

# ENVIRONMENTAL JUSTICE

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Past & Present: The State of an Evolving Movement

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# Agenda

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Introductions

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History and Foundations of EJ

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Federal Laws and Regulations

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State and Tribal Laws and Regulations

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EJ Litigation and Enforcement

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Summary & Key Takeaways

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Q & A



## Aspects of Environmental Injustice Experienced by Historically Marginalized Communities

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1. Distributive Injustice
2. Procedural Unfairness
3. Corrective Injustice
4. Social Injustice



# Environmental Justice

## Definitions and Key Terms



Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations, and policies.- U.S. EPA

- Marginalized
- Meaningful Involvement
- Fair Treatment
- Overburdened
- Cumulative Impacts



# Timeline of the Movement



# Federal EJ Rollbacks

- **EO 14151** (Jan 20, 2025): Terminated all federal DEI, DEIA, and EJ programs and offices, and rescinded EO 12898.
- **EO 14173** (Jan 21, 2025): Revoked Biden era EJ-related EOs and centralized anti-discrimination enforcement, excluding EJ mandates from federal contracting.
- **Termination of EJ Offices and resources:** ~160 EPA OEJECR staff placed on administrative leave; office abolished. EJScreen mapping tool and CJEST taken offline.
- **Grant cancellations:**
  - Stopped funding under the EPA Environmental and Climate Justice Grants (\$3 billion IRA-authorized grants). Legal challenges filed by nonprofits, Tribes and local governments to reinstate them.
  - Community Change Grants programs and other FEMA/DOE-administered funding frozen. Courts intervened in some states to restore access.
- **Regulatory and Policy Rollbacks:** Over 140 regulatory rollbacks impacting vulnerable communities.
- **Enforcement Rollback:** DOJ dropped federal suit against Denka petrochemical plant in Louisiana ("Cancer Alley"), reversing a key Biden-era EJ enforcement action.

# Litigating Environmental Justice Issues

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## National Environmental Policy Act (NEPA)

- Requires **environmental impact assessments (EIAs)** that include community input and analysis of environmental justice impacts.
- Litigants can challenge agencies for **failing to evaluate EJ impacts** properly.

## Clean Air Act (CAA) & Clean Water Act (CWA)

- Citizens can sue for violations like air emissions or water discharges that affect overburdened communities.
- Often combined with EJ arguments about cumulative pollution.

## Administrative Procedure Act (APA)

- Used to challenge arbitrary or unlawful federal agency decisions—especially **regulatory rollbacks** affecting vulnerable populations.



# State and Tribal Initiatives

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Restorative justice  
& climate  
legislation

Model legislation  
& academia  
involvement

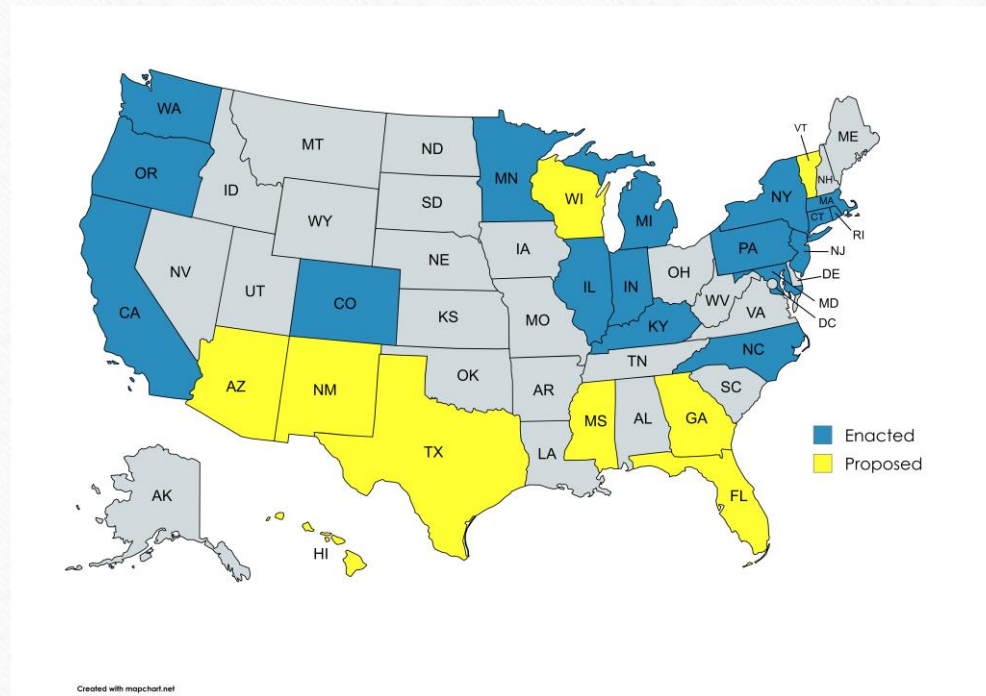
Permitting laws -  
incorporating  
cumulative  
impacts

States developed  
EJ mapping tools

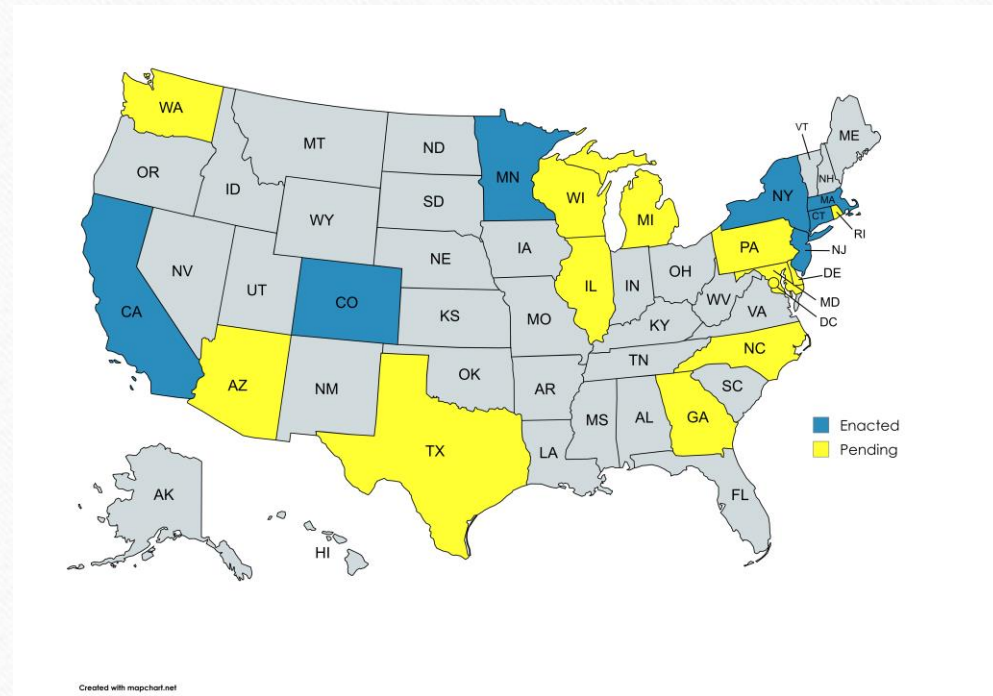
State EJ laws  
and/or councils,  
state mini-NEPAs,  
and state ERAs

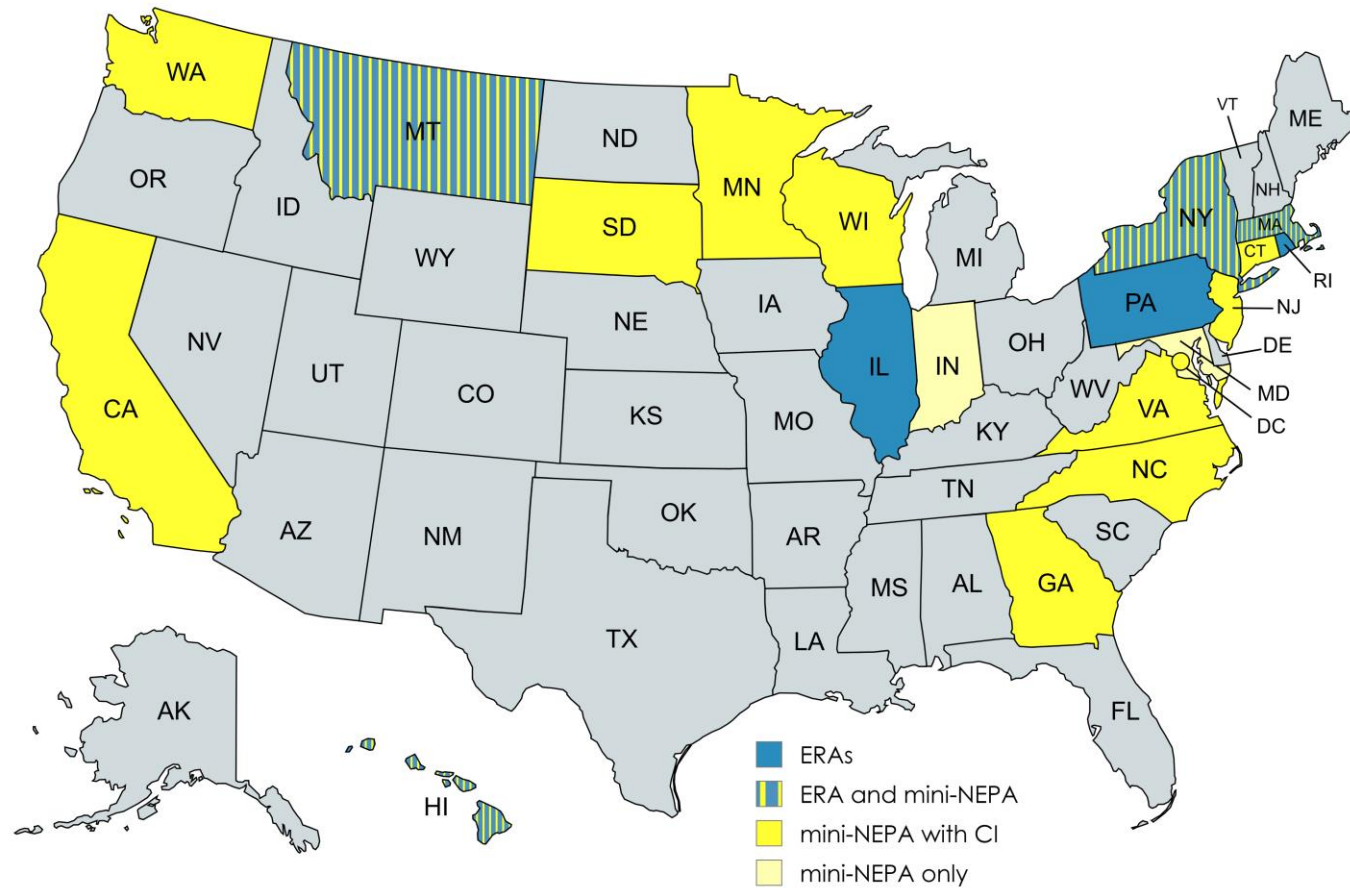


# States with EJ laws and policies



# States with cumulative impacts laws





States with  
mini-NEPAs  
and/or ERAs



# State Level Laws and Legal Tools

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- **New Jersey** EJ Law requires DEP to evaluate the environmental and public health impacts of certain facilities on overburdened communities and issue decisions on those facilities' permit applications.
- **California Environmental Quality Act** requires that state and local agencies disclose and evaluate the significant environmental impacts of proposed projects and adopt all feasible mitigation measures to reduce or eliminate those impacts
- **New York Climate Leadership and Community Protection Act** mandates prioritization of disadvantaged communities in environmental reviews.

# Additional Legal Tools: Nuisance, Tort, and Constitutional Litigation

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PUBLIC AND PRIVATE  
NUISANCE LAW



NEGLIGENCE AND STRICT  
LIABILITY



TOXIC TORT SUITS



CONSTITUTIONAL CLAIMS:  
DUE PROCESS, EQUAL  
PROTECTION, AND STATE  
ENVIRONMENTAL RIGHTS  
CLAIMS



## Recap - Current Trends



**Court activity:** Legal action by environmental organizations to restore EPA grant funding.



**State momentum:** Continued clean energy and EJ-based funding by state legislatures regardless of federal pullbacks.



**Green workforce training and equity:** States are reinvesting in EJ-focused workforce development and infrastructure projects.



**Engaged civil society:** Tribes, NGOs, and locally led projects continue EJ work independent of federal funding.

# Engaging Multiple Stakeholders in EJ Processes

- **Early, inclusive planning:** Include impacted communities, including low-income, minority, tribal groups in policy discussions.
- **Collaborative governance:** Co-develop decisions with state, tribal, local agencies, NGOs, and private sector.
- **Culturally responsive outreach:** Multilingual communications, compensation for participation, accessible formats.
- **Data transparency:** Share environmental and health data openly; utilize state/local EJ screening tools.
- **Capacity building:** Support community-led monitoring, leadership training, community lawyering, and local EJ advocacy.





# Summary and Key Takeaways

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**Environmental justice** is a people centered movement to address harms impacting their communities, take action, and realize meaningful results and change.

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**Federal rollbacks** under the current administration dramatically reversed key EJ gains and eliminated EJ mandates, offices, grants, and tools.

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**State, tribal & local governments** continue advancing EJ action despite federal retreat.

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**Opportunities and risks persist:** Legal challenges, grassroots organizing, state-led funding offer pathways to resilience.

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**Think Longterm:** be an engaged stakeholder.

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# Links to EJ Resources

- <https://www.eli.org/events/cumulative-impacts-policies-across-united-states>
- <https://www.eli.org/vibrant-environment-blog/rumor-versus-reality-whats-next-nepa> (webinar link embedded in blog post)
- <https://www.eli.org/research-report/environmental-justice-and-renewable-energy-and-storage>
- <https://ejstatebystate.org/>
- <https://eelp.law.harvard.edu/tracker-type/environmental-justice-tracker/>
- [https://www.americanbar.org/groups/environment\\_energy\\_resources/resources/environmental-justice/](https://www.americanbar.org/groups/environment_energy_resources/resources/environmental-justice/)
- <https://dep.nj.gov/wp-content/uploads/ej/docs/ej-law.pdf>



# Links to EJ Resources

- <https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-state-laws-are-codifying-environmental-justice>
- <https://www.bloomberg.com/news/articles/2019-05-07/mapping-policies-for-environmental-justice>
- <https://www.eli.org/eli-press-books/environmental-justice-legal-theory-and-practice-5th-edition>
- <https://www.eli.org/eli-press-books/nepa-deskbook-4th-edition>
- <https://www.eli.org/environmental-protection-trump-era> (2018)