

Welcome!



Environmental Justice Legislative Team 2019 Briefings

Maryland Green Amendment

Maryland Environmental Health Network (MdEHN)



- Website: www.mdehn.org
- Twitter: [@MdENVHealth](https://twitter.com/MdENVHealth)
- Facebook: [@MdEnvHealth](https://www.facebook.com/MdEnvHealth)
- Email: info@mdehn.org

Tamara Toles O'Laughlin, Executive Director |
[@Tamaraity](https://twitter.com/Tamaraity)

Environmental Justice Legislative Team

The Maryland Environmental Justice Legislative Team (EJLT) works together to magnify community voices through the legislative process to address environmental inequities in Maryland.

EJLT welcomes participation from anyone interested in creating a more inclusive and equitable environmental policy landscape.

Environmental Justice Legislative Team

Founding Members:

- Blue Water Baltimore
- Beloved Community Church
- Chesapeake Physicians for Social Responsibility
- Clean Water Action
- Interfaith Partners for the Chesapeake
- Maryland Chapter Sierra Club
- Maryland League of Conversation Voters
- Maryland League of Conversation/Voters CHISPA Maryland
- Maryland Environmental Health Network

Environmental Justice Legislative Team

Co chairs:



MdEHN Guiding Principles

- Mission** Promote the elimination of environmental threats to human health.
- Vision** A safe and healthy environment for all Marylanders regardless of income, education, occupation, social class, gender, race/ethnicity, or zip code.
- Values** A level playing field for vulnerable populations. Skills building and support via partnerships and programs developed with impacted populations, health and environmental advocates, and legislative champions.

Partner Information

Coalition of nineteen independent programs working to make the waters of the Chesapeake and Coastal Bays swimmable and fishable.



Environmental Health Lens

- Environmental health looks at the trends at the population level in specific settings and locations.
- It is concerned with the ways that health is easier or harder to reach in connection to the right to thrive in society and culture, and access to the self determination, means and capital.

Environmental Health Goal

- Lower the likelihood of untimely death and sickness, while helping humans achieve the ability to have positive and potentially meaningful lives of their own making.

Environmental Health Issues

- Increased rates of cancer.
- Proximity of communities to industrial activity.
- Noise, light, air and water pollution impacts on human health.
- Rise of fossil fuel infrastructure, and specifically Natural Gas Infrastructure.
- Lack of voice/agency for communities within the footprint of all of the above.

Environmental Health Issues

- Loss of community caused by changes in the use of land.
- Lack of state and local health and environmental agency responsiveness to community health concerns.
- Lack of local data to prove harms.

Maryland Green Amendment: What is it?

- Constitutional right to uncontaminated water, breathable air and a healthy environment for present and future generations of Marylanders.
- An opportunity for the state to act in the interest of a non toxic environment or else be challenged in a court of law.
- A right embedded within the state constitution.

Community Concerns

Communities Say:

Pennsylvania

- Business interests enjoy a powerful advantage in how the laws are written, whether they pass or fail, how they are implemented, and how rigorously they are enforced.
- Business seems to have access to politicians, and dollars to buy the science they need to make their case, use economic arguments to cloud facts in courtrooms/public debate.

Communities Say:

Pennsylvania

- Those who oppose industry plans face lawsuits where they are outmaneuvered by business interests that can use property rights and other widely known constitutional liberties to justify environmental degradation.

Emerging Policy & Legislative Proposals

Policy Models

- Pennsylvania & Montana have the strongest Green Amendments to date.

Policy Models

Pennsylvania Green Amendment

Article 1, Section 27 of the state constitution, passed by referendum in 1971:

- The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

Policy Models

Pennsylvania

1971

- Protection of peoples' right to a healthy environment was treated more as a statement of policy than a binding statement of law until December 2013.

2013

- Supreme Court declared fundamental provisions of Act 13 unconstitutional, reinstating property/municipal rights.
- Act 13 allowed oil and gas to preempt local zoning, major pro-drilling and fracking law.

Policy Models

Pennsylvania

- Delaware Riverkeeper Network, and seven towns got together to over turn Act 13.
- Court ruled that our environmental rights are inherent and inalienable rights given to us by nature, by virtue of our birth, and thus inalienable.

2016

- Penn Supreme Court found medical gag rule of Act 13 unconstitutional

Policy Models

Pennsylvania

- Justice Christine Donohue said **“The Commonwealth (including the Governor and General Assembly) may not approach our public natural resources as a proprietor, and instead must at all times fulfill its role as a trustee,”** wrote Donohue. **“Because the legislative enactments at issue here do not reflect that the Commonwealth complied with its constitutional duties, the order of the Commonwealth Court with respect to the constitutionality of 1602-E and 1603-E is reversed, and the order is otherwise vacated in all respects.”**

Policy Models

Montana

- 1999- MEIC v Montana DEQ produced jurisprudence that would continue to shape the state's environmental agenda for decades.
- Local concerns about mining operation (started with local communities then built momentum toward a Green Amendment).

Policy Models

Montana

- Justice Terry Trieweiler said **“Our constitution does not require that dead fish float on the surface of our state’s rivers and streams before its farsighted environmental protections can be invoked”** making it an anticipatory and preventative constitution

Policy Models

Maryland

- A constitutional green amendment is a natural successor to fracking ban.
- Prophylactic protection of right to a healthy in perpetuity.

Policy Models

Maryland

- Strengthens existing environmental law.
 - *Clean Water Act* requires that individual states certify that a project complies with state water quality standards before securing approval. A state is bound by its constitution.
 - *Safe Drinking Water Act of 1974*-EPA mandates protection of drinking water.
 - *Clean Air Act* federal law designed to control air pollution on a national level.

Policy Models

Maryland

- Strengthens existing environmental law.
 - *Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 aka Superfund- federal funding to correct extreme the toxic exposure to protect human health through EPA or EPA supervision*
 - *Toxic Substances Control Act the Nation's primary chemicals management law*

Policy Models

Maryland

- Can strengthens existing environmental law.
- Acts as a backstop for future legislation.

Policy Models

Maryland

- A green amendment would be proactive protection of right to a healthy in perpetuity.
- A green amendment could protect against:
 - Gaps between permits, regulations and human health and environmental threats.

.

Policy Models

Maryland

- A green amendment could protect:
 - Subsistence anglers and fishers and hunters
 - Chemically sensitive children
 - Adults experiencing late onset allergies
 - Communities in the footprint of industrial operations
 - Communities near freight train operations, bus depots or cargo ships
 - Old growth forests
 - Coastal wetlands
 - Water supplies/aquifers and related home values.

Policy Models

Maryland

- A green amendment could protect against:
 - Policies that work against the precautionary principle—actions with potential environmental harms unless proven safe—
 - Impacted communities having to play defense-bearing the burden of proving harms with expensive scientific and legal expenses.

Policy Models

Maryland

- A green amendment could protect against violations of state agency mandates and missions to protect human health.
- Environment and health violations:
 - Landfill construction or maintenance
 - Toxic waste dumping and exposure
 - Air pollution (and related bronchitis, asthma, childhood respiratory issues, heart disease, skin cancer, cataracts)
 - Climate change catalysts (methane, volatile organic compounds, carbon monoxide) from fracked gas infrastructure, land use and ownership/eminent domain challenges; particle pollution/ozone.
 - Swimmable, and fishable waters, food chain poison

Policy Models

Maryland

- A green amendment must call for state protection of the right to uncontaminated water, breathable air and a healthy environment for present and future generations of Marylander. The state must hold these rights in trust as stewards and conserve and maintain these benefits in perpetuity for individual residents, enforceable in the court of law.

Policy Models

Maryland

- Action steps for Maryland:

Mobilize

Articulate

Motivate

Activate

Policy Models

Maryland

- Mobilize

Galvanize residents to push for a green Amendment within the state bill of rights/declaration of rights. Co equal with freedom of speech, assembly etc.

Policy Models

Maryland

- Articulate

The amendment must call for state protection of the right to uncontaminated water, breathable air and a healthy environment for present and future generations of Marylander. The state must hold these rights in trust as stewards and conserve and maintain these benefits in perpetuity for individual residents, enforceable in the court of law.

Policy Models

Maryland

- Motivate

The General Assembly/Legislature must vote to change the constitution.

Policy Models

Maryland

- Activate

Residents must vote directly on the right to a health environment during a general election.

Questions and Answers

Resources

For The Generations

- Delaware Riverkeeper, Maya van Rossum spearheaded “For the Generations” at Delaware Riverkeeper Network to inspire, support and advance constitutional rights throughout United States.

Email: ForTheGenerations@delawareriverkeeper.org

Resources

A constitutional weapon: Environmental rights reimagined in Penn

- <https://newsinteractive.post-gazette.com/blog/pennsylvania-environmental-rights-amendment/>

PA's Environmental Amendment Grows Teeth

- <https://www.bayjournal.com/article/pa-activists-using-environmental-rights-amendment-with-success>

Growing Greener initiative (1999)

- <https://www.dep.pa.gov/Citizens/GrantsLoansRebates/Growing-Greener/Pages/What-is-Growing-Greener.aspx>

Resources

Southwest Penn Environmental Health Project keeps a growing list of all those who are harmed by fracking in US

- <https://pennsylvaniaallianceforcleanwaterandair.wordpress.com/the-list/>
- <https://www.environmentalhealthproject.org/>

Applying the Environmental Rights Amendment in 2018

- <https://www.mankogold.com/publications-Environmental-Rights-Amendment-PEDF-Coalfield-DEP.html>

Resources

- Keeping Public Lands in Public Hands

<https://wildmontana.org/our-work/protecting-public-lands/public-lands>

Big Hole and Beaverhead Lease Sale an Ominous Sign for Future WSAs

- <https://wildmontana.org/wild-word/big-hole-and-beaverhead-lease-sale-an-ominous-sign-for-future-of-wsas>

Montana Environmental Policy Act → to date:

- <https://meic.org/issues/constitution-of-montana-and-mepa/montana-environmental-policy-act/>

Next Briefing

- Topic: Renewable Energy Standards
- Speakers: Ms. Brooke Harper, Chesapeake Climate Action Network & Mr. Arjun Makhijani, PhD, Institute of Energy and Environmental Research
- Date: September 24, 2018
- Time: 12:00 pm- 1: 30 pm (EST)

Thank you!

