

Multi-State Guidance Affirming the Importance and Legality of Environmental Justice Initiatives

The Attorneys General of California, Massachusetts, and New York, joined by the Attorneys General of Arizona, Connecticut, Delaware, Hawaii, Illinois, Maryland, Minnesota, Oregon, Rhode Island, and Vermont, issue this Guidance to affirm the importance and legality of efforts to advance environmental justice, which seek a healthy environment for all people across the United States in which to live, play, work, learn, and worship. We remain committed to pursuing environmental justice and enforcing related laws in our jurisdictions.

Across the country, state, Tribal, and local governments, nonprofit and charitable entities, businesses, and neighborhood-based groups are engaging in efforts to restore and protect the environment and public health with solutions that are informed and improved by the lived experiences of communities. As the Guidance describes below, environmental justice encompasses a wide array of practices that are legal and seek to overcome environmental and public health disparities, as well as improve local conditions, including: public engagement; grassroots organizing; technical assistance; water, soil, and air quality monitoring; legal and legislative advocacy; remediation efforts; and the enforcement of applicable laws.

Unfortunately, several recent federal executive orders and associated actions targeting environmental justice have had a chilling effect on these practices.¹ These federal actions label environmental justice policies, programs, and activities as “illegal discrimination” – an inaccurate and misleading characterization that only generates confusion.² However, simply calling these practices “illegal” does not make it true. Environmental justice does not constitute illegal discrimination, and these federal actions do not change that fact. To the contrary, environmental justice activities help public and private entities avoid and prevent unlawful discrimination and remediate its impacts. The President cannot unilaterally prohibit lawful state, Tribal, and local policies, programs, and activities to advance environmental justice.

Federal actions attacking environmental justice undermine the health of our residents, our environment, and our economies. This Guidance seeks to address some of the concerns and confusion raised by stakeholders in our states about their environmental justice efforts. Stakeholders in the public and private sectors should feel assured that they can lawfully continue actions to advance environmental justice, and that these actions remain critical for public health and public welfare. Since this Guidance discusses the general legal bases for environmental justice principles and practices, public and private entities should seek individualized legal advice if they have questions about any specific practice or policy.

Efforts to Advance Environmental Justice Remain Essential

Environmental justice advances fairness, liberty, and equality, and has its roots in movements for civil, economic, labor, and immigrants’ rights. The environmental justice movement began over forty years ago in 1982, when protesters laid in the street to block the delivery of toxic chemicals to a landfill in the predominantly Black community of Warren County, North Carolina. Environmental justice aims to ensure that every person has equal access to clean air and water, safe and healthy food, a healthy and sustainable environment, and

protection from the impacts of climate change. It prioritizes communities' self-empowerment and addresses the right of people to participate in decisions that affect them and to receive equal protection from our nation's laws.

Environmental justice work remains necessary and urgent to address ongoing environmental and public health disparities. For example, lead poisoning³ and pollution-related asthma⁴ continue to cause serious long-term health consequences, especially for children. Communities facing environmental injustice often struggle with under-resourced and inaccessible transit,⁵ food,⁶ and healthcare systems,⁷ the illegal dumping of waste,⁸ and the proliferation of contaminated sites,⁹ among other challenges. They are oversaturated by pollution sources, such as landfills and incinerators,¹⁰ industrial facilities,¹¹ heavy-duty trucks,¹² highways,¹³ and large-scale agricultural and livestock operations.¹⁴ These same communities may lack access to safe and affordable housing, transportation, water, and healthcare infrastructure. Many residents face further public health risks by working in industries that expose them to contaminated soil, air, and water.¹⁵ The extreme temperatures, storms, flooding, drought, and wildfires of a warming climate are only multiplying threats to pollution-burdened communities, causing instability and harm to their health, welfare, and economic well-being.¹⁶

Evidence-based studies and residents' lived experiences demonstrate that certain communities most commonly and acutely experience the impacts of environmental injustice:¹⁷ communities of color;¹⁸ Indigenous people and Tribal nations;¹⁹ low-income,²⁰ rural, and unincorporated communities;²¹ communities in which a high proportion of residents speak a language other than English;²² people with disabilities;²³ and LGBTQ+ people.²⁴

Historical, explicitly discriminatory policies laid the foundation for many of the environmental health disparities that persist today in our country, including racial segregation, redlining, and disinvestment in certain locations. These disparities manifest in statistically worse health outcomes, shorter life spans, reduced quality of life, and limited access to a range of opportunities. Additionally, many communities and individuals have also — for generations — faced formidable barriers to the democratic processes and resources that shape their well-being and opportunities. Environmental justice overcomes that division, developing solutions to persistent harms and advancing public health, safety, well-being, and prosperity across communities. By ensuring an inclusive process, environmental justice facilitates access to the political process and results in more transparent and informed decisions. Advancing environmental justice achieves better outcomes and ensures dignity and respect for everyone regardless of where we live, play, work, learn, and worship.

Recent Federal Actions Do Not Impact the Legality of Environmental Justice Efforts

The federal actions attacking environmental justice have created concerns about – **but do not impact** – the continued legality and importance of environmental justice efforts. These actions include several executive orders issued by President Trump, as well as memoranda issued by United States Attorney General Pam Bondi. These federal actions inaccurately label environmental justice and diversity, equity, inclusion, and accessibility activities as “illegal discrimination.” They rescind prior executive orders embedding environmental justice principles throughout federal administrative programs. They discontinue enforcement actions aimed at

addressing disproportionate environmental burdens and terminate federal environmental justice programs and funding.²⁵ The recent federal actions also direct the United States Department of Justice to de-prioritize environmental justice in its enforcement work and to take actions to stop the enforcement of state environmental justice laws that the United States Attorney General deems illegal.²⁶ These actions cloud the meaning of environmental justice and the legality of the work itself. But the limited effect of these actions is clear: **the President cannot alter the laws passed by Congress, nor can his executive orders or agency memoranda change the protections afforded by the Constitution or state law.** Additionally, while complementary, environmental justice is a distinct concept that addresses distinct challenges from diversity, equity, inclusion, and accessibility. Like the best practices for workplace diversity, equity, inclusion, and accessibility addressed in the February 2025 guidance from multiple state attorneys general,²⁷ the advancement of environmental justice is not only lawful but also benefits the public.

Federal environmental laws support environmental justice.

Numerous federal environmental laws support public and private actions to advance environmental justice. Public entities enforcing environmental laws may take actions to ensure even-handed enforcement across all communities within their respective jurisdictions. In addition, some environmental laws require public agencies to analyze and mitigate the environmental impacts of proposed projects on communities facing cumulative impacts from multiple pollution sources. Many environmental statutes require public and private entities to engage the public in decisions that will shape communities' futures. For example, the federal Clean Air Act requires public agencies to provide public notice and opportunities for public comment and conduct a public hearing before reaching a decision on the siting and operation of new major sources of air pollution.

The United States Constitution and federal civil rights laws contemplate the advancement of environmental justice.

State and local governments have validly adopted environmental justice requirements pursuant to their broad powers under the federalist structure of our country and the Tenth Amendment of the United States Constitution, which allows states to enact policies and programs to further public health, safety, and welfare. Under this authority, numerous state constitutions from every region of the country have enshrined legally enforceable public rights to a clean and healthy environment. Many state laws also mandate that land use, transportation, and infrastructure planning reduce environmental health disparities. Some state and municipal laws also require public agencies to proactively reach out to neighborhoods near proposed project sites and to minimize or eliminate negative impacts on public health.

Civil rights protections embedded in the United States Constitution and federal and state laws also support actions to advance environmental justice. Indeed, environmental justice programs may further compliance with civil rights laws. The Equal Protection Clause of the Fourteenth Amendment prohibits state and local government agencies from engaging in intentionally discriminatory actions on the basis of race and sex.²⁸ Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin by entities

that receive federal financial assistance, which includes state and local governments, as well as many private entities. Federal funding recipients are also prohibited from discriminating on the basis of disability under Section 504 of the Rehabilitation Act, on the basis of age under the Age Discrimination Act of 1975, and on the basis of sex under Title IX of the Education Amendments of 1972. Title VI of the Civil Rights Act also requires federal funding recipients to ensure that individuals who use languages other than English can fully participate in programs, activities, and benefits, such as permit hearings, meetings to discuss remediation plans, emergency alerts, or technical assistance opportunities.²⁹ Language access is a mandatory civil rights safeguard and core component of environmental justice.

Further, Title VIII of the Civil Rights Act of 1968, known as the Federal Fair Housing Act, outlaws public and private discrimination in the sale or rental of housing and in the terms, conditions, privileges, services, or facilities connected with housing because of race, color, religion, sex, familial status, or national origin.³⁰ Discriminatory zoning decisions that contribute to the unavailability of housing, the discriminatory denial of basic municipal services, and actions that perpetuate segregation may violate the Fair Housing Act.³¹ Finally, the Americans with Disabilities Act prohibits discrimination against people with disabilities in major areas of public life.³² State and local civil rights laws establish additional and complementary protections against discrimination to those enshrined in these and other federal civil rights laws.³³

Environmental justice practices are protected by the First Amendment and nonprofit laws.

Organizations that promote environmental justice are protected by the First Amendment of the United States Constitution, which prohibits the government from seeking legal sanctions against or otherwise coercing groups to suppress their protected speech.³⁴ The government may not prohibit speech simply because it disagrees with the message that speech conveys, including through informal censorship or indirect intimidation.³⁵ The government also cannot condition benefits, including funding, on the waiver of an individual's or organization's protected speech rights.³⁶ This protection extends to the denial or revocation of federal tax-exempt status based on an organization's protected speech or viewpoints.³⁷

Environmental justice programs are also charitable purposes under federal nonprofit laws. The President cannot lawfully revoke the 501(c)(3) status of organizations through an executive order or other form of presidential directive. In fact, the Internal Revenue Code prohibits executive branch influence over taxpayer audits and other investigations, including those of tax-exempt organizations.³⁸ Moreover, for organizations that are up-to-date with annual Internal Revenue Service (IRS) filings, revocation of tax-exempt status requires an extensive case-by-case review by the IRS that includes due process protections for nonprofit entities.³⁹

Distinct Obligations to Tribal Nations and Indigenous Peoples

Environmental injustices also impact Tribal nations and Indigenous peoples,⁴⁰ who hold a unique political and legal relationship with the United States. Tribal nations are inherently sovereign governments with the power to govern themselves and their lands, whose citizens and communities maintain unique cultural and spiritual connections with those lands.⁴¹ Indigenous

communities often suffer disproportionately from a variety of environmental harms, including contaminated water, a lack of basic sanitation services,⁴² and exposure to radioactive chemicals, heavy metals, and polluted air caused by uranium mining⁴³ and fossil fuel production on and near Tribal lands.⁴⁴ The United States and Tribal nations hold government-to-government relationships, and the United States owes a trust responsibility and has treaty obligations to respect Tribal sovereignty and protect Tribal lands.

Environmental Justice in Practice

As discussed above, existing law supports a myriad of public and private activities that advance environmental justice. The following environmental justice efforts, policies, and programs are non-exhaustive examples of work that public entities, non-profit and philanthropic organizations, and businesses lawfully undertake to advance environmental justice. Our Offices provide these examples for illustrative purposes. We encourage public and private entities to develop and pursue environmental justice initiatives tailored to the needs of their communities based on individualized legal advice.

Education, Technical Assistance, and Funding Support: Public and private entities retain authority to educate, provide technical assistance, and fund environmental justice policies and programs.

- *Education* – Programs may educate nonprofit organizations, municipalities, and other stakeholders about general principles of environmental justice and how to obtain state and federal funding for direct or indirect environmental justice efforts.
- *Technical Assistance and Funding* – Subject to the terms of a grant agreement, programs may provide training, technical assistance, and funding to address a myriad of environmental issues that disproportionately harm certain communities. For example, nonprofit groups and local governments might provide technical assistance and funding to address drinking water contamination and wastewater service deficiencies in impacted communities.

Public Engagement and Participation: Public and private entities retain authority to broadly notify and engage communities experiencing environmental injustice as a crucial step to implement environmental justice policies and programs.

- *Language Access* – Public and private efforts to ensure language access to environmental notices and alerts, whether about public meetings, extreme weather events, or otherwise, remain critical from a public participation, health, and safety perspective.
- *Outreach and Accessibility* – Practices to improve accessibility for community members, including for people with disabilities or people vulnerable to immigration enforcement, remain lawful and critical. Such practices may include offering hybrid attendance options, evening meetings, extended comment periods, and broad, targeted, and early outreach to impacted communities.

Burden Identification and Analysis: Public and private entities retain authority to engage in scientific analysis and data collection, such as air and water quality monitoring, mapping, and community-based data collection initiatives, to inform environmental decision-making.

- Cumulative Impacts Data – Data collection about overlapping chemical and non-chemical stressors remains legal and is crucial to understand how pollution and other burdens create disproportionate and adverse impacts on specific communities and populations.
- Socio-Environmental Data – Analysis of pollution data may be considered in the context of other data sets to predict human health impacts, including the location of people with higher health risks (such as children and seniors), socioeconomic stressors, and access to social determinants of health (such as healthcare, public services, food, housing, transportation, or jobs).
- Community Co-Management of Monitoring – Community ownership or co-management of pollution monitoring systems provides frontline residents, businesses, and public entities real-time access to pollution data. This data may be used to understand cumulative pollution burdens in communities and to ensure compliance with laws limiting harmful emissions.

Preventing and Mitigating Pollution Exposures: Public and private entities retain authority to engage in efforts to prevent and mitigate pollution exposure, including in communities already impacted by multiple pollution sources.

- Access to Safe Drinking Water – Programs that ensure universal access to safe and clean water are lawful. This includes replacing lead service lines, providing short-term water during drinking water crises, or offering free or reduced-cost private well testing or replacement.
- Healthy Homes Initiatives – Many environmental justice policies and programs seek to create indoor environments that are safe places to live, play, work, learn, and worship. For example, healthy homes initiatives may improve indoor air quality, ensuring tenants and homeowners enjoy access to a toxic- and pest-free living environment.
- Environmental Justice and/or Cumulative Impacts Review – Certain states require environmental justice or cumulative impact reviews for facility permits or land use decisions that would increase pollution exposures in overburdened communities. These types of reviews require public engagement and data-driven analysis to mitigate or prevent pollution increases or other stressors in already overburdened areas.
- Community Benefit Plans and Agreements (CBPs and CBAs) – CBPs and CBAs are tools used to ensure benefits from land use and infrastructure decisions flow to communities. Through them, developers and local governments can commit to measures including mitigation, job access, and environmental protections to address the impacts of activities in or near areas with environmental health disparities.

Climate Readiness and Resilience: Public and private entities retain authority to protect communities that are disproportionately impacted by the effects of climate change, such as extreme heat, flooding, or storms.

- *Climate Resilient Infrastructure* – Climate resilience can be improved through infrastructure and community solutions, such as flood-proofing and improving stormwater management in low-income neighborhoods that are particularly prone to flooding. Communities vulnerable to extreme heat may benefit from temperature-moderating projects such as planting trees, installing cool roofs, expanding green spaces, and home weatherization. Cities may also establish Community Resilience Hubs to provide resources, services, and support before, during, and after extreme weather events, including back-up power, air conditioning, food, and medical resources.

Enforcement and Remedies: Public and private entities retain authority to enforce environmental laws in communities facing environmental burdens.

- *Task Forces and Interagency Working Groups* – Working groups that bring together state, regional, and local agencies to coordinate inspections, issue citations, and hold public meetings can improve enforcement in communities facing environmental injustice, especially by responding to reports of violations and working in partnership with impacted community members.
- *Community Enforcement Partnerships and Input* – Public agencies may review and initiate enforcement actions based on reliable data collected by community-based organizations through field test kits and sampling tools for water and air pollution. Public entities can also provide accessible opportunities for residents to give direct community testimony on violations during enforcement hearings.
- *Community-Centered Remedies* – Government entities can pursue remedies for environmental violations that directly benefit impacted communities to improve environmental quality and public health.
- *Environmental and Climate Justice Advocacy* – Lastly, private entities retain the right to advance environmental and climate justice goals through community organizing and policy advocacy, which are often critical to obtaining the objectives outlined in the examples above.

Our Offices stand ready to implement and enforce the nation's laws to advance environmental justice and will continue working in collaboration with communities and organizations to defend efforts across the United States toward this common objective.

End Notes

- ¹ These actions include, but are not limited to, Exec. Order No. 14,151, 90 Fed. Reg. 8,339 (Jan. 20, 2025) (*Ending Radical And Wasteful Government DEI Programs And Preferencing*), Exec. Order No. 14,154, 90 Fed. Reg. 8,353 (Jan. 20, 2025) (*Unleashing American Energy*), Exec. Order No. 14,260, 90 Fed. Reg. 15,513 (Apr. 8, 2025) (*Protecting American Energy from State Overreach*), and Exec. Order No. 14,173, 90 Fed. Reg. 8,633 (Jan. 21, 2025) (*Ending Illegal Discrimination and Restoring Merit-Based Opportunity*); U.S. Att’y General Pam Bondi, *Eliminating Internal Discriminatory Practices*, U.S. Dep’t of Justice (Feb. 5, 2025), <https://www.justice.gov/ag/media/1388556/dl?inline>; U.S. Att’y General Pam Bondi, *Rescinding “Environmental Justice” Memoranda*, U.S. Dep’t of Justice (Feb. 5, 2025), <https://www.justice.gov/ag/media/1388551/dl?inline>; The termination of environmental justice programs by the U.S. Environmental Protection Agency, the Department of the Interior, and the Department of Energy, and other federal actions to dissuade environmental justice work.
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- ²⁹ *Lau v. Nichols*, 414 U.S. 563, 568 (1974).
- ³⁰ 42 U.S.C. § 3604.
- ³¹ See e.g., *Tex. Dep't. of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc.*, 576 U.S. 519, 540 (2015).
- ³² *PGA Tour, Inc. v. Martin*, 532 U.S. 661, 675 (2001).
- ³³ Language access laws also foster the goals of civil rights laws. The Executive Order, "Designating English as the Official Language of the United States," issued on March 1, 2025, does not alter entities' duties and authorities to facilitate language access under federal and state statutes. See Exec. Order No. 14,224, 90 Fed. Reg. 11,363 (Mar. 1, 2025) (*Designating English as the Official Language of the United States*). Neither does the Executive Order, "Restoring Equality of Opportunity and Meritocracy," undermine the validity and statutory duties imposed by federal and state civil rights laws. See Exec. Order No. 14,281, 90 Fed. Reg. 17,537 (Apr. 23, 2025) (*Restoring Equality of Opportunity and Meritocracy*).
- ³⁴ *Bantam Books, Inc. v. Sullivan*, 372 U. S. 58, 67 (1963).
- ³⁵ "If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable." *Texas v. Johnson*, 491 U.S. 397, 414 (1989); *Nat'l Rifle Ass'n of Am. v. Vullo*, 602 U.S. 175, 189 (2024).
- ³⁶ *Agency for Int'l Dev. v. All. for Open Soc'y Int'l, Inc.*, 570 U.S. 205, 214 (2013).
- ³⁷ *Speiser v. Randall*, 357 U.S. 513 (1958).
- ³⁸ 26 U.S.C. § 7217.
- ³⁹ Internal Revenue Service, *How to Appeal an IRS Determination on Tax-Exempt Status*, Pub. 892 (revised 2-2017), <https://www.irs.gov/pub/irs-pdf/p892.pdf>.
- ⁴⁰ Clifford Villa et al., *Environmental Justice: Law, Policy & Regulation* 323 (2020), https://digitalrepository.unm.edu/law_facbookdisplay/201/.
- ⁴¹ Letter from Coalition of Tribal Groups to President Donald J. Trump and Several Members of U.S. Congress (Feb. 2, 2025), https://coalitionfortribalsovereignty.org/wp-content/uploads/2025/04/Tribal_Orgs_Letter-

[re Political Entity Status in new Executive-Orders 2FEB2025.2.pdf](#) (Entitled “Status of Tribal Nations as Political Entities in the Implementation of the President’s New Executive Orders”); Clifford Villa et al., *Environmental Justice: Law, Policy & Regulation* 326 (2020), https://digitalrepository.unm.edu/law_facbookdisplay/201/.

⁴² Kunjal Bastola, *Native Communities Cite Dismal Statistics on Lack of Access to Water at Senate Committee Hearing*, Medill on the Hill (Sept. 28, 2023), <https://medillonthehill.medill.northwestern.edu/2023/09/native-communities-cite-dismal-statistics-on-lack-of-access-to-water-at-senate-committee-hearing/>.

⁴³ Teracita Keyanna et al., *The Health Impacts of Uranium Mining in Native American Communities*, Native American Budget & Policy Institute, 1 (Feb. 2024), <https://nabpi.unm.edu/assets/documents/research/health-impacts-uranium-mining-policy-brief-final.pdf>.

⁴⁴ Jessica Lau, *Fossil fuel Extraction is Harming Indigenous Communities, Say Experts*, Harvard T.H. Chan School of Public Health (Apr. 20, 2020), <https://hsph.harvard.edu/news/fossil-fuel-extraction-harming-indigenous-communities/>.