

ARIZONA

How Does Arizona Define Environmental Justice and Environmental Justice Communities?

Environmental Justice Definitions:

The state of Arizona does not specifically define environmental justice. While there is proposed legislation, no definition of environmental justice exists on their Arizona Department of Environmental Quality (ADEQ) website.¹

However, the ADEQ website defines Title VI compliance as:

[C]ommitt[ment] to ensuring that no person is excluded from participation in, denied the benefits of, or subjected to discrimination under any program, activity or service that it provides on the basis of race, color, national origin, or on the basis of gender or disability, or on the basis of age, in violation of Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title 40 Code of Federal Regulations Part 7, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. ADEQ will not tolerate intimidation, threats, coercion, or discrimination against any individual or group.²

Environmental Justice Mapping Tools:

Arizona has published a mapping tool titled AZ Counties Demographic and Environmental Dashboard³ which “provides Arizonans with environmental and demographic data for each county in the state.”⁴ Environmental information is based on air and water quality plus waste/cleanups.⁵ Demographic information includes population, age, generation, average household income, average home value, percentage of households below the federal poverty line, race/ethnicity, average unemployment rate, and voter registration.⁶

¹ *SB 1438, 53rd Legislature (2018)* Introduced to the Arizona Senate in 2018, SB 1438 states:

In consultation with the Department of Environmental Quality, the Department of Administration shall ensure that all state agencies, boards, commissions, and other public bodies that are involved in decisions that may affect environmental quality adopt and implement environmental justice policies that provide meaningful opportunities for involvement of all people, regardless of race, color, ethnicity, religion, income, or education level.

² ADEQ, <https://www.azdeq.gov/CivilRights> (last visited June 28, 2022).

³ ArcGIS, AZ Counties Demographic and Environmental Dashboard, <https://adeq.maps.arcgis.com/apps/MapSeries/index.html?appid=cc0da69679c74b8ca25125c15651805a> (last visited July 18, 2022).

⁴ ADEQ, Environmental & Demographic Data by County (rev. May 12, 2022, at 9:13am), <https://azdeq.gov/EnvironmentalData> (last visited July 18, 2022).

⁵ *Id.*

⁶ *Id.*

How Does Arizona Consider Environmental Justice in its Substantive Actions⁷?

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

N/A.

Consideration of Environmental Justice in Permitting:

N/A.

Consideration of Environmental Justice in Enforcement:

N/A.

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.

Prohibitions on Disparate Impact Discrimination:

N/A.

Established Environmental Rights:

N/A.

How Does Arizona Address Environmental Justice in its Procedures⁸?

Environmental Justice as Part of Environmental Agency’s Mission:

N/A.

Environmental Justice as Part of Other Agency’s Mission:

⁷ 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 June 28, 2022).

⁸ 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 June 28, 2022).

N/A.

Processes and Procedures (including Title VI):

- Non-Discrimination Policy:

- ADEQ:

The ADEQ Title VI civil rights webpage has designated itself to be nondiscriminatory entity both “directly [and] through contractual means” in compliance with Title VI of the Civil Rights Act of 1964.⁹ The ADEQ has a nondiscrimination program as a means to “effectively engage the public, fully integrate their feedback, and result in decisions that are protective of human health and the environment.”¹⁰ The ADEQ civil rights policy program, based on federal guidance, includes (1) notice of nondiscrimination as required by 40 CFR 7.95; ... [and] (3) ID of an ADEQ Environmental Justice/Title VI Nondiscrimination Coordinator and their role;¹¹ The ADEQ website does provide a link to file a Civil Rights Complaint Form¹² when a person alleges their Title VI rights have been violated.

The ADEQ publishes a civil rights program policy pursuant to Title VI of the Civil Rights Act of 1964. The policy is an implementation and alignment with federal requirements. Citing the U.S. Census, the policy finds that “an estimated 8.9% of Arizona’s population speaks English less than very well.”¹³ Additionally, an “estimated 12.9% of Arizona’s Civilian Non-Institutionalized population is disabled.”

- Arizona Department of Transportation (ADOT):

ADOT has a Civil Rights Office (CRO), but this is purely for compliance with federal requirements for implementation of Title VI. The ADOT has a Title VI: Nondiscrimination Program prepared a guidance document on Title VI and environmental justice. This document provides guidance to ensure that Title VI and EO 12898 are adequately considered in the transportation planning process. This [guidance document](#) specifically addresses environmental justice and limited English Proficiency on pg. 39-40.

ADOT uses several mapping tools when collecting data, the following demographics are needed for an environmental justice analysis: such as the [Arizona Department of Economic Security](#) and [US Census Bureau \(link is external\)](#). The ADOT also has a [Title VI flow chart](#).

⁹ ADEQ, *Civil Rights*, <https://azdeq.gov/CivilRights> (last visited June 28, 2022).

¹⁰ ADEQ, *Civil Rights Program Policy* (Rev. Aug. 2019), at p.2, https://static.azdeq.gov/legal/VI_policy.pdf (last visited June 28, 2022); *See also* ADEQ, *Nondiscrimination Policy for Programs, Activities and Services and Grievance Procedures* (2019), https://static.azdeq.gov/legal/grievance_policy.pdf (last visited June 30, 2022).

¹¹ ADEQ, *Civil Rights Program Policy*.

¹² ADEQ, *Title VI Discrimination Complaint Form*, available at <https://static.azdeq.gov/legal/civilrightsform.pdf>.

¹³ ADEQ, *Civil Rights Program Policy*, at p.3.

- Grievance Procedures:

The ADEQ civil rights policy program, based on federal guidance, (2) grievance procedures for complaints filed under federal nondiscrimination statutes.¹⁴

- Enhanced Public Participation and Information Access:

The ADEQ civil rights policy program, based on federal guidance, includes (5) “Public Participation Procedures.”¹⁵ ADEQ is required to, and has, created public participation procedures. These procedures are made to seek public participation in ADEQ programs; such as the requirement of public notice and opportunity for public comment before ADEQ takes action regarding permits or permit revisions.¹⁶

- Language Access:

Further, it should be noted that any language policy may be limited by Article 28 of the Arizona Constitution which states that English is the official language of Arizona.¹⁷

In their civil rights policy program (reviewed August 2019), ADEQ maintains that as an EPA funds recipient, it is engaged in Title VI activities and provides “access to individuals with limited ability to speak, write, or understand the English language and to those with disabilities.”¹⁸

- Consultation with Indigenous Communities and Tribal Nations:

ADEQ has a Tribal Consultation and Collaboration policy which compels

ADEQ [to] work with Tribes to improve State-Tribal interactions, enhance communications and resolve problems as they arise. ADEQ will maintain a Tribal Liaison to serve as the main point of contact for initiating communication, providing training opportunities, and coordinating with each Tribe to establish preferred methods of communication and identify the appropriate Tribal contacts. When possible, meetings will be held within Tribal communities.¹⁹

Governmental Environmental Justice Bodies, Positions, and Funding Streams:

- Environmental Justice Coordinating Agency:

N/A.

- Environmental Justice Coordinator:

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 4.

¹⁷ Ariz. Const. art. 28 § 1 (mandating English as the official State language).

¹⁸ ADEQ, *Civil Rights Program Policy*, at p.2.

¹⁹ ADEQ, Policy No. 0101.2022, Agencywide Substantive Policy: Tribal Consultation and Collaboration (Jan. 1, 2022), available at https://static.azdeq.gov/legal/subs_tribal_govt_policy.pdf.

N/A. A 2006 ADEQ Civil Rights Program Policy makes mention of an “Environmental Justice/Title VI Nondiscrimination Program Coordinator” who “ensures compliance with federal nondiscrimination statutes.”²⁰ However, research conducted was unable to find proof of existence of a worker with that position title. While there is seemingly no explicit environmental justice coordinator—ADEQ does provide regional assistance via Place-based Community Liaisons.²¹

- Environmental Justice Advisory Board:

N/A.

- Funding for Environmental Justice:

N/A.

Additional Arizona Environmental Justice Provisions?

N/A.

Arizona Environmental Justice Contacts?

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Where to Find Arizona Environmental Justice Laws, Policies, and Tools?

Constitutional Provisions:

N/A.

Executive Orders:

N/A.

Legislation and Statutes:

N/A.

Regulations:

N/A.

Policies/Guidance:

²⁰ ADEQ, *Civil Rights Program Policy*, at p.A-2.

²¹ ADEQ, Public Health and Environmental Protection for All Arizonans - Placebased Community Liaisons (rev. June 22, 2022 at 10:36am), <https://azdeq.gov/health-and-environmental-protection-all-arizonans>.

N/A.

Mapping Tools:

N/A.

Other:

N/A.