

## KANSAS

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

#### Environmental Justice Definitions:

N/A.

#### Environmental Justice Mapping Tools:

The Kansas Department of Health and the Environment (KDHE) Environmental Interest Finder is an application that allows users to search site-specific information for KDHE's air quality, radiation, and wastewater programs.<sup>1</sup>

### **How Does Kansas Consider Environmental Justice in its Substantive Actions<sup>2</sup>?**

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

N/A.

#### Consideration of Environmental Justice in Permitting:

The Bureau of Environmental Remediation at the KDHE also administers an Environmental Use Program, which applies restrictions, conditions, and prohibitions for property with contaminant concentrations that exceed residential standards.<sup>3</sup> The statute places an emphasis on public health, and requires applications to include recommendations for future actions that serve this interest.

#### Consideration of Environmental Justice in Enforcement:

Many statutes and regulations currently exist in Kansas that are intended to control water pollution, radiation, sewage and excreta disposal, air quality, and solid/animal/related waste.<sup>4</sup> These control measures include requirements for notice/permitting processes, the design and construction of management systems, the operation of those systems, monitoring/reporting, and inspections.<sup>5</sup> The KDHE site has a specific monitoring program for air quality, called the Kansas Air Quality Monitoring Network, which provides real-time monitoring data regarding the quality of air on a daily basis.<sup>6</sup> This program is incredibly important to people in Kansas who suffer from respiratory illnesses. When toxic spills occur, KDHE's Bureau of Environmental Remediation

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<sup>1</sup> ArcGIS, KDHE Environmental Interest Finder, <https://maps.kdhe.state.ks.us/keif/> (last visited July 7, 2022).

<sup>2</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 29, 2022).

<sup>3</sup> Kan. Admin. Regs. § 28-73 (2006).

<sup>4</sup> Kan. Admin. Regs. §§ 28-18, 29, 31, 41.

<sup>5</sup> *Id.*

<sup>6</sup> Kan. Dep't of Health and the Env't, Bureau of Air, *Monitoring*, <https://www.kdhe.ks.gov/295/Monitoring> (last visited June 29, 2022).

also has a system for spill reporting, and after hazardous spills are reported, they are logged onto the Kansas Interactive Spills Map.<sup>7</sup> This map gives the public access to all spills reported to KDHE, which allows them to increase their awareness of the areas they live in.

Consideration of Environmental Justice in Land Use:

The Kansas Department of Health and Environment also has multiple programs in place to control and clean up pollution, including the Kansas Voluntary Cleanup and Property Redevelopment Program.<sup>8</sup> Under the Voluntary Cleanup and Property Redevelopment Program, developers and buyers are incentivised to perform successful cleanups of contaminated sites and properties, after which they will be granted a “No Further Action” determination by KDHE.<sup>9</sup> This determination will satisfy a community’s need for protection, which adjacent inactive property owners can also receive if they did not contribute to the contamination.<sup>10</sup>

State Environmental Policy Act “Mini-NEPA”:

N/A.

Dedicated Funding to Environmental Justice Communities:

N/A.

Other Consideration of Cumulative Impacts:

N/A.

Prohibitions on Disparate Impact Discrimination:

N/A.

Established Environmental Rights:

N/A.

**How Does Kansas Address Environmental Justice in its Procedures<sup>11</sup>?**

Environmental Justice as Part of Environmental Agency’s Mission:

N/A.

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<sup>7</sup> Kan. Dep’t of Health and the Env’t, Bureau of Env’t Remediation, *Spill Reporting*, <https://www.kdhe.ks.gov/420/Spill-Reporting> (last visited June 29, 2022).

<sup>8</sup> Kan. Admin. Regs. § 28-71 (2017).

<sup>9</sup> Kan. Dep’t of Health and the Env’t, Bureau of Env’t Remediation, *Voluntary Cleanup Unit*, <https://www.kdhe.ks.gov/561/Voluntary-Cleanup-Unit> (last visited June 29, 2022).

<sup>10</sup> *Id.*

<sup>11</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 29, 2022).

Environmental Justice as Part of Other Agency's Mission:

N/A.

Processes and Procedures (including Title VI):

- Non-Discrimination Policy:

Kansas has multiple regulations in place that protect its people from general discrimination that infringes on their right to participate as a community in addressing the environmental issues that affect them.

- Grievance Procedures:

Kansas currently has multiple regulatory measures in place that seek to prevent housing discrimination on the basis of race, national origin, ancestry, religion, sex, disability, or familial status by prohibiting discrimination within loans/financing, advertisements, selling, and construction/design regarding residential property.<sup>12</sup>

- Enhanced Public Participation and Information Access:

KDHE has implemented “Community Involvement” plans for multiple environmental clean-up operations, such as the NuStar Pipeline Release North Andover Site, the Schilling Air Force Base, and the National Zinc Company Site (“NZN Site”).<sup>13</sup> For example, during 2013-2014, KDHE conducted 20 interviews to gather useful information from local communities about their input regarding the remaining environmental hazards resulting from the NZN Site that generated large volumes of solid waste between 1898-1976.<sup>14</sup> These interviews showed that the local communities surrounding the site were primarily concerned about health risks, adverse effects on property values, and having a solid governmental plan for the steps that need to be taken, which included information dissemination to the public. KDHE took this information to create an official Community Involvement Plan (“CIP”) for the NZN Site that attempted to create a system that addressed the community’s concerns and guaranteed increased communication between KDHE and the public on these issues. The NZN Site CIP

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<sup>12</sup> Kan. Hum. Rights Comm’n, *Equal Opportunity in Housing*, <http://www.khrc.net/housing.html#:~:text=Every%20individual%20within%20the%20state.%2C%20disability%2C%20%20or%20familial%20status> (last visited June 29, 2022).

<sup>13</sup> Kan. Dep’t of Health and the Env’t, Bureau of Env’t Remediation, *Site Remediation Unit*, <https://www.kdhe.ks.gov/782/Site-Remediation-Unit> (last visited June 29, 2022).; *See NuStar Pipeline Release North Andover Site*, <https://www.kdhe.ks.gov/909/Nustar-Pipeline-Release-North-Andover-Si>.; *Schilling Air Force Base*, <https://www.kdhe.ks.gov/918/Schilling-Air-Force-Base>.; *NZN Site*, <https://www.kdhe.ks.gov/809/National-Zinc-Company-Cherryvale-Zinc-Di> (last visited June 29, 2022).

<sup>14</sup> Kan. Dep’t Of Health and the Env’t, Bureau of Env’. Remediation, “Community Involvement Plan: Former NZN Site” (rev. 2019) at p.7, <https://www.kdhe.ks.gov/DocumentCenter/View/6796/Community-Involvement-Plan-CIP-PDF?bidId=> (last visited June 29, 2022).

involves promoting communication between the public and the agency through public meetings, comment opportunities, and community advisory groups.<sup>15</sup> Additionally, the CIP lays out plan to keep the public informed through mailing lists, and local/online information repositories.<sup>16</sup> Through the Bureau of Environmental Remediation, KDHE has also implemented these types of plans and processes to address the necessary remediation of multiple other contaminated and hazardous sites in the state.<sup>17</sup>

There are multiple ways that Kansas allows its residents to access important information regarding environmental issues in their state. Every year, KDHE hosts the Kansas Environmental Conference, which is a two-day conference that was created with the intention of informing the public on environmental updates within the state and promoting environmental stewardship.<sup>18</sup>

Additionally, the Kansas Open Records Act (KORA) gives the public the right to obtain and inspect KDHE public records that are not exempt from disclosure.<sup>19</sup> People may request physical records of minutes, public meeting documents, budget information, salaries/basic information regarding public employees, and licensing data about regulated industries.<sup>20</sup> Records are available online regarding issues within the KDHE Environmental Interest Finder, which include environmental remediation, waste management, and child care licensing.<sup>21</sup> Through the online database, the public also has access to other applications that provide detailed information regarding above-ground storage tanks, environmental use controls, spill reports, identified sites, and solid waste.<sup>22</sup> Providing this kind of information about local environmental issues to the public is necessary to empower communities to make informed decisions and to enhance advocacy for environmental justice.

- Language Access:

N/A.

- Consultation with Indigenous Communities and Tribal Nations:

N/A.

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<sup>15</sup> *Id.* at p.13

<sup>16</sup> *Id.*

<sup>17</sup> Kan. Dep't of Health and the Env't, Bureau of Env't Remediation, *Site Remediation Unit*, <https://www.kdhe.ks.gov/782/Site-Remediation-Unit> (last visited June 29, 2022).

<sup>18</sup> Kans. Dep't of Health and the Env't, *Kan. Env't Conference*, <https://www.kdhe.ks.gov/895/Kansas-Environmental-Conference> (last visited June 29, 2022).

<sup>19</sup> Kansas Dep't of Health and the Env't, *Kansas Open Records Request*, <https://www.kdhe.ks.gov/1518/Open-Records> (last visited June 29, 2022).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

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 Kansas Environmental Justice Provisions?**

In Kansas, there are a few regulations, programs, and tracking systems that are aimed at protecting specific community health and general public health. For example, the Residential Childhood Lead Poisoning Prevention Program is aimed at reducing childhood lead poisoning by increasing general awareness and providing education on lead poisoning and prevention.<sup>23</sup>

The Office of Local and Rural Health at KDHE administers a Farmworker Health Program, which seeks to provide primary care services to migrant and seasonal farmworkers and their families through a voucher program.<sup>24</sup> This Program applies to migrant agricultural workers and seasonal agricultural workers who have a total household income of 200% or below the federal poverty guideline, and covers basic primary healthcare services including dental, pharmaceutical, vision care, mental health, and prenatal services.<sup>25</sup> Providing healthcare for rural farmworkers in Kansas is important for several reasons. Generally, they have lower incomes and have little to no access to employer-sponsored health insurance.<sup>26</sup> Personal income growth in Kansas is lower than the national average largely because of the agricultural industry which makes up almost half of the entire state's economy.<sup>27</sup> Farmworkers also often experience poor

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<sup>23</sup> Kan. Admin. Regs. § 28-72 (2010).

<sup>24</sup> Kan. Dep't of Health and the Env't, Off. of Local and Rural Health, *Kan. Statewide Farmworker Health Program*, <https://www.kdhe.ks.gov/356/Kansas-Statewide-Farmworker-Health-Progr> (last visited June 29, 2022).

<sup>25</sup> Kan. Dep't of Health and the Env't, Off. of Local and Rural Health, *Kan. Statewide Farmworker Health Program, Eligibility*, <https://www.kdhe.ks.gov/433/Eligibility> (last visited June 9, 2022).

<sup>26</sup> *Id.*

<sup>27</sup> Stephan Koranda, *Farmers' Struggles Bring Down Personal Income Growth in Kansas*, Kansas Public Radio (December 26, 2019), <https://kansaspublishradio.org/kpr-news/farmers%E2%80%99-struggles-bring-down-personal-income-growth-kansas>

health due to substandard housing, lack of English proficiency, poor conditions on farms, isolation, and agricultural chemicals in their homes, water supply, and workplaces.<sup>28</sup>

The Kansas Department of Health and Environment also administers a Kansas Environmental Public Health Tracking program, which partners with the U.S. Center for Disease Control and Prevention to track public health related to environmental exposures and provide that information to the public on the Tracking Network's website.<sup>29</sup>

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<sup>28</sup> Kan. Dep't of Health and the Env't, Off. of Local and Rural Health, Kan. Statewide Farmworker Health Program, *Eligibility*, <https://www.kdhe.ks.gov/433/Eligibility> (last visited June 9, 2022).

<sup>29</sup> Kan. Dep't of Health and Env't, Div. of Pub. Health, *Environmental Health Surveillance and Reporting*, <https://www.kdhe.ks.gov/1864/Environmental-Health-Surveillance-and-Re> (last visited June 29, 2022); *See also* Kansas Environmental Public Health Tracking, <https://keap.kdhe.state.ks.us/Ephtm/> (last visited June 29, 2022).

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

### Constitutional Provisions:

N/A.

### Executive Orders:

N/A.

### Legislation and Statutes:

N/A.

### Regulations:

- Kan. Admin. Regs. § 28-71.
- Kan. Admin. Regs. § 28-72.
- Kan. Admin. Regs. § 28-73.
- Kan. Admin. Regs. §§ 28-18, 29, 31, 41.

### Policies/Guidance:

N/A.

### Mapping Tools:

N/A.

### Other:

N/A.

