

## **Equity in Disaster Recovery: Environmental Justice and Disparate Impact Analysis**

As discussed in the legal history of environmental justice in North Carolina, successful legal challenges to environmental justice issues often prove difficult. However, some advances have been made when utilizing the standard of “disparate impact” under the Fair Housing Act.

“Disparate impact” is a term used to describe the disproportionately negative effect a particular policy or procedure may have on a particular protected class or classes of people. Instead of being able to only cite a policy that is discriminatory on its face, “disparate impact” allows a policy or procedure to be challenged based on its effect- even if the overt language of that policy or procedure does not state an intent to discriminate.

Disaster recovery efforts are of particular importance to environmental justice initiatives. As we’ve seen in the past few years with Hurricanes Matthew and Florence devastating already strained infrastructure in Eastern North Carolina and Tropical Storm Fred as well as the recent devastating effects of Tropical Storm Helene in Western North Carolina, the protections of the Fair Housing Act are incredibly important in both mitigation and recovery efforts. Too often, disaster mitigation and recovery efforts do not consider the systemic inequalities that have led to certain communities being more devastated by natural disasters and having a more difficult time recovering than other communities.

The Department of Housing and Urban Development, the Department of Justice and the Federal Emergency Management Agency have all recognized these issues and affirmed that the prohibition against discrimination on the basis of race, color, national origin, religion, sex, familial status, and disability can never be waived. Recipients of federal financial assistance engaged in emergency management or disaster recovery services must comply with The Fair Housing Act at all times.

Below are some areas where you may see policies or procedures effecting issues considered part of environmental justice, including disaster recovery:

### Zoning:

- Flood zone designations and the ability for certain communities to access mitigation assistance
- Zoning changes from residential to industrial/commercial and its impact on the surrounding community
- Conditional Use permits

### Infrastructure:

- Which communities are able to access water treatment facilities and who gets funding
- Storm water/storm drainage maintenance and whether there is equal access
- Municipal services such as 911, fire department, etc. and its availability to certain communities

### Disaster Recovery:

- Federal Emergency Management Agency (FEMA) assistance accessibility and reimbursement rates
- Shelter accessibility
- Flood insurance requirements and access to mitigation through the National Flood Insurance Program
- Home Insurance accessibility and reimbursement
- Community Development Block Grant-Disaster Recovery assistance and its accessibility to certain communities

You can read more about equity in disaster recovery, including recommendations and considerations at 42 U.S.C. 5151 and at the links below:

[https://www.fema.gov/sites/default/files/documents/fema\\_equitable-recovery-post-disaster-guide-local-officials-leaders.pdf](https://www.fema.gov/sites/default/files/documents/fema_equitable-recovery-post-disaster-guide-local-officials-leaders.pdf)

<https://www.justice.gov/crt/file/885401/dl#:~:text=This%20guidance%20provides%20an%20overview%20of%20the%20application%20of%20Title>

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