

## OREGON

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

#### Environmental Justice Definitions:

Oregon addressed environmental justice through its hallmark environmental justice legislation (SB 420, 2007) creating the Environmental Justice Task Force (“EJTF”) and by imposing procedural requirements on natural resources agencies.<sup>1</sup> Recently in 2022, the EJTF has been renamed the Environmental Justice Council (EJC) and has specified that the makeup of the Council should represent diverse interests including “minority communities, low-income communities, environmental interests, industry groups and geographically diverse areas of this state.”<sup>2</sup> The bill further goes on to define “environmental justice” and “environmental justice communities” respectively as

... the equal protection from environmental and health risks, fair treatment and meaningful involvement in decision making of all people regardless of race, color, national origin, immigration status, income or other identities with respect to the development, implementation and enforcement of environmental laws, regulations and ... policies that affect the environment in which people live, work, learn and practice spirituality and culture.

... includ[ing] communities of color, communities experiencing lower incomes, communities experiencing health inequities, tribal communities, rural communities, remote communities, coastal communities, communities with limited infrastructure and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including seniors, youth and persons with disabilities.<sup>3</sup>

In addition to the EJC definitions, the law governing Oregon's Public Utility Commission (PUC) operates with a different definition of environmental justice from the EJC definition. The PUC defines "environmental justice" as meaning "equal protection from environmental and health hazards and meaningful public participation in decisions that affect the environment in which people live, work, learn, practice spirituality and play." However, the PUC uses the same definition as the EJC when describing “environmental justice communities” as including

---

<sup>1</sup> Senate Bill 420 (2007), codified at ORS § 182.538 *et seq.* ORS § 182.535 defines “natural resources agency” as any of the following: the Department of Environmental Quality, the State Department of Agriculture, the Water Resources Department, the State Department of Fish and Wildlife, the State Forestry Department, the Department of State Lands, the Department of Education, the State Department of Geology and Mineral Industries, the Department of Land Conservation and Development, the State Marine Board, the Public Utility Commission, the Department of Transportation, the State Fire Marshal and the Oregon Health Authority.

<sup>2</sup> Or. H.B. 4077 ch. 58 § 2, *available at* <https://olis.oregonlegislature.gov/liz/2022R1/Downloads/MeasureDocument/HB4077>.

<sup>3</sup> Or. H.B. 4077 ch. 58 § 10(3)-(4).

"communities of color, communities experiencing lower incomes, tribal communities, rural communities, coastal communities, communities with limited infrastructure and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including but not limited to seniors, youth and persons with disabilities."<sup>4</sup>

One final definition comes from 2021 when Oregon passed into law an act “[r]elating to healthy homes” which “provides grants to entities to provide financial assistance to low income households and landlords.” The Healthy Homes Act defines an “environmental justice factor” as “... a circumstance or condition that impacts a community’s ability to achieve a balance of health, economic or environmental benefits and burdens or that impacts a community’s ability to participate in public processes.”<sup>5</sup>

### Environmental Justice Mapping Tools:

The EJTF has provided guidance to natural resource agencies about best practices in identifying environmental justice communities and mapping potential environmental risks through producing a database of permitted facilities.<sup>6</sup>

In 2020, Governor Brown created a Racial Justice Council, with an Environmental Equity committee to revamp governmental programs and plans to center racial equity and remove unequal treatment of people of color.<sup>7</sup>

In 2022, Oregon passed H.B. 4077 requiring the EJC to “... develop an environmental justice mapping tool.”<sup>8</sup> While the tool is being developed, “the council shall develop and conduct an inclusive community engagement process to receive input from communities across this state and consult with natural resource agencies.”<sup>9</sup>

### **How Does Oregon Consider Environmental Justice in its Substantive Actions<sup>10</sup>?**

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

N/A.

---

<sup>4</sup> Or. Rev. Stat. §§ 756.010.

<sup>5</sup> Or. H.B. 2842 § 1.

<sup>6</sup> State of Oregon Environmental Justice Task Force, *Environmental Justice: Best Practices for Oregon’s Natural Resources Agencies* (Jan. 2016) at pp.13-15, available at [https://www.oregon.gov/odot/Business/OCR/Documents/Oregon\\_EJTF\\_Handbook\\_Final.pdf](https://www.oregon.gov/odot/Business/OCR/Documents/Oregon_EJTF_Handbook_Final.pdf) (last visited July 5, 2022).

<sup>7</sup> Governor Brown, Racial Justice Council, <https://www.oregon.gov/gov/policies/Pages/racial-justice-council.aspx> (last visited July 5, 2022).

<sup>8</sup> Or. H.B. 4077 Ch. 58 § 12(1).

<sup>9</sup> Or. H.B. 4077 Ch. 58 § 12(2).

<sup>10</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 July 5, 2022).

Consideration of Environmental Justice in Permitting:

Apart from SB 420’s general admonition that a natural resource agency “consider the effects of [an agency] action on environmental justice issues” when making determinations about whether and how to act,<sup>11</sup> DEQ’s 1997 environmental justice policy advises that permit writers identify and address low income and minority issues in the permitting process, specifically through making efforts to identify and notify affected minority and low income communities as to possible adverse effects on those communities.<sup>12</sup>

Consideration of Environmental Justice in Enforcement:

Again, SB 420’s general thrust is that a natural resource agency should “consider [how] the effects of [an agency] action on environmental justice issues” should bear on an agency’s determinations about enforcing its statutory authority.<sup>13</sup> More specifically, Oregon DEQ’s supplemental environmental policy allows for enforcement actions to benefit environmental justice communities. Supplemental environmental projects (SEPs) are environmentally beneficial projects that violators implement, the costs of which may be used to offset up to 80 percent of the total civil penalty, as long as certain conditions are met. As the policy provides, SEPs must meet a variety of required criteria, while “preference criteria” are utilized for determining whether staff should recommend approval of a penalty reduction for any particular SEP. DEQ “staff may consider a SEP that might not otherwise meet preference criteria ... if the SEP has components that benefit the public or environment at large, are innovative, *address environmental justice concerns*, incorporate community input, or have multimedia benefits.”<sup>14</sup>

Consideration of Environmental Justice in Land Use:

N/A.

State Environmental Policy Act “Mini-NEPA”:

N/A.

Dedicated Funding to Environmental Justice Communities:

N/A.

Consideration of Cumulative Impacts:

N/A.

---

<sup>11</sup> ORS §182.545.

<sup>12</sup> Oregon Dept. of Environmental Quality, “Oregon Environmental Justice – Principles and Implementation” (1997) at pp. 2-3, available at <https://www.oregon.gov/deq/FilterDocs/DEQeJpolicy.pdf> (last visited July 5, 2022).

<sup>13</sup> ORS §182.545.

<sup>14</sup> DEQ, Internal Management Directive, App. G, Evaluating and Approving Supplemental Environmental Projects (Jan. 10, 2013), available at <https://www.oregon.gov/deq/Filtered%20Library/enforcementpol.pdf> (last visited July 5, 2022).

Prohibitions on Disparate Impact Discrimination:

N/A.

Established Environmental Rights:

N/A.

**How Does Oregon Address Environmental Justice in its Procedures<sup>15</sup>?**

Environmental Justice as Part of Environmental Agency's Mission:

Oregon's hallmark environmental justice law (SB 420) provides general guidelines for agency incorporation of environmental justice principles in its operation. In order to ensure greater public participation in agency decisions, the statute mandates that natural resource agencies shall:

1. In making a determination whether and how to act, consider the effects of the action on environmental justice issues.
2. Hold hearings at times and in locations that are convenient for people in the communities that will be affected by the decisions stemming from the hearings.
3. Engage in public outreach activities in the communities that will be affected by decisions of the agency.<sup>16</sup>

Moreover, SB 420 requires all directors of natural resource agencies to report annually to the Environmental Justice Task Force and to the Governor on the results of the agencies' efforts to:

1. Address environmental justice issues;
2. Increase public participation of individuals and communities affected by agencies decisions;
3. Determine the effect of the agencies decisions on traditionally underrepresented communities; and
4. Improve plans to further the progress of environmental justice in Oregon.<sup>17</sup>

Environmental Justice as Part of Other Agency's Mission:

N/A.

---

<sup>15</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 July 5, 2022).

<sup>16</sup> ORS §182.545.

<sup>17</sup> ORS §182.550.

Processes and Procedures (including Title VI):

- Non-Discrimination Policy:

N/A.

- Grievance Procedures:

N/A.

- Enhanced Public Participation and Information Access:

The EJC shall identify and report to the Governor “[b]est practices for increasing public participation and engagement in policy decisions by providing meaningful involvement. (c) Recommendations on how to best meaningfully consult environmental justice communities. (d) Recommendations for establishing measurable goals for reducing environmental disparities across Oregon and ways in which state agencies may focus their work toward meeting those goals. (e) Guidelines for identifying environmental justice communities, including guidelines for further defining environmental justice communities developed from the inclusive community engagement process.”<sup>18</sup>

- Language Access:

N/A.

- Consultation with Indigenous Communities and Tribal Nations:

Oregon’s DEQ’s 1997 environmental justice policy called for building stronger relationships with tribal nations to understand the impact of DEQ’s actions on tribal communities and lands, and working with the confederated tribes of the Umatilla Indian Reservation . . . to strengthen protections for people who eat fish from Oregon waters by increasing the “fish consumption rate” in state water quality standards to better protect tribal waterways. There are 9 federally recognized tribes in Oregon. There is a government-to-government obligation to consultation under certain provisions related to specific permits taking place in certain delineated areas of the state.<sup>19</sup>

Governmental Environmental Justice Structures, Positions, and Funding Streams:

- Environmental Justice Coordinating Agency:

N/A.

---

<sup>18</sup> Or. H.B. 4077.

<sup>19</sup> Email Interview with Stephanie Caldera, Or. DEQ, by Vermont Law School Environmental Justice Clinic (VLS EJC) (Apr. 29, 2022) (on file with VLS EJC).

- Environmental Justice Coordinator:

SB 420 mandates that each natural resources agency shall create a citizen advocate position responsible for (a) ensuring that the agency consider environmental justice issues, and (b) informing the agency of the effect of its decisions on communities traditionally underrepresented in public processes.<sup>20</sup>

Additionally, DEQ's environmental justice policy notes that DEQ's "staff should be comprised of a broad mix of individuals" to ensure identification of potential problems and will encourage problem solving beyond traditional approaches.<sup>21</sup>

- Environmental Justice Advisory Board:

Building on executive branch environmental justice advisory panels, SB 420 created the permanent, twelve member EJTF, the members of which are versed in the principles of environmental justice and "represent minority communities, low-income communities, environmental interests, industry groups and geographically diverse areas of the state." Representatives from the following commissions must be appointed to the task force:

1. The Commission on Asian and Pacific Islander Affairs;
2. The Commission on Black Affairs;
3. The Commission on Hispanic Affairs; and
4. The Commission on Indian Services.

The EJTF's responsibilities include advising the Governor and natural resource agencies on environmental justice issues, including community concerns and public participation processes, as well as serving as a liaison between minority and low-income communities and the natural resource agencies regarding the effect of environmental decisions.

As part of its statutory mandate, the EJTF issued its 2016 best practices handbook,<sup>22</sup> encouraging agencies to develop a shared database to collectively manage relevant information about environmental justice communities. This database should

---

<sup>20</sup> ORS §182.545(4).

<sup>21</sup> Oregon Dept. of Environmental Quality, "Oregon Environmental Justice – Principles and Implementation" (1997), at p.1, available at <https://www.oregon.gov/deq/FilterDocs/DEQeJpolicy.pdf> (last visited July 5, 2022).

<sup>22</sup> State of Oregon Environmental Justice Task Force, *Environmental Justice: Best Practices for Oregon's Natural Resources Agencies* (Jan. 2016), available at [https://www.oregon.gov/odot/Business/OCR/Documents/Oregon\\_EJTF\\_Handbook\\_Final.pdf](https://www.oregon.gov/odot/Business/OCR/Documents/Oregon_EJTF_Handbook_Final.pdf) (last visited July 5, 2021).

consist of contact information for a wide variety of citizen and public interest groups. This database should also include:

- demographic maps identifying communities of color and low-income areas;
  - environmental health risks and concerns;
  - the location of existing permitted facility sites
  - ESL areas and language-translation needs;
  - Location of community centers and assets; and,
  - Case studies showing successful environmental justice engagement and outcomes.
- *Funding for Environmental Justice:*

N/A.

### **Additional Oregon Environmental Justice Provisions?**

Although recent legislative efforts to address climate change have stalled (e.g., HB 2020 (2020)), in 2020 Governor Kate Brown promulgated [Executive Order 20-04](#), creating the Oregon Climate Action Plan (OCAP).<sup>23</sup> OCAP, among other things, orders certain state agencies to address climate change through GHG emission reduction targets and low carbon fuel standards.

In implementing the order, agencies are required (a) to prioritize actions that will help impacted communities (including environmental justice populations) adapt to climate change, and (b) to consult with the Environmental Justice Task Force when evaluating climate change mitigation and adaptation priorities.<sup>24</sup> In addition, the order requires agencies to consult with a new Interagency Workgroup on Climate Impacts to Impacted Communities, with participation of the EJTF.<sup>25</sup> The Public Utilities Commission is required to “establish a public process to address and mitigate differential energy burdens and other inequities of affordability and environmental justice, including rate design and other programs to mitigate energy burden.” Finally, the Oregon Health Authority (OHA) is required to report annually the public health impacts of climate change on environmental justice communities.

---

<sup>23</sup> Governor Brown, Executive Order No. 20-04, “Directing State Agencies to Take Actions to Reduce and Regulate Greenhouse Gas Emissions” (March 10, 2020), *available at* <https://www.oregon.gov/bcd/Documents/eo-energy-20-04.pdf> (last visited July 5, 2022).

<sup>24</sup> *Id.* 3.C., at p.5. *Note:* “impacted communities” are defined as “Native American tribes, communities of color, rural communities, coastal communities, lower-income households, and other communities traditionally underrepresented in public processes, who typically have fewer resources for adapting to climate change and are therefore the most vulnerable to displacement, adverse health effects, job loss, property damage, and other effects of climate change.”

<sup>25</sup> *Id.* 3.E., at p.6.

Pursuant to the order, state agencies have produced progress reports. For instance, DEQ has reported on engagement with environmental justice, including “seek[ing] input on the development of a meaningful stakeholder engagement process toward the development of a cap and reduce program for Oregon” and working to “ensure environmental justice principals [sic] are fully incorporated into the scoping and program development and community leaders representing environmental justice and impacted communities are part of the decision making process.”<sup>26</sup> OHA’s implementation efforts include the production of a “Diversity, Equity and Inclusion (DEI) Blueprint” for agencies to use when planning and implementing climate adaptation strategies.<sup>27</sup>

### **Oregon Environmental Justice Contacts?**

Stephanie Caldera  
Environmental Justice Coordinator  
700 NE Multnomah Street, Suite 600, Portland  
503-229-5301

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

#### Constitutional Provisions:

N/A.

#### Executive Orders:

- Executive Order 20-04 (March 10, 2020), “Directing State Agencies to Take Actions to Reduce and Regulate Greenhouse Gas Emissions;”  
<https://www.oregon.gov/bcd/Documents/eo-energy-20-04.pdf>.

#### Legislation and Statutes:

- SB 420 (2007), codified at Oregon Rev. Statutes § 182.535 *et seq.*

#### Regulations:

N/A.

#### Policies/Guidance:

---

<sup>26</sup> Oregon Dept. of Environmental Quality, “Program Options to Cap and Reduce Greenhouse Gas Emissions” (June 2020), at p.12, *available at* [https://www.oregon.gov/gov/Documents/2020%20DEQ%20CapandReduce\\_FinalReport.pdf](https://www.oregon.gov/gov/Documents/2020%20DEQ%20CapandReduce_FinalReport.pdf) (last visited July 5, 2022).

<sup>27</sup> Oregon Health Authority, “Oregon Health Authority Response to Executive Order 20-04” (May 15, 2020), at p.2, *available at* <https://www.oregon.gov/gov/Documents/2020%20OHA%20EO%2020-04%20Implementation%20Report.pdf> (last visited July 5, 2022).



- Oregon Dept. of Environmental Quality, “Oregon Environmental Justice – Principles and Implementation” (1997); <https://www.oregon.gov/deq/FilterDocs/DEQeJpolicy.pdf>.

Mapping Tools:

N/A.

Other:

N/A.