

Expanding AG EJ Practice — A Resource  
[State Energy and Environmental Impact Center, NYU School of Law](#)  
[WE ACT for Environmental Justice](#)

**Table of Contents**

**ENVIRONMENTAL JUSTICE OVERVIEW..... 1**

ORIGINS OF THE EJ MOVEMENT..... 2

RECENT FOCUS ON ENVIRONMENTAL JUSTICE..... 4

*White House Activity* ..... 4

*Legislative Activity* ..... 6

*Federal Agency Activity* ..... 6

EXPANDING AG EJ PRACTICE — A RESOURCE..... 7

**EJ MAPPING..... 8**

MODELS: ..... 9

*California’s CalEnviroScreen Tool* ..... 9

*The Environmental Protection Agency’s EJSCREEN Tool* ..... 9

OTHER STATE-LEVEL MAPPING PROJECTS: ..... 10

*Washington* ..... 10

*Illinois*..... 10

*Maryland* ..... 11

*Michigan*..... 11

*New Jersey*..... 11

CONCLUSION ..... 11

RESOURCES ON SCREENING AND MAPPING TOOLS..... 11

**EJ AT STATE OFFICES ..... 12**

CALIFORNIA..... 12

*CA OAG’s Bureau of Environmental Justice*..... 13

NEW JERSEY ..... 14

*NJ OAG’s Environmental Enforcement and Environmental Justice Section* ..... 16

OTHER ENVIRONMENTAL JUSTICE INITIATIVES..... 16

*Washington* ..... 16

*New Mexico* ..... 17

MULTISTATE ADVOCACY..... 17

**IN THE MEDIA..... 17**

**Environmental Justice Overview**

Environmental justice refers to the disproportionately high burden of environmental and public health harms placed on communities of color and low-income communities. The practice of environmental justice maintains that all people have the right to live in a healthy and safe environment, and necessitates the fair treatment and inclusion of all communities, in particular communities of color and low-income communities, in the formation and enforcement of environmental laws and policies.

Additional resources on defining environmental justice:

[Learn About Environmental Justice](#), Environmental Protection Agency  
[A Taxonomy of Environmental Justice](#), Robert Kuehn  
[Environmental & Climate Justice](#), NAACP

## Origins of the EJ Movement

The environmental justice movement began as a grassroots movement spurred and driven by community leaders and activists frustrated by poor environmental protection and disproportionately high levels of industrial activity in communities of color and low-income communities. The movement originated in 1982 in Warren County, North Carolina, when a landfill in the predominantly Black town of Afton was selected as the dumping ground for soil contaminated with toxic polychlorinated biphenyls (PCBs) (Clifford Villa et al., *Environmental Justice: Law, Policy & Regulation*, 3-4, 2020).

Organized protests led by members of the community attracted the attention of elected officials and national leaders on civil rights, environmental activism, and labor, many of whom came to North Carolina to join the protests. One of these leaders, Reverend Benjamin Chavis of the United Church of Christ Commission for Racial Justice, highlighted “environmental racism” as the reason the toxic waste was being brought to the town of Afton, which was 84% Black and located in one of the poorest counties in the state. While the protests did not successfully stop the dumping of PCBs in Afton, the demonstrations did provide the spark for the environmental justice movement as it is known today (Villa et al. at 4).

The activism in Warren County gave rise to several studies and investigations that provided empirical evidence to support the decades of anecdotal evidence of the disproportionate burden of environmental harms borne by communities of color and low-income communities. In 1983, the Government Accountability Office (GAO) released a report finding that three of four major hazardous waste facilities in the Environmental Protection Agency (EPA) Region IV in the Southeast were located in majority Black neighborhoods ([GAO Report](#)). In 1987, a study commissioned by the United Church of Christ found that “race proved to be the most significant among variables tested in association with the location of commercial hazardous waste facilities” ([UCC Report at xii](#)).

These foundational documents were essential in making the connection between race and adverse environmental impacts on human health, and underlined the need to act specifically to address the racialized impacts of environmental and health policies.

Early activism also led to the First National People of Color Environmental Leadership Summit in Washington, D.C. in 1991, where grassroots activists drafted and adopted the 17 Principles of Environmental Justice. These Principles play a fundamental role in defining environmental justice and outlining the key considerations for ensuring environmental justice is achieved. The Principles are listed below.

1. Environmental Justice affirms the sacredness of Mother Earth, ecological unity and the interdependence of all species, and the right to be free from ecological destruction.

2. Environmental Justice demands that public policy be based on mutual respect and justice for all peoples, free from any form of discrimination or bias.
3. Environmental Justice mandates the right to ethical, balanced and responsible uses of land and renewable resources in the interest of a sustainable planet for humans and other living things.
4. Environmental Justice calls for universal protection from nuclear testing and the extraction, production and disposal of toxic/hazardous wastes and poisons that threaten the fundamental right to clean air, land, water, and food.
5. Environmental Justice affirms the fundamental right to political, economic, cultural and environmental self-determination of all peoples.
6. Environmental Justice demands the cessation of the production of all toxins, hazardous wastes, and radioactive materials, and that all past and current producers be held strictly accountable to the people for detoxification and the containment at the point of production.
7. Environmental Justice demands the right to participate as equal partners at every level of decision-making including needs assessment, planning, implementation, enforcement and evaluation.
8. Environmental Justice affirms the right of all workers to a safe and healthy work environment, without being forced to choose between an unsafe livelihood and unemployment. It also affirms the right of those who work at home to be free from environmental hazards.
9. Environmental Justice protects the right of victims of environmental injustice to receive full compensation and reparations for damages as well as quality health care.
10. Environmental Justice considers governmental acts of environmental injustice a violation of international law, the Universal Declaration on Human Rights, and the United Nations Convention on Genocide.
11. Environmental Justice must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants affirming sovereignty and self-determination.
12. Environmental Justice affirms the need for urban and rural ecological policies to clean up and rebuild our cities and rural areas in balance with nature, honoring the cultural integrity of all our communities, and providing fair access for all to the full range of resources.
13. Environmental Justice calls for the strict enforcement of principles of informed consent, and a halt to the testing of experimental reproductive and medical procedures and vaccinations on people of color.
14. Environmental Justice opposes the destructive operations of multi-national corporations.

15. Environmental Justice opposes military occupation, repression and exploitation of lands, peoples and cultures, and other life forms.

16. Environmental Justice calls for the education of present and future generations which emphasizes social and environmental issues, based on our experience and an appreciation of our diverse cultural perspectives.

17. Environmental Justice requires that we, as individuals, make personal and consumer choices to consume as little of Mother Earth's resources and to produce as little waste as possible; and make the conscious decision to challenge and reprioritize our lifestyles to ensure the health of the natural world for present and future generations.

Source: [United Church of Christ](#)

In response to the growing grassroots movement, the EPA in 1992 established what would eventually be called the Office of Environmental Justice and convened the National Environmental Justice Advisory Council, which was tasked with making recommendations to the EPA on environmental justice issues (Villa et al. at 5). In 1994, President Bill Clinton signed Executive Order 12898, a landmark Order that directed all federal agencies to incorporate environmental justice into their missions "by identifying and addressing...disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations" ([Executive Order 12898, § 1-101](#)). The order also established the Interagency Working Group on Environmental Justice (EJ IWG), which convenes federal agencies to address critical environmental justice issues (*Id.* at § 1-102). The EJ IWG is tasked with "assist[ing] communities in building the capacity to promote and implement innovative and comprehensive solutions to address environmental justice issues" ([EPA website](#)).

Under the administration of President George W. Bush, the obligation to focus on disproportionate impacts based on race and income was deemphasized in favor of redefining environmental justice to mean environmental protection for everyone (Villa et al. at 5).

President Barack Obama's administration placed renewed attention on communities of color and low-income communities in the federal policymaking process. For example, in 2011, the EJ IWG agencies adopted a Charter and signed the Memorandum of Understanding on Environmental Justice and Executive Order 12898 (MOU) ([Charter](#); [MOU](#)). The MOU functioned as a formal agreement among federal agencies to "recommit to addressing environmental justice through a more collaborative, comprehensive and efficient process." The Charter laid out a number of focus areas for the EJ IWG, including public participation, Title VI of the Civil Rights Act of 1964, Native Americans and Indigenous peoples, engagement with rural communities, and impacts from climate change. These efforts to refocus federal attention on addressing environmental justice diminished once again with the Trump administration (Villa et al. at 5-6).

## **Recent Focus on Environmental Justice**

The Biden administration has committed to prioritizing and elevating environmental justice issues across the federal government.

*White House Activity*

In his first week in office, President Biden signed an executive order entitled “Tackling the Climate Crisis at Home and Abroad,” which lists delivering environmental justice as an essential piece of the administration’s climate policy, and promises a whole-of-government approach to addressing environmental justice issues ([Executive Order No. 14008](#)). The EO established two White House councils — the White House Environmental Justice Interagency Council (WHEJIC) to develop the federal government’s strategy for addressing current and historic environmental injustice, and the White House Environmental Justice Advisory Council (WHEJAC) to advise WHEJIC and the Council on Environmental Quality (CEQ) (*Id.* at § 220, 221). The EO also established the Justice40 Initiative, which sets a goal that 40 percent of the overall benefits of federal investments addressing climate change flow to disadvantaged communities (*Id.* at § 223). In addition, the EO called for CEQ to create a Climate and Economic Justice Screening Tool by July 2021 and for HEJIC to submit a set of recommendations for updating Executive Order 12898 (*Id.* at §§ 222(a), 220(b)).

In May 2021, HEJAC released a report providing recommendations on Justice40, the Climate and Economic Justice Screen Tool, and revisions to EO 12898 ([WHEJAC Report](#)). The report highlighted the need to ensure a fair and just distribution of investments when administering Justice40, and emphasized the importance of integrating and supplementing the Climate and Economic Justice Screening Tool with local community knowledge and data (*Id.* at 40, 65).

In July 2021, the Office of Management and Budget (OMB), CEQ, and the National Climate Advisor, in consultation with WHEJAC, released its interim implementation guidance for the Justice40 Initiative ([Guidance Document](#)). According to the guidance, covered programs and investments within the scope of the Justice40 initiative will fall into the following categories: climate change, clean energy and energy efficiency, clean transportation, affordable and sustainable housing, training and workforce development, the remediation and reduction of legacy pollution, and the development of critical clean water infrastructure (*Id.* at 9). “Benefits” are defined as including “direct and indirect investments (and program outcomes) that positively impact disadvantaged communities” (*Id.* at 4). When determining benefits to disadvantaged communities, the guidance highlighted that “agencies should consult with stakeholders, including state, local, and Tribal governments, as well as Native communities, to ensure public participation and that community stakeholders are meaningfully involved in what constitutes the ‘benefits’ of a program” (*Id.* at 7). The guidance provided some input on the variables to consider when defining a disadvantaged community, such as income, racial and ethnic residential segregation, and linguistic isolation, but indicated further guidance on this definition will be developed (*Id.* at 2-3).

In addition, the guidance identified 21 federal pilot programs that will undertake an initial implementation of the Justice40 guidance. Some examples of the pilot programs include the Department of Homeland Security’s Flood Mitigation Assistance grant program ([FMA Grant](#)), EPA’s Drinking Water State Revolving Fund ([DWSRF](#)) and Brownfields program ([Brownfields Program](#)), and Housing and Urban Development’s grants for lead hazard reduction in homes ([HUD](#)). In developing implementation plans for these programs, the guidance directed agencies to consider certain guidelines for modifying the programs in order to maximize benefits to disadvantaged communities, such as fostering well-paying jobs, conducting outreach, and avoiding potential burdens to disadvantaged communities (Guidance Document at 10). In September 2021, the pilot programs submitted implementation plans for maximizing benefits to disadvantaged communities ([White House Blog](#)). By mid-December, agencies were expected to submit methodologies for calculating and tracking these benefits. The White House is

developing a Scorecard to make this information available to the public, which is expected to be released in early 2022.

### *Legislative Activity*

The administration and Congress also addressed environmental justice concerns through the COVID-19 relief bill, which President Biden signed into law in March 2021. The bill included specific provisions for environmental justice grants to support communities facing disparate impacts from the COVID-19 pandemic. The bill appropriated \$50 million to “identify and address disproportionate environmental or public health harms and risks in minority or low-income populations” and \$50 million for air quality monitoring ([H.R. 1319, § 6002](#)). The legislation also provided support to communities through additional funding for the Low Income Home Energy Assistance Program, for water utility bill assistance to low-income households, and for community health centers ([Earthjustice; H.R. 1319 - § § 2911, 2912, 2601](#)).

The Build Back Better Act — which has passed the House of Representatives but not the Senate — includes over \$160 billion to be invested in a variety of environmental justice programs ([H.R. 5376; Equitable & Just National Climate Platform, Fact Sheet: Environmental Justice Investments in the House Build Back Better Act](#)). Proposed environmental justice spending includes: over \$8 billion to reduce air pollution at ports and increase clean heavy-duty vehicle use, \$29 billion for the Greenhouse Gas Reduction Fund (which includes funding zero-emission technology in low-income communities), and \$30 billion for the Civilian Climate Corps (providing jobs and training for the clean-energy economy) (*Id.* at §§ 30101, 30102, 30103, 70202). Further, the Biden administration’s goal of delivering 40 percent of the infrastructure and climate investment benefits to disadvantaged communities will apply to the Build Back Better Act (Equitable & Just National Climate Platform Fact Sheet).

### *Federal Agency Activity*

Throughout the first year of the Biden administration, federal agencies have been taking steps to ensure they are engaging with and elevating environmental justice issues in a way that is consistent with President Biden’s January 2021 executive order. For example, EPA Administrator Michael Regan in April 2021 announced the following steps his agency will take to advance environmental justice:

Strengthening enforcement of violations of cornerstone environmental statutes and civil rights laws in communities overburdened by pollution.

Incorporating environmental justice considerations into EPA’s work, including assessing impacts to pollution-burdened, underserved, and Tribal communities in regulatory development processes and considering regulatory options to maximize benefits to these communities.

Improving early and more frequent engagement with pollution-burdened and underserved communities affected by agency rulemakings, permitting and enforcement decisions, and policies.

Consistent with the Biden administration’s Justice 40 initiative, considering and prioritizing direct and indirect benefits to underserved communities in the development of requests for grant applications and in making grant award decisions, to the extent allowed by law.

Source: [EPA Press Release](#)

In October 2021, EPA published its draft strategic plan for fiscal 2022 through fiscal 2026, which prioritizes advancing environmental justice and civil rights ([Draft EPA Strategic Plan](#)). According to the draft plan, EPA's "ultimate goal" of making this a priority is "to achieve measurable environmental, public health, and quality of life improvements in the most overburdened, vulnerable, and underserved communities." In order to achieve this goal, EPA says it will "work to increase the capacity of communities and Tribes working to address environmental justice and civil right concerns; embed environmental justice and civil rights in the Agency's core work; and strengthen civil right enforcement in communities overburdened by pollution" (*Id.* at 20).

EPA also addressed environmental justice concerns through rulemakings released in 2021. For example, EPA considered the effects of climate change, hazardous air pollutants, and economic impact through the lens of environmental justice as it relates to the hydrofluorocarbons (HFC) phasedown ([Beveridge & Diamond](#)). In November 2021, the EPA published a final rule to implement certain provisions of the December 2020 COVID-19 relief and spending legislation that initiated the phasedown of HFCs, a potent greenhouse gas ([86 Fed. Reg. 55116 \(2021\)](#)). The rulemaking specifically addressed how EPA considered environmental justice concerns in its analysis, noting the higher percentage of low-income and Black communities located near HFC production facilities and the health risks associated with living near these facilities (*Id.* at 55127).

At the Department of the Interior (DOI), Secretary Deb Haaland in April 2021 signed a Secretarial Order aimed at "restoring transparency and integrity to the [Department's] decision-making processes," and specifically highlighted environmental justice as an area of focus in the agency's efforts to address climate change ([Secretarial Order No. 3399](#)). In DOI's November 2021 report on the federal oil and gas leasing program, the agency called for "creating a more inclusive and just approach to managing public lands and waters" ([DOI Report](#)). Certain practices within the leasing and permitting process can leave out local community voices, especially Tribal voices, thus DOI recommended "undertak[ing] meaningful Tribal consultations and solicit[ing] public input more generally regarding its leasing and permitting processes" (*Id.* at 14).

The Federal Energy Regulatory Commission (FERC) in May 2021 appointed Montana Cole to a newly established position entitled Senior Counsel for Environmental Justice and Equity in an effort to more effectively incorporate environmental justice and equity concerns into FERC's decision-making process ([FERC Press Release](#)). In July 2021, the Nuclear Regulatory Commission (NRC) released a request for comments as part of a "systematic review for how NRC programs, policies, and activities address environmental justice" ([86 Fed. Reg. 36307 \(2021\)](#)).

### **Expanding AG EJ Practice — A Resource**

Environmental justice is a key aspect of the just transition to a clean energy future. As the nation's economy moves away from fossil fuels and toward renewable energy, it is essential that environmental justice communities are prioritized and included in this process. With such a fundamental transformation coming, the communities that have, for decades, borne the brunt of environmental and public health harms cannot be left behind ([CBS News](#)). State attorneys



general have an important role in enforcing these principles in partnership with the affected communities.

The State Energy and Environmental Impact Center has developed this resource in partnership with WE ACT for Environmental Justice to provide key information to state attorney general offices and others interested in expanding their work in the environmental justice practice area. This resource provides information on mapping tools for identifying environmental justice communities and gives background on attorney general sections and initiatives dedicated to environmental justice work. The resource will be continually updated. Please contact Bethany Davis Noll ([bethany.davisnoll@nyu.edu](mailto:bethany.davisnoll@nyu.edu)) for more information.

## **EJ Mapping**

As environmental justice activism and policy work continue to progress, local, state, and federal programs must first identify environmental justice communities.

As defined by EPA, environmental justice communities (EPA uses the term “overburdened communities”) are those minority, low-income, Tribal, or indigenous groups that are disproportionately burdened by the cumulative impacts of environmental abuse ([EPA website](#)). This concept of cumulative impact refers to the negative public health, environmental, and social effects that result from the combined exposures to pollution and improper land use that EJ communities are often subject to in this country ([Lee, 2020](#)). By tracking areas experiencing cumulative impacts, advocates have been able to identify the communities that are faced with consistently disproportionate environmental and social stressors, and work to better recognize and follow the proper path towards resolving the environmental issues that affect these communities ([Morello-Frosch et al., 2011](#)).

In order to address the environmental inequities of cumulative impacts, advocates must first be able to understand where they exist. The process of EJ mapping, first described by the Commission on Racial Justice’s 1987 report *Toxic Wastes and Race in the United States*, was introduced as a tool for identifying the location of EJ communities and gathering direct information from the experiences of people living with the burdens of pollution ([UCC Report](#)). While this first step of locating vulnerable communities exposed to high levels of pollution was a critical part of EJ advocacy and promoted more public participation, it did not guarantee sustained government action.

More recently however, technological advances have empowered the resurgence of EJ mapping tools. Over the last decade or so, combined with renewed focus on environmental justice at multiple levels, these newer tools have helped government agencies better confront the problem of disproportionate cumulative impacts in EJ communities.

The newer tools include digital mapping programs, Geographic Information Systems, and data collection tools like air quality monitors. By using mapping to overlay data about environmental burdens with community demographics and vulnerabilities, EJ community members and organizations can now show a direct relationship between public health and harmful environmental conditions. This evidence in turn enables EJ communities to press government agencies to pay attention to over-burdened areas and to take action on issues that contribute to cumulative environmental inequity. Access to these visual and data-based mapping tools provides EJ communities the validation and power needed to combat environmental hazards in their areas. The tool also plays a key role at government agencies as they seek to make



environmental justice work central to their advocacy. In this section, we describe the tools that are available.

## **Models:**

### *California's CalEnviroScreen Tool*

California led the way for states by recognizing the importance of EJ mapping tools in prioritizing decision making and community protection actions. It became the first state to deploy a widely accepted EJ map with its CalEnviroScreen tool, which was made accessible to the public by CalEPA's Office of Environmental Health Hazard Assessment in 2013 ([CalEnviroScreen](#)). This tool was developed with the help of significant community participation, and features 21 indicators divided into four categories: exposure, environmental effects, sensitive populations, and socioeconomic factors. The data from these indicators is combined to calculate a peer-reviewed cumulative environmental health score for each census tract in the state. This scoring process gives users the ability to identify EJ communities based on pollution exposure, health, and socioeconomic vulnerability.

Local California governments and organizations have widely accepted the CalEnviroScreen tool, which is currently in its fourth version and continues to be improved and updated by CalEPA and other state agencies. CalEnviroScreen data sets are more in depth than the nationally consistent data used by the EPA's EJSCREEN tool. Partnering groups, such as local schools and independent businesses conduct their own research to assist the state agencies in identifying relevant indicators and demographics for the mapping tool. CalEnviroScreen is now used for planning and procedures at the state and local levels, including the [California Air Resource Board's Community Air Protection Program](#), [CalEPA's EJ Enforcement Task Force](#), and the community funding under the state's [Greenhouse Gas Reduction Fund](#). The tool is additionally used to challenge and support governmental decisions, and provide data to EJ communities so that they may gain more power to speak for and defend themselves ([OEHHA website](#)).

### [CalEnviroScreen Training](#)

### *The Environmental Protection Agency's EJSCREEN Tool*

Many federal government agencies have recognized the benefits of the ever-evolving EJ mapping tools, and have used these tools to create their own maps to protect the public health of vulnerable EJ communities. Federal agencies use these maps to steer governmental decision making and disseminate critical information on environmental hazards to the public. The public availability of these federal agency maps has made them an excellent resource for environmental justice advocates everywhere. The most commonly used tool is the EPA's EJSCREEN (released in 2015) ([EJSCREEN](#)). This mapping and screening tool uses nationally consistent data that federal agencies can use to identify potential EJ areas of concern. Unlike the CalEnviroScreen, the EJSCREEN data pools include a racial indicator, but also unlike CalEnviroScreen, the EJSCREEN pools do not include the health statistics of sensitive populations.

EJSCREEN is a publicly accessible web tool that allows users to assess cumulative impacts by overlaying eleven different environmental indicators and six specific demographic indicators at a census group level. The interactive web tool, located in the EPA's GeoPlatform, gives users

access to a vast amount of data on the environmental and demographic indicators present in a given community so that they can define their own areas of interest. Users have the ability to generate ranked score reports for any combination of the environmental and demographic indicators, depending on the cumulative nature of the user's area and indicators of interest. These reports allow for comparison of ranked scores on a national, regional and local basis, and thus can be used by states without their own tools for mapping cumulative environmental impacts. Users are additionally able to download EJSCREEN data and use it for a state mapping tool or combine it with additional local data on a Geographic Information System such as ArcGIS ([WebGIS Crash Course](#)).

### [EPA EJSCREEN Training](#)

#### **Other State-Level Mapping Projects:**

The effectiveness of the EJSCREEN and CalEnviroScreen mapping tools has encouraged other state and local governments and EJ practitioners to develop their own EJ mapping tools through an easily replicable model derived from those two methodologies. This model involves the pairing of the CalEnviroScreen's community-participation-based processes and scoring formula with the data available through EJSCREEN along with any additional state and local data. State and local governments, communities, universities, and agencies across the country are capable of following and assisting with this EJ mapping model, as the necessary CalEnviroScreen and EJSCREEN information is easily accessible to the general public. The following states have already undertaken EJ mapping efforts that follow this common methodological approach:

#### *Washington*

In Washington, organizations from communities of color partnered with Front and Centered, the University of Washington, the Puget Sound Clean Air Agency, and the Washington Departments of Health and Ecology to develop an EJ map and mapping tool (the Washington Environmental Health Disparities Map or Washington EHD Map) to help promote climate policy that focuses on proper reinvestment into EJ communities ([WA DOH website](#)). This mapping effort, which involved extensive community engagement, including eleven public listening sessions, was organized by [Front and Centered](#) and community groups. Esther Min, a University of Washington Ph.D. student then paired the CalEnviroScreen scoring formula with the EJSCREEN data to create the Washington EHD mapping tool, which is now incorporated in legislative efforts at the state and local level in Washington state. For example, in 2019 the Clean Energy Bill utilized the EHD mapping tool to develop a cumulative climate impact tool ([Min et al., 2019](#)). Additionally, Washington is now funding a task force to evaluate how else the EHD mapping tool can be used to assist state actions.

#### *Illinois*

In 2016, Illinois enacted the Future Energy Jobs Act (FEJA) with the purpose of increasing jobs and development projects in the solar energy sector. The FEJA directed \$750 million in funding towards low-income solar energy programs, as well as a Solar for All program, which required that 25% of resources be used for the benefit of environmental justice communities ([Citizens Utility Board website](#)). The Solar for All Program sought guidance from the public and community organizations on how to approach identifying disadvantaged areas and gathering data, and chose to use the CalEnviroScreen scoring formula paired with data from EJSCREEN data ([Illinois Solar for All website](#)).

## *Maryland*

In Maryland, University of Maryland students and professors partnered with the [National Center for Smart Growth](#) and the [Maryland Environmental Health Network](#) to create an EJ mapping tool to identify communities with EJ issues and improve governmental EJ decision making. The Maryland Environmental Justice Screen Tool was eventually created through the use of intensive community participation, the CalEnviroScreen scoring formula, and EJSCREEN and local data. The mapping tool is now accessible online to the general public via ArcGIS ([MD EJSCREEN website](#); [MD EJSCREEN presentation](#)).

## *Michigan*

At the University of Michigan, Professor Paul Mohai and his graduate students developed an EJ mapping tool with support of the [Michigan Environmental Justice Coalition](#). With the mapping tool, the group also authored a report, *Assessing the State of Environmental Justice in Michigan* ([Grier et al., 2019](#)). The [mapping tool](#) was created with significant community engagement and relied on the CalEnviroScreen scoring formula and EJSCREEN data.

## *New Jersey*

In September 2020, the New Jersey legislature passed an EJ law which required the New Jersey Department of Environmental Protection (NJDEP) to develop a map identifying New Jersey communities that face disproportionate amounts of pollution ([N.J.S.A. 13:1D-157 to -161](#)). NJDEP identified these communities using the definitions from that legislation, which defines “overburdened community” as any census block group in which: “(1) at least 35 percent of the households qualify as low-income households; (2) at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or (3) at least 40 percent of the households have limited English proficiency” (*Id.* at 13:1D-158). Using this definition, NJDEP produced a publicly-available map of overburdened communities in the state ([NJDEP EJ website](#)).

## **Conclusion**

Over the next few years, many other states are expected to follow this same methodology and create their own EJ mapping tools. These maps give governments and organizations the ability to prioritize public-health-focused decision making through the visualization of pollution and the communities most harmed by the pollution’s cumulative impacts. For example, in New York the Climate Leadership and Community Protection Act was enacted in 2019 with the goal of working towards reduction of carbon emissions across the state ([NY State website](#)). The CLCPA requires that 35-40% of the program’s benefits be directed to historically “disadvantaged” communities ([S6599, § 75-0117](#)). While state leaders have not yet decided on a methodology for identifying these vulnerable communities, a New York version of the CalEnviroScreen and EJSCREEN combination model is a potential option.

## **Resources on Screening and Mapping Tools**

Below is a compilation of additional resources on screening and mapping tools.

Lakshika Nishadhi Kuruppuarachchi et al., *A Comparison of Major Environmental Justice Screening and Mapping Tools*, 6 *Envtl. Mgmt. & Sustainable Dev.* 59 (2017), available at

[https://www.researchgate.net/publication/314866384\\_A\\_Comparison\\_of\\_Major\\_Environmental\\_Justice\\_Screening\\_and\\_Mapping\\_Tools](https://www.researchgate.net/publication/314866384_A_Comparison_of_Major_Environmental_Justice_Screening_and_Mapping_Tools).

Aubree Driver et al., *Utilization of the Maryland Environmental Justice Screening Tool: A Bladensburg, Maryland Case Study*, 16 Int'l J. Env'tl. Res. & Pub. Health 348 (2019), available at <https://pubmed.ncbi.nlm.nih.gov/30691155/>.

Laura Grier et al., *Assessing the State of Environmental Justice in Michigan* (2019), [https://deepblue.lib.umich.edu/bitstream/handle/2027.42/149105/AssessingtheStateofEnvironmentalJusticeinMichigan\\_344.pdf?sequence=1](https://deepblue.lib.umich.edu/bitstream/handle/2027.42/149105/AssessingtheStateofEnvironmentalJusticeinMichigan_344.pdf?sequence=1).

CalEPA, *California Communities Environmental Health Screening Tool*, Version 1.1 (2013 Update), <https://oehha.ca.gov/media/downloads/calenviroscreen/report/calenviroscreenver11report.pdf>.

Ryan Holifield, *Environmental Reviews and Case Studies: Accounting for Diversity in Environmental Justice Screening Tools: Toward Multiple Indices of Disproportionate Impact*, 16 Env'tl. Prac. 77 (2014), available at <https://www.tandfonline.com/doi/abs/10.1017/S1466046613000574?journalCode=uevp20>.

Esther Min et al., *The Washington State Environmental Health Disparities Map: Development of a Community-Responsive Cumulative Impacts Assessment Tool*, 16 Int'l J. Env'tl. Res. & Pub. Health 4470 (2019), available at <https://www.mdpi.com/1660-4601/16/22/4470>.

Citizens Utility Board, *Future Energy Jobs Act*, <https://www.citizensutilityboard.org/future-energy-jobs-act/> (last visited Dec. 22, 2021).

## **EJ at State Offices**

In recent years, state attorneys general across the country have been working to expand their environmental justice work. On the federal front, state attorneys general have been pushing the federal government to ensure environmental justice impacts are considered in issues such as the development of air quality standards and greenhouse gas emissions regulations. In addition to these federal efforts, several AG offices have developed sections and initiatives exclusively dedicated to environmental justice work.

### **California**

California has several important measures that address environmental justice, one of the most significant being the California Environmental Quality Act (CEQA). CEQA was first passed in 1970, shortly after the National Environmental Policy Act (NEPA) was passed at the federal level, and is one of California's most important environmental laws ([CA OAG website: CEQA](#)). CEQA requires state and local agencies to disclose and evaluate the significant environmental impacts of proposed projects and to adopt all feasible mitigation measures to reduce or eliminate those impacts. In particular, CEQA requires government agencies to consider the

environmental and public health impacts on communities already burdened with pollution when reviewing and permitting new projects ([CA OAG website: Environmental Justice](#)).

In 2016, California passed SB 1000 requiring local governments to identify “disadvantaged communities” in their jurisdictions and address environmental justice in their general plans ([SB 1000, § 1](#)). SB 1000 identifies disadvantaged communities as “an area identified by the California Environmental Protection Agency (CalEPA) pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation” (*Id.*). Section 39711 of the Health and Safety Code specifies that disadvantaged communities “shall be identified based on geographic, socioeconomic, public health, and environmental hazard criteria,” and include “[a]reas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation,” and “[a]reas with concentrations of people that are of low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment” ([HSC, § 39711](#)). CalEPA uses CalEnviroScreen to identify disadvantaged communities, which are defined as the top 25% scoring areas from CalEnviroScreen, and other areas with high amounts of pollution and low populations ([OEHHA website](#)).

By requiring proper consideration of environmental justice in local planning, SB 1000 seeks to “facilitate transparency and public engagement in local governments’ planning and decision making processes, reduce harmful pollutants and the associated health risks in environmental justice communities, and promote equitable access to health-inducing benefits, such as healthy food options, housing, public facilities, and recreation” ([CA OAG website: SB 1000](#)).

#### *CA OAG’s Bureau of Environmental Justice*

In 2018, Former California Attorney General Xavier Becerra established the Bureau of Environmental Justice, becoming the first attorney general’s office to establish a dedicated environmental justice section. The Bureau’s mission is “to protect people and communities that endure a disproportionate share of environmental pollution and public health hazards.” ([CA OAG website](#)). In April 2021, Attorney General Rob Bonta announced the Bureau expanded its staff to include a total of 11 attorneys whose work focuses exclusively on environmental justice matters ([CA OAG Press Release](#)).

The Bureau’s primary areas of focus include ensuring compliance with CEQA and land use planning laws; penalizing and preventing illegal discharge to the air and water from facilities located in communities already burdened disproportionately with pollution; eliminating or reducing exposure to lead and other toxins in the environment and consumer products; remediating contaminated drinking water; and challenging the Federal Government’s actions that repeal or reduce public health and environmental protections.

In enforcing CEQA, the Office of the Attorney General (OAG) focuses on addressing impacts that affect the state’s “most vulnerable residents,” including “children, the elderly, and people who already are bearing an unfair share of pollution” ([CA OAG website](#)). One of the ways in which the OAG ensures compliance with CEQA is by filing comment letters on proposed projects. For example, in January 2021, the OAG filed a comment letter highlighting the deficiencies of the draft supplemental environmental impact report (DSEIR) for a proposed bulk marine terminal at the Port of Oakland ([Comment Letter](#)). The OAG emphasized that the project



would “bring additional stationary and mobile pollution sources to West Oakland, one of the most historically polluted and disadvantaged communities in the State.” The OAG urged the Port of Oakland to conduct further environmental analysis pursuant to CEQA to ensure that “all of the [p]roject’s impacts are disclosed, understood, and mitigated to the maximum extent feasible.”

The OAG has filed many similar comments letters under CEQA that point to the environmental justice impacts of proposed projects ([CA OAG website: Comment Letters](#)). Speaking to *Grist*, former AG Becerra noted that the Bureau has “been able to get a lot of change — not by having to sue, but by working with the local governments, pointing out their deficiencies, and saying, ‘We hate to sue, but if you keep going on this course, that’s probably where we’re headed’” ([Grist](#)).

The OAG also files comment letters to ensure local governments comply with SB 1000 by addressing environmental justice in their general plans. For example, in a March 2021 comment letter responding to the City of Huntington Park’s update to its general plan, the AGP expressed concern that the city’s update failed to “identify disadvantaged communities or include EJ policies as required by SB 1000” ([Comment Letter at 3](#)).

The OAG also ensures CEQA compliance by filing lawsuits challenging project approvals that violate the law. In July 2021, AG Bonta filed a lawsuit against the City of Fontana challenging its approval of the Slover and Oleander Warehouse Project in a neighborhood already overburdened by unhealthy air pollution ([Petition for Writ of Mandate](#)). There are more than 20 warehouses within one mile of the project site, which also encompasses two public high schools ([LA Times](#); [Washington Post](#); Petition at 2). The lawsuit points to multiple violations of CEQA in the project approval, including its “failure to appropriately analyze, disclose, and mitigate the project’s environmental impacts” (Petition at 2; [CA OAG Press Release](#)). The OAG also intervened in a lawsuit challenging exemptions to petroleum refinery air monitoring state regulations adopted by a local air pollution control district ([Motion to Intervene](#)). According to the OAG, the exemptions would allow the “full suite of pollutants” emitted from four petroleum refineries to go unmonitored in low-income communities and communities of color in the San Joaquin Valley ([Motion to Intervene at 3, 11](#)).

In response to the proliferation of warehouse development in California, the OAG developed and published best practices to “help lead agencies pursue CEQA compliance and promote environmentally-just development” when considering warehouse project proposals ([Best Practices at 1](#)). The document encourages proactive planning, robust community engagement, adequately considering project location, analyzing and mitigating air pollution and greenhouse gas emissions, and considering other impacts like noise pollution and traffic.

The OAG also engages in environmental justice work by bringing enforcement actions against unlawful polluters. State agencies, departments, and boards often refer to the OAG enforcement matters that affect environmental justice communities, such as diesel truck and passenger vehicle emissions violations, contamination of water resources, and pesticide drift ([CA OAG website: Environmental Justice](#); [Press Release: Pesticide Drift Suit](#)).

## **New Jersey**

In 2004, New Jersey Governor McGreevey signed Executive Order No. 96 as a call to the entire executive branch to consider the impacts of decision-making on health and the environment



([Executive Order No. 96](#)). The EO also formally established the Environmental Justice Advisory Council (EJAC) to advise New Jersey's Department of Environmental Protection (DEP) on environmental justice issues (*Id.* at § 8).

In 2009, Governor Corzine issued Executive Order No. 131 which mandated the executive branch provide opportunities for all persons, regardless of race, ethnicity, color, religion, income, or education level to participate in decision-making involving environmental quality and public health ([Executive Order No. 131 § 1](#)). The EO also required programs that provide and protect public health and the environment be reviewed periodically to ensure they (a) meet the needs of persons living in low-income communities and communities of color; and (b) address disproportionate exposure to environmental hazards (*Id.*).

In 2018, Governor Phil Murphy signed Executive Order No. 23, which recognized that the state's "low-income communities and communities of color have been exposed to disproportionately high and unacceptably dangerous levels of air, water, and soil pollution, with the accompanying potential for increased public health impacts" ([Executive Order No. 23](#)). The EO directed DEP to develop administration-wide guidance for considering environmental justice in implementing statutory and regulatory responsibilities (*Id.* at § 1). In September 2020, DEP finalized and published this guidance in a report entitled *Furthering the Promise*, which serves as a framework for realizing New Jersey's environmental justice goals ([DEP Report](#)). The report outlined several guiding principles of the state's EJ work, including cultivating awareness consistently, empowering communities to participate in decision-making processes, and planning for and embracing change.

In September 2020, Governor Murphy signed a historic piece of environmental justice legislation that takes these principles further. The new statute requires DEP to evaluate the environmental and public health impacts of certain facilities on "overburdened communities" when reviewing permit applications ([N.J.S.A. 13:1D-157](#)). Overburdened communities are defined as any census block group in which at least 35 percent of the households qualify as low-income households, at least 40 percent of the residents identify as minority or as members of a state recognized tribal community, or at least 40 percent of the households have limited English proficiency (*Id.* at 13:1D-158). The law directed DEP to publish a list of overburdened communities and provide notice to the 331 municipalities in which those communities are located (*Id.* at 13:1D-159). DEP produced that list, and used that information to create a publicly-available map identifying the overburdened communities within the state ([NJ DEP website](#)).

The legislation requires proposed new or expanded facilities to prepare an environmental justice impact statement assessing the environmental and public health impacts of the proposal, and to organize and conduct a public hearing in the overburdened community affected by the proposal (N.J.S.A. 13:1D-160). If the environmental justice impact statement determines a new facility will have a disproportionately negative impact on overburdened communities, a mandatory permit denial is required, unless the facility can show a "compelling public interest" (*Id.* at 13:1D-160(c)). For existing facilities proposing expansion or renewal, DEP may impose conditions on the permit after review of the environmental justice analysis shows the facility will cause or contribute to adverse environmental and public health stressors (*Id.* at 13:1D-160(d)). DEP will issue rules and regulations providing details for the permitting process in overburdened communities (*Id.* at 13:1D-161).

## *NJ OAG's Environmental Enforcement and Environmental Justice Section*

In December 2018, New Jersey Attorney General Gurbir Grewal created a new unit within the New Jersey Office of the Attorney General (OAG), Division of Law called the Environmental Enforcement and Environmental Justice Section ([NJ OAG Press Release: Environmental Justice Section](#)). In collaboration with DEP, the Section brings enforcement actions and promotes environmental justice in overburdened communities.

The OAG, representing DEP, files lawsuits in clusters, bringing anywhere from a few cases to a dozen cases at one time. Since 2018, the OAG has filed 45 environmental justice lawsuits and been awarded over \$20 million in judgments and settlements, in addition to bringing many responsible parties into environmental compliance ([NJ OAG Press Release: New Environmental Justice Actions](#)). These enforcement actions include lawsuits to enforce all facets of environmental law such as air and water permit restrictions, to toxic and hazardous waste regulations enforcement, to illegal transportation and dumping of solid waste on public and private lands. In August 2018, the first EJ enforcement actions were filed against DuPont, ExxonMobil, 3M and other corporations whose industrial plants in New Jersey have left behind toxic chemicals ([NJ OAG Press Release: Environmental Justice Enforcement Actions](#)). In three cases the OAG asserted “natural resource damage” claims for losses to the value and use of natural resources (*Id.*).

Since August 2018, the OAG has filed five separate EJ lawsuit tranches to address environmental issues around the state ([NJ OAG Press Release: New Environmental Justice Actions](#)). Most recently, in October 2021, Acting Attorney General Andrew Bruck and DEP Commissioner LaTourette announced six additional EJ enforcement actions focused on harmful contamination, illegal solid waste, and underground storage tanks posing a threat to residents and natural resources in Camden, Irvington, Jersey City, Newark, and Somerville (*Id.*)

## **Other Environmental Justice Initiatives**

### *Washington*

In April 2020, Washington Attorney General Bob Ferguson launched a new environmental justice initiative with the goal of “strengthen[ing] environmental policies and enforcement with meaningful involvement from the people affected most by environmental issues like climate change and pollution” ([WA OAG Press Release](#)). In partnership with Gonzaga University, AG Ferguson held an environmental justice symposium in March 2021 that featured four panels of academics, scientists, community members, and legal professionals addressing topics related to inclusion, air, water, and land ([Symposium](#)). Also as part of the initiative, the Office of the Attorney General (OAG) created a fellowship position to give a rising law student an opportunity to develop their expertise in environmental justice, as well as research and develop policy and legal proposals ([WA OAG Press Release](#)).

In May 2021, Washington Governor Jay Inslee signed the Healthy Environment for All (HEAL) Act, a landmark law that places environmental justice principles front and center in climate and environmental policy. The law adopts many of the recommendations from the state’s Environmental Justice Task Force, made up of representatives from state agencies and advocacy and community-based organizations ([Environmental Justice Task Force Report](#)). The legislation defines environmental justice as the “fair treatment and meaningful involvement” of impacted communities in government processes, as well as the equitable distribution of

resources and benefits of policies and government investments ([S.B. 5141 § 2\(8\)](#); [Washington Nature](#)). Additional priorities in the legislation include requiring all state agencies covered by the law to conduct EJ assessments when considering “significant agency action” and to direct “40 percent of grants and expenditures that create environmental benefits to vulnerable populations and overburdened communities” ([S.B. 5141 §§ 14,16\(2\)\(e\)](#); [Washington Nature](#)).

To address implementation of the HEAL Act, the OAG has created an environmental justice working group, and the OAG’s Policy Office has hired a specialist dedicated to EJ and HEAL Act implementation. In addition, the OAG has created dedicated Assistant Attorney General positions in both the Environmental Protection Division and Ecology Division, focused on environmental justice litigation and advocacy matters.

### *New Mexico*

In September 2020, New Mexico Attorney General Hector Balderas launched an initiative focused on equity and access to justice concerns. The Office of the Attorney General (OAG) appointed an advisory council comprised of representatives for marginalized communities. The council is engaging a wide range of stakeholders from these communities and will make recommendations to the OAG for direct engagement of state and federal agencies to address issues of racism and equity in natural resources and environmental policy. The focus of the initiative is on “making conservation, environmental protection, and natural resources management relevant and meaningful to all New Mexicans” ([New Mexico OAG Press Release](#)).

### **Multistate Advocacy**

In addition to EJ work within their respective states, attorneys general have also successfully coalesced to advocate for overburdened communities beyond their state borders. For example, in May 2021, a coalition of five attorneys general led by New York Attorney General Letitia James filed comments urging the Army Corps of Engineers to focus on environmental justice impacts in its reevaluation of the Clean Water Act Section 404 (dredge and fill) and Rivers and Harbors Act Section 10 (obstruction or alteration of navigable waters of the United States) permits granted to the Formosa Plastics petrochemical plant in St. James Parish, Louisiana ([Comment Letter](#)). In August 2021, the Corps announced it will prepare an environmental impact statement for the plant, which will include analysis of the public health, environmental, climate, environmental justice, and cultural impact of the plant ([Corps Memo](#); [State Impact Center](#)).

### **In the Media**

See the latest media coverage of how states and AG offices are advancing environmental justice by visiting our [“In the Media — States, AGs, and Environmental Justice”](#) web page.

\* \* \*

The [State Energy & Environmental Impact Center at NYU School of Law](#) is a non-partisan academic center dedicated to the study and support of state attorneys general in their work defending and promoting clean energy, climate, and environmental laws and policies.

[WE ACT for Environmental Justice](#) strives to build healthy communities by ensuring that people of color and/or low-income residents participate meaningfully in the creation of sound and fair environmental health and protection policies and practices.

The authors of this report are the State Energy and Environmental Impact Center's Program Manager Sydney Colopy, Executive Director Bethany A. Davis Noll, Research Assistant Damon Gilbert, and Staff Attorney Colin Parts. Report and graphics designed by Communications and Digital Specialists Tiernaur Anderson and Soni Chaturvedi.