





Environmental Justice in Virginia

Past, Present, & Future

ACWA CAFO Roundtable 2020

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Presentation Overview

- History of Environmental Justice in Virginia DEQ programs
- Environmental Justice Study & Stakeholder Perspectives
- 2020 Virginia General Assembly Session
- Path Forward



History: Staff Training

- In 2000, DEQ initiated a campaign to educate and train staff about Environmental Justice, ~4 years after President Clinton's Executive Order
- DEQ's Air program took the lead:
 - Trained and educated staff about EJ
 - Interacted directly with EPA's newly formed EJ program
 - Coordinated EJ efforts in Virginia, primarily complaint investigations



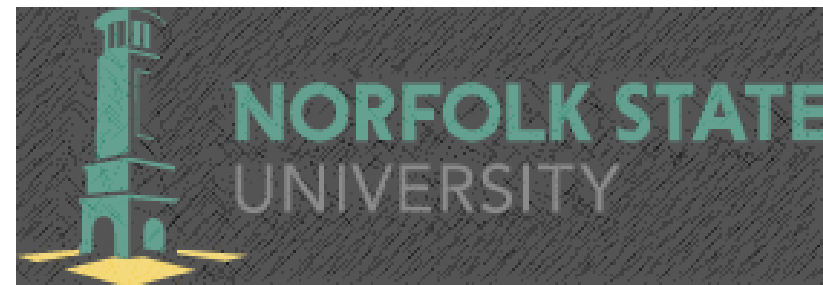
History: Inspection Strategies

- In 2007, DEQ's Director of the Office of Air Compliance became the agency EJ coordinator, working with program managers and EPA
- In 2008, DEQ worked with EPA Region 3 to develop the first Risk Based Inspection Strategy in the country; EJ played a role in that strategy and EPA's approval
 - Facilities being located within or adjacent to EJ areas is included in reasons to increase inspection frequency
- In 2008, DEQ introduced EJ into the agency's inspection strategy for all of the core programs: water, air, solid waste, and hazardous waste



History: Staff Recruiting

- 2009: Partnership with EPA, Norfolk State University, and Hampton University
 - Memorandum of Understanding (MOU) to share resources in an effort to attract minorities into the natural resource profession
- DEQ recruited students for paid summer intern positions from partner universities to work along environmental professionals in the air program. This has been a huge success.
- 2014 and 2019: Re-signed MOUs



Environmental Justice Study

- Until recently, environmental justice was not part of the regulatory discourse nor part of the permitting process
- In 2019, DEQ hired a consultant (SKEO) to chart a path forward



- **Purpose:** To provide independent recommendations to DEQ on how to incorporate environmental justice principles into DEQ strategic planning and a phased program implementation.

Environmental Justice Study

- Anticipated recommendations:
 - **Regulatory actions** within existing DEQ authority
 - **Potential regulatory and statutory changes** that clarify or expand state authority to promote equity in environmental decision making
- A plan to further enhance DEQ's **education, communication, and outreach**
- **Stakeholder input during study**

The next 7 slides illustrate stakeholder opinions as captured by Skeo...



Stakeholder Perspectives:

What does “Environmental Justice” mean?

- Regulations are administered fairly, without discrimination based on demographics
- Meaningful community involvement
- Engaging vulnerable communities in decisions that affect them
- Recognizing and considering past harms and inherent inequities in decision-making
- Avoiding cumulative and disproportionate negative impacts on vulnerable communities
- Distributing program benefits equitably; to meet the priorities of vulnerable communities
- Ensure all people have access to nurturing environments

Stakeholder Perspectives:

Considerations regarding the concept of EJ

- Concerns that..
 - Some communities have not been treated equally under the law
 - EJ might be limited to race, and not consider other factors
 - EJ may be manipulated or used as a tool to stop projects for “outside” agendas
 - Defining a disadvantaged population may be challenging
 - Defining and evaluating “impact” and “disproportionate” may be challenging
- EJ is a response to environmental injustice which occurs where communities bear all the burdens, share none of the benefits, don’t have a place to be a part of the process

Stakeholder Perspectives:

What is DEQ's role in advancing EJ?

- Focus solely on environmental regulations
- Facilitate permit applicants through the permitting process
- Consider EJ, public health, social and economic considerations as part of environmental regulation
- Prevent pollution and injustice; drive an increase in use of renewable energy
- Neutral arbiter, providing guidance on environmental justice
- Thought leader in advancing environmental justice
- Develop accurate and trustworthy data to support decision-making
- Everyone has equal access to the agency; treat everyone fairly
- Recognize and address inequities
- Both permittees and communities know what to expect

Stakeholder Perspectives:

What are DEQ's biggest challenges in advancing EJ?

Authority: Questions regarding DEQ's authority to consider EJ in regulatory decisions

Direction: Setting a new direction amid conflicting stakeholder perspectives

Guidance: Lack of clear methods, guidance, and tools to evaluate EJ impacts

Resources: Limited funding and staff; especially with new state budget crisis under COVID-19

Trust: Lack of trust between DEQ and EJ communities and some regulated communities

Stakeholder Perspectives:

What is DEQ's relationship to various stakeholders?

Industry: Positive working relationship; neutral, fair, consistent

Small Agriculture: Ranges; unsure of DEQ's role and what programs impact them

Local government: Neutral to positive

Environmental Organizations: Neutral to positive

EJ Communities and Activists: Very strained, deep lack of trust



Legal Authority - Stakeholder Perspectives

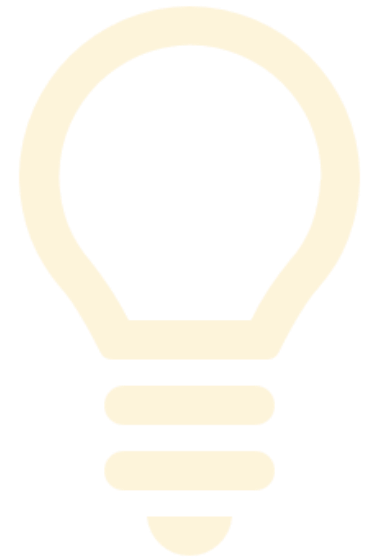
- Different understandings of DEQ's authority related to EJ and civil rights enforcement
- Does DEQ have authority to...
 - consider siting after a local land use approval?
 - be more protective than the standards?
 - consider cumulative, disproportionate impacts?
 - consider past inequities?
 - consider sensitive populations?
- How much of the permit review is discretionary?
- How can EJ impact findings influence a permit decision?





Legal Authority - Stakeholder Ideas

- Review all legal pronouncements and summarize current legal authority
- Clarify the social and economic considerations in DEQ's mission/title
- Leverage constitutional requirement for environmental conservation
- Set higher standards for community engagement
- Designate EJ communities across the state
- Provide a visual aid of DEQ authority and programs



Environmental Justice Study – Next Steps

- Review findings
- Alignment of recommended outcomes with needed resources
- Evaluate potential statutory changes to incorporate recommendations into permitting programs
- Development of community outreach plan based on study recommendations
- Long term sustainable commitments to EJ (beyond this administration)



2020 General Assembly Session



Two Environmental Justice Bills:

- **SB 406/HB 704** - Provided that it is the policy of the Commonwealth to promote environmental justice, defined in the bill, and to ensure that it is carried out throughout the Commonwealth.
- **SB 883/HB 1042** - Establishes the Virginia Council on Environmental Justice, consisting of 27 members, to advise the Governor and provide recommendations intended to protect vulnerable communities from disproportionate impacts of pollution as well as provide such communities meaningful involvement in the decision-making process
- Both Bills passed into law and became effective July 1, 2020

Virginia's Environmental Justice Law

- Added requirement to the DEQ's statement of policy to “further environmental justice and enhance public participation in the regulatory and permitting processes.”
- Added to DEQ's purpose in the agency's mission to “ensure the fair and meaningful involvement of all people regardless of race, color, national origin, faith, disability, or income with respect to the administration of environmental laws, regulations, and policies.”



Moving Forward...

- Work to enhance **EJ education and training** - Possible creation of “EJ Academy”
- Research the development of a Virginia specific **EJ GIS Screening Tool**
- Reach out to **localities** to partner on EJ matters (to include education & training)
- Work toward funding **EJ programs, projects, and positions**
- Examine expanding **EJ partnerships**



Virginia DEQ's Position on Environmental Justice

DEQ Director David Paylor:

“In accordance with our mission, DEQ will develop a clear process for incorporating environmental justice principles into our strategic planning and program implementation.”



Environmental Justice

Questions?