

Trump Second Term: Legal Tracker

ENVIRONMENTAL JUSTICE REVISITED

Mar 12, 2025

SUMMARY

Since January 20, 2025, the Trump Administration has implemented numerous changes to federal environmental justice (“EJ”) initiatives which are expected to result in reduced permitting and regulatory burdens. While the current administration may continue to make changes to EJ policies on a federal level, it is important to know that many states still have their own EJ policies that remain enforceable.

This insight discusses the following three things:

1. provides the necessary historical context regarding EJ;
2. outlines the recent actions by the Trump Administration; and
3. explores some state regulations and potential ramifications for your business.

It is vital for your business to stay current with these developments and to consult with legal counsel before making any changes to your operations based on the current administration's actions.

ENVIRONMENTAL JUSTICE BACKGROUND

President Biden previously described EJ as the meaningful involvement of all people, regardless of their income, race, color, national origin, or disability, in all “agency decision-making and other Federal activities that affect human health and the environment.” EJ directly addresses human health effects from environmental issues such as climate change or the cumulative impacts of environmental hazards such as pollution. For example, EPA encourages outreach, especially through public comment periods and community engagement, which includes feedback through meaningful public participation. The EJ movement gained momentum in the late 1960s, leading to federal efforts by EPA in 1990.

EPA has published a [timeline of EJ actions](#), which details the origins of EJ starting in the 1960s through 2016, when EPA's "EJ 2020" plan was announced. EJ 2020 implemented plans for eight priority areas, with participation from both national and regional offices, which advanced in varying degrees prior to the new federal administration in 2025.

RECENT EXECUTIVE ACTIONS

President Trump issued an Executive Order entitled "[Ending Illegal Discrimination and Restoring Merit-Based Opportunity](#)," which among other things, revoked the 1994 Executive Order, "[Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations](#)." The order directed federal agencies to identify and develop strategies for implementing EJ, especially for any activities impacting low-income populations and minorities. This included promoting the enforcement of health and environmental statutes and ensuring greater public participation in environmental actions within the communities.

Another notable Executive Order was "[Unleashing American Energy](#)" which put a pause on all spending from the Inflation Reduction Act ("IRA"). This could impact several EPA programs funded by the IRA:

1. The [Environmental and Climate Justice Community Change Grants Program](#). Provides approximately \$2 billion dollars in IRA funds for environmental and climate justice activities to benefit disadvantaged communities.
2. The [UPLIFT Grant Program](#). Provides approximately \$2.5 million dollars to facilitate the building of capacity within institutions of higher education and community-based organizations that work with disadvantaged communities, and the program also supports communities to create healthy, climate resilient, and thriving environments.
3. The [Environmental Justice Government-to-Government Program](#). Provides funding at the state, local, territorial, and tribal level to support government activities that lead to measurable environmental or public health impacts in communities disproportionately burdened by environmental harms.

Recently, in response to the "Unleashing American Energy" Executive Order, the Council on Environmental Quality ("CEQ") released an [interim final rule](#) that would remove CEQ regulations that implement the National Environmental Policy Act ("NEPA"). Congress enacted NEPA to ensure that the federal agencies assessed the environmental impacts of their proposed actions prior to making decisions. This includes [making decisions on permit applications](#), adopting federal land management actions, and constructing highways and other publicly-owned facilities. Additionally, the current U.S. Attorney General has rescinded [memoranda](#) from prior AGs regarding the enforcement of EJ laws.

The Trump Administration also dismantled the [Justice40 Initiative](#), a program created under the Biden Administration to ensure that 40% of federal funding and future federal investments benefitted disadvantaged communities. [These Federal programs targeted areas](#) such as: climate change, clean energy and energy efficiency, clean transit, affordable and sustainable housing, training and workforce development, remediation and reduction of legacy pollution, and the development of critical clean water and wastewater infrastructure. These programs not only ensured opportunities for local community members to be [“meaningfully involved in determining program benefits,”](#) but also required participants to report data on how the program assisted disadvantaged communities.

Significantly, the Trump Administration has eliminated critical EJ resource infrastructure, including online resources and personnel. For example, the administration has [removed access](#) to online EPA programs that are necessary to implement some EJ efforts, such as the [EJScreen](#) and the [Climate & Economic Justice Screening Tool](#). EPA’s EJScreen tool [“mapped environmental indicators like air and water quality, and proximity to Superfund sites, along with socioeconomic indicators like race and income.”](#) Additionally, the Trump Administration initially placed [168 employees on administrative leave at the Office of Environmental Justice and External Civil Rights \(“OEJECR”\)](#) in February. It has been [reported](#) that EPA Administrator Lee Zelden subsequently announced on March 11 the intention to eliminate the OEJECR altogether with the elimination of environmental justice offices and positions effective immediately.

HOW DOES THIS IMPACT MY BUSINESS?

With reduction the EJ workforce, the implementation and repeal of certain Executive Orders, the removal of CEQ regulations towards NEPA, and the AG repeal of EJ policy enforcement, it is possible these actions will result in reduced regulatory compliance at the federal level. However, as discussed in this section, several states have implemented their own EJ policies. It is likely that some jurisdictions will continue to enforce EJ policies on a state and local level even without federal mandates – or introduce new mandates at the state level. This introduces additional complexity and potential uncertainty with respect to requirements that may attach to businesses operating in EJ areas or operating in multiple states with different regulations. These include the following:

PERMITTING

Permitting and public participation requirements for EJ areas is a predominant consideration.

While NEPA is undergoing changes at the federal level, portions of NEPA have been enacted by the individual states; accordingly, [approximately 20 states](#) have their own version of NEPA. The Trump Administration’s reversal of federal EJ policies may not affect the NEPA requirements already active in your state. Some states, such as [New Jersey](#), [New York](#), [Pennsylvania](#), and [Washington](#), require agencies to utilize enhanced public participation for permits issued to facilities operating in EJ areas.

STATE LAW

Some states have various [EJ Initiatives](#) that extend beyond that of permitting requirements:

- [California](#): Requires at least 25% of funds from the state's cap-and-trade program to be allocated toward disadvantaged communities
- [Illinois](#): Mandates a tiered phase-out of fossil fuels for private coal and natural gas generation by 2030 and 2045, respectively, with a focus on the retirement of coal and gas plants near environmental justice communities.
- [New York](#): Mandates that 35-40% of benefits from clean energy and energy efficiency programs benefit EJ communities.
- [Rhode Island](#): Prohibits new high-heat medical waste processing facilities in environmentally sensitive areas, including communities with a high percentage of low-income or minority residents.

CONCLUSION

The rollback of several established EJ measures by the Trump Administration has significant implications for businesses and communities alike. That noted, while the federal landscape for EJ may be shifting, businesses still need to consider and evaluate EJ policies implemented by many states. Additionally, any change in the federal administration in 2029 could potentially reverse these changes, creating some challenges to permits issued without EJ considerations that may be subject to EJ considerations upon renewal. With respect to anticipated state-based activity, BCLP intends to discuss individual EJ state initiatives in another insight.

BCLP will continue to monitor and analyze these developments, providing insights and guidance on state and federal EJ initiatives. For additional information regarding these EJ actions, please contact [Bryan Keyt](#), [Erin Brooks](#), [Pel Okeowo](#), or [John Kindschuh](#) at BCLP.

RELATED PRACTICE AREAS

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MEET THE TEAM



Bryan E. Keyt

Chicago

bryan.keyt@bclplaw.com

+1 312 602 5036



Erin L. Brooks

Chicago / St. Louis

erin.brooks@bclplaw.com

+1 312 602 5093



Pelumi Okeowo

Kansas City

pel.okeowo@bclplaw.com

+1 816 374 3261



John R. Kindschuh

St. Louis

john.kindschuh@bclplaw.com

+1 314 259 2313

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