Environmental Justice Overview & Draft Environmental Justice Policy

Citizens Advisory Council
April 19, 2022
Comment on Policy Revision

• Comment by May 11 in writing or verbally at a hearing (both equal consideration)

• Virtual Hearings (must register 24 hrs in advance to comment)
  o Tuesday, April 5, 2022 at 5 p.m.
  o Tuesday, April 12, 2022 at 6 p.m.
  o Thursday, April 28, 2022 at 12 p.m.
  o Wednesday, May 4, 2022 at 6 p.m.

• Written comments may be submitted via any one of the following methods:
  o Submit on online eComment tool
  o E-mail to ecomment@pa.gov
  o Written comments may be mailed to:
    Technical Guidance Coordinator
    Department of Environmental Protection, Policy Office
    Rachel Carson State Office Building
    P.O. Box 2063
    Harrisburg, PA 17105-2063
"To protect Pennsylvania's air, land, and water from pollution and to provide for the health and safety of its citizens through a cleaner environment. We will work as partners with individuals, organizations, governments and businesses to prevent pollution and restore our natural resources."
DEP Deputates

Water

Waste, Air, Radiation, and Remediation

Active and Abandoned Mines

Oil and Gas

Regional Offices
DEP Regions

NORTHWEST  
814-332-6945

NORTH-CENTRAL  
570-327-3636

NORTHEAST  
570-826-2511

SOUTHWEST  
412-442-4000

SOUTH-CENTRAL  
717-705-4700

SOUTHEAST  
484-250-5900
**Definitions of Environmental Justice**

**U.S. EPA**

Fair treatment and meaningful involvement of all people, regardless of race, color, national origin or income, in the development, implementation and enforcement of environmental laws, regulations and policies.

**Pennsylvania DEP**

Environmental justice embodies the principle that communities and populations should not be disproportionately exposed to adverse environmental impacts.

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**First People of Color Environmental Leadership Summit**

Seventeen Principles of Environmental Justice.

- Distributive Justice
- Procedural Justice
- Corrective Justice
- Social Justice
- Structural Justice
Equality, Equity, and Justice

Graphics Source: Cultural Organizing
Verbatim Surveyor Description of Redlined Areas on the York Map:
- “Low class whites and negroes live in poor moral conditions. The area is exceptionally bad.”
- “Negroes, foreigners, low class whites. Very poor residential section.”

Verbatim Surveyor Descriptions of Redlined Areas during 1930s:
- “Odors and noises from local industries. Infiltration of colored and Orientals. Predominance of older, cheap cottages. Zoned for industry.”
- “Odors from factories; infiltration of Orientals and colored.”
- “Adjoining industrial area with attendant odors, smoke, etc.”
- “Nearest to the industries, thereby being mainly occupied by wage earning families”
State programs receiving EPA financial assistance must comply with federal non-discrimination laws*:

- Title VI of the Civil Rights Act of 1964: recipients of federal financial assistance cannot discriminate on the basis of race, color, national origin (including limited-English proficiency)

“Compliance with environmental laws does not ensure compliance with Title VI. ... [Recipients] are required to operate their programs in compliance with the non-discrimination requirements of Title VI and EPA’s implementing regulations.” EPA Title VI Public Involvement Guidance, 71 F.R. 14207, 14210

Other Non-discrimination Laws*
- Section 504 of the Rehabilitation Act of 1973
- Age Discrimination Act of 1975
- Title IX of the Education Amendments of 1972
- Section 13 of Federal Water Pollution Control Act Amendments of 1972
- EPA’s nondiscrimination regulation, 40 C.F.R. Parts 5 and 7

Graphics Source: US EPA
Historical Roots of Environmental Justice

Graphics Source: Science History Institute
The EJ movement, started by people (primarily people of color) to address inequitable environmental protection and environmental services in their communities was grounded in civil rights and the environmental movement. The movement builds on the lived experience of disproportionately impacted communities. The work of these early advocates paved the way for program development starting in the early 1990’s, over the past 30 years, have resulted in significant progress at all levels of government.
Roots of EJ in Pennsylvania

• Organizing of Chester in early 1990s
• Environmental Risk Study by EPA in conjunction with DER in 1993
• Chester residents (CRCQL) lawsuit against DEP in 1996
• DEP Environmental Justice Work Group (EJWG) created in 1999 Report and Recommendations released in 2001

Sources: Swarthmore Phoenix & CQ Press
Timeline of Federal and State Government Response

- **1960s Civil Rights Movement**
  - 1967 Toxic Wastes and Race Report
  - 1970s Environmental Movement
  - 1987 Warren County, NC PCB Protest
  - 1990s Chester community advocacy
  - 2010s Pennsylvania EJ Executive Order 12898
  - 2021 New Jersey EJ Legislation A2212 Passed

- **1970s Environmental Movement**
  - 1973 University of Michigan Symposium
  - 1980s First National People of Color Environmental Leadership Summit
  - 1990s Environmental Justice
  - 2000s Illinois Future Energy Jobs Act

- **1980s**
  - 1985 EPA Office of Environmental Equity Established
  - 1990s Chester Environmental Risk Study and CRCQL lawsuit against DEP
  - 1995 CalEnviroScreen Proposed

- **1990s**
  - 1993-1996 Pennsylvania EJ Public Participation Policy
  - 2002-2007 South Carolina EJ Act
  - 1999-2000 California EJ Act

- **2000s**
  - 2004-2007 PA DEP Office of Environmental Advocate formed
  - 2005-2006 PA DEP hosts EJ Summit
  - 2008-2009 Connecticut EJ Act
  - 2010-2011 EPA Plan EJ 2014
  - 2012-2015 California EJ Statutes: SB 535, SB 1505, AB 685, SB 1000, AB 673, AB 617, SB 200

- **2010s**
  - 2010-2016 PA DEP Office of Environmental Advocate formed
  - 2016-2019 Pennsylvania EJ Executive Order
  - 2018-2019 New Jersey EJ Executive Order

- **2020s**
  - 2019-2020 New Jersey EJ Executive Order
  - 2021-2022 Executive Order 14008
Science of Disproportionate Environmental Impacts

**DRIVERS**

- **Built Environment**: Proximity to pollution sources (e.g., stationary and mobile air emissions)
- **Natural Environment**: Disasters (e.g., wildfires, heat waves, pandemics)
- **Social Environment**: Health disparities (e.g., asthma, heart disease, hypertension, diabetes)

*Environmental injustice is a force multiplier*
EJ Public Participation Policy

• Applies to Trigger Permits (and Opt-in Permits).

• In Environmental Justice Areas and Area of Concern.
  • EJ Areas – 30% People of Color and/or 20% Low-income
  • Area of Concern is 0.5-mile buffer.
• Withdrew a draft Policy because it solely focused on public engagement in the permitting process and did not address wider concerns.
• How can DEP address EJ in addition to public participation in the permit review process?
• Focused on incorporating a meaningful community engagement process to ensure inclusive community voice around its creation.
• Center this discussion on the voices of those who live in communities facing environmental burdens.
I. General Information
II. Permit Review Process
III. Community Input
IV. Oil and Gas Engagement
V. Inspections, Compliance and Enforcement
VI. Climate Initiatives
VII. Community Development and Investment
VIII. Policy Updates
• Robust definitions section defines terms ranging from applicant to public meeting.
• Assist in clarifying the document and ensuring that it is similarly interpreted by the public, DEP staff, and permit applicants.
• Enhances the overall readability and accessibility of the document.
OJE and EJAB

I. General Information

• Office of Environmental Justice
  • Define Role of the Office of Environmental Justice
  • Training
  • EJ Maps and Identification of Environmental Justice Areas
  • Annual Report
  • Language Access Services
  • EJ Strategic Plan
  • Environmental Justice Interagency Council

• Environmental Justice Advisory Board
II. Permit Review Process

• Builds from the current policy with improvements and updates
• Clarifies applicable permits
• Outlines the process for permit applicants
  o Pre-submission
  o Public Participation during application review
• Offers significantly more detail in the Opt-In permit process
• Describes the process for obtaining community input
  o Before permit review
  o During permit review
  o Following permit review
  o Complaint submission
• Indicates opportunities for outreach and engagement
Oil and Gas Initiatives

IV. Oil and Gas Initiative

• New section specific to unconventional gas drilling
• Community feedback requested inclusion of EJ considerations in the unconventional drilling permit process.
  o Public engagement & community meetings
• Legislatively mandated permit review timelines preclude these permits from the permit review process identified in sections II and III.
• Moving beyond public participation within DEP's existing regulatory authority
• Prioritizing inspection and compliance
• Civil Penalty Enhancements
• Community Environmental Projects
VI. Climate Initiatives

- Climate Action Plan involvement
- Climate adaptation
- Integrates EJ considerations into climate investments
- Directs DEP to engage in public involvement that integrates the stated needs and concerns of EJ communities
Community Development and Investment

VII. Community Development and Investments

• Targeting grants
• Promoting brownfield redevelopment
• Partnering with higher education institutions
Policy Updates

- Requires review of the EJ policy for updates every 4 years

- Update EJ area identification and mapping every 2 years, based on latest data
Tools: EPA EJSCREEN

• Mapping tool: epa.gov/ejscreen
• Includes demographic and environmental data
• Nationwide
• Can produce reports at the census tract level
• Working on training with other departments.
### Tools: EPA EJSCREEN

EJSCREEN Training Videos

https://www.epa.gov/ejscreen/ejscreen-videos

<table>
<thead>
<tr>
<th>Environmental Indicators</th>
<th>Demographic Indicators</th>
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<tbody>
<tr>
<td>- PM 2.5</td>
<td>- Low-Income</td>
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<tr>
<td>- Ozone</td>
<td>- Minority</td>
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<tr>
<td>- NATA Diesel PM</td>
<td>- Less than High School Education</td>
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<tr>
<td>- NATA Air Toxics Cancer Risk</td>
<td>- Linguistic Isolation</td>
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<tr>
<td>- NATA Respiratory Hazard Index</td>
<td>- Individuals under Age 5</td>
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<tr>
<td>- Lead Paint (pre-1960s Housing)</td>
<td>- Individuals over Age 64</td>
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<tr>
<td>- Traffic Proximity</td>
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<tr>
<td>- Proximity-NPL Sites</td>
<td>Index: Calculated as (Low income + minority) / 2</td>
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<tr>
<td>- Proximity-RMP Facilities</td>
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<td>- Proximity-TSD Facilities</td>
<td></td>
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<tr>
<td>- Proximity-Waste Water Dischargers</td>
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Sources: CalEPA Office of Environmental Health Hazard Assessment and EPA EJSCREEN

Disproportionate impacts is the consistent pattern of a combination of greater pollution burden and population vulnerability affecting the same communities, primarily minority, low-income, indigenous populations, as demonstrated by ample evidence.

Sources: CalEPA Office of Environmental Health Hazard Assessment and EPA EJSCREEN
• Combines pollution burden and population characteristics
• Ranks communities according to combined scores for cumulative impacts
• Informed by significant and ongoing public input

Tools: CalEnviroScreen

Available as an interactive web map

Graphics Source: US EPA, CalEnviroScreen
Historical Legacy of EJ: Redlining & Structural Racism

Oakland, California

Graphics Source: US EPA, Mapping Inequality Project, CalEnviroScreen
Redlining in Pennsylvania

Philadelphia: Diesel Particulate Matter

York: Proximity to Hazardous Waste

Graphics Source: US EPA
EJ Policy Update - Timeline

Planning
Fall – Winter 2020

Outreach and Engagement
Fall 2020 – Summer 2021

Drafting and Finalization
Spring 2021 – Summer 2022

Implementation
Summer 2022
Planning

Fall – Winter 2020
Inform partners about withdrawal of policy and plan for EJ Policy development and implementation.
Draft plan and timetable for outreach and get initial feedback on outreach
Consider development of EJ Policy Advisory Group

Outreach and Engagement

Fall 2020 – Summer 2021
Identify internal (DEP and state agency) partners for feedback
Develop outreach questions, survey and strategy
EJAB, EJ Stakeholders and other external engagement
**Drafting and Finalization**

*Spring 2021 – Summer 2022*
- Internal review and input
- EJAB comments on Policy
- Public comment – Spring 2022
- Comment and response document preparation
- Internal review
- Finalize policy

**Implementation**

*Summer 2022*
- Staff and state agency training on policy
- EJAB overview of Policy
- Community Engagement about Policy
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    P.O. Box 2063
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Outreach Efforts

Tools to share:
- **Press Release**
- **Webpage** ([dep.pa.gov/EJPolicyRevision](dep.pa.gov/EJPolicyRevision))
- **Share kit** (evolving)
- **Recorded EJ Policy webinar** (3/28)

Ongoing:
- Four (4) virtual public hearings (April 5, 12, 28, & May 4)
- Press Events
- Seventeen (17) presentations scheduled
- **Video**
- Flier
- Social media
Office of Environmental Justice

General Comments & Questions
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