

HEAL Act Implementation

Joint Transportation Committee

Earl Key, Director, Office of Equal Opportunity

Allison Dane Camden, Deputy Assistant Secretary for
Multimodal Development and Delivery

October 20, 2021

Roger Millar, Secretary of Transportation

Amy Scarton, Deputy Secretary of Transportation

Environmental Justice in Transportation



Past and present

- Highways bisect communities
- Transportation equity is an issue of civil rights and social justice
- Studies show health disparities
 - Higher exposures to air pollution among people of color
 - Low income and minority neighborhoods have fewer sidewalks, bike lanes, and less access to transit

Photo: Interstate-5 construction in the 1960s.

Environmental Justice – Federal Compliance

- Title VI of the Civil Rights Act (1964) prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.
- Communities and individuals started to file Title VI complaints to fight environmental racism, caused by public projects.
- Executive Order 12898 (1994) was approved to respond to these concerns and defined the term Environmental Justice. Environmental Justice became a component of Title VI, to reduce environmental racism.
- EO 12898 and related federal transportation orders (USDOT) expanded the National Environmental Policy Act (NEPA) to review potential effects on minority and low-income populations, including **environmental justice assessments**.
- *NEW* Biden Administration Executive Order 14008, amends EO 12898 to create a White House EJ Interagency Council and sets a goal for certain federal investments that 40% of overall benefits flow to disadvantage communities - “**Justice40** Initiative.”

Environmental Justice – State Compliance

SB 5141 – New state law directs state agencies to incorporate **environmental justice** into decision making



Environmental Justice: Federal / State Compliance

Executive Order 12898 (1994)	Heal Act (SB 5141)
Federal executive order that applies to federal agencies.	State legislation that impacts 7 public agencies of Washington.
It was issued to enforce Title VI of the Civil Rights Act (1964) to reduce environmental racism caused by disproportionately high and adverse human health and environmental effects against minorities and low-income populations.	It was passed with the purpose of reducing environmental and health disparities in Washington state and improve the health of all Washingtonians.
Environmental Justice is a component of Title VI program's enforcement for federal compliance under USDOT.	HEAL Act is an independent state law.
Directs agencies to perform EJ assessments on proposed projects requiring environmental review under the national environmental policy act (NEPA).	Directs agencies to perform EJ assessments when considering a significant agency action as defined in Sections 2 and 14. Note: The state environmental policy act (SEPA) is not a trigger.
Directs federal agencies to develop EJ strategies and agency policies to: Promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; ensure greater public participation; improve research and data collection relating to the health of and environment of minority populations and low-income populations; and identify differential patterns of consumption of natural resources among minority populations and low-income populations.	Directs each covered agency to apply the principles of environmental justice to the agency's activities including, budget development, making expenditures, and granting or withholding environmental benefits, and when considering significant agency actions. Each agency must have a plan that describes goals and actions to reduce environmental health disparities and for achieving environmental justice in the agency's programs.
EJ assessments are required for any project subject to NEPA that may result in a disproportionately high adverse impact on a minority or low-income population in or near the project area.	EJ assessments are required for all significant agency actions as defined in Section 2 and additional actions that may cause environmental harm or may affect the equitable distribution of environmental benefits to an overburdened community or a vulnerable population.

Healthy Environment for All (HEAL Act)

HEAL Act defines 'environmental justice' in state law; outlines how state agencies should consider community needs and environmental justice (EJ) in their work.

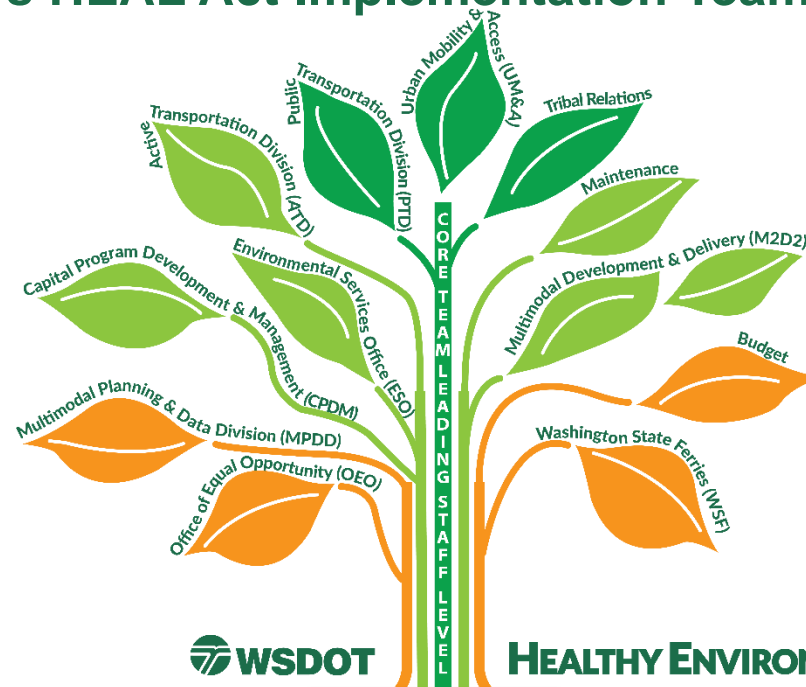
Agency requirements are sequenced as follows:

- Requires community engagement plan by July 1, 2022
- EJ implementation plan by January 1, 2023
- EJ Assessments for actions (begin July 1, 2023)
 - Individual projects and grants over \$15 million
 - New grant or loan programs
 - Agency request legislation
 - Additional actions identify by July 1, 2025
- Incorporate EJ into budget & funding decisions (begin July 1, 2023)

Summary of Tasks & Deadlines

DATES	TASKS
July 1, 2022	<ul style="list-style-type: none"> • Create and adopt an equitable community engagement plan, in consultation and consideration with EJ populations and federally recognized Indian tribes, among others (Section 13 & 18).
January 1, 2023	<ul style="list-style-type: none"> • Create, adopt and include an EJ implementation plan within WSDOT's strategic plan in consultation with federally recognized Indian tribes (Section 12 & 18).
July 1, 2023	<ul style="list-style-type: none"> • Redefine and update WSDOT's consultation framework and government-to-government relationship in coordination with Indian tribes (Secs. 18 & 23). • After public comment, WSDOT must periodically publish on its website the types of agency actions that the agency has determined are significant agency actions (including additional significant actions) that require an EJ assessment (Section 14). • Provide notification of the determination of the types of significant agency actions in the Washington State Register (Section 14). • Develop a process and adopt a "checklist" for conducting EJ assessments for significant agency actions (Section 14). • Begin conducting EJ assessments on significant agency actions using a checklist developed by WSDOT (Section 14). • Incorporate EJ principles into its decision processes for budget development and expenditures (Section 16). • Publish on its website the types of agency budget and expenditure decisions the agency will focus on to create environmental benefits (Section 16).
September 1, 2024	<ul style="list-style-type: none"> • Annually update the EJ council on the development and implementation of EJ in agency strategic plan (Section 17). • Publish or update a dashboard report on the office of financial management's website (Section 17).
July 1, 2025	<ul style="list-style-type: none"> • Identify and begin applying EJ assessments to any additional actions that the agency identifies as significant that may cause environmental harm or may affect the equitable distribution of environmental benefits to an overburdened community or a vulnerable population (Section 14).

WSDOT's HEAL Act Implementation Team Structure



HEALTHY ENVIRONMENT FOR ALL (HEAL) ACT

CO-PROJECT MANAGERS

Multimodal Planning & Data Division
Office of Equal Opportunity

EXECUTIVE CO-SPONSORS

Multimodal Development & Delivery Executive
Office of Equal Opportunity Executive

ENVIRONMENTAL JUSTICE (EJ) EXECUTIVE TEAM

Office of Equal Opportunity (OEO)
Multimodal Development & Delivery (M2D2)
Multimodal Planning & Data Division (MPDD)
Environmental Services Office (ESO)

Capital Program Development & Management (CPDM)
Active Transportation Division (ATD)
Public Transportation Division (PTD)
Tribal Relations

Urban Mobility & Access (UM & A)
Washington State Ferries (WSF)
Regions
Budget

Inclusion Goal Sponsor / Assistant Secretary
Inclusion Goal Steward / Construction
Development Division
Maintenance

HEAL Act Implementation Task Teams

Task Team 1 (Section 13)	Task Team 2 (Section 12)	Task Team 3 (Section 20)	Task Team 4 (Section 14)	Task Team 5 (Section 16)
Community Engagement Plan update	Strategic Plan update (required to draft & include EJ Implementation Plan)	EJ Council and Interagency Workgroup Support	EJ Assessment	Budget Development, Grants, Discretionary Program Expenditures
Lead(s): Multimodal Planning & Data Division	Lead(s): Co-Project Managers	Lead(s): Co-Project Managers	Lead(s): Office of Equal Opportunity, Environmental Services Office, Multimodal Planning & Data Division	Lead(s): Budget, Capital Program Development & Management
Due: July 1, 2022	Due: January 1, 2023	Due: Ongoing	Due to Begin: July 1, 2023 (then ongoing)	Due to Begin: July 1, 2023 (then ongoing)

HEAL Act aligns with WSDOT's Priorities

- **Practical Solutions**
 - Understanding our communities' needs is the foundation of our project decisions
- **Inclusive Community Engagement**
 - Strengthen partnerships to increase trust and inform decision making
- **Emphasis on Environmental Justice**
 - Identify & address the effects of agency actions to achieve equitable benefits & burdens



Questions?

Earl Key

Director, Office of Equal Opportunity

keye@wsdot.wa.gov

(360) 485-6870

Allison Dane Camden

Deputy Assistant Secretary for

Multimodal Development and Delivery

camdena@wsdot.wa.gov

(360) 628-6223