

## ARKANSAS

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

#### Environmental Justice Definitions:

N/A.

#### Environmental Justice Mapping Tools:

N/A.

### **How Does Arkansas Consider Environmental Justice in its Substantive Actions<sup>1</sup>?**

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

N/A.

#### Consideration of Environmental Justice in Permitting:

As explained below Arkansas has a statute (the Arkansas Environmental Equity Act) intended to prevent the permitting of multiple hazardous waste sites in a limited geographic area. In general, however, Arkansas lacks statutes or regulations requiring the consideration of environmental justice impacts in permitting.

The Arkansas Environmental Equity Act of 1993 encourages “an equitable and efficient dispersal of solid waste management” to prevent “lower-income or minority communities” from becoming “involuntary hosts to a proliferation of high impact solid waste management facilities.”<sup>2</sup> The act creates a “rebuttable presumption” against siting a new high impact solid waste facility within a twelve-mile radius of another one.<sup>3</sup> The presumption may be rebutted by showing a lack of sufficient sites, or by the community allowing it because of certain incentives listed as “(i) Increased employment opportunities; (ii) Reasonable host fees not to exceed the prevailing state average; (iii) Contributions by the high impact solid waste management facility to the community infrastructure, e.g. road maintenance, park development, and litter control; (iv) Compensation to adjacent individual landowners for any assessed decrease in property values; or (v) Subsidization of community services.”<sup>4</sup> The definition of a high impact solid waste management facility includes all commercial hazardous waste incinerators and commercial hazardous waste treatment, storage, or disposal facilities.

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<sup>1</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 June 28, 2022).

<sup>2</sup> Ark. Code Ann. § 8-6-1501.

<sup>3</sup> Ark. Code Ann. § 8-6-1504.

<sup>4</sup> *Id.*

In addition, Arkansas regulations give the Arkansas Department of Energy and Environment (ADEQ and Department) authority to request that prior to operation of a new commercial hazardous waste management facility, the relevant health agency conduct a survey to establish baseline health data.<sup>5</sup> The regulations also require the Department, whenever it “finds that there exists a reasonable probability that emissions from any hazardous waste management facility are related to disease etiology” to have conducted “pertinent epidemiologic investigations in order to ascertain early identification of unknown health hazardous and to effect the appropriate corrective intervention.”<sup>6</sup>

The Arkansas Supreme Court considered claims that the permitting of a chemical weapons incinerator would “create new, and exacerbate existing, disproportionate pollution impacts on minority and low-income populations.”<sup>7</sup> The Court found that because there was substantial evidence that “the permits will adequately protect the public health and environment and that no adverse health effects to any persons will result from the Facility's emissions, it logically follows that there will be no adverse impact on minorities and low-income persons.”<sup>8</sup>

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:

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<sup>5</sup> APC&EC Reg. 23 §270.34(a).

<sup>6</sup> *Id.* at 270.34(b).

<sup>7</sup> *Pine Bluff for Safe Disposal v. Ark. Pollution Control & Ecology Comm’n*, 354 Ark. 563, 581 (Ark. S. Ct. 2003).

<sup>8</sup> *Id.*

N/A.

## **How Does Arkansas Address Environmental Justice in its Procedures<sup>9</sup>?**

### 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):

- Non-Discrimination Policy:

- ADEQ:

ADEQ has as a Title VI webpage that includes a Title VI complaint form, flyer, and complaint procedure handout.<sup>10</sup>

- Northwest Arkansas Regional Planning Commission (NWAPRC):

NWARPC has an ADA/504/Title VI Coordinator with whom Title VI complaints can be filed.

- Grievance Procedures:

N/A.

- Enhanced Public Participation and Information Access:

- ADEQ:

ADEQ does not have enhanced public participation procedures for environmental justice communities.

- NWARPC:

NWARPC has a Public Participation Plan that states “[e]fforts will be made to ensure participation by traditionally underserved individuals, including

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<sup>9</sup> 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](https://www.law.cornell.edu/wex/procedural_law) (last visited June 28, 2022).

<sup>10</sup> ADEQ, *Title VI Information*, <https://www.adeg.state.ar.us/poa/pi/title-vi/> (last visited June 28, 2022).

elderly, low income and minority individuals, persons with disabilities, and persons with limited English proficiency.”<sup>11</sup>

- Language Access:

- ADEQ:

ADEQ’s Title VI webpage states “[w]e will provide critical information in other prominent languages” and lists the Title VI contact. There are also links to this same information in Spanish and Vietnamese.<sup>12</sup> The title VI contact for ADEQ is: Shay Randolph, Special Counsel for Environmental Justice, 501-682-0801, [shay.randolph@adeq.state.ar.us](mailto:shay.randolph@adeq.state.ar.us).

- NWARPC:

NWARPC has created a Limited English Proficiency Plan, although the plan is skeletal and states of LEP persons that “[i]n recent history, there has been no contact at meetings, through Commission or committee members, through phone contact, or by personal visit. Website access is unknown. Based upon the historical evidence of no language assistance requests, it is determined that NWARPC’s programs and services directly serve very few LEP populations.”<sup>13</sup> the NWARPC Title VI contact is: Celia Scott-Silkwood, 479-751-7125, [cscott-silkwood@nwarpc.org](mailto:cscott-silkwood@nwarpc.org).

- 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:

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<sup>11</sup> NWARPC, *Public Participation Plan* (2020), [https://www.nwarpc.org/wp-content/uploads/2020/09/NWARPC-2020-PUBLIC-PARTICIPATION-PLAN\\_9-23-2020.pdf](https://www.nwarpc.org/wp-content/uploads/2020/09/NWARPC-2020-PUBLIC-PARTICIPATION-PLAN_9-23-2020.pdf) (last visited June 28, 2022).

<sup>12</sup> ADEQ, *Title VI Information*, <https://www.adeq.state.ar.us/poa/pi/title-vi/> (last visited June 28, 2022).

<sup>13</sup> NWARPC, *Limited English Proficiency Plan* (2015), p.3; available at <http://www.nwarpc.org/pdf/TITLE%20VI/NWARPC%20LEP%20PLAN%205-18-2015.pdf> (last visited June 28, 2022).

N/A.

- Funding for Environmental Justice:

N/A.

### **Additional Arkansas Environmental Justice Provisions?**

In 2017, EPA Region 6 developed an Arkansas Environmental Justice Action Plan, which includes actions taken by ADEQ.<sup>14</sup>

### **Arkansas Environmental Justice Contacts?**

Shay Randolph  
ADEQ Title VI Contact  
501-682-0801  
[shay.randolph@adeq.state.ar.us](mailto:shay.randolph@adeq.state.ar.us)

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ADA/504/Title VI Coordinator  
NWARPC  
(479) 751-7125, (Voice/TTY 7-1-1 or 1-800-285-1131)  
[cscott-silkwood@nwarpc.org](mailto:cscott-silkwood@nwarpc.org)

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

#### Constitutional Provisions:

N/A.

#### Executive Orders:

N/A.

#### Legislation and Statutes:

- Arkansas Environmental Equity Act, Ark. Code Ann. § 8-6-1501-1504.

#### Regulations:

- APC&EC Reg. 23 §270.34.

#### Policies/Guidance:

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<sup>14</sup> EPA, Environmental Justice Collaborative Action Plan (Arkansas Community), [https://www.epa.gov/sites/production/files/2017-03/documents/qtrly\\_update\\_ar\\_ej\\_action\\_plan\\_1-26-17.pdf](https://www.epa.gov/sites/production/files/2017-03/documents/qtrly_update_ar_ej_action_plan_1-26-17.pdf) (last visited June 28, 2022).

N/A.

Mapping Tools:

N/A.

Other:

N/A.