

## ALABAMA

### **How Does Alabama Define Environmental Justice and Environmental Justice Communities?**

#### Environmental Justice Definitions:

Neither the Alabama Department of Environmental Management (ADEM) nor the Alabama legislature have officially defined environmental justice in a regulation or statute. In ADEM's "Community Engagement" document, the agency utilized EPA's definition of environmental justice - "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."<sup>1</sup>

The Regional Planning Commission of Greater Birmingham (RPCGB) also utilizes EPA's definition of environmental justice. The RPCGB has identified equity emphasis areas (EEAs), which as of 2019 it defined as census block groups within the MPA having a nonwhite population greater than 50% of the total population or block groups where the estimated median household income is less than \$30,630.<sup>2</sup> The agency compares the burdens and benefits of transportation projects in EEAs and in other areas of the state.<sup>3</sup>

#### Environmental Justice Mapping Tools:

ADEM has an environmental justice mapping tool in the form of an ArcGIS overlay that divides Alabama into Minority/Low Income, Minority, Low Income, and Non-Environmental Justice Areas.<sup>4</sup> ADEM also trains its staff on the use of the EPA's EJSCREEN mapping tool.

The RPCGB also has maps of environmental justice areas.<sup>5</sup>

### **How Does Alabama Consider Environmental Justice in its Substantive Actions<sup>6</sup>?**

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<sup>1</sup> ADEM, "Community Engagement" (Oct. 2020) at p. 62; *available at* <http://www.adem.alabama.gov/MoreInfo/pubs/ADEMCommunityEngagement.pdf>.

<sup>2</sup> Appendix C to the 2045 Regional Transportation Plan, Environmental Justice, at C.4, *available at* <https://static1.squarespace.com/static/5bfc5ef3f93fd4e73b6c10fa/t/5e149d7f91a90d62538ea2f1/1578409350617/Appendix+C+Environmental+Justice+20190309.pdf>.

<sup>3</sup> *Id.*

<sup>4</sup> Arc GIS, Ala. EJ Map, *Available at* [https://www.arcgis.com/home/webmap/viewer.html?url=http%3A%2F%2Fgis.adem.alabama.gov%2Farcgis%2Frest%2Fservices%2FEJ\\_Map%2FMapServer&source=sd](https://www.arcgis.com/home/webmap/viewer.html?url=http%3A%2F%2Fgis.adem.alabama.gov%2Farcgis%2Frest%2Fservices%2FEJ_Map%2FMapServer&source=sd) (last visited June 28, 2022).

<sup>5</sup> ArcGIS, Gallery for Regional Planning Commission of Greater Birmingham, *available at* <https://rpcgb.maps.arcgis.com/home/gallery.html?view=grid&sortOrder=asc&sortField=title> (last visited June 28, 2022).

<sup>6</sup> Substantive is defined as governing the original rights and obligations of individuals. Cornell L. Sch., LII, *Wex Legal Encyclopedia*, [https://www.law.cornell.edu/wex/substantive\\_law](https://www.law.cornell.edu/wex/substantive_law) (last visited June 28, 2022).

Environmental Justice as a Policy of the Environmental Agency or Across All Agencies:

N/A.

Consideration of Environmental Justice in Permitting:

There are administrative permitting decisions finding that ADEM lacks statutory authority to consider racial and economic demographics in the permit application process.<sup>7</sup>

Though, Alabama has a statute limiting the number of commercial hazardous waste treatment facilities or disposal sites to one per county.<sup>8</sup> The statute also prohibits any new commercial hazardous waste treatment facilities or disposal sites unless approved by the Legislature after joint resolution after consideration of factors including “the social and economic impacts of the proposed facility on the affected community, including changes in property values, community perception, and other costs.”<sup>9</sup>

Consideration of Environmental Justice in Enforcement:

N/A.

Consideration of Environmental Justice in Land Use:

Alabama’s regulations concerning the ranking of unauthorized dump sites for remediation have a non-exclusive list of factors to be considered, which includes the location of the site in an area of minority and/or low-income populations pursuant to Executive Order 12898, “*Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*.”<sup>10</sup>

State Environmental Policy Act “Mini-NEPA”:

N/A.

Dedicated Funding to Environmental Justice Communities:

N/A.

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<sup>7</sup> See, for example, *In the Matter of: East Central Alabama Alliance for Quality Living and The Town of Loachapoka, Dave and Rita Grubb, Stephen and Dorothy Marcinko and Lance and Wendy Seesock, Petitioners v. Alabama Department of Environmental Management, Respondent and Florida Rock Industries, Inc., Intervenor*; ECM Docket Nos. 03-01 & 03-02 (2013); 2003 WL 1957880 (Ala.Dept.Env.Mgmt.) (“The EMC has already previously addressed the issue of “environmental justice”, and determined that ADEM has no statutory authority to consider racial and economic demographics in the permit application process.”).

<sup>8</sup> AL Code 22-30-5.1, available at <https://law.justia.com/codes/alabama/2014/title-22/title-1/section-22-30-5.1/>.

<sup>9</sup> *Id.*

<sup>10</sup> Ala. Admin. Code 335-13-11-.04(f), at p.155, available at <https://adem.alabama.gov/alEnviroRegLaws/files/Division13.pdf>.

Consideration of Cumulative Impacts:

N/A.

Prohibitions on Disparate Impact Discrimination:

N/A.

Established Environmental Rights:

N/A.

**How Does Alabama Address Environmental Justice in its Procedures<sup>11</sup>?**

Environmental Justice as Part of Environmental Agency's Mission:

N/A.

Environmental Justice as Part of Other Agency's Mission:

N/A.

Processes and Procedures (including Title VI):

- Non-Discrimination Policy:

The Nondiscrimination Coordinator will process complaints alleging discrimination by the Alabama Department of Environmental Management (ADEM) on the basis of race, color, national origin, disability, age, sex, retaliation or intimidation against any individual or group.<sup>12</sup>

- Grievance Procedures:

N/A.

- Enhanced Public Participation and Information Access:

ADEM's "What's Happening in Your County" tool provides information about public notices, permit requests, public hearings, and schedules for meetings of the AEMC.<sup>13</sup>

- Language Access:

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<sup>11</sup> Procedural is defined as rules and the methods used to ensure the rights of individuals. Cornell L. Sch., LII, *Wex Legal Encyclopedia*, [https://www.law.cornell.edu/wex/procedural\\_law](https://www.law.cornell.edu/wex/procedural_law) (last visited June 27, 2022).

<sup>12</sup> ADEM, *Guide for Citizens Participation* (2018) at pp. 113-114, <http://adem.alabama.gov/MoreInfo/pubs/citizensguide.pdf> (last visited June 28, 2022).

<sup>13</sup> ADEM, *What's Happening in Your County*, <https://adem.alabama.gov/County/default.cnt> (last visited June 28, 2022).

ADEM provides an integrated machine translated version of its website. The bottom of the home webpage also includes a “Translations” link to a page with statements in Spanish, Vietnamese, and Korean that, “[i]f you speak another language, language assistance services are available to you in your language. Please email the Department at [civilrightsassistance@adem.alabama.gov](mailto:civilrightsassistance@adem.alabama.gov) and identify the assistance you need in your language and we will assist you.”<sup>14</sup>

- *Consultation with Indigenous Communities and Tribal Nations:*

N/A.

#### *Governmental Environmental Justice Structures, Positions, and Funding Streams:*

- *Environmental Justice Coordinating Agency:*

N/A.

- *Environmental Justice Coordinator:*

ADEM has an internal Non-Discrimination Coordinator.<sup>15</sup> The site provides a document on “Nondiscrimination Grievance Investigation Procedures” which describes in detail how complaints are received and adjudicated.<sup>16</sup>

- *Environmental Justice Advisory Board:*

N/A.

- *Funding for Environmental Justice:*

N/A.

#### **Additional Alabama Environmental Justice Provisions?**

Since 2007, ADEM has provided formal environmental justice training to all staff.<sup>17</sup> In addition, as of 2006 ADEM reported that Environmental Justice Coordinators are assigned to each of ADEM’s air, land, and water media divisions and are overseen by the Deputy Director. These Environmental Justice Coordinators, however, are not identified on the current website.

ADEM maintains on its website a “Community Engagement” document which identifies agency projects and initiatives, some of which focus on environmental justice communities.<sup>18</sup>

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<sup>14</sup> ADEM, [adem.alabama.gov](http://adem.alabama.gov) (last visited June, 28 2022).

<sup>15</sup> ADEM, *Nondiscrimination Statement*, <http://adem.alabama.gov/inside/ndstatement.cnt> (last visited June, 28 2022).

<sup>16</sup> ADEM, “*Re: Nondiscrimination Grievance Investigation Procedures*” (Nov. 2018).

<sup>17</sup> *Minutes of Alabama Environmental Management Commission Meeting, April 15<sup>th</sup>, 2016* at page 24.

<sup>18</sup> ADEM, *Guide for Citizens Participation* (2018), <http://adem.alabama.gov/MoreInfo/pubs/citizensguide.pdf> (last visited June 28, 2022).

## Alabama Environmental Justice Contacts?

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## Where to Find Alabama Environmental Justice Laws, Policies, and Tools?

### Constitutional Provisions:

N/A.

### Executive Orders:

N/A.

### Legislation and Statutes:

- ALA CODE 22-30-5.1.

### Regulations:

- Ala. Admin. Code 335-13-11-.04(f).

### Policies/Guidance:

- [ADEM “Community Engagement” document.](#)

### Mapping Tools:

- [Environmental Justice Map Server.](#)
- [Map Layers Prepared by the Regional Planning Commission of Greater Birmingham.](#)

### Other:

N/A.