department of Environmental Quality (“UDEQ”) and US EPA declares that there will be fair treatment of people of all races, incomes, and cultures with respect to the management of environmental programs.³⁸² In the PPA, “[f]air treatment implies that no person or group of people should shoulder a disproportionate share of negative environmental impacts resulting from the execution of environmental programs.” UDEQ and EPA agreed “to conduct all of their base regulatory programs within the framework and spirit of this EJ principle” and “to communicate about EJ issues, grant outreach, and Grantee activities in Utah and [to] continue to assist, upon request, EJ grant funded activities in the state.”³⁸³

³⁸⁰ *Id.*

³⁸¹ The advisory panel met five times in various Texas cities before the EPA grant ran out in December 2001. *See* Texas Natural Resource Conservation Commission, *Environmental Equity*, <http://www.tnrcc.state.tx.us/comm/opa/envequ.html> (Last visited Oct. 16, 2003).

³⁸²



Contact

Utah Department of Environmental Quality

Website: <http://www.eq.state.ut.us/>

VERMONT

The authors did not find any relevant environmental justice programs, policies, or statutes for the state of Vermont.

VIRGINIA

Policy

Virginia began addressing environmental justice concerns in 1993. The resolution required the Joint Legislative Audit Review Commission (“JLARC”) to study the siting, monitoring, and cleanup of solid and hazardous waste facilities, with an emphasis on how waste facilities affect minority communities.³⁸⁴ In a report to the General Assembly in 1995, the JLARC stated Virginia is home to more than 240 non-hazardous waste facilities, and though there was no evidence of intent, “the analysis revealed that in some cases, siting and monitoring practices have had a disproportionate impact on minority communities.”³⁸⁵ The JLARC also discovered there are more inspections at waste facilities located in white areas than those located in minority areas.³⁸⁶

As a result of the study, JLARC recommended that the Virginia Department of Environmental Quality should develop regulations for local governments regarding the process of siting solid waste management facilities; develop a computer mapping database to assist in identifying the racial characteristics of residents affected by permit violations; develop a reporting and inspection system for its waste facilities; and suggested that the General Assembly consider authorizing penalties for violators of the reporting or inspection systems.³⁸⁷

Statute

Virginia Waste Management Act

“no

period.”³⁸⁸ The notice “shall contain a statement of the estimated local impact of the proposed action, which at a minimum shall include information on the location and type of waste treated, stored or disposed.”³⁸⁹

The Act also requires public entities and non-public entities applying for a solid waste facility permit to “seek the comments of the residents of the area where the sanitary landfill or transfer station is proposed to be located.”³⁹⁰ In addition, public entities applying for a permit

The Environmental Justice Checklist

John Ridgway, the Environmental Justice Coordinator at the state of Washington,

Environmental Justice Work Group, to host an EJ networking meeting, and to participate in National Environmental Justice Advisory Council meetings.⁴⁰⁵

Contact

John Ridgway, Environmental Justice Coordinator
Department of Ecology
Telephone: (360) 407-6713

WEST VIRGINIA

Program

The West Virginia Division of Environmental Protection (“WV DEP”) does not have a formal environmental justice program, but within WV DEP is the quasi-independent Office of the Environmental Advocate, established in 1994.⁴⁰⁶ The Environmental Advocate works on behalf of West Virginia residents requesting help with WV DEP processes. For example, the advocate may help explain the public comment process, how to appeal agency decisions, how to file a Freedom of Information Act request, and explicate the best method for getting agency attention for a community problem.⁴⁰⁷ Pam Nixon, the current Environmental Advocate, is formulating an environmental justice policy and would like to increase the level of citizen participation during not only the permitting process but also at the informational meeting stage.⁴⁰⁸

Contact

Pam Nixon, Environmental Advocate
West Virginia Department of Environmental Protection
Telephone: (304) 558-5929
e-mail: pnixon@mail.dep.state.wv.us

Paul Benedum
DEP Solid Waste Division
Telephone: (304) 558-6350.

WISCONSIN

EJ Programs & Services

Land Recycling Loan Program

Wisconsin Department of Natural Resources (“WDNR”) provides low cost loans for brownfield remediation projects at “landfills, sites or facilities where contamination has affected

⁴⁰⁵ *Id.*

⁴⁰⁶ WEST VIRGINIA CODE § 22-20-1 (2003).

⁴⁰⁷ *Office of Environmental Advocate*, <http://www.dep.state.wv.us/item.cfm?ssid=17&ssid=162> (Last visited July 1, 2003).

⁴⁰⁸ Telephone interview with Pam Nixon, Environmental Advocate, West Virginia Department of Environmental Protection (April 10, 2003).

or threatens to affect groundwater or surface water.”⁴⁰⁹ WDNR scores loan applications according to its regulations, prioritizing the higher scoring projects in times of tight funding.⁴¹⁰ Significantly, the scoring system provides that “[a] site where remediation of environmental contamination will improve environmental justice shall be assigned one point.”⁴¹¹ “Environmental justice” is defined as “the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.”⁴¹²

Wisconsin Department of Transportation

The state’s first Environmental Justice Conf

Praise for Environmental Justice For All: A Fifty-State Survey Of Legislation, Policies, and Initiatives

This survey will empower communities by giving them the tools they need to protect the health and well-being of their families.

-- Congresswoman Hilda L. Solis (CA-32), authored the first environmental justice legislation in the United States during her time as a California State Senator.

This survey, a comprehensive look at various legislative and agency initiatives, is a timely and important contribution to the environmental justice literature. It provides an easily discernible baseline from which to measure progress in this rapidly developing area and, as such, is an invaluable tool for the many individuals and institutions working to promote environmental justice.

-- Eileen Gauna, Professor of Law, Southwestern University and author of Environmental Justice: Law, Policy and Regulation

Environmental Justice for All is an important new resource for local government officials and community leaders alike who need to know where to turn for assistance in addressing the challenges of environment justice (EJ). The short and easy-to-read summaries of state legislation, policies and initiatives for EJ make it possible for the layperson to quickly understand the pressing concerns within his/her home state. More importantly, it answers the question, "Who can help us?"

-- Mosi Kitwana, Director of Research & Development, International City/County Management Association

I needed this information yesterday, but