

Governor Ned Lamont and Connecticut General Assembly
State Capitol
210 Capitol Avenue
Hartford, CT 06106

January 19, 2023

Subject: It's Time to Strengthen Connecticut's Environmental Justice Law

Dear Governor Lamont and Distinguished Members of the Connecticut General Assembly,

As community leaders, elected officials, medical professionals, and business leaders serving communities across Connecticut, we do all we can to promote solutions that center residents' rights to a safe and healthy environment. Low-income communities and BIPOC (Black, Indigenous, and People of Color) communities suffer from the disproportionate siting of hazardous facilities that pollute our air, water, and soil. They deserve a healthy alternative.

We mobilize now in support of a stronger environmental justice law that will protect the most environmentally and economically distressed communities from added hazards to their health and wellbeing. In this letter we lay out our concerns with the current situation as well as our solution: strengthen the state's environmental justice law.

The Problem

Affecting facilities, such as trash incinerators, fossil fuel power plants, sewage treatment centers, and landfills, are concentrated in distressed municipalities and environmental justice communities. According to the Department of Energy & Environmental Protection's (DEEP) Integrated Resources Plan, 23 of the state's largest fossil fuel generating units are operating in state-identified environmental justice (EJ) communities. Pollution from these facilities adds to the burden on communities already struggling with lead pipes, asbestos, blight, and pollution from high traffic volume.

The passing of Connecticut's first environmental justice law in 2008 established a mandatory public participation process for any state permit application submitted for affecting facilities that would have negative environmental and public health impacts in EJ communities. This bill was a significant victory for residents of overburdened and underserved communities around the state, symbolizing Connecticut's acknowledgement of its part in concentrating pollution in those marginalized communities and recognizing the disproportionate harms they experience. In 2020, the EJ law was expanded to strengthen its public notice and public participation provisions. While progress has been made toward correcting environmental injustices through public participation, the current EJ law still falls short. The law fails to substantively stop additional pollution in EJ communities, who consequently continue to experience disproportionate poor health.

Affecting Facilities

Facilities that are subject to certain environmental justice actions are known as "affecting facilities". Affecting facilities are defined in section 22a-20a of the Connecticut General Statutes (CGS) as any facility that falls under at least one of the following categories:

(A) electric generating facility with a capacity of more than 10 megawatts; (B) sludge or solid waste incinerator or combustor; (C) sewage treatment plant with a capacity of more than 50 million gallons per day; (D) intermediate processing center, volume reduction facility or multitown recycling facility with a combined monthly volume in excess of 25 tons; (E) new or expanded landfill, including, but not limited to, a landfill that contains ash, construction and demolition debris or solid waste; (F) medical waste incinerator; or (G) major source of air pollution, as defined by the federal Clean Air Act.

Health Disparities

Environmental justice communities are disproportionately communities of color; therefore, environmental justice is racial justice. In 2020, the Connecticut Health Foundation reported Black children and teens are over 5 times more likely and Hispanic children and teens are over 4.5 times more likely than their White peers to go to the emergency department for asthma, and nearly all neighborhoods in Connecticut with the lowest life expectancies have Black and Hispanic populations exceeding the state average. The chemicals released by hazardous facilities have direct health consequences on surrounding communities. Siting hazardous facilities in communities already struggling with poverty and poor health is systemically oppressive, causing the highest levels of pollution to be faced by people with the least resources to cope with it. These facilities decrease local property values, further worsening the financial conditions of already economically distressed communities.

Reducing racial health disparities means addressing the environmental injustices that contribute to them. We propose below a list of recommendations for a stronger EJ law that will improve protections for CT's most vulnerable populations and give communities greater authority in decision-making processes for hazardous facilities.

A stronger environmental justice law should prioritize the following elements:

Improve Accountability

1) Permitting Limitations

a. DEEP and the Siting Council should be prohibited from issuing permits that would increase cumulative environmental or public health impacts in already overburdened communities, unless the permitted activity serves a compelling public purpose in that community. Cumulative impacts include combined past, present, and reasonably foreseeable pollution.

2) Comprehensive Application of EJ Law

a. All renewals, modifications, or change of use applications for existing permits should trigger application of the EJ Law, requiring an EJ impact review to aid in understanding existing pollution burdens.

3) Cumulative Impact Analysis

a. Included in their application, all permit applicants should be required to submit a cumulative impact statement detailing the impact their activities, if permitted, will have on the host community and nearby EJ communities, if applicable. The assessment will also consider the impact of other nearby affecting facilities, and this will be publicly available on the DEEP website and will be reviewed by DEEP when deciding whether to grant approval.

4) Funding for EJ Programs

a. A permit application fee should be authorized to fund the DEEP review process and environmental justice programs.

A Comprehensive Approach to Environmental Justice

5) Comprehensive Coverage of Facilities

a. Expand the current list of EJ affecting facilities covered by the EJ law to include all facilities that may increase exposures to environmental hazards or elevate public health risks, including higher risk of asthma and worse cardiovascular health.

6) Comprehensive Definition of EJ Community

a. Ensure that the state's definition of EJ communities is comprehensive and reflects Connecticut's diverse population. Consider including language barrier and racial demographic criteria, as New Jersey does.

Improve and Expand Community Capacity to Engage Meaningfully in the Permitting Process

7) Multilingual Outreach and Public Notice Requirements

a. Use census data to identify and publicize meetings and notices in commonly spoken languages in that community. Also, require that they be published in non-English media sources (e.g. newspapers, community boards, libraries), as applicable to the local context.

8) Timing Requirements

a. Limit the time between the public hearing process and the permit application submission to ensure that the public can stay engaged in both the public hearing and actual permitting process (or require continued engagement by the permit applicant and DEEP between these processes).

Applicants must also notify the public of subsequent public comment opportunities during permit proceedings.

9) Public Hearing Requirements

a. Require that hearings be recorded and made publicly available and translated, when applicable. Require written response to comments and a summary of changes made to the proposed activity in response to community dialogue.

10) Citizen Suit Provision

a. Add a citizen suit provision in the EJ law authorizing parties to challenge permit approval when public participation requirements are violated or when the agency does not comply with its EJ impact determination.

11) Public Involvement in CEBA Negotiations

a. Require involvement of community members throughout the negotiation of a community environmental benefit agreement.

b. No CEBA funding should be allocated to medical facilities as it does not correct historic health disparities caused by exposure to affecting facilities. Funding should instead be restricted to environmental benefits or community engagement in environmental benefits.

12) Community Approval

a. Community approval should be required to site these affecting facilities. Without the consent of the community, these facilities should not be placed in overburdened communities.

Supporting environmental justice is not anti-business. It is standing up against discriminatory and abusive permitting practices. Overburdened, economically distressed communities in Connecticut would benefit from greener businesses and employment opportunities, improving their health and protecting their natural environment.

To rectify environmental injustices, promote public health, and meet the needs of Connecticut's most vulnerable communities, we insist that you propose and pass legislation to strengthen the EJ law.

Respectfully submitted,

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State Representative Michael Winkler, 56th District

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Alex Rodriguez, Save the Sound

Katharine Morris, Seaside Sounds Club

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Tom Swan, Connecticut Citizen Action Group

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Jay Stange, Transport Hartford Academy

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