

TEXAS

How Does Texas Define Environmental Justice and EJ Communities?

EJ Definitions:

While Texas does not have formal definitions on environmental justice, the Texas Commission on Environmental Quality (TCEQ) has opted to use the term “Title VI work” instead.¹

EJ Mapping Tools:

EPA’s [EJSCREEN](#) tool may be used to assess Texas in certain EJ areas.

How Does Texas Consider EJ in its Substantive Actions²?

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

N/A.

Consideration of EJ in Permitting:

Texas Commission on Environmental Quality does not consider EJ in permitting. When EJ issues are raised in permit comments, TCEQ issues responses like the following:

This issue . . . is not relevant to issuance of the permit. No TCEQ permitting rules address environmental equity issues such as the location of permitted facilities in areas with minority and low-income populations, disparate exposure to pollutants of monitoring and low-income populations, or the disparate economic, environmental, and health effects on minority and low-income population. Therefore, the environmental justice issue cannot be addressed in proceedings on this application and cannot be considered relevant and material to the commission’s decision on this application.³

¹ Asher Price, Axios, *Why Texas’ enviro agency avoids the term “environmental justice”* (May 16, 2022), <https://www.axios.com/local/austin/2022/05/16/texas-environmental-justice-initiative-dormant> (last visited July 7, 2022).

² 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 (last visited July 5, 2022).

³ Executive Director’s Response to Hearing Requests and Requests for Reconsideration Brief for Texas Concrete Enterprise Ready Mix, Inc., Permit No. 150603; TCEQ Docket No. 2018-1663-AIR.

Texas also has a page dedicated to explaining how people may add their voice to the permitting process⁴ and in rulemaking.⁵

Consideration of EJ in Enforcement:

N/A.

Consideration of EJ in Land Use:

N/A.

State Environmental Policy Act “Mini-NEPA”:

N/A.

Dedicated Funding to EJ Communities:

N/A.

Other Consideration of Cumulative Impacts:

The Texas Water Code requires TCEQ to “develop and implement policies, by specific environmental media, to protect the public from cumulative risks in areas of concentrated operations; and give priority to monitoring and enforcement in areas in which regulated facilities are concentrated.”⁶ TCEQ, however, has not developed or implemented such policies.

Prohibitions on Disparate Impact Discrimination:

N/A.

Established Environmental Rights:

N/A.

How Does Texas Address EJ in its Procedures⁷?

EJ as Part of Environmental Agency’s Mission:

N/A.

EJ as Part of Other Agency’s Mission:

⁴ TCEQ, *Environmental Permitting: Participating in the Process*, <https://www.tceq.texas.gov/agency/decisions/participation/permitting-participation/participating> (last visited July 5, 2022).

⁵ TCEQ, *Participating in Rulemaking*, <https://www.tceq.texas.gov/rules/participate.html> (last visited July 5, 2022).

⁶ Tex. Water Code § 5.130.

⁷ 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 (last visited July 5, 2022).

N/A.

Processes and Procedures (including Title VI):

- Non-Discrimination Policy:

TCEQ's website includes an Environmental Equity page, which provides information about the agency's non-discrimination policies, how to report discrimination and file a complaint, and its Grievance Procedure Policy.⁸ The page also identifies the agency's environmental equity contact.

- Grievance Procedures:

N/A.

- Enhanced Public Participation and Information Access:

TCEQ was required⁹ to develop both a Public Participation Plan¹⁰ and a Disability Nondiscrimination plan.¹¹

- Language Access:

TCEQ has adopted a Language Access Plan.¹² Current rules provide for translation of public notices for certain permits to alternate languages in areas where the schools have bilingual programs in those languages.¹³

Additionally, TCEQ's Environmental Equity page has links to lists of information available in Spanish on the website.¹⁴

TCEQ has established rules regarding when public notices should be published and signs should be displayed in multiple languages. We also evaluate on a case-by-case basis whether translators should attend meetings and hearings. (See 30 Texas Administrative Code (TAC), Sec. 39.405(h), governing alternative language public notice requirements. See also 30 TAC, Sec. 39.604(e); 30 TAC, Sec. 330.57(i)(5); 30 TAC, Sec.

⁸ TCEQ, *Title VI Compliance at TCEQ*, <https://www.tceq.texas.gov/agency/decisions/hearings/envequ.html> (last visited July 5, 2022).

⁹ These plans were requirements of Resolution Agreement between TCEQ and EPA addressing a Title VI complaint filed by Texas Environmental Justice Advocacy Services and Sierra Club. Informal Resolution Agreement - Complaint No. 02NO-20-R6.

¹⁰ TCEQ L. Div., TCEQ Public Participation Plan (June 2021), available at <https://www.tceq.texas.gov/downloads/agency/decisions/participation/public-participation-plan-gi-607.pdf>.

¹¹ TCEQ L. Div., TCEQ Disability Nondiscrimination Plan (Sept. 2021), available at <https://www.tceq.texas.gov/downloads/agency/decisions/participation/non-discrimination-plan-gi-609.pdf>.

¹² TCEQ L. Div., TCEQ Language Access Plan (Sept. 2021), available at <https://www.tceq.texas.gov/downloads/agency/decisions/participation/language-access-plan-gi-608.pdf>.

¹³ 30 Tex. Admin. Code §§ Ch. 39, 55.

¹⁴ TCEQ, *Information Available in Spanish*, https://www.tceq.texas.gov/en_espanol/index_english.html (last visited July 5, 2022).

330.69(b)(3); and 30 TAC, Sec. 326.73(a)(7), governing alternative language sign-posting requirements.).

- Consultation with Indigenous Communities and Tribal Nations:

N/A.

Governmental EJ Structures, Positions, and Funding Streams:

- EJ Coordinating Agency:

TCEQ is creating an Environmental Justice Initiative, which is a TCEQ intra-agency workgroup with representatives from water, air, waste, legal, as well as other programs.

Its Environmental Equity Program page states as its goals:

- Helping Texas residents and neighborhood groups participate in the decision-making and regulatory processes.
- Serving as the TCEQ contact to address concerns about environmental injustice.
- Thoroughly considering concerns and handling them fairly.
- Ensuring that all people receive equal benefit from environmental regulations and protection.¹⁵

- EJ Coordinator:

N/A.

- EJ Advisory Board:

In 1999, TCEQ created the State and Tribal Environmental Justice Advisory Panel, which meets quarterly in various communities to exchange information and develop solutions to local concerns. The advisory panel met five times in various Texas cities prior to December 2001.

- Funding for EJ:

N/A.

Additional Texas EJ Provisions?

¹⁵ TCEQ, *Title VI Compliance at TCEQ*, <https://www.tceq.texas.gov/agency/decisions/hearings/envequ.html> (last visited July 5, 2022).

N/A.

Texas EJ Contacts?

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Where to Find Texas EJ Laws, Policies, and Tools?

Constitutional Provisions:

N/A.

Executive Orders:

N/A.

Legislation and Statutes:

- Tex. Water Code § 5.130.

Regulations:

- Public notice language provisions – 30 Tex. Admin. Code Chap. 39 and 55
- Proposed modified language access rules – Rule Proposal 2020-018-039-LS

Policies/Guidance:

- TCEQ Grievance Procedure Policy, available at:
https://www.tceq.texas.gov/assets/public/comm_exec/pm-ph/env-eq/Grievance%20Procedures-2019-4-2.pdf.

Mapping Tools:

N/A.

Other:

N/A.