

NEVADA

How Does Nevada Define Environmental Justice and Environmental Justice Communities?

Environmental Justice Definitions:

The Nevada Department of Transportation (“NDOT”) provides a definition of environmental justice on its website:

Environmental Justice means identifying and addressing disproportionately high and adverse effects of the agency’s programs, policies, and activities on minority populations and low-income populations to achieve an equitable distribution of benefits and burdens.¹

Environmental Justice Mapping Tools:

N/A.

How Does Nevada Consider Environmental Justice in its Substantive Actions²?

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.

¹ NDOT, *Environmental Justice*, <https://www.nevadadot.com/doing-business/external-civil-rights/civil-rights-title-vi/environmental-justice-902> (last accessed June 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 June 30, 2022).

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 Nevada Address Environmental Justice in its Procedures³?

Environmental Justice as Part of Environmental Agency's Mission:

When making decisions, NDOT's actions are guided by three fundamental principles.⁴ The agency tries to avoid disproportionately high and adverse environmental, health, social, and economic effects on minority and low-income populations when making decisions. NDOT also encourages community participation when making decisions and tries to prevent the delay of or reductions in benefits going to minority or low-income populations.⁵

Environmental Justice as Part of Other Agency's Mission:

N/A.

Processes and Procedures (including Title VI):

- Non-Discrimination Policy:

Significantly, NDOT's *Title VI Implementation Plan* requires annual performance review by:

- Sampling environmental documents to ensure Community Impact Assessments appropriately identify underserved communities and discuss avoidance, minimization and mitigation of disproportionately high or adverse impact;

³ 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 30, 2022).

⁴ NDOT, *supra* note 1.

⁵ *Id.*

- Choosing media outlets and other disbursement networks to ensure access to traditionally underserved and LEP customers;
- Ensuring that meetings, hearings and other public involvement events are held in accessible locations and at times to garner the best representation of the impacted community; and/or
- Collecting questions, concerns, comments or complaints from the public, ensuring they are appropriately addressed and forwarding potential discrimination concerns to the appropriate official.⁶

Elsewhere, NDOT highlights the connection of community impacts analysis and environmental justice, although in the context of compliance with federal NEPA for those transportation projects triggering NEPA's requirements: "environmental justice requires focus on whether or not a project would have adverse and disproportionate impacts to minority or low-income neighborhoods and communities."⁷

- Grievance Procedures:

N/A.

- Enhanced Public Participation and Information Access:

NDOT's *Title VI Implementation Plan* goes beyond mere compliance with the letter of Title VI—implicitly referencing environmental justice communities:

[t]he cornerstone of Title VI and Environmental Justice compliance in all Department programs is outreach and public involvement. The Department has a Public Involvement Program that is designed to provide early, continuous and extensive outreach to all communities, but particularly to ensure that project selection does not subject minority, low income, disabled and elderly populations to disproportionately high and adverse effects."⁸

⁶ *Id.* at pp.6-7. A "community impact assessment" is an "iterative process to evaluate the effects of a transportation action on a community and its quality of life." U.S. DOT, Federal Highway Admin., *Community Impact Assessment: A Quick Reference for Transportation* (2018 ed.) at p.1, available at https://www.fhwa.dot.gov/livability/cia/quick_reference/ciaguide_053118.pdf (last visited June 30, 2022).

⁷ NDOT, *Natural and Social Sciences*, <https://www.dot.nv.gov/doing-business/about-ndot/ndot-divisions/engineering/environmental-services/natural-and-social-sciences> (last accessed June 2022).

⁸ NDOT, *Title VI Implementation Plan* (Aug. 2020) at p.6, available at <https://www.dot.nv.gov/home/showpublisheddocument/18024/637345581580670000> (last visited June 30, 2022).

NDOT's Public Involvement Plan has some minor enhancements around public participation for environmental justice communities, in encouraging staff to reach out to tribal communities, "minority community committees," among other organizations.⁹

- Language Access:

N/A.

- Consultation with Indigenous Communities and Tribal Nations:

With respect to projects affecting lands under the jurisdiction of a tribal government, NDOT policy requires the development of the long-range statewide transportation plan and State Transportation Improvement Plans in consultation with the Tribal government and the Secretary of Interior, in keeping with federal mandates.¹⁰ The consultation process includes mandatory meetings with Tribal government for projects affecting tribal lands, and other outreach.¹¹

Governmental Environmental Justice Structures, Positions, and Funding Streams;

- Environmental Justice Coordinating Agency:

N/A.

- Environmental Justice Coordinator:

N/A.

- Environmental Justice Advisory Board:

N/A.

- Funding for Environmental Justice:

N/A.

Additional Nevada Environmental Justice Provisions?

As required by SB 254 (2019), the Department of Conservation and Natural Resources must identify policies that could achieve reductions in greenhouse gas emissions and assess whether those policies will support long-term reductions in emissions to a near-zero state by

⁹ NDOT, *Public Involvement Plan* at p.4, available at <https://www.dot.nv.gov/home/showpublisheddocument/4498/636190450635100000> (last visited June 30, 2022).

¹⁰ NDOT, *Transportation Planning Metropolitan, Non Metropolitan and Tribal Consultation and STIP Development Process* (2016) at p.3, available at <https://www.dot.nv.gov/home/showpublisheddocument/3430/636184597112900000> (last accessed June 30, 2022).

¹¹ *Id.* at pp. 3-4, and 10.

2050.¹² The law is silent as to the environmental justice implications of climate change or reduction strategies.

Governor Sisolak’s 2019 executive order implementing SB 254 specifically required that climate justice be implicated in producing a State Climate Strategy by December of 2020, however: “[t]he administration shall consider the impact of proposed policies and programs on low-income and disadvantaged communities in Nevada.¹³ Pursuant to the executive order, the 2020 *State Climate Strategy* observes that “low-income communities, people of color, and Indigenous populations have disproportionately borne the burden of climate change impacts” and “through climate action, there is the opportunity to reconcile the social justice challenges Nevadans face.”¹⁴

The *State Climate Strategy* operationalizes environmental justice principles, using climate justice as a second metric for evaluating climate mitigation strategies (after the SB 254’s mandate of assessing efficacy).¹⁵ This second metric (prioritized before budgetary implications and feasibility analysis) asks:

Have communities of color, low-income households, and tribal partners (i.e., Indigenous communities) been directly engaged and consulted about the challenges and opportunities associated with the policy? Will the policy avoid any negative impacts to vulnerable communities, provide the opportunity for a net benefit, and/or reconcile broader social justice issues?¹⁶

The *State Climate Strategy* goes on to evaluate the climate justice ramifications of seventeen mitigation strategies: for example, the implementation of a low- or zero-emission vehicle standards.¹⁷ The analysis notes that “[l]ow-income households and communities of color are disproportionately exposed to air pollution and experience a commensurate increase in adverse health outcomes" due to vehicle emissions. Hence, the policy carries a potentially beneficial impact to environmental justice communities. At the same time, the higher cost of electric vehicles and the lack of state subsidies would adversely affect environmental justice communities.¹⁸

¹² Nev. Rev. Stat. §§ 445B.380(2)(c) and (d).

¹³ Nev. Exec. Order 2019-22 “ORDER DIRECTING EXECUTIVE BRANCH TO ADVANCE NEVADA’S CLIMATE GOALS” sections 5(B) and 11, *available at* https://gov.nv.gov/News/Executive_Orders/2019/Executive_Order_2019-22_Directing_Executive_Branch_to_Advance_Nevada_s_Climate_Goals/ (last visited June 30, 2022).

¹⁴ Nevada Climate Initiative, *State Climate Strategy* (2020) (unpaginated), *available at* https://climateaction.nv.gov/wp-content/uploads/2021/01/NVClimateStrategy_011921.pdf (last visited June 30, 2022).

¹⁵ *Id.* The four metrics for evaluating climate mitigation policies are: GHG emissions-reduction potential, climate justice, economic implications, and implementation feasibility.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

Nevada Environmental Justice Contacts?

N/A.

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

Constitutional Provisions:

N/A.

Executive Orders:

- Gov. Sisolak, Executive Order 2019-22 “ORDER DIRECTING EXECUTIVE BRANCH TO ADVANCE NEVADA'S CLIMATE GOALS”:
https://gov.nv.gov/News/Executive_Orders/2019/Executive_Order_2019-22_Directing_Executive_Branch_to_Advance_Nevada_s_Climate_Goals/.

Legislation and Statutes:

N/A.

Regulations:

N/A.

Policies/Guidance:

- Nevada Dept. of Transportation, *Title VI Implementation Plan* (Aug. 2020):
<https://www.dot.nv.gov/home/showpublisheddocument/18024/637345581580670000>.
- Nevada Dept. of Transportation, *Public Involvement Plan*:
<https://www.dot.nv.gov/home/showpublisheddocument/4498/636190450635100000>.
- Nevada Dept. of Transportation, *Transportation Planning Metropolitan, Non Metropolitan and Tribal Consultation and STIP Development Process* (2016):
<https://www.dot.nv.gov/home/showpublisheddocument/3430/636184597112900000>.

Mapping Tools:

N/A.

Other:

N/A.