

## WISCONSIN

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

#### Environmental Justice Definitions:

The "human environment" is defined in Wis. Admin. Code NR § 150.03(12) (2021) as "the natural or physical environment . . . and relationship of people with that environment . . . including cultural, economic, social and human health-related components."

The Wisconsin Department of Natural Resources discusses environmental justice on its Climate Change Impacts webpage, stating:

All communities are impacted by global climate change. However, communities of color, tribal nations, and low-income communities are often the first and worst hit by extreme weather, industry shifts, and pollution related to climate change. Such impacts compound those communities' existing, systemic inequities that already affect where they live and work; the quality of their air, water and food; and their economic and life opportunities. Environmental justice or climate justice refers to efforts to address these injustices.<sup>1</sup>

#### Environmental Justice Mapping Tools:

The EPA has a tool called [EJSCREEN](#) through which you can filter environmental justice factors for Wisconsin.

### **How Does Wisconsin Consider Environmental Justice in its Substantive Actions<sup>2</sup>?**

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

N/A.

#### Consideration of Environmental Justice in Permitting:

The Wisconsin Department of Transportation commits to making actions and decisions guided by the three fundamental principles of environmental justice - pursuant to federal law, which are: (1) To avoid, minimize or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects on minority populations and low-income populations; (2) To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process; and (3) To prevent the denial of,

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<sup>1</sup> Wis. DNR, *Climate Change Impacts in Wis.*, <https://dnr.wisconsin.gov/climatechange/impacts> (last visited July 6, 2022).

<sup>2</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 6, 2022).

reduction of, or significant delay in the receipt of benefits by minority and low-income populations.<sup>3</sup>

Consideration of Environmental Justice in Enforcement:

N/A.

Consideration of Environmental Justice in Land Use:

N/A.

State Environmental Policy Act “Mini-NEPA”:

Wisconsin Environmental Policy Act (WEPA) mirrors NEPA and is codified in Wis. Stat. § 1.11 (2021).<sup>4</sup> WEPA differs from environmental protection statutes, like the federal Clean Water Act, in that it does not mandate particular outcomes or set measurable targets. The procedures for the Wisconsin Department of Natural Resources to comply with WEPA are set in Wis. Admin. Code NR § 150.<sup>5</sup>

Dedicated Funding to Environmental Justice Communities:

N/A.

Consideration of Cumulative Impacts:

The Wisconsin DOT has guidance<sup>6</sup> on when and how to conduct a cumulative effects analysis.

The DNR site has suggestions for cumulative impacts associated with mining.<sup>7</sup> Socioeconomic impacts are mentioned but making sure communities are treated equitably is not a priority.

Prohibitions on Disparate Impact Discrimination:

There have been several Bills before the Wisconsin legislature in recent years to address disparate impacts in proposed new legislation, they do not seem to have passed ([Assembly Bill 260](#), [Proposed Bill](#)).

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<sup>3</sup> Wis. DOT, *Environmental Justice*, <https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/environmental-justice.aspx> (last visited July 6, 2022).

<sup>4</sup> Wis. Stat. Ann. § 1.11 (West), available at <https://docs.legis.wisconsin.gov/statutes/statutes/1/11>.

<sup>5</sup> Wis. Admin. Code NR § 150, available at [https://docs.legis.wisconsin.gov/code/admin\\_code/nr/100/150](https://docs.legis.wisconsin.gov/code/admin_code/nr/100/150).

<sup>6</sup> Wis. DOT, Guidance for Conducting a Cumulative Effects Analysis (Nov. 2007), available at <https://wisconsin.gov/Documents/projects/data-plan/plan-res/landuse/cumulative.pdf>.

<sup>7</sup> Wis. DNR, Mining Information Sheet: Cumulative Impacts of Metallic Mining Development in Northern Wisconsin (Apr. 1997), available at <https://dnr.wi.gov/topic/Mines/documents/cml-imp.pdf>.

Established Environmental Rights:

N/A.

**How Does Wisconsin Address Environmental Justice in its Procedures<sup>8</sup>?**

Environmental Justice as Part of Environmental Agency's Mission:

The Wisconsin Department of Natural Resources largely follows Federal guidance to guide their environmental justice policies.<sup>9</sup>

Environmental Justice as Part of Other Agency's Mission:

Similarly, the Wisconsin Department of Transportation has a portion of their website dedicated to environmental justice.<sup>10</sup> It largely reflects Federal guidance. There is also a Factors Sheet that departments should fill out when completing projects.<sup>11</sup>

Processes and Procedures (including Title VI):

- Non-Discrimination Policy:

The Wisconsin Department of Transportation complies with Title VI of the Civil Rights Act of 1964 and other related nondiscrimination statutes. Title VI and other related nondiscrimination statutes prohibit unfair and inequitable treatment of any person based on race, color, national origin, sex, age or disability.<sup>12</sup>

- Grievance Procedures:

One can file a Title VI or ADA complaint with Wisconsin DOT.<sup>13</sup> Additionally, the City of Madison Metro Transit also has a complaint form available.<sup>14</sup>

- Enhanced Public Participation and Information Access:

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<sup>8</sup> Procedural is defined as rules and the methods used to ensure the rights of individuals.

[https://www.law.cornell.edu/wex/procedural\\_law](https://www.law.cornell.edu/wex/procedural_law).

<sup>9</sup> Wis. DNR, Tools and Resources, March 2021: Environmental Justice for Wis. DNR (Mar. 2021), available at <https://dnr.wisconsin.gov/sites/default/files/topic/DrinkingWater/Training/EJTrainingToolsResources.pdf>.

<sup>10</sup> Wis. DOT, *Environmental Justice*,

<https://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/environmental-justice.aspx> (last visited July 6, 2022).

<sup>11</sup> Wis. DOT, ENVIRONMNETAL JUSTICE Factor Sheet (June 11, 2019), available at

<https://wisconsindot.gov/Documents/doing-bus/eng-consultants/cnslt-rsrcs/environment/EnvironmentalJusticeGuidance.pdf>.

<sup>12</sup> Wis. DOT, *Title VI (Nondiscrimination)*,

<https://wisconsindot.gov/Pages/doing-bus/civil-rights/titlevi-ada/default.aspx> (last visited July 6, 2022).

<sup>13</sup> Wis. DOT, *Filing a discrimination complaint*,

<https://wisconsindot.gov/Pages/doing-bus/civil-rights/titlevi-ada/filingcomplaint.aspx> (last visited July 6, 2022).

<sup>14</sup> City of Madison, Metro Transit, *Civil Rights & Title VI*,

<https://www.cityofmadison.com/metro/contact/civil-rights-title-vi> (last visited July 6, 2022).

The SEWRPC Environmental Justice Task Force<sup>15</sup> has a public participation plan.<sup>16</sup>

The Open Meeting Law under Wis. Stat. § 19.81 declares "that the doors of each house shall remain open." The provision is known as a sunshine law colloquially and encourages public participation by allowing visibility to "all meetings of all state and local government bodies."<sup>17</sup>

The Wisconsin Department of Transportation (WisDOT) has several mechanisms to address environmental justice. The Public Process section of WisDOT's Facilities Development Manual lists a key consideration of forming a public participation plan by asking "Are there Environmental Justice or other unique populations in the study area?"<sup>18</sup>

- Language Access:

The Wisconsin Court System has a language access plan<sup>19</sup> and a resources page.<sup>20</sup> The plan includes provisions for those with LEP and who are deaf or hard of hearing persons.

- 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:

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Office of Business Opportunity and Equity Compliance (OBOEC)

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<sup>15</sup> SEWRPC, Environmental Justice Task Force of the Southeast Wisconsin Regional Planning Commission (Dec. 7, 2006), available at [https://www.sewrpc.org/SEWRPCFiles/EnvironmentalJustice/Files/ejtf\\_background\\_doc.pdf](https://www.sewrpc.org/SEWRPCFiles/EnvironmentalJustice/Files/ejtf_background_doc.pdf).

<sup>16</sup> SEWRPC, Reports and Resources, *Public Participation in Regional Planning*, <https://www.sewrpc.org/SEWRPC/DataResources/Public-Participation-Plan-for-Regional-Planning.htm> (last visited July 6, 2022).

<sup>17</sup> Wis. Stat. Ann. § 19.81 (West), available at <https://docs.legis.wisconsin.gov/statutes/statutes/19/V/81> (last visited July 6, 2022).

<sup>18</sup> Wis. DOT, Facilities Development Manual ch.6 § 5 (Dec. 20, 2013), available at <https://wisconsindot.gov/rdwy/fdm/fd-06-05.pdf> (last visited July 6, 2022).

<sup>19</sup> Wis. Cts., Language Access Plan (Dec. 2021), available at <https://www.wicourts.gov/services/interpreter/docs/laplan.pdf>.

<sup>20</sup> Wis. Cts., *Services for the public: Language Access Plan*, <https://www.wicourts.gov/services/public/language.htm> (last visited July 6, 2022).

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- ***Environmental Justice Advisory Board:***

The SEWRPC Environmental Justice Task Force is an advisory body established to enhance the consideration and integration of environmental justice for “minority” and low-income groups throughout the regional planning process.<sup>21</sup>

- ***Funding for Environmental Justice:***

Low-interest loans are available to municipalities under the Land Recycling Loan Program. To be eligible for a low-interest loan, municipalities must show there is environmental contamination. In describing the loan criteria, a one-factor point is awarded for enhancing environmental justice.<sup>22</sup>

### **Additional Wisconsin Environmental Justice Provisions?**

Executive Order 40 declared 2019 the year of Clean Drinking Water.<sup>23</sup> The Wisconsin Department of Natural Resources is helping to provide low-cost loans to municipalities for brownfield recycling and allocate federal funds from the Clean Drinking Water Fund to private homes. The loans provide funding to remove and replace lead-tainted water lines running into the home.<sup>24</sup>

Executive Order 52 created a Climate Change Taskforce.<sup>25</sup> The December 2020 report was the first issued since the agency's establishment in 2019.<sup>26</sup> The Climate Change Task Force recommendation quotes known environmental justice advocates: Robert Doyle Bullard, the father of environmental justice, is quoted on page 12, "Whether, by conscious design or institutional neglect, communities of color in urban ghettos, in rural 'poverty pockets', or on economically impoverished Native-American reservations face some of the worst environmental devastations in the nation." The report mentions environmental justice groups in New York,

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<sup>21</sup> SEWRPC, Environmental Justice Task Force of the Southeast Wisconsin Regional Planning Commission (Dec. 7, 2006), available at [https://www.sewrpc.org/SEWRPCFiles/EnvironmentalJustice/Files/ejtf\\_background\\_doc.pdf](https://www.sewrpc.org/SEWRPCFiles/EnvironmentalJustice/Files/ejtf_background_doc.pdf).

<sup>22</sup> Wis. Admin. Code NR § 167.07(2)(j).

<sup>23</sup> Gov. Evers, Wis. Exec. Order No. 40 (2019), available at <https://evers.wi.gov/Documents/EO/EO%2040%20-%20PFAS.pdf>.

<sup>24</sup> Wisconsin Legislature: 281.58, <https://docs.legis.wisconsin.gov/statutes/statutes/281/v/58?view=section> (last visited Sep. 6, 2020).

<sup>25</sup> Gov. Evers, Wis. Exec. Order No. 52 (2019), available at [https://docs.legis.wisconsin.gov/code/executive\\_orders/2019\\_tony\\_evers/2019-52.pdf](https://docs.legis.wisconsin.gov/code/executive_orders/2019_tony_evers/2019-52.pdf).

<sup>26</sup> Wis., Gov.'s Task Force on Climate Change Report (Dec. 2020), available at [https://psc.wi.gov/Documents/OEI/USCA-WisconsinTaskForceonClimateChange\\_20201207.pdf](https://psc.wi.gov/Documents/OEI/USCA-WisconsinTaskForceonClimateChange_20201207.pdf).

Illinois, Michigan, and Minnesota and supports Wisconsin's need for an agency. The report includes around 50 recommendations on ways to adapt to and reduce the effects of climate change over several focus areas. The 10 categories are as follows: clean economy, education, food systems, forestry, resilient systems, climate justice & equity, energy, transportation, and "tier 2."

- Goal 1, seeks to create an office of environmental justice.
- Goal 20 recognizes access to transportation issues and aims to provide "funding for bicycle programs and bike infrastructure in low-income communities."
- Goal 40 seeks to create a Manoomin (Wild Rice) Stewardship in partnership with interested Native Nations.
- Goal 41 defines the "development of a statewide resource vulnerability index and an accompanying adaptation plan."
- Goal 44, encourages tree planting in urban areas.
- The task force also proposed a number of policy recommendations that include mandating racial disparity impact studies for development projects, improving the tribal consultation process, and implementing anti-racism education.

Wisconsin also has an energy assistance program for low-income households: WHEAP - a mixture of federally funded LIHEAP program and state funding.<sup>27</sup>

### **Wisconsin Environmental Justice Contacts?**

N/A.

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

#### Constitutional Provisions:

N/A.

#### Executive Orders:

N/A.

#### Legislation and Statutes:

- Wisconsin Mini-NEPA; [Wis. Stat. § 1.11](#) (2021).
  - Compliance procedures for Wisconsin Department of Natural Resources; [Wis. Admin. Code NR § 150](#).

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<sup>27</sup> Wis. DEHCR, <https://energyandhousing.wi.gov/Pages/Home.aspx> (last visited July 6, 2022).

Regulations:

N/A.

Policies/Guidance:

N/A.

Mapping Tools:

N/A.

Other:

N/A.