

KENTUCKY

How Does Kentucky Define Environmental Justice and Environmental Justice Communities?

Environmental Justice Definitions:

Kentucky does not address environmental justice in its statutes nor regulations and discusses it only briefly in guidelines for the Kentucky Energy & Environment Cabinet (EEC), the state's environmental agency, and the Kentucky Transportation Cabinet (KYTC). The Louisville Metro Air Pollution Control District, however, has been implementing a program to consider and reduce cumulative toxic air emissions for over 15 years.

Environmental Justice Mapping Tools:

N/A.

How Does Kentucky Consider Environmental Justice in its Substantive Actions¹?

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:

The Kentucky Brownfield Redevelopment Program, which makes grants and loans to eligible entities for cleanup, will give very low or no interest loans for projects in areas where there are environmental justice concerns and the project provides employment or health benefits to the environmental justice area.² “The goal of the CCF is to fund the cleanup of brownfield properties in order to protect human health and the environment, promote reinvestment and to retain or create new jobs.”³

¹ 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 29, 2022).

² Ky. Energy & Env't Cabinet, *Cleaner Commonwealth Fund Loan Guide*, https://eec.ky.gov/Environmental-Protection/brownfields/Cleaner%20Commonwealth%20Fund%20Documents/KY_CleanerCommonwealthFundLoanGuide.pdf (last visited June 29, 2022).

³ *Id.* at 9.

State Environmental Policy Act “Mini-NEPA”:

Kentucky does not have a Mini-NEPA. However, the state does follow the National Environmental Policy Act and has a contact person for the state environmental review process.⁴ The point of contact is Louanna Aldridge at 502-782-0863 or Louanna.Aldridge@ky.gov.

Dedicated Funding to Environmental Justice Communities:

N/A.

Consideration of Cumulative Impacts:

The Louisville Metro Air Pollution Control District runs its own air pollution control and permitting program. It adopted the Strategic Toxic Air Reduction (STAR) program in 2005 in response to studies that documented high concentrations of harmful air toxics, including cancer-causing chemicals, in specific neighborhoods in Louisville Metro and concluded that the air in Jefferson County had the highest potential risk for adverse effects of all counties in the eight southeastern states.

The STAR program:

- Lists toxic air contaminants, estimates risks and generally prohibits emitting toxic air contaminants in a harmful amount or duration.
- Requires companies that emit the largest amounts of chemicals to determine through modeling whether they are exceeding the health risk goal for each of the targeted chemicals and requires companies that exceed the goal to present a plan to reduce emissions and reach the goal over the next six years.
- Requires the APCD to develop a plan of action to reduce emissions, including those from minor, area, and non-road mobile sources.⁵

Prohibitions on Disparate Impact Discrimination:

N/A.

Established Environmental Rights:

N/A.

How Does Kentucky Address Environmental Justice in its Procedures⁶?

Environmental Justice as Part of Environmental Agency’s Mission:

⁴ Ky. Energy & Env’t Cabinet, *NEPA*, <https://eec.ky.gov/Environmental-Protection/resources/Pages/national-environmental-policy-act.aspx> (last visited June 29, 2022).

⁵ [APCD Regulations 5.20-5.30](#).

⁶ 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 29, 2022).

Governor Andy Beshear promised in opening remarks at the 44th annual Governor’s Conference on Energy and the Environment to bring renewed focus on environmental justice under his administration.⁷

Additionally, the EEC’s 2021 Strategic Plan (Plan) states that part of the department’s mission will include evaluating the potential for environmental justice impacts in the decision-making process and in its programs.⁸ The Plan states that the department will evaluate the potential for environmental justice impacts in its regulation and monitoring of the quality of drinking water, surface water and groundwater resources, and wastewater treatment systems. The Plan also states that the department wants to implement fair, equitable, and effective waste management programs that take environmental justice into consideration.⁹

Environmental Justice as Part of Other Agency’s Mission:

Louisville Metro Air Pollution Control District has an equity vision statement, which states: “[t]he APCD will ensure the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of APCD regulations, programs, and policies.” The District is also required, as are all Metro agencies, to develop an Equity Impact Statement every year.¹⁰

Processes and Procedures (including Title VI):

- *Non-Discrimination Policy:*

N/A.

- *Grievance Procedures:*

N/A.

- *Enhanced Public Participation and Information Access:*

N/A.

- *Language Access:*

KYTC has a language access plan that includes procedures for ensuring meaningful access to KYTC’s services, programs, and activities.¹¹ The plan includes

⁷ Kirsten Delamarter, *Environmental Justice, COVID-19 Response Take Center Stage at Governor’s Conference on Energy and the Environment* LAND, AIR & WATER (Oct. 15, 2020), <https://landairwater.me/2020/10/15/environmental-justice-covid-19-response-take-center-stage-at-governors-conference-on-energy-and-the-environment>.

⁸ Ky. Energy & Env’t Cabinet, *Strategic Operational Plan 3* (2021), <https://eec.ky.gov/Environmental-Protection/Documents/DEP%20Strategic%20Plan%202021.pdf> (last visited June 29, 2022).

⁹ *Id.* at pp. 12, 23.

¹⁰ Louisville Ordinance No. 19 Series 2021.

¹¹ Ky. Transp. Cabinet, *Language Access Plan* (2018), <https://drive.ky.gov/Docs/KYTC-Language-Access-Plan.pdf> (last visited June 29, 2022).

specifics on the translation and interpretation services offered, how LEP persons are to be informed of language assistance services, staff procedures, procedures for monitoring and updating the plan, and measurable benchmarks for compliance with the plan.

- 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.

Additional Kentucky Environmental Justice Provisions?

N/A.

Kentucky Environmental Justice Contacts?

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

Constitutional Provisions:

N/A.

Executive Orders:

N/A.

Legislation and Statutes:

N/A.

Regulations:

- Louisville Metro APCD Regulations 5.20 - 5.30
- Louisville Metro Ordinance No. 19 Series 2021

Policies/Guidance:

- Kentucky Energy & Environment Cabinet, *Strategic Operational Plan* (2021)
- Kentucky Energy & Environmental Cabinet, *Cleaner Commonwealth Fund Loan Guide*
- Kentucky Transportation Cabinet, *Environmental Analysis Guidance Manual*, EA-703 (2014)
- Kentucky Transportation Cabinet, *Language Access Plan* (2018)

Mapping Tools:

N/A.

Other:

N/A.