



Department of
**Environment &
Conservation**

Environmental Justice Frequently Asked Questions (FAQs)

Tennessee Department of Environment and Conservation (TDEC) | August 2022



1. What is Environmental Justice?

The EPA defines Environmental Justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” Further, the EPA notes that EJ will be achieved “when everyone enjoys the same degree of protection from environmental and health hazards, and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.” In short, EJ considers not just the quantity of environmental and health hazards but the distribution of these hazards and provides the opportunity for inclusive and equitable involvement. EJ principles can assign responsibilities to various federal, state, and local entities.

The Tennessee Department of Environment and Conservation (TDEC) strives for the fair and equitable treatment of every community in its practices as agency decisions and actions have the potential to involve and impact underserved or environmentally overburdened communities. Examples of TDEC activities that could implicate EJ concerns include:

- Permit decisions, rulemaking, guidance development, and complaint investigations;
- Formal and informal public participation opportunities;
- Working group or advisory committee composition;
- Involvement as a stakeholder in disagreements, disputes, or complaints relating to the environment, natural resources, and EJ concerns;
- Decisions regarding state park or state natural area locations, accessibility, and service offerings; and
- Distribution of technical and financial assistance (see also responsibilities under [Title VI of the Civil Rights Act of 1964](#)).

2. What are TDEC’s responsibilities related to environmental justice?

TDEC strives to be fair to everyone in its actions, decisions, and responsibilities, and in so doing, accomplish EJ. The concept of EJ is guided by principles of nondiscrimination. TDEC, as a recipient of federal funds, adheres to nondiscrimination requirements under Title VI of the Civil Rights Act of 1964. In addition, TDEC has public participation requirements under state law.

These nondiscrimination and public participation requirements mean that one of TDEC's most important obligations is ensuring equal access to public participation and public engagement opportunities. In some cases, TDEC may deem it appropriate to go above and beyond what is required by law when there is an action that is anticipated to be controversial, face significant community opposition, or impact a community that is environmentally overburdened. TDEC could enhance public engagement opportunities in these circumstances through:

- Undertaking early and proactive discussions with community leaders, nonprofits, local, state and federal agencies, elected officials, and the private sector;
- Ensuring that engagement opportunities are broadcast through a variety of means including those that are most likely to reach the community members most impacted by the decision;
- Providing multiple means for community members to participate in public meetings and hearings, such as in-person, videoconference, and phone;
- Educating interested stakeholders on TDEC's roles and responsibilities as related to the action/activity; and
- Ensuring that comments can be submitted through many methods.

Building and maintaining open lines of communication with community leaders is critical to the success of equitable public engagement. Any enhanced community engagement, however, must be conducted in a manner consistent with the rights of the regulated community to evenhanded enforcement and timely review of permit applications.

3. What regulatory authority does TDEC have relating to environmental justice?

Consistent with most other states, and with the major federal environmental statutes, TDEC does not have explicit authority to factor considerations that could implicate EJ. TDEC also typically does not have authority to incorporate community opposition to permitted or proposed activities beyond ensuring compliance with environmental statutes and regulations. However, for activities that will result in more than de minimis degradation of waters, TDEC must evaluate social or economic necessity, which can incorporate EJ concerns. Other than ensuring such compliance, and – where applicable – a demonstration of a lack of practicable alternatives that would reduce water quality impacts, TDEC lacks authority over siting decisions. Local government regulates zoning and land use. TDEC staff engage proactively with underserved or environmentally overburdened communities, regulated entities, and relevant local, state, and federal government entities to set expectations, retain open lines of

communication, and meaningfully attempt to consider EJ concerns within the agency's decision-making framework and authorities when there are agency actions that impact those communities.

4. How are local, state, or federal agencies or authorities involved in matters relating to environmental justice?

Because EJ principles may apply to many levels of government, each of which has different roles and responsibilities, local, state, and federal entities should strive to collaborate in addressing EJ.

Many local decisions implicate EJ – notably, zoning and land use decisions can greatly impact the environmental burden different communities face. Recently, scholars have linked local decision-making practices to historical environmental injustices, such as zoning heavy industry near residential areas that are predominantly non-white. A 2019 [report](#) from The New School and NRDC highlights the role of local governance in EJ and presents best practices through a series of case studies.

State environmental departments consider EJ in different ways. Most states, including Tennessee, do not have statutory or regulatory requirements to formally integrate EJ concerns into their permitting or enforcement decisions. However, many states attempt to address EJ concerns in decision-making through amplifying efforts to reach underserved or environmentally burdened communities, building strong connections to communities and community leaders to proactively and transparently communicate about agency actions that will impact these communities, training agency staff on the concept of EJ and how EJ can be considered in agency actions, and participating in or leading discussions around EJ conflicts or concerns.

Federally, the EPA coordinates EJ through its [Office of Environmental Justice](#) (OEJ), created in 1992, and regional offices. Primary responsibilities include providing technical and financial assistance, notably through its mapping tool [EJScreen](#), leading EJ policy efforts within EPA and other federal agencies and supporting communication and collaboration across state and federal entities. EPA also hosts many EJ workshops, webinars, and meetings to build capacity at state and local levels. EJ efforts overlap with other federal policies including [National Environmental Policy Act \(NEPA\)](#) considerations (which generally does not apply to TDEC actions) and [Title VI of the Civil Rights Act of 1964](#).