

# The Environmental Justice Act of 2017

*Lead Sponsors: Senator Cory Booker (D-NJ) and Congressman Raul Ruiz (D-CA36)*

## Background

Environmental justice is a pervasive challenge in the United States. Communities of color, indigenous communities, and low-income communities are exposed to more environmental and public health hazards than other communities. These environmental justice communities disproportionately live near hazardous waste sites and landfills; they are exposed to air pollutants at a higher rate; and they more frequently experience environmental health-related conditions like lead poisoning and asthma. Beyond high-profile incidents like the Flint water crisis, there are environmental justice issues playing out right now all over this country that demand solutions at the Federal level.

## Summary

The Environmental Justice Act of 2017 takes a major step toward eliminating environmental injustice in the United States. The bill requires Federal agencies to address environmental justice through agency actions and permitting decisions, and strengthens legal protections against environmental injustice for communities of color, indigenous communities, and low-income communities.

The Act has five major components:

- **Codifies and expands the Executive Order on Environmental Justice** EO 12898 focused federal attention on environmental and human health impacts of Federal actions on minority and low-income communities. This bill codifies the EO into law, including the Federal Interagency Working Group on Environmental Justice created by the order. It also creates enhanced information access, public participation, and reporting requirements for Federal agencies charged with implementing this Act and eliminates the Executive Order's limitation on judicial review. Existing CEQ Guidance to assist Federal agencies with their NEPA procedures so that environmental justice concerns are effectively identified and addressed and existing EPA Guidance to enhance EPA's consultations with Indian Tribes in situations where tribal treaty rights may be affected by a proposed EPA action are also codified.
- **Codifies the existing National Environmental Justice Advisory Council (NEJAC) and environmental justice grant programs.** This ensures that NEJAC will continue to convene and provide critical input on environmental justice issues to Federal agencies, and that several important environmental justice grant programs, including Environmental Justice Small Grants and CARE Grants, will continue to be implemented under Federal law.
- **Requires consideration of cumulative impacts and persistent violations in certain federal or state permitting decisions under the Clean Water Act and Clean Air Act.** This will ensure that already-overburdened communities do not continue to be exposed to disproportionately high levels of air pollutants or water pollutants released from local sources.
- **Clarifies that communities impacted by events like the Flint water crisis may bring statutory claims for damages and common law claims in addition to requesting injunctive relief.** Under current legal precedent, environmental justice communities are often prevented from bringing claims for damages. This section will ensure that impacted communities can assert these claims.
- **Reinstates a private right of action for discriminatory practices under the Civil Rights Act.** This section overrules the Supreme Court decision in *Alexander v. Sandoval* and restores the right for individual citizens to bring actions under the Civil Rights Act against entities engaging in discriminatory practices that have a disparate impact. Currently, citizens must rely upon Federal agencies to bring such actions on their behalf.