

SOUTH DAKOTA

How Does South Dakota Define Environmental Justice and Environmental Justice Communities?

Environmental Justice Definitions:

N/A.

Environmental Justice Mapping Tools:

DANR has GIS data available on a variety of its environmental programs: Air Quality Program; Drinking Water Program; Feedlot Permit Program; Ground Water Quality Program; Minerals and Mining; Oil and Gas; South Dakota Geological Survey; Surface Water Quality Program; Waste Management Program; and Water Rights Program.¹ Each listed program in turn has specific GIS data relevant to the program's functions.² For example, the Waste Management Program has two separate GIS datasets for recycling facilities and permitted solid waste facilities locations.³ In addition, South Dakota also has real-time data for air quality that is updated hourly.⁴ These databases are confined to environmental exposure, and do not include overlays of EJ or other sensitive populations.

How Does South Dakota Consider Environmental Justice in its Substantive Actions⁵?

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.

¹ S.D. Dept. of Agric. & Nat. Res., *Searchable Databases & Lists Directory*, <https://danr.sd.gov/Press/DataAndMapping.aspx> (last visited July 5, 2022).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ 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).

State Environmental Policy Act “Mini-NEPA”:

The South Dakota Environmental Policy Act loosely follows the federal NEPA, requiring similar procedural requirements for public involvement, e.g. scoping meetings and public comments input on what should be included in the environmental impact statement (EIS).⁶ An EIS must be made available to the public 30 days before an agency takes action on the subject of the EIS.⁷ Additionally, all feasible action that would mitigate or avoid the environmental harm identified in the EIS must be taken.⁸ There are no explicit procedural requirements superadded for EJ communities.

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 South Dakota Address Environmental Justice in its Procedures⁹?

Environmental Justice as Part of Environmental Agency’s Mission:

N/A.

Environmental Justice as Part of Other Agency’s Mission:

N/A.

Processes and Procedures (including Title VI):

⁶ S.D. Codified L., ch. 34A-9.

⁷ S.D. Codified L., § 34A-9-9.

⁸ S.D. Codified L., § 34A-9-10 (“When an agency decides to carry out or approve an action which has been the subject of an environmental impact statement, it shall make an explicit finding that the requirements of this chapter have been met and that all feasible action will be taken to minimize or avoid environmental problems that are revealed in the environmental impact statement process.”).

⁹ 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).

- Non-Discrimination Policy:

The South Dakota Department of Transportation (DOT) has a variety of Title VI implementation plans, to ensure compliance for DOT programs receiving federal assistance.¹⁰

- Grievance Procedures:

DOT has Title VI complaint forms available on its website.¹¹

- Enhanced Public Participation and Information Access:

N/A.

- Language Access:

N/A.

- 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:

N/A.

- Environmental Justice Advisory Board:

N/A.

- Funding for Environmental Justice:

N/A.

¹⁰ S.D. DOT, 2022 FHWA Title VI Program Implementation Plan (Sept. 2021), available at: <https://dot.sd.gov/media/documents/FFY%202022%20Title%20VI%20Program%20Implementation%20Plan%20.pdf> (last visited July 5, 2022); FTA Title VI Plan (Mar. 2019), available at: <https://dot.sd.gov/media/documents/SDDOT-FTATitleVIProgram2019.pdf> (last visited July 5, 2022); 2022 FMCSA Title VI Program Compliance Plan (Jan. 2022), available at: <https://dot.sd.gov/media/documents/FFY%202022%20Title%20VI%20Program%20Compliance%20Plan%20-%20013122.pdf> (last visited July 5, 2022).

¹¹ S.D. DOT, “TITLE VI/NONDISCRIMINATION COMPLAINT FORM SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION,” available at: <https://dot.sd.gov/media/documents/complaintformtitlevi.pdf> (last visited July 5, 2022).

Additional South Dakota Environmental Justice Provisions?

The South Dakota Department of Health has a Health Equity Program and identifies “achieving health equity in all communities” as a guiding principle in its 2020-2025 Strategic Plan; one of its objectives as to “increase understanding and awareness of health equity and enhance programs and policies that advance health equity.”¹² The Department of Health defines “health equity” as “a fair and just opportunity to be healthier. This requires removing obstacles to health such as poverty, discrimination, and their consequences, including lack of access to good jobs, quality education and housing, safe environments, and health care.”¹³ The Department of Health identifies environmental inequities as health inequities.¹⁴ Though not explicitly EJ related, such a plan has the potential to incorporate EJ concerns into the Department of Health’s programs and policies, and improve health outcomes in communities affected by “environmental inequities.”

South Dakota Environmental Justice Contacts?

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Where to Find South Dakota Environmental Justice Laws, Policies, and Tools?

Constitutional Provisions:

N/A.

Executive Orders:

N/A.

Legislation and Statutes:

- South Dakota Codified Laws, Chapter 34A-9.

¹² South Dakota Dept. of Health, “Health Equity & Cultural Competency: BETTER HEALTH FOR ALL IN SOUTH DAKOTA,” <https://doh.sd.gov/healthequity/> (last visited July 5, 2022).

¹³ South Dakota Dept. of Health, “Health Equity & Cultural Competency DEFINITIONS,” https://doh.sd.gov/documents/HealthEquityCulturalCompetency_Definitions.pdf (last visited July 5, 2022).

¹⁴ *Id.* (“Environmental inequities: The geographic location of where you live can determine your health status because lower income neighborhoods tend to be located in poor locations. Housing quality, safe streets, and access to healthy foods contribute to health outcomes.”).

Regulations:

N/A.

Policies/Guidance:

- Title VI Program Implementation,
<https://dot.sd.gov/media/documents/FFY2021TitleVIProgramImplementationPlan.pdf>.

Mapping Tools:

N/A.

Other:

N/A.