

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Policy Office**

**DOCUMENT NUMBER:** 012-0501-002

**TITLE:** Environmental Justice Policy

**EFFECTIVE DATE:** Upon publication of notice as final in the *Pennsylvania Bulletin*

**AUTHORITY:** Air Pollution Control Act (35 P.S. §§ 4001, et seq.); Solid Waste Management Act (35 P.S. §§ 6018.101, et seq.); Clean Streams Law (35 P.S. §§ 691.1, et seq.); Storage Tank and Spill Prevent Act (35 P.S. §§ 6021.101, et seq.); Hazardous Sites Cleanup Act (35 §§ 6020.101, et seq.); Safe Drinking Water Act (35 P.S. §§ 721.1, et seq.); Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.1, et seq.); Infectious and Chemotherapeutic Waste Law (35 P.S. §§ 6019.1, et seq.); Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1, et seq.); Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301, et seq.); Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1, et seq.); Oil and Gas Act (58 Pa.C.S. §§ 2301–3504.); Coal Refuse Disposal Act (52 P.S. §§ 30.52, et seq.); Pennsylvania Sewage Facilities Act (35 P.S. §§ 750.1, et seq.); Dam Safety and Encroachments Act (32 P.S. §§ 679.101, et seq.); Radiation Protection Act (35 P.S. §§ 7110.101, et seq.); Low-Level Radioactive Waste Disposal Act (35 P.S. §§ 7130.101, et seq.); and Radon Certification Act (63 P.S. §§ 20001, et seq.); Commonwealth of Pennsylvania Executive Order 2021-07.

**POLICY:** It is the Department of Environmental Protection’s (Department or DEP) policy to provide guidance regarding environmental justice (EJ) in DEP’s policies and programs, including on public participation opportunities for permitted activities in communities as described in this policy.

**PURPOSE:** Minority and low-income communities have been disproportionately impacted by environmental hazards in their communities and have not had had equitable opportunities to participate in decisions that may adversely affect their environment. DEP seeks to ensure that all Pennsylvanians are equipped with the proper resources and opportunities to meaningfully participate in decision-making processes and ensure that DEP integrates EJ guidelines in its policies and programs. DEP values input and participation from individuals living in or near EJ Areas. This policy outlines opportunities for community

involvement and public participation in the permit application process for permits in EJ Areas. This policy also provides guidelines for an EJ framework that advances EJ and equity more broadly within DEP.

**APPLICABILITY:**

This policy applies to DEP approvals, specifically to permits as described in this policy and to DEP program areas and initiatives specifically named and included within this policy. While all DEP staff implement this policy, specific roles to be completed by the Office of Environmental Justice (OEJ) are highlighted. This policy does not supersede Permit Decision Guarantee policies or any applicable executive orders.

**DISCLAIMER:**

The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall affect regulatory requirements.

The policies and procedures herein are not an adjudication or a regulation. DEP does not intend to give this guidance that weight or deference. This document establishes the framework, within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

**PAGE LENGTH:**

23 pages

## **I. General Information**

### **A. Definitions**

*Applicant* - Individuals, corporations, non-profit organizations, or others seeking a permit or other approval from DEP.

*Area of Concern* - A geographic area measuring 0.5 miles in all directions from the location of the proposed permit activity with potential impact to the environment or community.

*Census block group* - Geographical subdivision within a census tract that generally maintain a population of 600 to 3,000 people and the smallest geographical unit for which the Census Bureau publishes sample data.

*Climate Justice* - A concept that addresses the ethical dimensions of climate change.

*Comment-Response Document* - A DEP document that responds to comments received from individuals and organizations during a public comment period. When finalized, DEP will make the document publicly available and, distribute to those who submitted comments during the public comment period.

*Community* - A group of people who live, work, or generally occupy in the same area and whom may be affected by a permitted activity.

*Community Environmental Project* - A project which substantially improves, protects, restores, or remediates the environment, or which improves, protects, or reduces risks to the public health or safety.

*Community liaison* - An individual who volunteers to act as a conduit between DEP and a segment of the population of which they informally represent and who also assists in sharing information between the public and DEP.

*Environmental Justice* - The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the Commonwealth's development, implementation, and enforcement of environmental laws, regulations, and policies.

*Environmental Justice Advisory Board (EJAB)* - An advisory board that provides recommendations to DEP and provides a forum for stakeholders to share environmental concerns in their communities.

*Environmental Justice Area* - As referred to within this policy, this term identifies the geographic location where DEP's EJ Policy applies. The methods to identify EJ Areas are specified in a separate document supplementing this policy. This

allows for the EJ Areas to be updated using the most recent data available. Definitions for EJ Areas may vary between other Commonwealth agencies, federal agencies, and community groups.

*Environmental Justice Areas Viewer* - An interactive EJ mapping tool that contains environmental and demographic indicators to better understand their relationships, patterns and trends (<https://dep.pa.gov/ejviewer>).

*General permit* - A permit with specified standard conditions. If the permit application is complete and meets the specified standard conditions, a permit may be issued by DEP.

*Individual permit* - A permit with site-specific conditions. DEP reviews each individual permit application based on the unique conditions of the permit application.

*Language Access Plan* - A plan outlining steps DEP will take to ensure effective communication and service provision with non-English speaking individuals, limited English proficient individuals, and others with communication challenges.

*Low income* - A household that is at or below twice the federal poverty threshold as determined annually by the United States Census Bureau.

*Minority* - Individuals who identify themselves as Black or African American, Latinx or Latino, Asian-American, Indigenous people, and other people who are not single-race white and not Hispanic

*Opt-in permit* - A permit that otherwise does not qualify as a public participation trigger permit, but DEP believes warrants special consideration and enhanced public participation based on identified community concerns, present or anticipated environmental impacts, or reasonably anticipated significant adverse cumulative impacts.

*Pre-Application Conference* - A meeting that allows DEP program staff, permit applicants, and their consultants to discuss project details and seek clarification on applicable regulatory and statutory requirements. Pre-application conferences result in a better understanding of the project, necessary permits, and required notifications prior to application submission.

*Public hearing* - Formal, structured proceedings that afford the public the opportunity to provide verbal testimony on a permit application under review by DEP. All verbal testimony provided at a public hearing is considered and responded to by DEP in a Comment-Response Document.

*Public meetings* - Meetings that provide information about a proposed project and to foster dialogue through an interactive question-and-answer format. The intent

of public meetings is to help the public obtain information about the proposed project. The content of public meetings does not become part of the official record and will not be addressed in the Comment-Response Document issued by DEP.

*Public Participation Trigger permit* - Specific permits, as listed in Appendix A, which if located in an EJ Area may lead to significant public concern due to potential impacts on human health and the environment.

## **B. History and Background**

EJ is the principle that all people have the right to be protected from environmental hazards and to live in and enjoy a clean and healthy environment, regardless of race, color, national origin, or income. EJ promotes the fair treatment of all people and encourages meaningful involvement throughout the development, implementation, and enforcement of environmental policies, regulations, and laws. Fair treatment means that no person or community should bear a disproportionate share of negative environmental impacts.

This policy is consistent with the Environmental Rights Amendment (ERA) and provides citizens with additional tools to participate meaningfully in the Department's environmental decision-making to ensure that impacts to low income, minority communities, and the most vulnerable citizens are considered. Public participation in the environmental decision-making processes are one of the critical elements of improving sustainable development in Pennsylvania.

In 1999, the Pennsylvania DEP created an Environmental Justice Work Group (EJWG) to assist the Department in meeting its EJ objectives. In 2001, the EJWG issued a report with five program implementation recommendations to address EJ concerns: collaborate with other agencies to improve the condition of environmentally overburdened communities; reassess permitting processes; enhance monitoring and enforcement; consider a Department organizational change; and re-evaluate the implementation of policies. DEP established the OEJ, EJAB, and other initiatives to implement these recommendations. In 2004, DEP created the Environmental Justice Public Participation Policy which provided a framework for DEP to foster community engagement throughout permitting processes and to ensure disenfranchised communities are meaningfully involved in the decisions that affect their environment, health, and safety.

Communities may encounter different experiences in the environmental permit review in Pennsylvania. Difficulty accessing clear, understandable information is often cited as a cause of such experiences. To address this disparity, minority and low-income communities should be given equitable access to information, consultation, and accommodation by DEP. Increasing meaningful public participation can mitigate adverse impacts in predominantly minority and low-income communities.

Public participation affects how DEP provides information, elicits input, and communicates with individuals within minority and low-income communities before, during, and after permitting processes. This policy describes when to use this policy based on the type of permit application and the location of the proposed permitted activity. This policy also provides guidelines for a framework that advances EJ and equity more broadly within DEP.

## **C. Office of Environmental Justice (OEJ)**

OEJ fulfills a critical role within DEP, ensuring that Pennsylvanians who are exposed to environmental impacts have access to the decision-making processes and resources to support their communities. DEP's OEJ serves as a liaison between DEP, communities, and regulated entities. The OEJ Regional Coordinators serve as a contact point to aid in community outreach, understanding, and involvement in the environmental decision-making process, and for connecting the regulated industry to their community neighbors facing EJ issues. OEJ also stays abreast of advancements in EJ policy at the federal, state, and local levels and is a resource to DEP staff, public officials, community activists, and others who are looking to create and implement EJ policies.

### **1. Role of the OEJ**

OEJ is responsible for the coordination, administration, and implementation of this Policy. OEJ shall make recommendations to the Secretary on the integration of EJ considerations throughout DEP's programs, regulations, policies, and procedures, strengthening partnerships on EJ among Federal, state, and local government agencies and enhancing research and assessment approaches to EJ; coordinate the Environmental Justice Interagency Council; and staff the EJAB and carry out any other duties and responsibilities specifically outlined in [Commonwealth of Pennsylvania Executive Order 2021-07, Environmental Justice](#).

### **2. Training**

OEJ is responsible for the development of a EJ training plan for DEP staff and the implementation the Policy to ensure that EJ remains a priority. OEJ will also be a resource on advancements in EJ policy at the federal, state, and local levels for DEP staff, public officials, community advocates, and others who are looking to create and implement policies around EJ.

### **3. Information Repositories**

OEJ will establish an online repository of EJ information and data.

#### **4. EJ Maps**

Identifying EJ Areas is necessary for policy implementation. OEJ developed the EJ Viewer to identify EJ populations served by this Policy.

There is no perfect method for identifying EJ areas. Furthermore, advancements in the identification of EJ areas facing environmental injustice continue to evolve. The DEP will review and update maps of EJ populations upon availability of the most recent U.S. Census decennial data. Additionally, DEP will reassess the mapping at least every two years based on the U.S. Census Bureau's American Community Survey data and adjust as needed. If other Commonwealth mapping tools become available, they may be used to support analyses of EJ Areas for purposes of this policy. The Environmental Justice Area Identification should be reviewed and updated in accordance with this plan. Updates should consider the latest federal, state, and local efforts to identify areas of environmental injustice.

#### **5. OEJ Website**

OEJ will maintain a public website that provides an online information about the Commonwealth's EJ activities, mapping tools and data, initiatives, and resources.

#### **6. Annual EJ Report**

OEJ will issue an annual report that details the programs of the OEJ, outlines results of the trigger permit public participation process set forth in this policy and evaluates ways in which EJ criteria were used for awarding grants and prioritizing program funding for the prior fiscal year. The report will include the amount of DEP funds, or funds leveraged for projects in EJ areas. The annual report will also identify federal, state, and local advancements in EJ policy, law, and area identification. Additionally, OEJ will publicly report on the progress of the EJ Policy annually.

#### **7. Language Access Services**

OEJ will assist with creating and implementing a Language Access Plan for DEP. The Language Access Plan will outline translation and interpretation policies that will expand outreach, ensuring that individuals with limited English proficiency or other communication challenges are able to participate in public meetings and hearings, review appropriate documents and permits, and communicate with DEP staff. This will be accomplished through the availability of written translation, verbal

interpretation, sign language interpretation, and telecommunication relay upon request.

## **8. EJ Strategic Plan**

OEJ shall develop and publish an EJ strategic plan (EJ Plan) every five (5) years. The EJ Plan should include recommendations for advancing EJ, focusing attention on the environmental and public health issues and challenges confronting the Pennsylvania's minority and low-income populations. This Plan should also make recommendations on the integration of EJ considerations into existing DEP programs.

### **D. Environmental Justice Advisory Board (EJAB)**

The EJAB is an advisory board that provides recommendations on initiatives that impact the health and safety of EJ area communities, including any updates to this policy. The EJAB comprises fifteen individuals with personal and professional experience related to EJ issues and who are appointed by the DEP Secretary to fulfill a two-year term. EJAB operates under bylaws and holds meetings at least quarterly to provide a forum for stakeholders to share environmental concerns in their communities and to make recommendations to DEP.

## **II. Permit Review Process**

### **A. Permits Covered**

#### **1. Public Participation Trigger Permits**

DEP reviews a multitude of environmental approvals. DEP's Public Participation Trigger Permits (Appendix A) are identified as permits relating to regulated activities that have traditionally led to significant public concern due to potential impacts to the environment, human health, and communities. Application reviews for these permits warrant heightened scrutiny by DEP and enhanced public participation. All Public Participation Trigger Permits are Individual Permits and do not encompass General Permits.

#### **2. Opt-in Permits**

Permits not specified as Public Participation Trigger Permits, may serve as Opt-in Permits if they involve the following project facilities:

- Major source of air pollution,
- Resource recovery facility or incinerator,
- Sludge processing facility, combustor, or incinerator,

- Sewage treatment plant with a capacity of more than 50 million gallons per day,
- Transfer station or other solid waste facility, or recycling facility intending to receive at least 100 tons of recyclable material per day,
- Scrap metal facility,
- Landfill, including, but not limited to, a landfill that accepts ash, construction or demolition debris, or solid waste; or
- Medical waste incinerator.

In addition, any permits not specified in this Policy as Trigger Permits or determined to be an Opt-in Permit including but not limited to General Permits, renewals, or revisions, may serve as Opt-in Permits if DEP believes they warrant special consideration.

When making a determination for including Opt-in Permits, DEP should consider identified community concerns, present or anticipated environmental impacts, and anticipated cumulative impacts to the extent that they can be reasonably quantified consistent with the applicable law. The applicant is not required to provide information to DEP regarding neighboring facilities in order to determine whether the permit should be an Opt-in Permit. DEP maintains responsibility for determining which permits will be Opt-in Permits and should initiate and perform this analysis based on information and tools at its disposal, including a review of information from the applicant's facility or project and an assessment through EJ Areas Viewer (<https://dep.pa.gov/ejviewer>) and other environmental and health mapping tools. The EJ Areas Viewer is an online mapping tool that shows EJ Areas as defined by this policy, DEP permitted activities, EPA permitted activities, and various demographic and health data obtained from state and federal agencies. The EJ Areas Viewer is connected to DEP's eFACTS database and provides up-to-date permitting, inspection, and compliance information on facilities permitted by DEP.

EJ Areas Viewer should be used to assist in making informed decisions regarding all aspects of EJ.

The OEJ, in consultation with the appropriate DEP Regional Director, Bureau Director, District Mining Manager, Program Manager, and Community Relations Coordinators should decide whether an application should be an Opt-in Permit.

## **B. Process for Permit Applicants and DEP**

### **1. Steps Prior to Submission and Review of a Permit Application**

- a. When completing the General Information Form (GIF) of a permit application, the applicant should determine whether the project is in an EJ Area and the project's Area of Concern. To determine whether the community is in an EJ Area or an Area of Concern, the applicant should enter the proposed project's address into the EJ Areas Viewer mapping tool.
- b. If there is an EJ Area, entirely or in part, that falls within the Area of Concern and the permit application is a Trigger Permit, then this policy should be used. The methods used to identify EJ Areas should be identified in a separate document and shared with DEP. This will allow for the EJ Areas to be updated with the latest currently available data. The public participation provisions of this policy apply to the area located within the Area of Concern and to the entire census block group.

If no such census block group exists within the Area of Concern, it is not considered a trigger permit and this policy may not apply. However, if DEP determines the project warrants special consideration, consistent with Section II. A. 2. above, the permit may be considered an EJ Opt-in Permit, in which case this policy applies regardless of the Area of Concern.

In addition to the project's Area of Concern, the applicant should also consider other areas or communities that may experience reasonably anticipated impacts such as noise, subsidence, vibration, or odor associated with the type of facility proposed.

- c. For Trigger Permits and potential Opt-in Permits, applicants are encouraged to have a pre-application conference.
- d. As part of the public participation strategy, DEP strongly encourages potential applicants to meet with community stakeholders prior to submitting an application to DEP. If invited, DEP would attend this meeting and address community concerns relating to the permit review process.
- e. If a pre-application conference were not held, DEP Program staff should contact the OEJ upon receipt of an application for a Public Participation Trigger Permit or potential Opt-in Permit located in an EJ Area or where the area of concern crosses into an EJ Area. The notification should include the site location with latitude and

longitude coordinates of the proposed activity. DEP program staff should contact the permit applicant as soon as it is determined that the policy will be implemented.

- f. DEP will maintain a list of all permit applications subject to the EJ Policy. The list will be accessible to the public and posted on the OEJ website and updated regularly by the OEJ.
- g. A public participation strategy should be developed between DEP's OEJ and appropriate regional or district office programs, Community Relations Coordinators, and Local Government Liaisons for each application. This strategy should be designed to facilitate the participation of all residents within the Area of Concern and the EJ Area census block group(s), and should consider the characteristics of the community, the Area of Concern, and the type of facility proposed. The public participation strategy should be developed within 30 days of determining that the policy will be enacted. If DEP sends correspondence to the applicant with notification that the application is administratively complete, the letter should indicate whether the application is subject to the EJ Public Participation Policy.
- h. The applicant is encouraged to meet with DEP permitting personnel, local government officials, and other local stakeholders, as deemed appropriate, to review the proposed permitted activity. DEP encourages all applicants to fulfill the steps outlined in this policy. However, DEP may use the steps in this policy if an applicant is unable or unwilling to do so.
- i. Applicants are encouraged to submit to the Department electronic copies of permit applications if they are trigger or Opt-in Permits. The electronic copies of the permit applications should be certified and redacted of sensitive or proprietary information and separated by section.

## **2. Steps During Permit Application Review for Public Participation Trigger or Opt-in Permits**

### **a) Notifications to Community**

- i. A project summary of the application should be produced by the applicant that explains the project in terms understandable to a considerable majority of readers within an EJ Area. It should address the purpose and location of the proposed activity or facility, and anticipated impacts.

The project summary should be reviewed by DEP for accuracy. These summaries may also be used in other aspects of public outreach.

- ii. The project summary should be placed in publications widely read by residents within the EJ Area and in the legal notice section, placed locally in areas of high visibility, and disseminated electronically. Examples of effective vehicles for notification include, but are not limited to, local newspapers, community newsletters, church bulletins, public service announcements, social media posts shared with community groups and municipalities, notices on local radio and television stations, notices posted in areas of high foot traffic, notices to local environmental groups, and notices to local community centers.
- iii. DEP should work with community liaisons to implement various methods of transmitting information on the proposed permit including electronic and physical distribution. Applicants are encouraged to communicate the appropriate information about the project to as many residents of an EJ Area as reasonably possible.
- iv. The information should be made available in both English and any other predominant language(s) spoken or read in that community.
- v. DEP staff should notify the appropriate community with updates when substantive changes are made to the permit application, including when a modification is made. Such notification will be made using various media including print, electronic mail, and social media.

**b) Document Availability**

**i. Access to Materials**

DEP should ensure access to information for members of an EJ Area by identifying convenient locations where the public can review applications, receive support on how to locate materials in a file, and access full copies of files at remote locations. Where possible DEP should ensure digital copies of information are made available. Community liaisons may assist DEP in determining locations for hosting permit materials and assist in determining how to disseminate materials. These locations

may include libraries, municipal offices, or community organizations, including the physical locations, websites, and social media accounts of these groups. DEP may also add permit materials to its website to promote remote access of permit materials.

**ii. Supporting Materials**

Maps of the site, traffic analyses, cost/benefit analyses, and other supporting materials should be made available to the public, if feasible. The anticipated permit process timeline will be developed and provided with the other materials, and updated by DEP personnel, as necessary.

DEP may create a site-specific project website for Trigger Permits and Opt-in Permits on a case-by-case basis.

**c) DEP Availability**

- i. Consistent with its current practice, DEP will be available to the local community throughout the permitting process and provide physical presence on a case-by-case basis when feasible. DEP will provide residents with information and assistance, as needed, to understand content within the proposed permit application. DEP may identify community liaisons who assist with the distribution of information.

**d) Public Meetings**

- i. DEP, in coordination with community liaison(s) and the applicant, should begin scheduling a public meeting within 30 days of accepting an application as administratively complete and technically adequate.

The Policy on Public Participation in the Permit Review Process (Document Number 012-0900-003) provides a review of the various forms of public participation the Department may use to share information and solicit feedback on a permit with the public.

- ii. The purpose of the public meeting is to inform the residents in the EJ Area of the scope and nature of the project in a timely, interactive manner. Meetings should be held in central and accessible locations and at dates and times that are convenient for a majority of the affected community.

This meeting may be in addition to any other public participation meeting that may be required by law.

Applicants are encouraged to fully participate in the public meeting. It is beneficial to all stakeholders that the meeting takes place as early in the process as feasible. Public meetings are intended to provide information to the community regarding the proposed permit application and assist residents in developing their official comments.

- iii. All public meetings made under this policy will be accessible virtually by DEP. If meetings are held in person, the meetings will also be available in a virtual format.

**e) Public Comments**

- i. All permit applications subject to this policy will have an open public comment period for at least 30 days. Providing comments during the public comment period is the opportunity for the public to provide input in the review of a permit application. All public comments should pertain to the proposed permit application and activity.
- ii. Public hearings are formal, structured proceedings that give the public the opportunity to provide verbal testimony on a permit application under review by DEP. Many permits require public hearings or give the opportunity to include them in the process. All verbal testimony provided at a hearing carries equal weight to any written comments submitted to DEP during the open public comment period.

**III. Community Input**

A community within an EJ Area or Area of Concern may benefit from enhanced public participation because it provides the opportunity to ask questions and make comments that could impact the conditions of a permitted activity. Input from the community helps to ensure an equitable decision-making process.

Enhanced public participation may include translation of materials or interpretation services prior to, and during, public meetings where the pertinent EJ population uses a primary language other than English. Interpretation for the hearing impaired, or others with communication challenges, should be made available upon request when possible.

## **A. Input Before DEP Permit Review**

1. Many of the decisions that affect a community's environment related to a proposed project will be made at the local government level prior to DEP's final agency action. It is important that DEP assist community members understand the value of being involved throughout all phases of the decision-making process, which often begins before DEP receives a permit application. Moreover, some concerns a community may have regarding a proposed activity, such as zoning, may not be within DEP's authority or jurisdiction.
2. Residents are encouraged to review their local and regional comprehensive plans and municipal zoning ordinances and involve themselves in local planning decisions.

## **B. Input During Permit Review**

1. DEP should work with community liaisons to provide information to communities so that they can understand what is being proposed in the permit application; and enable communities to interact with the permit applicant and DEP staff to understand the project impacts and ask questions; provide feedback to the permit applicant, and; provide feedback to DEP through official public comments.
2. Following publication in the *Pennsylvania Bulletin*, permit application documents are available upon request and additional summary documents may be provided to help with comprehension of the materials. DEP should ensure access to information for members of an EJ Area by identifying convenient locations where the public can review applications; receive support on how to locate materials in a file; and access full copies of files at remote locations. When possible, DEP should ensure digital copies of information are made available. DEP may request the assistance of community liaisons in determining locations for hosting permit materials and assist in determining how to disseminate materials. These locations may include libraries, municipal offices, or community organizations, including the physical locations, websites, and social media accounts of these groups. DEP may also add permit materials to its website to promote remote access of permit materials.
  - a) Both the applicant and DEP will provide contact information where questions may be directed.
  - b) Individuals may wish to receive eNotice alerts when permit applications are received, or permit actions are taken, in their communities.

3. The public comment period provides the opportunity for individuals, organizations, and businesses to provide comments to DEP on the proposed permit application. Consistent with the applicable laws and regulations, the Department will consider all public comments prior to making a determination and will provide a substantive response to each comment once the formal public comment period has concluded. DEP's responses to public comments will be provided to all commenters through a Comment-Response document, a Record of Decision, and other relevant documentation associated with the application decision.

### **C. Input Following a Permit Decision**

1. DEP staff should notify communities when a permit decision is rendered. The Comment-Response Document will be made available to the public at the time the Department renders a decision on the permit application, or earlier, if appropriate.
2. DEP staff should provide communities with information, which may include uploading documentation to the website, regarding substantial post-permit decisions and successive documents including, but not limited to inspection reports, findings, notices of violations, and consent agreements or orders.
3. DEP should update the community when substantive changes are made to the permit, including when a permit renewal is applied for, or when a permit is modified or transferred to another entity.
4. The public may request information from DEP informally via email, phone, file review, or by submitting a formal Right to Know Law request. DEP's Regional Directors, District Mining Directors, Community Relations Coordinators, and other office staff in coordination with community liaisons and public officials may determine which methods will be appropriate based on the characterization of the materials, the number of requests received, as well as other criteria.
5. Enhanced public participation may include use of alternative media outlets such as community-based newspapers or media, websites, social media posts, use of diverse information repositories, and translation of materials or interpretation services prior to and during public meetings where a population within an EJ Area or Area of Concern uses a primary language other than English.

### **D. Filing a Complaint**

A formal complaint concerning the operation of a permitted facility may be made by completing the online Environmental Complaint Form, by

calling 866-255-5158, or the appropriate DEP Regional Office. DEP staff will follow up on the complaint. The OEJ may assist communities with understanding the technical aspects of reviewing inspection reports, enforcement documents, and the process of filing a complaint

#### **IV. Oil and Gas Public Engagement**

DEP developed a public participation process that relates specifically to the unconventional Oil and Gas industry to engage with EJ communities where oil and gas related operations are sited or proposed. This process intends to encourage operators to provide information about planned and ongoing activities, and for local communities to engage in the discussions and decisions driving environmental and economic impacts that affect them. This initiative only applies to unconventional oil and gas well permits.

##### **A. Public Engagement**

1. Well Permit Operations - DEP's Oil and Gas program, in collaboration with the OEJ, should conduct an annual assessment of operators with anticipated, or well permit operations where the area of concern is in an EJ Areas.
2. Project Overview - Each operator identified by DEP should develop an overview of projects that explains the scope and operations of the projects in terms understandable to a considerable majority of readers within an EJ Area. It should address the purpose and location of the proposed activity or facility, timing of operations and anticipated impacts. The project summary should be reviewed by DEP for accuracy.
  - a) DEP should distribute the project summary at the Community Meeting, described in subparagraph IV.B. below. DEP should also post the project summary to the DEO website and email it to local government authorities and to meeting participants.
  - b) In areas where the predominant language spoken or read is not English, the information should be made available on DEP's website in both English and the predominant language spoken or read in that community.

##### **B. Community Meetings**

1. DEP should invite operators identified by DEP as having anticipated well permit activity to participate in a Community Meeting. DEP should outreach to identified operators to plan meetings in communities impacted by this activity. At this meeting, DEP should convene local government officials, the operator, and community stakeholders to review the

operator's planned activities for the year. The meeting may be held virtually, in person, or using both methods if feasible.

2. DEP should transmit notes from the Community Meetings to all participants via email within 30 days of the meeting, post Community Meeting notes on the website, and share the notes for distribution or online posting with the relevant local government authority.

### **C. Education**

1. DEP should develop a webinar outlining the oil and gas permit process and access to permits through eFACTS and policies. The webinar should be posted on the DEP website and reviewed at least every two years and revised as necessary.
2. DEP will develop an analysis of EJ Areas on the Oil and Gas public mapping tool to ensure information about EJ is up-to-date.

## **V. Inspections Compliance, and Enforcement**

### **A. Prioritizing Inspections**

DEP will prioritize inspections in EJ Areas or areas where environmental and public health conditions warrant increased attention. DEP will analyze federal and state models to understand the factors that determine where violations are most likely to occur. DEP will analyze inspection and compliance data based on facility type, compliance history, and other factors to prioritize inspections. Prioritized inspections will allow DEP to target resources to minimize violations and disproportionate environmental and public health impacts. Once developed, DEP will also report analyzing methods and inspection prioritization.

### **B. Prioritizing Compliance**

DEP will prioritize compliance in EJ Areas or areas where environmental and public health conditions warrant increased attention. DEP will analyze federal and state models to understand best practices for improving compliance and enforcement in EJ Areas. DEP will analyze compliance data based on facility type, compliance history, and other factors to target resources to minimize violations and disproportionate environmental and public health impacts. Where violations have created adverse health or environmental impacts in EJ Areas, DEP will enforce compliance to the greatest degree consistent with applicable law. Once developed, DEP will also report methods for prioritizing compliance and enforcement.

### **C. Civil Penalty Enhancements**

Deterrence of disproportionate negative impacts to human health, and the environment in EJ Areas is considered a relevant factor by DEP in calculating assessments for statutorily authorized civil penalties. DEP may add reasonable enhancements to civil penalties at its discretion.

### **D. Community Environmental Projects**

DEP prioritizes implementing the Policy for the Consideration of Community Environmental Projects in Conjunction with Assessment of Civil Penalty (Document Number 012-4180-001) in EJ Areas. OEJ will develop and maintain a list of community-based projects which may be used by agencies and external parties when considering opportunities for mitigation projects for the Community Environmental Project initiative.

## **VI. Climate Initiatives**

DEP will ensure climate-related initiatives consider and prioritize communities disproportionately impacted by climate change. This includes the Climate Action Plan developed under the Pennsylvania Climate Change Act (Act 70 of 2008), funding and investments for climate initiatives, and other agency climate priorities. Specifically, DEP will:

- A.** Ensure the Climate Action Plan addresses climate adaptation planning for EJ Areas, identifies and/or evaluates strategies to address disproportionate impacts of climate change for EJ Area residents, and considers preparing for and responding to climate-related impacts and disasters (e.g., wildfires, extreme heat, droughts, floods, sea level rise and storm surge, and melting permafrost).
- B.** Integrate equity and EJ into climate adaptation planning with DEP programs, policies, rulemaking considerations, and enforcement activities.
- C.** Create and implement outreach and engagement strategies to ensure participation by, and feedback from, EJ Area residents, community organizations and communities vulnerable to climate change impacts in climate planning and investment initiatives. Public input processes involving EJ communities should be conducted early in the planning process and provide a meaningful opportunity to impact the outcome.

## **VII. Community Development and Investments**

### **A. Grants**

The DEP Grants Management Policy prioritizes EJ in grantmaking. In particular, the DEP Grants Management Policy provides additional consideration for

applications that support community-driven projects that emphasize EJ and are located in EJ Areas. DEP grant guidance documents should include an overview of EJ, and grant applications should provide preference in the grant evaluation and scoring process for applications located in an EJ Area or emphasize EJ.

DEP will be responsible for tracking its grant applications and reporting on grants awarded to EJ Areas and grants awarded for projects that emphasize EJ. The report will be conducted annually to identify gaps and make improvements in funding for EJ.

## **B. Promoting Brownfields Redevelopment**

DEP strongly supports the assessment, clean up, and sustainable reuse of brownfield properties. The redevelopment of brownfields can play a critical role in supporting environmental, social, and economic improvement in EJ communities. DEP will continue to prioritize EJ Areas in its collaborative work with state, local, and federal agencies, non-profit, and private sector partners. DEP will work with partners on training, technical assistance, capacity building, and strategic planning and identifying funding for brownfields redevelopment.

## **VII. Policy Updates**

The DEP Secretary will review this policy at least every four years to determine whether revisions are necessary. The policy should be updated in accordance with the latest resources at the federal, state, and local levels, as identified in the OEJ annual reports. In particular, analysis of contemporary laws, improvements in the identification of EJ Areas, and feedback on the existing policy should be reviewed for updates and improvements. Consistent with DEP's Policy for the Development and Publication of Technical Guidance (Document Number 012-0900-001), substantive updates to this policy will include a formal public comment and engagement process. In its public engagement, DEP will provide particular consideration to communities experiencing environmental injustice.

## APPENDIX A

### I. Public Participation Trigger Permits

Public Participation Trigger Permits include DEP regulated activities that may lead to significant public concern due to potential impacts on human health and the environment. Application reviews for these permits warrant heightened scrutiny by DEP and an enhanced public participation process, including the following list of permits.

#### 1. NPDES (water) Permits

- A. Industrial wastewater facilities (discharge at or above 50,000 gallons per day)

#### 2. Air Permits

- A. New major source of hazardous air pollutants or criteria pollutants
- B. Major modification of a major source (changes that could result in an increase in emissions or a facility expansion)

#### 3. Waste Permits

- A. Landfills and other disposal facilities
- B. Transfer stations
- C. Commercial incinerators and other waste processing facilities
- D. Commercial hazardous waste treatment, storage and/or disposal facilities
- E. Major modification of the above (changes that result in an increase in capacity or a facility expansion)

#### 4. Mining Permits

- A. Bituminous underground mines
- B. Bituminous and anthracite surface mines
- C. Large industrial mineral surface mines
- D. Coal refuse disposal
- E. Large coal preparation facility
- F. Revision of the above permits (revisions that involve additional acreage for mineral removal)
- G. Using biosolids for reclamation

#### 5. Land Application of Biosolids

- A. Individual permit

**6. CAFO (Concentrated Animal Feeding Operation)**

- A. New or expanded operation of greater than 1,000 Animal Equivalent Units (AEUs)
- B. Concentrated Animal Operation of greater than 300 AEUs in Special Protection Watershed
- C. Concentrated Animal Operation with direct discharge to surface waters.

**II. Oil and Gas Permits - Subject to Section IV of this Policy**

- A. Drill and Operate Permit
- B. Drill and Operate Change in Use

**III. Opt-in Permits**

Permits not specified above, including renewals of the above permits, but not individual permits, may serve as Opt-In Permits if they involve the following project facilities:

- 1) Major source of air pollution
- 2) Resource recovery facility or incinerator
- 3) Sludge processing facility, combustor, or incinerator
- 4) Sewage treatment plant with a capacity of more than 50 million gallons per day
- 5) Transfer station or other solid waste facility, or recycling facility intending to receive at least 100 tons of recyclable material per day
- 6) Scrap metal facility
- 7) Landfill, including, but not limited to, a landfill that accepts ash, construction or demolition debris, or solid waste; or
- 8) Medical waste incinerator.
- 9) Wells which are subject to the provisions of 40 CFR Part 144 (relating to underground injection control program).

In addition, any permits not specified in this Policy as trigger permits or determined to be an Opt-In permit including but not limited to General Permits, renewals or revisions, may serve as Opt-in Permits if DEP believes they warrant special consideration.

In making its determination for including Opt-in Permits, DEP should consider:

- 1) Identified community concerns
- 2) Present or anticipated environmental impacts; and
- 3) Reasonably anticipated cumulative impacts.

The applicant should not be required to provide information to DEP regarding neighboring facilities in order to determine whether the permit should be an Opt-in Permit. DEP holds the responsibility of determining which permits will be Opt-in permits. DEP should initiate and perform this analysis based on information and tools at its disposal, including a review of information from the applicant's facility or project and

an assessment through EJ Areas Viewer (<https://dep.pa.gov/ejviewer>) and other mapping tools developed by DEP and Commonwealth agencies that demonstrate environmental and health conditions in EJ Areas. The EJ Areas Viewer is an online mapping tool that shows EJ Areas as defined by this policy, DEP permitted activities, EPA permitted activities, and various demographic and health data obtained from state and federal agencies. The EJ Areas Viewer is connected to DEP's eFACTS database and provides up-to-date permitting, inspection, and compliance information on facilities permitted by DEP.

EJ Areas Viewer should be used to assist in making informed decisions regarding all aspects of environmental justice. The OEJ, in consultation with the appropriate Regional Director, Bureau Director, District Mining Manager, Program Manager, and Community Relations Coordinators should decide whether an application should be an Opt-in permit.