



JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM  
COMMISSIONER

**TESTIMONY OF**  
**MARK MARGERUM**  
**POLICY DEVELOPMENT SPECIALIST**  
**MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**SPEAKING IN SUPPORT OF**  
**L.D. 1621 AN ACT REGARDING ENVIRONMENTAL JUSTICE**

**BEFORE THE JOINT STANDING COMMITTEE**  
**ON**  
**ENVIRONMENT AND NATURAL RESOURCES**

**Presented by Speaker, Rachel Talbot Ross**

**DATE OF HEARING:**

**April 24, 2023**

Senator Brenner, Representative Gramlich, and members of the Committee, I am Mark Margerum, Policy and Procedures Coordinator for the Department of Environmental Protection. I am speaking in support of LD 1621, but recommend amending the bill to ensure alignment with federal environmental regulations and grant programs.

2021 Resolve, chapter 279 required the Governor's Office of Policy, Innovation and the Future (GOPIF) to, specifically, develop definitions for "environmental justice,"

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826

BANGOR  
106 HOGAN ROAD, SUITE 6  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769  
(207) 764-0477 FAX: (207) 760-3143

“environmental justice populations,” “frontline communities” and any other terms determined by the office to be necessary for the incorporation of equity considerations in decision making at the Department. In 2022, GOPIF and the Department provided recommendations to utilize definitions of those terms provided by the U.S. Environmental Protection Agency to ensure our state programs would align with federal requirements that were already under development. The recommendations pertaining to the Department were embodied in L.D. 2018, but were removed from that bill before its final passage due to lack of funding necessary to implement its procedural requirements.

While Maine’s Legislature was considering how to incorporate environmental justice considerations into the Department’s programs, many of which are under delegated authority by the EPA, the Biden Administration and EPA were rapidly developing federal guidelines for this same purpose. Since the language before you in L.D. 1621 was originally recommended in early 2022, much work has occurred at the federal level to indicate that adopting these terms and definitions into Maine law now may complicate the Department’s efforts to satisfy both state and federal requirements.

In May 2022, EPA issued a 200-page guide on how environmental justice considerations could legally be applied to permitting decisions under federal environmental laws such as the Clean Air Act and Clean Water Act<sup>1</sup>. In that document, EPA uses the defined terms “meaningful involvement” and “fair treatment” that must be provided to “underserved communities” and “communities with environmental justice concerns.”

At the same time, EPA was developing guidance for states to administer grant funds as directed by President Biden’s Justice40 initiative, to ensure that at least 40% of federal funds go to “disadvantaged communities.” For drinking water and wastewater funds,

---

<sup>1</sup> EPA Legal Tools to Advance Environmental Justice, May 2022.

<https://www.epa.gov/system/files/documents/2022-05/EJ%20Legal%20Tools%20May%202022%20FINAL.pdf>

“disadvantaged communities” are identified by income, unemployment, and population trends. Then the 2022 Inflation Reduction Act appropriated millions of dollars of federal funds to environmental programs to serve “*low-income and disadvantaged communities*,” with criteria for identifying those communities to be determined by the EPA.

In December 2022, the EPA published a proposed rule for implementing regulations under Clean Air Act Section 111(d)<sup>2</sup>. In that rule, EPA proposed a definition of “meaningful *engagement*” specifically for states’ implementation of certain emission standards. That proposed definition has elements similar to the definition proposed for “meaningful *involvement*” in L.D. 1621, but yet the terms to be defined are slightly different with slightly different definitions. These are just a few examples of the differences between the content proposed in L.D. 1621 and the language that is evolving from EPA.

The Department is committed to providing increased access to services, funding, and decision-making for low-income, underserved, disadvantaged, and frontline communities. In collaboration with the EPA, the Department utilizes the Climate and Economic Justice Screening Tool to identify communities where additional effort should be made to provide grant funding, engage community members, increase compliance assurance with regulated facilities, and consider cumulative impacts of pollution in permitting and rule-making. However, the Department has received no additional funding for this work as EPA continues to add requirements for states to engage with these communities. Providing effective engagement opportunities for citizens in all parts of the state, on the wide variety of regulatory, permitting, and grant activities undertaken by the Department each year, will be costly. Section 2 of L.D. 1621 reflects

---

<sup>2</sup> Adoption and Submittal of State Plans for Designated Facilities: Implementing Regulations Under Clean Air Act Section 111(d) (December 23, 2022). 87 Fed Reg 79176.  
<https://www.federalregister.gov/documents/2022/12/23/2022-27557/adoption-and-submittal-of-state-plans-for-designated-facilities-implementing-regulations-under-clean>

the Department's 2022 estimate of the costs to conduct public meetings for only 1 percent of permit applications<sup>3</sup>, and is the minimum amount of resources the Department would request to fulfill the charge of L.D. 1621.

The Department recommends amending Section 1 of the bill by removing the definitions, and removing paragraph 2(A). This would provide the Department with sufficient flexibility to align the proposed terminology in L.D. 1621 with federal requirements as they continue to evolve.

We thank the sponsor for supporting the Department's environmental justice work, and I would be happy to answer any questions you have, now or at the work session.

Thank you.

---

<sup>3</sup> Governor's Office of Policy Innovation and the Future Report on Equity Considerations in Decision Making Pursuant to An Act To Require Consideration of Climate Impacts by the Public Utilities Commission and To Incorporate Equity Considerations in Decision Making by State Agencies (February 25, 2022). Reference pages 15-17.

[https://www.maine.gov/dep/publications/documents/GOPIF%20Report%20Pursuant%20to%20Public%20Law%202021%20Chapter%20279%20\(LD%201682\)\\_2-25-2022.pdf](https://www.maine.gov/dep/publications/documents/GOPIF%20Report%20Pursuant%20to%20Public%20Law%202021%20Chapter%20279%20(LD%201682)_2-25-2022.pdf)