

Environmental Justice Is Alive And Well At The State Level

By **Monty Cooper and Shennie Patel** (August 15, 2025, 4:19 PM EDT)

The Trump administration has significantly reduced federal regulatory action concerning environmental justice. This lack of federal action, however, has not stopped state action on EJ.

Multiple states continue to prioritize EJ principles — in particular, issuing draft regulations that incorporate EJ in their permitting processes. Several state attorneys general have recently affirmed their commitment to enforce state EJ regulations. And private parties are using the courts to force state officials to honor their prior EJ commitments.

These states' priorities have significantly changed the EJ landscape at the state level, requiring companies to be acutely aware of where their facilities are located and the developing EJ regulations that might affect their operations.

This article highlights key examples of recent state EJ developments, and recommends actions that businesses can take to avoid running into costly permitting issues or delays on the state side.

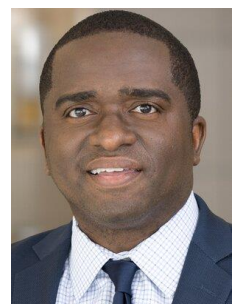
Multistate Guidance From State Attorneys General Affirming EJ Initiatives

On June 18, a coalition of state attorneys general representing some of the country's most industrialized states, including California, New York and Maryland, issued a multistate guidance document that affirmed the importance and legality of EJ laws, and reiterated their commitment to enforcing EJ regulations in their states.[1]

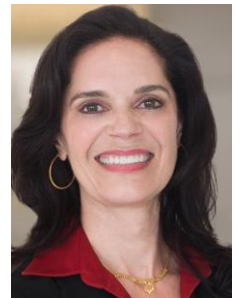
The attorneys general asserted in the guidance that, contrary to the Trump administration's actions, federal environmental laws support EJ principles, including statutes like the Clean Air Act, which require agencies to provide public notice and opportunities for public comment before siting a new major air pollution source.[2]

In addition, state governments are authorized to promulgate EJ regulations under their broad powers under the 10th Amendment of the U.S. Constitution, which allows states to enact policies to protect public health and safety.

As a result, many state constitutions have enshrined legally enforceable public rights to a clean environment and have mandated that permitting regulations reduce environmental health disparities.



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The states now have the right to enforce these laws.[3]

Further, the attorneys general stated that public and private entities retain authority to engage in scientific analysis and data collection, such as air and water quality monitoring and mapping.[4]

Appropriate data can include cumulative-impacts data, which includes overlapping chemical and nonchemical stressors to understand how pollution creates disproportionate and adverse impacts on specific communities; and socio-environmental data, which identifies vulnerable populations — e.g., children and seniors — to predict human-health impacts.

The attorneys general concluded by stating that their offices stood ready to implement and enforce these EJ-related laws, and that "[s]takeholders in the public and private sectors should feel assured that they can lawfully continue actions to advance environmental justice." [5]

Examples of State and Private Actions

New York

In January, the New York State Department of Environmental Conservation began the public comment period for proposed amendments to the State Environmental Quality Review Act, which requires state agencies to consider environmental factors during the planning and permitting process for projects.[6]

The act also requires agencies to determine whether actions will have a significant adverse environmental impact, and if so, to prepare or request an environmental impact statement. These proposed amendments would modify the regulations by:

- Adding an EJ-focused criterion — whether an action may cause or increase a pollution burden on a disadvantaged community — to the list of items that are considered "indicators of significant adverse impacts on the environment";
- Requiring that environmental impact statements include an EJ-focused analysis of the impacts of any proposed action on a disadvantaged community, including whether the action may cause or increase pollution there; and
- Developing the state's Disadvantaged Community Assessment Tool, which compiles stressor data like income and potential pollution exposure to help agencies evaluate impacts on disadvantaged communities.[7]

The public comment period for the regulations ended on May 7. If enacted, the proposed amendments would require industries to conduct comprehensive EJ-focused assessments during the permitting process to determine whether a project might adversely affect disadvantaged communities.

In March, several environmental groups sued New York state for its alleged failure to implement the state's Climate Leadership and Community Protection Act, or CLCPA.[8] Signed in July 2019, the CLCPA mandated steep emission cuts, and instituted a cap-and-invest program, designed to both reduce statewide greenhouse gas emissions and raise revenue to invest in clean energy projects mitigating environmental harm.[9]

The CLCPA required New York to finalize the law's regulations by Jan. 1, 2024.[10] After New York failed

to release draft regulations by this deadline, and after multiple additional delays, environmental groups sued the state to demand action.

In this lawsuit, the parties argue that the state's inaction violates the CLCPA and disproportionately harms disadvantaged communities that would experience significant per capita health benefits upon implementation of the cap-and-invest program.[11]

New Jersey

In January, the New Jersey Department of Environmental Protection updated its EJ mapping tool, EJMAP, which allows users to identify New Jersey's overburdened communities, locate certain polluting facilities regulated by the state's Environmental Justice Law, and analyze existing environmental and public health stressors that currently affect these communities.[12]

This January update contains new stressor data, including information about known contaminated sites, permitted air sites and solid waste facilities. The department began utilizing this newly published stressor data to evaluate relevant permits submitted on or after Jan. 31.

Colorado

In April, the Colorado Department of Public Health and Environment issued a proposed rule to reduce methane pollution from municipal solid waste landfills.[13] The proposed rule would apply to landfills based on the amount of waste currently in the landfill and include measures such as:

- A lower emissions threshold for requiring landfills to install gas collection and control systems, and to install them sooner than mandated by federal requirements;
- Methane monitoring requirements, including options to use alternative monitoring technologies and remote monitoring to identify large emission sources; and
- The phaseout of open flares, and the requirement of enclosed flares for methane emissions control.

Colorado's Air Quality Control Commission has scheduled a rulemaking hearing for this month.

Maryland

On July 18, Gov. Wes Moore signed an executive order establishing "a more unified approach" to promoting EJ in Maryland. According to the governor, the order will help to foster a whole-of-government approach to engage historically disadvantaged communities concerning EJ.

Among other things, the order:

- Requires state agencies to work to increase resources and opportunities for historically underrepresented farmers, by reducing barriers of entry to land access and financing;
- Mandates that each state agency designate an EJ officer and publish a biennial EJ strategic plan to promote EJ for the specific agency;

- Creates the Interagency Environmental Justice and Equity Advisory Council to coordinate efforts, support local governments and maximize funding opportunities in coordination with the state's Commission on Environmental Justice and Sustainable Communities, which currently advises state government on EJ policy and analyzes the effectiveness of those policies; and
- Requires state agencies to use the Maryland Department of the Environment's MDEnviroScreen mapping tool to engage affected communities and develop tailored solutions to address environmental injustice.

Key Takeaways

EJ initiatives are here to stay, especially in certain states. Over the next four years, while the federal government focuses less attention on EJ, many states will continue to strengthen, promulgate and enforce their EJ rules, as clearly stated by the state attorneys general in their June multistate guidance, and as referenced by the states identified above.

As a result, the business community should be aware of these developments to avoid costly delays in business, taking care to do the following.

Monitor policy shifts and enforcement trends in key states.

Companies seeking to build or expand facilities should monitor developments in those states implementing EJ policies, starting with the states whose attorneys general signed the multistate guidance: California, Massachusetts, New York, Arizona, Connecticut, Delaware, Hawaii, Illinois, Maryland, Minnesota, Oregon, Rhode Island and Vermont.

For example, New York is considering proposed EJ rules, and New Jersey is implementing the final version of the EJ rules that it published in 2023. That said, business groups are now challenging New Jersey's EJ rules in appeals before the state's appellate courts.

As a result, companies seeking to do business in these states will need to monitor developments and seek to understand how any changes will affect their business.

Assess proposed projects' pollution impacts on disadvantaged communities.

Businesses operating in EJ-sensitive states should be proactive in seeking to understand whether their proposed projects might worsen pollution in historically underserved communities.

Such information will be important, as EJ regulations — like New York's proposed rules — can require agencies to consider, as part of the permitting process, whether a proposed action might cause or increase disproportionate pollution on certain communities.

Businesses can use mapping tools — as in California, Colorado, Maryland and New Jersey — to determine whether their projects are near disadvantaged communities, and to understand the kinds of environmental hazards and health outcomes that exist there.

Develop meaningful relationships with community stakeholders where facilities are located.

Today, community leaders and activists have more information and resources — e.g., public mapping

tools — than their predecessors, and they can make the permitting process frustrating for companies doing business in their neighborhoods.

As a result, companies should develop relationships and stay connected with community stakeholders, to ensure the best outcomes for their projects and these communities.

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[1] See State Attorneys General Multistate Guidance (June 2025).

[2] *Id.* at 3.

[3] See *id.* at 1.

[4] *Id.* at 6.

[5] *Id.* at 1, 7.

[6] See State Environmental Quality Review Act (SEQR) Regulatory Revisions – Proposed Amendments to 6 NYCRR Part 617; Proposed Amendments, 6 NYCRR Part 617, at 1.

[7] See Proposed Amendments at 19-20, 27; Disadvantaged Community Assessment Tool Methodology, 6 NYCRR 617, at 1.

[8] See Verified Complaint, *Citizen Action of New York v. New York State Department of Environmental Conservation*, Supreme Court of New York, filed March 31, 2025.

[9] See Complaint at ¶ 51-54.

[10] *Id.* at ¶ 2.

[11] *Id.* at ¶ 57, 126, 130.

[12] NJDEP, "EJMAP Update Notice."

[13] See CDPHE website, "Landfill methane reductions in Colorado."