

NEW JERSEY ENVIRONMENTAL JUSTICE ALLIANCE

STATEWIDE POLICY PLATFORM

2017-2018



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STATEWIDE POLICY PLATFORM

I. Introduction

The New Jersey Environmental Justice Alliance (NJEJA)¹ has developed numerous policy recommendations intended to improve the environmental quality, public health and well being of residents in communities Of Color and low-income communities, i.e. environmental justice (EJ) communities,, which are often overburdened by disproportionate environmental pollution. The substantive areas these policies address include cumulative impacts, air pollution, climate change, water quality, lead, contaminated sites, chemical security, community right to know, and New Jersey Department of Environmental Protection (NJDEP) reform. The priority EJ actions we recommend include:

- Imposing a moratorium on state regulatory approval or funding for any development that has not been screened to ensure that it is not adding to pollution burdens in EJ communities and communities already overburdened with pollution.
- Enacting an Executive Order on Environmental Justice and Cumulative Impacts as a prelude to legislation that will protect EJ and overburdened neighborhoods by decreasing existing levels of pollution while protecting them from additional pollution. NJDEP's nascent cumulative impacts screening tool should be used in an EJ and environmental screening of these neighborhoods..
- Enacting EJ legislation that codifies the above-mentioned executive order. The legislation should require the use of a cumulative impacts tool in environmental permitting, resource allocation and other relevant state agency decision-making. The bill would also create an interagency EJ task force that includes representation of EJ communities and state agencies such as NJDEP.

¹ The NJEJA mission statement reads as follows: "The New Jersey Environmental Justice Alliance is an alliance of New Jersey-based organizations and individuals working together to identify, prevent, and reduce and/or eliminate environmental injustices that exist in communities of color and low-income communities. NJEJA will support community efforts to remediate and rebuild impacted neighborhoods, using the community's vision of improvement, through education, advocacy, the review and promulgation of public policies, training, and through organizing and technical assistance."

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- Implementing a state environmental impact assessment law (Mini-NEPA) modeled after the California Environmental Quality Review Act (CEQRA). Such legislation would improve government decision-making by increasing transparency, information, and dialogue about the environmental and public health impacts of large scale projects.
- Integrating EJ and equity directly into climate change mitigation and adaptation policy. NJEJA has developed a suite of recommendations to accomplish this goal. They are contained in a brief format in this document and in more detail in an accompanying EJ climate change policy platform.

II. Cumulative Impacts

The concept of cumulative impacts² should be incorporated into the permitting process of the NJDEP in such a way that at least two goals are achieved: 1) Applications for new pollution permits can be denied in EJ communities and communities already overburdened with pollution if granting the permit would increase the amount of pollution in the community; 2) The amount of pollution in a community would be decreased by a facility's operations or actions when the facility applied for a permit renewal. To implement the consideration of cumulative impacts in permitting the state should:

1. Use the cumulative impacts screening tool to identify EJ communities and overburdened communities.
1. Require facilities applying for major new permits or major permit renewals in EJ communities and overburdened communities to demonstrate that they have applied the precautionary principle to their operations thereby showing that they have minimized, or eliminated, the pollution they produce by considering all alternatives to the manner in which they operate.
2. Require facilities applying for new major permit in EJ communities and overburdened communities to demonstrate that their operations would result in no net increase or preferably

² Cumulative impacts can be defined as the impacts caused by multiple pollutants, often emitted by multiple sources of pollution, and their interaction with each other and with any social vulnerabilities that exist in a community. The term is also frequently used to refer to the risks associated with the pollutants and the aforementioned interactions.

yield a net decrease in pollution. Permit renewal applications must demonstrate that facility operations or actions would result in a net decrease in pollution emissions from the status quo. New permit applications and permit renewal applications would be denied if they could not demonstrate their operations would result in no net increase in pollution or a net decrease in pollution, respectively.

3. Ensure that overburdened communities and EJ communities are eligible for “quality of life” incentives and resources. These could include incentives that address areas such as renewable (RE) energy production incentives, energy efficiency (EE) retrofit programs, greenspace and open space, pollution prevention, green infrastructure, Increased enforcement, community grants, attracting non polluting businesses, and access to affordable and healthy food.

III. Air Pollution

Air pollution is one of the most serious environmental health threats in our state and almost certainly impacts EJ communities disproportionately. Fine particulate matter air pollution has been estimated to cause approximately 200,000 premature deaths in the United States annually. This deadly pollutant is linked to cardiovascular disease and a variety of pulmonary disorders including lung cancer, asthma and decreased lung function in children. EJ communities suffer from exposure to a multitude of air pollution sources and the cumulative impacts from air pollutants such as fine particulate matter (PM) that includes diesel particulates, air toxics, and criteria air pollutants that include ozone, lead and the aforementioned fine PM. New Jersey is still not in compliance with for the National Ambient Air Quality Standards for ozone. Following are EJ air Pollution policy recommendations.

1. New Jersey should have an annual diesel PM ambient air quality goal for urban areas that corresponds to a 1 in million cancer risk.
2. New Jersey should have an ambient fine PM air quality goal for urban areas of 10.0 $\mu\text{g}/\text{m}^3$.

The federal annual fine PM standard is currently 12.0 $\mu\text{g}/\text{m}^3$

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3. New Jersey should adopt legislation (AS1030; Senate758) that requires temperature controls in classrooms to mitigate heat and poor air quality conditions on high heat days in urban schools. Bills should fund investment in air conditioning to ensure the health and well being of vulnerable students.
4. New Jersey should implement the Coalition for Healthy Ports Clean Air Plan which includes:
 - a) Developing a bi-state plan for tackling emissions from the freight sector. This plan should include bi-state regulatory proposals, incentives and a robust public participation process, including (1) quantification of the emissions from freight operations in the bi-state area, localized health risks, and the economic benefits associated with reducing diesel pollution; (2) establishing emissions reduction and health risk goals; and (3) identifying the strategies and funding necessary to meet those goals. This type of freight plan can help meet new climate and clean air goals and create incentives and funding for truck fleet turnovers with an eye towards creating a zero emission passenger and container movement system by 2035.
 - b) Enacting a *Clean Container Exemption Fee* established through legislation that requires any pre-2010 truck engines operating in the seaports to pay a fee that will fund the capitalization of post 2010 truck engines that serve in the drayage industry.
 - c) Reinstating the pre-2007 engine truck ban at the port (initially approved by PANYNJ in 2009), and transition the drayage fleet to 2010 and newer engines. The structure of the ban will ensure that the drivers are not paying for the new trucks.
 - d) Instituting Shore Power or air pollution capture technologies for ships docked at seaports.
 - e) Promptly reviewing California's freight related emissions reductions programs and adopting the following diesel emission reduction policies:
 - Truck Regulations that reduce emissions of PM, and nitrogen oxides and other criteria air pollutants, from in-use heavy-duty diesel-fueled vehicles.
 - At-Berth regulations to establish airborne toxic control measures for auxiliary diesel engines operated on ocean-going vessels at-berth.

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- Transport Refrigeration Unit Airborne Toxic Control Measure to establish airborne toxic control measures for in-use diesel-fueled transport refrigeration units (TRU) and TRU generator sets, and facilities where TRUs operate.
 - Cargo Handling Equipment Regulation for mobile cargo handling equipment at ports and intermodal rail yards.
 - Commercial Harbor Craft Regulation to establish airborne toxic control measures for commercial harbor craft.
5. Air pollution emitted by incinerators in Camden and Newark should be reduced in the short run and firm closure dates should be established for both facilities in conjunction with comprehensive zero waste policies that can help divert waste.
 6. The state should develop and implement climate change mitigation policies that include mandatory emissions reductions from facilities located in EJ neighborhoods. (*See Climate Change Policy Brief*)
 7. Adopt regulations to address **indirect sources** like the Seaport/Airport complex in Newark and the Bayway Refinery in Linden in the State Implementation Plans submitted to USEPA to come into compliance with the NAAQS.
 8. Install local air monitoring stations in EJ communities to track baseline and long term trends in air pollution hot spot locations in these communities..
 - Work with local community based organizations and municipalities to implement community air monitoring techniques to collect data for state and local use.

IV. Climate Adaptation and Mitigation

Climate change mitigation and adaptation policies should consider the EJ implications of proposed benefits and burdens in relation to the most vulnerable EJ communities. Because frontline communities feel the double bind of increased risk and increased vulnerability from climate change while contributing the least to this global phenomenon - it is imperative that any

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climate policies directly incorporate EJ and equity. A more detailed discussion of climate change EJ policy can be found in the NJEJA climate policy platform.

1. NJEJA believes that carbon emissions should be reduced through a system of regulations and not through the use of market mechanisms such as carbon trading or a carbon tax. Therefore, New Jersey should use the Global Warming Response Act to reduce carbon emissions and not rejoin the Regional Greenhouse Gas Initiative.
2. However, any climate change mitigation policy, whether it is a regulatory system or a market mechanism, should include mandatory emissions reductions from regulated facilities located in EJ communities.
3. EJ communities and organizations that work with them should have meaningful participation in the development of New Jersey climate change policy.
4. The state must take steps to ensure that EJ communities have access to energy EE and RE.
5. There should be dedicated funding for the development of EE and RE in EJ communities that includes a dedicated portion of the Clean Energy Fund. Resources for this fund should be raised through the societal benefits tax. This fund should not be used for other purposes.
6. New Jersey should implement climate change adaptation policies to protect EJ communities that include but are not limited to:
 - Local residents, community groups and EJ groups should be intricately involved in creating and implementing community level emergency and climate change adaptation plans, and the state should make funding available that ensures their participation.
 - The state should create, with the assistance of the EJ community, and use a climate change and climate justice curriculum in New Jersey schools.
 - The state, environmental organizations, EJ organizations and community groups should work together to significantly increase the use EE and RE, especially in urban areas, as both a mitigation and adaptation strategy.

V. Water Quality and Lead

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Residents in New Jersey's EJ communities rely on drinking water that is supplied to consumers by public and private water utilities. The water infrastructure in many older cities where a majority of low-income communities and communities Of Color are located is aging and requires investment to ensure clean drinking water. Additionally, many of these former industrial communities are unable to consume fish or recreate in nearby waterways due to contamination. A majority of urban water bodies are impaired and have fish consumption warnings or prohibitions. Finally, increased flooding and extreme rain events due to climate change are exacerbating the problem of Combined Sewer Overflows (CSO) that further contaminate waterways in EJ communities. To begin to address these problems the state should:

1. Order a comprehensive assessment of all state water programs, including an analysis of infrastructure repairs and improvements required to secure capacity for future generations. Immediately thereafter, an infrastructure investment program should be initiated to rebuild water and sewer systems, with emphasis and priority placed on development of stormwater utilities, bioswales, permeable pavements and other green infrastructure in urban areas of the state with CSO issues.
2. Require annual testing for lead in drinking water at public and private schools, day-care centers, and pre-schools — and directly involve parents in the testing.
3. Work with local community organizations and municipalities to increase outreach and education about fish consumption bans in impaired waterways of the state.
4. Identify new sources of funds to assist with abating lead paint and modernizing plumbing.

VI. Contaminated Sites

The state of New Jersey has a long history of grappling with abandoned and contaminated properties that pose a threat to the environment and create blight in host communities. A recent investigation by WNYC uncovered that 74% of brownfield sites in the state are located in low-income communities and communities Of Color. Many years after the privatization of the site remediation program that was intended to alleviate the backlog of brownfield remediation

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projects, there are still thousands of sites languishing without any testing, remediation or oversight. The state should:

1. Prioritize review and remediation of contaminated sites in EJ communities, particularly those in close proximity to sensitive receptors like schools, playgrounds, daycare centers and residential neighborhoods. Sites with the highest contamination risks should be prioritized as well.
2. Place high priority sites and sites in EJ communities back under the purview of NJDEP.
3. Increase public funding for the cleanup and redevelopment of abandoned high risk sites in EJ Communities. Reinstigate a tax on polluters to fund public cleanups and the site remediation program overhaul.
4. Increase public oversight of capped brownfield sites by hiring more NJDEP inspectors to examine if institutional controls are still intact, particularly on sites where occupied structures like homes and schools are located. Institute a policy of deputizing and notifying local public health departments and municipalities about areas with institutional caps that require continuous review or inspection.
5. Prioritize natural resource damages for the exclusive use of remedies in the communities impacted by the contaminated sites.
6. Do a complete review and assessment of the Licensed Site Remediation Professionals (LSRP) system and prioritize sites under LSRP purview that have lagged in the system for more than 3 years.
7. Review sites with institutional controls where there are homes or occupied structures for potential vapor intrusion from contaminated groundwater and the integrity of caps.
8. Update the Known Contaminated Sites list and online database for the sites referenced in number 7 above. .
9. Improve public notification and outreach procedures for contaminated sites.

VII. Chemical Safety and Community Right to Know

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Many New Jersey EJ communities are located in close proximity to industrial and chemical corridors and face increased risks from emergencies, natural disasters, and accidents, in nearby facilities. The rights of communities to be fully informed of potential risks, ensures that residents are safer and informed in the case of an emergency. The threat of increased disasters due to climate change also increases the importance of oversight and transparency in this sector. The state should:

1. Perform a review of large chemical, power, refining and other large scale companies for compliance with Emergency Planning and Community Right-to-Know Act (EPCRA) rules in EJ communities
2. Require all facilities to come into compliance with EPCRA within a 12 month period and initiate fines for non compliance.
3. Require pollution prevention and climate vulnerability assessments in communities where industrial corridors exist in close proximity to residences.

VIII. NJDEP Reform

The NJDEP has suffered from disinvestment and reductions in staffing and funding for core programs. These declines in staffing and funding often impact the ability of the agency to tackle the most complex cases, which are often in vulnerable EJ communities. There is also a lack of investment in ensuring that the NJDEP is able to effectively engage communities Of Color, particularly those that are non-English speaking communities. More should be done to ensure that all New Jersey residents have access to NJDEP, the state should:

1. Increase staffing for the Environmental Justice Office and require training for EJ staff in public participation, cultural competency and cumulative impacts issues.
2. Reconstitute the EJ Advisory Council per the EJ Executive Order and Legislation with organizational representatives from EJ communities.
3. Membership categories for the NJDEP Clean Air Council should include representatives of EJ communities affected by poor air quality as well as experts in cumulative impacts and environmental justice. Make all permit applications available online for public review and institute an electronic permit renewal and application notification process for community

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organizations that register to receive notifications. This system already exists on a pilot basis in Newark. It should be expanded to include other EJ communities.

4. Reform the odor and incident reporting process to ensure rapid response teams can be deployed to address odor complaints. This will require an investment in education and outreach materials to increase the public's awareness of how to report odors and environmental crimes. The number of inspectors and off hour inspections should also be increased.
5. Increase the NJDEP's cultural competency ensuring translation services for public notices, public meetings, and incident response or hotline personnel in appropriate languages. Materials online and in print should be available in multiple languages and appropriate NJDEP staff should be trained and available to provide translation services, particularly in cases where the agency is conducting emergency response and outreach.

IX. Conclusion

NJEJA urges the state, environmental organizations and philanthropic organizations to support the recommendations contained in this document and take whatever steps necessary to ensure their implementation. NJEJA looks forward to working closely with the state and these organizations to accomplish implementation. As NJEJA policies evolve this document will be updated.