



State of North Carolina

ROY COOPER
GOVERNOR

October 24, 2023

EXECUTIVE ORDER NO. 292

ADVANCING ENVIRONMENTAL JUSTICE FOR NORTH CAROLINA

WHEREAS, in 1982, protests involving the dumping of polychlorinated biphenyls (PCB) contaminated soil in Warren County North Carolina sparked the beginning of the national environmental justice movement; and

WHEREAS, all North Carolinians, irrespective of economic status, cultural heritage, race, religion, ability, age, or zip code, have the right to enjoy a sustainable environment with clean air, clean water, and clean soil and that is free from environmental degradation; and

WHEREAS, communities of color, low-income, and indigenous communities have been and continue to be disproportionately affected by climate change and environmental pollution; and

WHEREAS, President Biden signed Exec. Order No. 14,008, 3 C.F.R., 2021 Comp., p. 477, on January 27, 2021, reaffirming the United States' commitment to environmental justice and establishing federal environmental justice initiatives; and

WHEREAS, Justice40, established under federal Executive Order 14008, aims for forty (40) percent of the overall benefits of certain Federal investments flow to disadvantaged communities that are marginalized, underserved, and overburdened by pollution; and

WHEREAS, Exec. Order No. 246, 36 N.C. Reg. 1287-1291 (Feb. 1, 2022), which was issued on January 7, 2022, directs the Governor's Office and Cabinet agencies to incorporate environmental justice and equity considerations and benefits in the implementation of various executive orders; and

WHEREAS, Executive Order No. 246 directs each Cabinet agency to identify an environmental justice and equity lead; and

WHEREAS, Executive Order No. 246 directs each Cabinet agency to develop an agency public participation plan; and

WHEREAS, Executive Order No. 246 directs the Governor's Office and Cabinet agency leadership to seek public input on additional executive action to advance environmental justice and equity priorities; and

WHEREAS, Executive Order No. 246 directs Cabinet agencies to invest funding, consistent with applicable law, with an emphasis on achieving directives of Executive Order Nos. 80, 218, and 246; and

WHEREAS, on May 2, 2018, the Secretary of the North Carolina Department of Environmental Quality (“DEQ”) established the Secretary’s Environmental Justice and Equity Advisory Board; and

WHEREAS, pursuant to Article III of the Constitution of North Carolina and N.C. Gen Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the State and is responsible for formulating and administering the policies of the executive branch of state government; and

WHEREAS, pursuant to N.C. Gen. Stat. § 147-12, the Governor has the authority and duty to supervise the official conduct of all executive and ministerial officers.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Oversight.

The Secretary of DEQ’s Environmental Justice and Equity Advisory Board is hereby reestablished as the Governor’s Environmental Justice Advisory Council (“Council”). The mission of the Council is to advise the Governor and state agencies on incorporating environmental justice into policies and programming, to provide clarity and consistency to the State’s approach to environmental justice, and to collaborate on, develop, and enhance state strategies to advance environmental justice (“EJ”).

Section 2. Membership.

The Council shall be comprised of no more than twenty-two (22) members, including the chair(s). Eleven (11) members shall be appointed by the Governor and shall serve at the Governor’s pleasure, and the remaining eleven (11) members shall consist of designees of each of the Cabinet secretaries. The Governor shall select the chair or co-chairs to lead the Council. The members appointed by the Governor shall include, but not be limited to, representatives of academic institutions, environmental organizations, community organizations, local governments, and American Indian Tribes. The Council should represent the diverse interests, people, and perspectives in North Carolina.

Section 3. Meetings and Quorum.

The Council shall meet at least quarterly. A simple majority of the Council members shall constitute a quorum to transact business. Meetings of the Council shall be conducted consistent with the State’s Open Meetings Laws, N.C. Gen. Stat. § 143-318.9 *et seq.* Council members shall serve without compensation but may receive a per diem allowance and reimbursement for travel and subsistence expenses in accordance with state law and Office of State Budget and Management policies and regulations.

Section 4. Administration.

The Governor’s Office shall provide necessary administrative and staff support services to the Council.

Section 5. Powers of the Council.

The Council may:

- Serve as a forum for whole-of-government EJ concerns and priorities;
- Identify funding opportunities that advance EJ principles and communicate those opportunities to the public;
- Provide guidance to Cabinet agencies and to the Governor’s Office on EJ issues;
- Maximize resources, research, and technical assistance across state agencies to further support EJ advancement;
- Consult with the NC Office of Strategic Partnerships for recommendations and guidance to determine effective strategies for engaging with North Carolina;

- Collaborate with the NC Office of Strategic Partnerships to identify sources of expertise about existing and potential EJ research projects and topics;
- Collaborate with the NC Office of Strategic Partnerships and other state agencies to develop government-research partnerships focused on EJ;
- Develop further guidance for state agencies on best practices for identifying EJ communities;
- Develop further guidance for state agencies on best practices for the use of mapping tools and data;
- Provide recommendations to the Governor to establish a foundation of EJ principles;
- Provide recommendations to the Governor on legislation, regulations, and policies that advance EJ or mitigate environmental injustice;
- Share actions, best practices, and data relevant to EJ across state agencies, including information on threshold and maximum exposures, how to collect exposure data, and how to model exposure;
- Seek opportunities to increase awareness in state agencies of important EJ topics, such as cumulative impacts, climate justice, disproportionate impacts, improved tribal consultation, and historical and cultural impacts of EJ;
- Recommend a comprehensive EJ training plan for state agencies that the Office of State Human Resources can make available to state employees; and
- Solicit input from communities with EJ concerns.

Section 6. Definitions.

The following definitions apply to this Executive Order only:

- a. "Communities of Color" means communities in which the share of nonwhites and Hispanic or Latino (of any race) residents is forty percent (40%) or higher or at least ten percent (10%) higher than the residing county or state share.
- b. "Community" or "Communities" mean either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as migrant workers or American Indians), where either type of group experiences common conditions.
- c. "Cumulative Impact" means the totality of exposure to combinations of chemical and nonchemical stressors and their effects on human health, well-being, and quality of life outcomes.
- d. "Disparate impact" means disproportionately higher adverse health or environmental effects on communities of color, low-income communities, or indigenous communities at levels that are statistically significant.
- e. "Environmental Justice" means the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, or Tribal affiliation, in agency policies and programming that affect human health, well-being, quality of life, and the environment so that people:
 - (i.) are protected from disproportionate and adverse human health effects and environmental hazards, including: those related to climate change, the cumulative impacts of environmental and other burdens, and the legacy of racism or other structural or systemic barriers; and
 - (ii.) have equitable access to a healthy, sustainable, and resilient environment in which to live, play, work, learn, grow, worship, and engage in cultural and subsistence practices.
- f. "Environmental Justice Communities" or "EJ Communities" means communities of color, low-income communities, or indigenous communities that are experiencing, or are at risk of, disparate impacts as a result of the agency action under consideration.
- g. "Indigenous Communities" means communities where "American Indian Tribes" as defined by 01 N.C. Admin Code 15 .0202, reside or where the share of American Indian

and Alaskan Native populations are five percent (5%) higher than the residing county or state share.

- h. “Low-Income Communities” means communities in which the share of population experiencing poverty is more than twenty percent (20%) or the share of households in poverty is at least five percent (5%) higher than the residing county or state share.

Section 7. Goals and Measurable Outcomes.

Within 120 days of the issuance of this Executive Order each Cabinet agency shall develop at least three draft EJ goals and measurable outcomes. The draft goals and outcomes shall then be submitted to the Council for publication for a 60-day public comment period. The Council should make reasonable efforts to provide notice to the public when the comment period begins and shall undertake reasonable efforts to ensure stakeholders are aware of the ability to comment during this period. The draft goals and measurable outcomes shall be published on the Environmental Justice Hub or “EJ Hub,” as set forth in Section 8 of this Executive Order. Following public comment, the Council shall provide feedback to the Cabinet agencies for them to consider as they finalize such goals and outcomes, incorporating public feedback as practicable and feasible. The Council will post the finalized goals and measurable outcomes on the EJ Hub. Within 90 days of the publication of the Mapping Tool set forth in Section 5 of this Executive Order, each Cabinet agency shall review and, if appropriate, revise their goals and outcomes. This section is not intended to promulgate the established goals and measurables as regulations under the North Carolina Administrative Code.

Section 8. North Carolina Environmental Justice Mapping Tool and Environmental Justice Hub.

The North Carolina Department of Information Technology (“DIT”) shall develop a whole of government Environmental Justice Hub webpage to host environmental justice information and activities including the Mapping Tool and relevant grant information across the Administration.

Cabinet agencies in collaboration with DIT shall develop and maintain a statewide environmental justice mapping tool (“Mapping Tool”). The Mapping Tool shall be easily accessible and usable by the public, local and tribal governments, public and private organizations, and the State. The Mapping Tool shall, at a minimum, integrate data used in DEQ’s Community Mapping System, DEQ’s Environmental Justice Tool, the North Carolina Department of Health and Human Service’s environmental health data dashboard, and the North Carolina Department of Transportation’s EJ and Transportation Disadvantage Index mapping tool. The Mapping Tool shall include, at a minimum, demographic data on the census block level, permitted facility locations, and relevant health data on the smallest geographic scale publicly available, while ensuring data privacy and protection. Cabinet agencies will provide EJ data associated with: ambient air quality data, climate stressors such as flooding and sea level rise risk, and locations of sensitive receptors such as schools, nursing homes, and affordable housing communities. The Council, with public input, shall direct the development of the Mapping Tool. The Mapping Tool shall be published within twelve (12) months of the signing of this Executive Order

Section 9. Public Participation and Access.

The Board of Transportation, Environmental Management Commission, the Information Technology Strategy Board, the Land and Water Fund, the Parks and Recreation Trust Fund, and the Commission for Public Health, shall each develop a public participation plan informed by stakeholder input. The plan shall include best practices for community engagement, meaningful dialogue, and efficient mechanisms to receive and incorporate public input into policies and programming. Public participation plans shall aim to improve communication, foster relationships, and enhance transparency in policies and agency programming with all members of the public, including underserved communities and populations with limited English proficiency. Each board and commission that is subject to the requirements of this section shall publish its public participation plan on its website by June 1, 2024. Each board and commission that is subject to the requirements of this section shall review its public participation plan annually and, if necessary, update its public participation plan. A board and commission that is subject to the requirements of this section may develop a joint public participation plan with a Cabinet agency required to develop a public participation plan by Executive Order No. 246.

Each Cabinet agency and each board and commission that is subject to the requirements of this Section of this Executive Order or subject to Section 8 of Executive Order No. 246 shall offer interpretation and translation services for its public participation plan whenever possible.

Each Cabinet agency shall take reasonable steps to maintain websites that are digitally inclusive, so that all individuals and communities, particularly those with disabilities and/or English language barriers, have access to and use of information, whenever practicable.

Section 10. Permitting, Policy Actions, and Agency Programs.

The Governor's Office and Cabinet agencies shall incorporate EJ considerations into their policies and programs to the extent permitted by law. Each Cabinet agency shall ensure meaningful opportunities for the public to participate in policy actions and agency programs making on matters of importance to impacted communities, as outlined in the public participation plans required by Executive Order No. 246.

Each Cabinet agency should consider public health impacts in their permitting, policy actions, and agency programs to the furthest extent permissible by law.

Cabinet agencies may also use the Mapping Tool from Section 5 of this Executive Order in permitting, policy actions, and agency programs to the furthest extent permissible by law, including using the Mapping Tool:

- To inform considerations of issues such as the societal, environmental, health, and other impacts associated with energy, utility, and transportation infrastructure projects;
- To inform environmental regulatory actions;
- To inform environmental permitting; and
- As a factor in evaluating grant awards and other incentives.

Section 11. Cumulative Impacts.

The Council, in consultation with the NC Office of Strategic Partnerships, shall engage with academia, prioritizing Historically Black Colleges and Universities and other Minority-Serving Institutions, and other research institutions to conduct research on cumulative impacts in North Carolina and develop recommendations for creating a framework and methodology to assess cumulative impacts.

Section 12. Reporting

By October 15, 2024, and annually thereafter, the Council shall deliver a report to the Governor, Cabinet secretaries, and Council of State members that (1) identifies and makes recommendations for advancing EJ, (2) describes activities of the Council, (3) identifies EJ policies and programs in state agencies, and (4) describes agency implementation of their public participation plans.

By October 15, 2024, and annually thereafter, the North Carolina Department of Commerce and DEQ shall jointly deliver a report to the Governor and to the Council regarding businesses who have been awarded Job Development Investment Grant ("JDIG) incentives since January 1, 2017, and have also been issued notice of violations from DEQ.

By October 15, 2024, and annually thereafter, each Cabinet agency shall deliver a report to the Governor and the Council about their environmental justice goals and measurable outcomes, and their progress towards accomplishing those goals and outcomes, adopted pursuant to Section 4 of this Executive Order.

The Economic Investment Committee, established by N.C. Gen. Stat. § 143B-437.54, shall include in its reports required by N.C. Gen. Stat. § 143B-437.55(c) information related to any environmental violations committed by businesses receiving grants administered by the Committee.

Section 13. Applicability.

Council of State members, higher education institutions, local governments, private businesses, and other North Carolina entities are encouraged to address environmental justice and provide input to the Council on environmental justice measures developed through the implementation of this Executive Order. Consistent with applicable law, Cabinet agencies shall actively support such actions.


Section 14. No Private Right of Action.

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

Section 15. Effective Date.

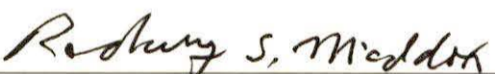
Section 1 of this Executive Order is effective immediately and, pursuant to N.C. Gen. Stat. § 147-16.2, shall remain in effect until October 31, 2027. The remainder of this Executive Order is effective immediately and shall remain in effect unless rescinded or superseded by another applicable Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 24th day of October in the year of our Lord two thousand and twenty-three.



Roy Cooper
Governor

ATTEST:



Rodney S. Maddox
Chief Deputy Secretary of State

