



Environmental Justice Update

When I last presented to the full CDRA membership at C & D World in Atlanta in March 2022 there were 18 states that had recently proposed or passed legislation on environmental justice (EJ), now there are 38 states. If you have not realized it by now, EJ is not going away. This is an issue that may directly impact your site operations and how you interact with the local community. If the local community is defined as an EJ area/Overburdened Community by your state, you will likely have to go through a new series of processes.

There is a general progression of EJ policy that begins with forming an expert working group, issues key definitions specific to that state, identifies potential EJ areas, maps those areas in state-specific GIS screening tools, and finally in a growing number of states, develops a compliance program based on cumulative impacts analysis. Sixteen [16] states thus far have gone as far as creating their own EJ screening tool. The CDRA has members in fifteen [15] of them: Indiana, Massachusetts, Maryland, Minnesota, Michigan, New Jersey, New York, Pennsylvania, North Carolina, Colorado, Ohio, Washington, Virginia, Colorado and, California. Of the approximately ninety [90] members located in these states, fifty-four [54] are located in areas that their state defines as EJ communities. Thus far out of the fifteen states listed above, only New Jersey has passed a law incorporating cumulative impacts analysis and enhanced public engagement into their permitting program. However, another five, New York, Massachusetts, Colorado, Pennsylvania, and Washington have proposed their own versions by cherry-picking key elements from the New Jersey model. California led the way on this issue years ago and has since gone to a hyperlocal model with regional air districts implementing their own rules. Keep a close eye on the states that have their own screening tools. A state does not go to that length unless it plans to go further.

Through all of this, it is also critical to maintain relationships with local community groups active on these issues. ESI is currently assisting a CDRA member who was targeted for closure by one of these groups, who stated, "We want to close you guys down within two years." Understandably, that was upsetting to hear, especially since this member just witnessed the same thing happen to his neighbor the year before.

There are distinct actions that you can take now to proactively prepare yourself for potential future compliance programs.

- Develop an EJ corporate policy that you are willing to make public and revise every few years based on performance against various key performance indicators (KPIs)



- Select 2-3 KPIs based on the principle of continuous improvement to show outreach to the community and environmental impact minimization
- Work on your transparency. Publishing accurate environmental information on your website and holding public outreach events are good ways to develop this area.
- Historically, public engagement models have been transactional, only occurring during permit comment periods and often building distrust within the community. Agencies are now pushing toward community partnership models with some even encouraging community benefits agreements (CBAs) for very large projects. CBAs are a profit-sharing mechanism to direct funds toward local community groups.

If you have not already done so, we strongly encourage you to check where your state is on the EJ policy development spectrum. If they have a screening tool in place, check if you are in an EJ area (hint, 54 of you are). From there, make a plan on how to prepare for these issues, and understand that this should be added to your environmental management systems going forward.

Chris Whitehead, QEP, CESM is Air Practice Leader for Enviro-Sciences (ESI) in New Jersey, on the Board of the CDRA, and a nationally recognized expert in environmental justice policy, community engagement, air quality, and climate risk analysis. If any CDRA member has questions on these issues or would like assistance getting started they can contact Chris at cwhitehead@esienv.com.