

**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
POLICY OFFICE**

**DOCUMENT ID:** 012-0501-002

**TITLE:** Environmental Justice Public Participation Policy

**EFFECTIVE DATE:** Upon publication 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 P.S. §601.101, et seq.); 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.); Radon Certification Act (63 P.S. §§20001, et seq.)

**POLICY:** It is the Department of Environmental Protection's (Department or DEP) policy to provide guidance on public participation opportunities for permitted activities in communities as described in this policy.

**PURPOSE:** Historically, minority and low-income Pennsylvanians have not had equitable involvement in the decisions that prevent adverse impacts to their environment. DEP seeks to ensure that all Pennsylvanians are equipped with the proper resources and opportunities to meaningfully participate in these decisions. This policy outlines opportunities for community involvement in the permit application process for permits in Environmental Justice Areas.

**APPLICABILITY:** This policy applies to DEP approvals, specifically to permits as described in this policy.

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

The policies and procedures herein are not an adjudication or a regulation, and DEP has no intent to give this document that weight or deference. This document establishes the framework within which DEP will exercise its administrative discretion in the future. DEP has the discretion to deviate from this policy statement if circumstances warrant.

**PAGE LENGTH:** 10 pages

## I. General Information

### A. Definitions

*Applicant* – Individuals, corporations, non-profit organizations, and others seeking a permit from DEP.

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

*Census tract* – A small, relatively permanent statistical subdivisions which generally maintain a population size between 1,200 – 8,000 people and are comprised of 1 – 9 census block groups.

*Community* – Residents and businesses located within an Environmental Justice Area or area of concern, which may be affected by a permitted activity.

*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 whom also assists in sharing information between the public and DEP.

*Environmental justice* – The fair treatment and meaningful involvement of all people with the development, implementation, and enforcement of environmental policies, regulation, and laws; as well as with respect to the identification of environmental issues that affect the most vulnerable communities.

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

*Environmental Justice Area* – Any census block group with a 30 percent or greater minority population or 20 percent or greater at or below the poverty level as defined by the US Census Bureau.

*Environmental Justice Areas Viewer* – An interactive environmental justice mapping tool that contains environmental and demographic indicators to better understand their relationships, patterns and trends.

*General permit* – A permit with specified standard conditions on a regional or statewide basis. 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 for a proposed activity. DEP reviews each individual permit application based on the unique conditions of the permit application.

*Opt-in permit* – Permits that do not qualify as trigger permits, but DEP believes warrant special consideration and enhanced public participation based on: identified community concerns; present or anticipated environmental impacts; and reasonably anticipated significant adverse cumulative impacts.

*Public meetings* – Public participation events designed to provide the public with the information needed to get involved and effectively impact decision-making. These may include: an informal information session; meeting with audience interaction; or formal hearing which is hosted by the DEP.

*Trigger permit* – Specific permits located in an Environmental Justice Area that may lead to significant public concern due to potential impacts on human health and the environment.

## **B. Background**

In 1999, the Environmental Justice Work Group (EJWG) was established to assist DEP in meeting its environmental justice objectives. The EJWG defined environmental justice as the fair treatment and meaningful involvement of all people with respect to the identification of environmental issues, and the development, implementation, and enforcement of environmental policies, regulations, and laws.

In 2001, the EJWG issued a report that made five recommendations on where to implement changes to address environmental justice concerns: working with other agencies to improve the condition of environmentally overburdened communities; the permitting process; monitoring and enforcement; DEP organizational change; and ensuring reevaluation of implemented policies. The DEP has implemented these recommendations through the establishment of the Office of Environmental Justice, the Environmental Justice Advisory Board (EJAB) and other initiatives.

This policy provides a framework for how DEP will use its permitting process to foster community benefit and ensure historically disenfranchised communities are meaningfully involved in the decisions that affect their environment, health, and safety.

There may be different experiences and background with the environmental permit review process among local elected officials, residents, the permit applicant, and DEP. The lack of easily obtained, understandable information is often cited as a major cause of these differences. Minority and low-income communities should be given equitable access to information, consultation, and accommodation by DEP. Increasing meaningful public participation will mitigate or eliminate a substantial portion of significant adverse impacts in prominently minority and low-income communities.

Robust public participation can affect how DEP provides information, elicits input, and communicates with individuals within minority and low-income communities before, during, and after the permitting process. This policy describes when to use this policy based on the type of permit application and the geographic location of the proposed permitted activity.

## **C. Office of Environmental Justice**

The Office of Environmental Justice (OEJ) fulfills a critical role within DEP, ensuring that Pennsylvanians at risk from pollution and other environmental impacts have a voice in the decision-making process. DEP's OEJ seeks to work as a liaison between the DEP, communities, and regulated entities. The OEJ regional coordinators serve as a contact point in the regions to aid in community outreach, understanding, and involvement in the environmental decision-making process and connecting the regulated industry to their neighbors.

## **D. Environmental Justice Advisory Board**

The Environmental Justice Advisory Board (EJAB) is comprised of fifteen individuals with personal and professional expertise in environmental justice issues. The EJAB provides

recommendations to DEP's Office of Environmental Justice and provides a forum for stakeholders to share environmental concerns in their communities. The EJAB meets quarterly to review and make recommendations on initiatives that impact the health and safety of environmental justice communities.

## **II. Permit Review Process**

### **A. Permits Covered**

#### **1. Trigger Permits**

DEP reviews a multitude of different types of environmental approvals. Trigger permits are identified as 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 trigger permits are individual permits. The list of trigger permits is attached as Appendix A.

#### **2. Opt-In Permits**

All permits not specified as trigger permits, 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 significant adverse cumulative impacts. The applicant should not be required to provide information to DEP regarding neighboring facilities in order to determine whether the permit is an Opt-in Permit. 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. The EJ Areas Viewer is an online mapping tool that shows Environmental Justice Areas, DEP permitted activities, EPA permitted activities, and various demographic and health data obtained from DEP and other agencies. EJ Areas Viewer is connected to DEP's eFACTS database that provides up-to-date permitting, inspection and compliance information on DEP permitted facilities. EJ Areas Viewer should be used to assist in making informed decisions regarding all aspects of environmental justice. The Office of Environmental Justice, in consultation with the appropriate Regional Director, Bureau Director, District Mining Manager, Program Manager, and/or Community Relations staff should decide whether an application should be an Opt-in permit.

### **B. Permit Applicants**

#### **1. Steps Prior to Submitting an Application**

- a) The applicant should determine the project's area of concern, as defined in the bullet points below.
  - Enter the proposed project's address into the EJ Areas Viewer mapping tool.

- Identify a radius of one-half mile from the center of a proposed permit activity or, where an activity is not centralized, an area extending one-half mile beyond the boundary of the proposed activity.
  - The project's area of concern should also include any impact for which DEP is authorized to require analysis, such as traffic corridors, groundwater plumes and areas of significant air impact or
  - other areas that may experience reasonably anticipated impacts such as noise, subsidence, vibration or odor associated with the proposed permitted activity.
- b) If there is any Environmental Justice Area, entirely or in part, that falls within the area of concern the policy should be enacted. An Environmental Justice Area is defined as any census block group with a 30 percent or greater minority population, and/or 20 percent or greater living at or below the poverty level as defined by the most recent decennial or mid-decade US Census Bureau data, whichever is most recent. 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 the applicant and/or DEP determines the project warrants special consideration, the permit will be considered an Environmental Justice Opt-in permit, and this policy applies regardless of the area of concern.

- c) As part of the public participation strategy, DEP will strongly encourage potential applicants to meet with community stakeholders prior to submitting an application to DEP. DEP should, if invited, attend this meeting and answer any community concerns relating to the permit review process. Within the time of a pre-application meeting and the actual submission of the application, DEP should develop the public participation strategy outlined above. If DEP is not aware of the pre-application meeting, or the applicant does not hold a pre-application meeting, the public participation strategy should be developed within 30 days of the application being deemed as warranting the enhanced participation.
- d) DEP Program staff should notify the Office of Environmental Justice upon receipt of an application for a permit located in an Environmental Justice Area as described above. The notification should include the site location with latitude and longitude of the proposed activity.
- e) A public participation strategy should be developed between DEP's Office of Environmental Justice and appropriate regional or district office program and community relations staff for each application. This strategy should be designed to facilitate the participation of all citizens within the area of concern and the census block groups, and should consider the particular characteristics of: the community, the area of concern, the census block groups, and the type of facility proposed. The strategy should also include an analysis of the resource requirements of the enhanced public participation.

- f) The applicant will be encouraged to meet with DEP permitting personnel, local government officials, and other local stakeholders as deemed appropriate, to review the proposed permitted activity.

## 2. Steps during Permit Review

### a) Notifications to Community

- i. All affected property owners and residents should be notified. DEP should implement various methods of transmitting information on the proposed permit including electronic and physical distribution. Applicants are encouraged to mail appropriate information about the project to all residents of an Environmental Justice Area.
- ii. Public Notices should be written in terminology and languages easily understood by a considerable majority of readers within the Environmental Justice Area. Notices should be placed to publications widely read by residents in those areas besides the legal notice section, and placed locally in areas of high visibility. Examples of effective vehicles for notification include, but are not limited to social media, local newspapers, community newsletters, church bulletins, public service announcements and 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.

### b) Document Availability

#### i. Access to materials

Steps to ensure access to information for members of an Environmental Justice Area can include identification of convenient locations where the public can review applications; additional support on how to locate materials in a file; and full copies of files at remote locations. Community liaisons may assist the DEP in determining locations for hosting permit materials. DEP may also add permit materials to its website to promote remote access of permit materials.

#### ii. Project summary

A project summary of the application explains the project in terms understandable to a considerable majority of readers within an Environmental Justice Area. It should address the purpose and location of the proposed activity or facility, and anticipated impacts. These summaries can also be used in other aspects of public outreach.

#### iii. Supporting materials

Maps of the site, traffic analyses, cost/benefit analyses, and other supporting materials should be made available to the public. The

anticipated permit process timeline will be developed and provided along with the other materials, and updated by DEP personnel, as necessary.

c) Informational meetings

- i. DEP, in coordination with the applicant, should begin scheduling an informational meeting within 30 days after accepting an application as administratively complete and technically adequate. The purpose of the meeting is to inform the residents in the Environmental Justice Area of the scope and nature of the project in a timely, interactive manner. This meeting is in addition to any other currently required public meetings and hearings.
- ii. Applicants are encouraged to fully participate in the meeting, and may take the lead in organizing and conducting the meeting. It is beneficial to all stakeholders that the meeting takes place as early in the process as feasible.

3. Steps following a permit decision

- a) DEP staff should update community via notifications when substantive changes are made to the permit, not limited to when: a modification is made to the permit; a permit renewal is applied for; or, a permit is transferred to another entity.
- b) DEP staff may provide the community with compliance documents including, but not limited to: inspection reports, findings, notices of violation, and consent agreements.

**C. Community**

The community within an Environmental Justice Area or area of concern may benefit from enhanced public participation and may be able to provide information that could, for example, impact the siting of a permitted activity or alter the permit requirements. Input from the community helps to ensure an equitable decision-making process.

1. Opportunities for Involvement During the Permit Review Process

- a) DEP strongly encourages applicants to meet with community stakeholders. To promote open dialogue early in the permitting process, if DEP sends correspondence to the applicant notifying the applicant that the application is administratively complete, the letter should indicate that the application is subject to enhanced public participation. DEP may also convey this information in a separate response to initial permitting inquiries from the applicant.
- b) DEP should produce and distribute informational materials regarding the proposed activity. In areas where non-English is largely spoken, the information should be available in both English and the predominant language spoken in that community..
- c) DEP should maintain presence or availability in the local area throughout the permitting process on a case-by-case basis.

- d) DEP should provide residents with information regarding the proposed permit. DEP may identify community liaisons who assist with the distribution of information.
  - i. DEP should create a site-specific project website for all Opt-in permits and on a case-by-case basis for trigger permits.
  - ii. Public meetings may be requested, and when held, all public comments should pertain to the permitted activity.

## 2. Steps Following a Permit Decision

- a) The public may request information of DEP informally via email, phone, file review, or by submitting a formal Right to Know request. Regional Directors, District Mining Directors, and other office staff in coordination with community liaisons may determine which method will be appropriate based on the characterization of the materials, the number of requests received, as well as other criteria.
- b) A formal complaint may be made by calling the appropriate DEP Regional Office. DEP staff will follow up on the complaint.



## Appendix A - Trigger Permits

Program	Permit Type	Auth Type Code	Auth Type Description	Appl Type	Facility Type
Waste Management	Hazardous Waste	CBIF	Captive Boiler Industrial Furnace/Incinerator Permit	New/Modif	Boiler Industrial Furnce
Waste Management	Hazardous Waste	CD	Captive Disposal Permit	New/Modif	Disposal Facility
Waste Management	Hazardous Waste	CS	Captive Storage Permit	New/Modif	Storage Facility
Waste Management	Hazardous Waste	CT	Captive Treatment Permit	New/Modif	Treatment Facility
Waste Management	Hazardous Waste	COBIF	Commercial Boiler Industrial Furnace/Incinerator Permit	New/Modif	Boiler Industrial Furnce
Waste Management	Hazardous Waste	COD	Commercial Disposal Permit	New/Modif	Disposal Facility
Waste Management	Hazardous Waste	COS	Commercial Storage Permit	New/Modif	Storage Facility
Waste Management	Hazardous Waste	COT	Commercial Treatment Permit	New/Modif	Treatment Facility
Waste Management	Municipal Waste	CDL	Construction/Demolition Landfill Permit	New/Modif	Landfill
Waste Management	Municipal Waste	LAAU	Land Application of Sewage Sludge Permit Agricultural Utilization	New/Modif	Land Application
Waste Management	Municipal Waste	C	Municipal Waste Composting Permit	New/Modif	Composting
Waste Management	Municipal Waste	L	Municipal Landfill Permit	New/Modif	Landfill
Waste Management	Municipal Waste	RRO	Resource Recovery and Other Processing Permit	New/Modif	Landfill Processing Facility Resource Recovery
Waste Management	Municipal Waste	TS	Transfer Station Permit	New/Modif	Transfer Station
Waste Management	Residual Waste	RL3	Commercial Landfill-Class I, II, or III Permit	New/Modif	Landfill

Waste Management	Residual Waste	DI2	Disposal Impoundment-Class I, II, or III Permit	New/Modif	Impoundment
Waste Management	Residual Waste	RLAAU	Land Application Permit	New/Modif	Land Application
Waste Management	Residual Waste	RLALR	Land Application Permit Land Reclamation	New/Modif	Land Application
Waste Management	Residual Waste	RL3A	Landfill Class I, II, or III Permit	New/Modif	Landfill
Waste Management	Residual Waste	PI	Processing and/or Incinerator Permit	New/Modif	Incinerator Processing Facility
Waste Management	Residual Waste	T	Transfer Station Permit	New/Modif	Transfer Station
Clean Water	WPC NPDES	MAIW1	Major IW Facility <250 MGD	New/Major Amend	Discharge Point
Clean Water	WPC NPDES	MAIW2	Major IW Facility >250 MGD	New/Major Amend	Discharge Point
Clean Water	WPC NPDES	MASF1	Major Sewage Facility > 1 MGD and < 5 MGD	New/Modif	Discharge Point
Clean Water	WPC NPDES	MASF2	Major Sewage Facility > 5 MGD	New/Modif	Discharge Point
Clean Water	WPC NPDES	MASF3	Major Sewage Facility with CSO	New/Modif	Discharge Point
Clean Water	WPC NPDES	NIWMA	NPDES Permit for New and Existing Industrial Discharger Major	New/Modif	Discharge Point
Clean Water	WPC NPDES	NSMMA	NPDES Permit for Sewage Discharges Municipal Major	New/Modif	Discharge Point
Clean Water	WPC State Water Pollution Control	PABIS	Individual Site Permit for Beneficial Use of Biosolids by Land Application	New/Modif	Parcel
Clean Water	WPC State Water Pollution Control	W2IWL	Water Quality Mgmt Part II, Industrial Waste, Land Application	New/Modif	Land Dischrge
Clean Water	WPC State Water Pollution Control	W2CAF	Water Quality Mgmt Part II, Manure Storage Facility for CAFO	New/Modif	Storage Unit

Clean Water	WPC NPDES	NCAF	Concentrated Animal Feed Operations Individual NPDES Permit	New/Amend	Discharge Point
Air Quality	Air Quality	MAAT	Major Facility Plan Approval MACT Air Toxics Part 63	New/Modif	Air Pollution Control Device
Air Quality	Air Quality	MNSRP	Major Facility Plan Approval New Facility Review Prevention of Significant Deterioration	New/Modif	Air Pollution Control Device
Air Quality	Air Quality	MFSP	Major Facility Plan Approval New Source Performance Standard	New/Modif	Air Pollution Control Device
Air Quality	Air Quality	MNSRN	Major Facility Plan Approval New Source Review non-Attainment	New/Modif	Air Pollution Control Device
Air Quality	Air Quality	MNSRD	Major Facility Plan Approval New Source Review Non-Attainment De Minimis	New/Modif	Air Pollution Control Device
Air Quality	Air Quality	MFSR	Major Facility Plan Approval State Regulation	New/Modif	Air Pollution Control Device
Air Quality	Air Quality	SMFAP	Streamlined Major Facility Plan Approval Hazardous Air Pollutant Standard Part 61	New/Modif	Air Pollution Control Device
Air Quality	Air Quality	SMAAT	Streamlined Major facility Plan Approval MACT Air Toxics Part 63	New/Modif	Air Pollution Control Device
Air Quality	Air Quality	SNSRP	Streamlined Major Facility Plan Approval New Facility Review Prevention of Significant Deterioration	New/Modif	Air Pollution Control Device
Air Quality	Air Quality	SMFSP	Streamlined Major Facility Plan Approval New Source Performance Std	New/Modif	Air Pollution Control Device
Air Quality	Air Quality	SNSRN	Streamlined Major Facility	New/Modif	Air Pollution Control Device
Air Quality	Air Quality	SMFSR	Streamlined Major Facility Plan Approval State Regulation	New/Modif	Air Pollution Control Device
Mining	Large Non-Coal	LSM	Large Surface Mining	New/Modif	Industrial Mineral Mining Operation

Mining	Industrial Minerals Underground	NUM	IM Underground Mining	New/Modif	Industrial Mineral Mining Operation
Mining	Coal Prep Plant	P	Preparation-Processing Plant	New/Modif	Coal Mining Operations
Mining	Coal Refuse Disposal	RD	Refuse Disposal	New/Modif	Coal Mining Operations
Mining	Coal Refuse Reprocessing	RR	Refuse Reprocessing	New/Modif	Coal Mining Operations
Mining	Coal Surface Mining	SM	Surface Mining	New/Modif	Coal Mining Operations
Mining	Coal Underground Mining	UM	Underground Mining	New/Modif	Coal Mining Operations

#### Opt-in Permits

Permits not specified above, including renewals of the above permits, may serve as Trigger 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 significant adverse cumulative impacts. DEP should initiate and perform this analysis based on information and tools at its disposal including EJ Areas Viewer and information from the permit application.

# Appendix B – Policy Flow Chart

