

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Environmental Justice Office**

**DOCUMENT NUMBER:** 015-0501-002

**TITLE:** Environmental Justice Policy

**EFFECTIVE DATE:** September 16, 2023

**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; 40 C.F.R Part 7; Title VI of the Civil Rights Act of 1964 (42 United States Code §§ 2000d to 2000d-7).

**POLICY:** It is the Department of Environmental Protection’s (Department or DEP) policy to ensure environmental justice (EJ) in the administration of DEP’s policies and programs.

**PURPOSE:** The purpose of the policy is to facilitate environmental justice in communities across the Commonwealth of Pennsylvania and to ensure equity and environmental justice in the administration of DEP’s constitution, statutory, and regulatory duties. This policy outlines measures that DEP will take to proactively educate, engage, and empower Pennsylvanians living in EJ Areas across the Commonwealth; ensures enhanced opportunities for community involvement and public participation in the permit application process for permits in EJ Areas; explains how DEP will prioritize Environmental Justice in its compliance and enforcement activities; identifies DEP grant opportunities to facilitate environmental justice; and, identifies mitigation and restoration practices for consideration by applicants for projects in EJ areas that have been impacted by environmental issues. DEP also seeks to make its permitting process more efficient and expeditious by integrating the Office of Environmental Justice (OEJ) in the process to lead the policy’s Enhanced

Public Participation guidelines, while also ensuring the use of best practices and timely execution of the community engagement process.

**APPLICABILITY:**

This policy applies to the review of applications administered by DEP for environmental authorizations, as well as to the review of DEP permits as described in this policy and to DEP program areas and initiatives specifically named and included within this policy. This policy does not supersede the Permit Decision Guarantee or other policies, or any applicable executive orders, regulations, or statutes.

**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:**

27 pages

## I. Introduction

All Pennsylvanians have the right to clean air, pure water, and to the preservation of the natural, scenic, historic, and esthetic values of the environment. However, historically and currently, low-income and low-wealth communities and communities of color bear a disproportionate share of detrimental environmental impacts with accompanying adverse health impacts.

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 Office of Environmental Justice (OEJ), the Environmental Justice Advisory Board 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.

In Executive Order 2021-07, “Environmental Justice,” (Executive Order) ([Appendix A](#)), former Governor Tom Wolf directed DEP to address this historic and current disparity in a revised comprehensive Environmental Justice Policy, which supersedes the 2004 Environmental Justice Policy. Further, as a recipient of federal funding, DEP must also comply with the nondiscrimination provisions of the United States Constitution as enforced by the United States Environmental Protection Agency through Title VI of the Civil Rights Act of 1964 (Title VI), and the federal regulations found at 40 CFR Part 7 (Nondiscrimination in Programs of Activities Receiving Federal Assistance from the Environmental Protection Agency).

This policy has been revised with input by stakeholders and recommendations from the 2001 EJWG report not covered in the EJ Public Participation Policy. As well, this policy implements the Executive Order and DEP’s Title VI obligations. The measures described here are aimed at facilitating environmental justice and the redress of environmental injustice in the administration of DEP’s constitutional, statutory, and regulatory duties. This policy provides specific guidance regarding how DEP will address environmental justice with a community outreach-first approach, and includes compliance with Title VI in permitting, enforcement, grants, remediation, and in addressing climate change.

## II. Definitions

For purposes of this policy the terms below have the specific meaning shown, but these definitions do not alter regulatory or statutory definitions. The public and community groups may have a different and more expansive definition of environmental justice terminology than as used in this document.

*Applicant* — Individuals, corporations, governmental and municipal entities, 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 public participation Trigger or Opt-In Project.

*Census Block Group* — A geographical subdivision within a census tract that generally maintains a population of 600 to 3,000 people and the smallest geographical unit for which the Census Bureau publishes sample data.

*Comment -Response Document* — A DEP document that responds to comments received from individuals and organizations during a public comment period.

*Community Environmental Project* — As provided in the “Policy for the Consideration of Community Environmental Projects in Conjunction with Assessment of Civil Penalty (Document No. [012-4180-001](#)),” — 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* — A group of people who live, work, or generally occupy in the same area and whom may be affected by environmental concerns or a permitted project activity. Communities need not be formally organized or represented by an organization.

*Community-Based Organizations (CBOs)* — Public or private organizations that support and/or represent a community and/or certain populations within a community through engagement, education, and other related services provided to individual community residents and community stakeholders.

*Community Liaison* — An individual who acts as a conduit between DEP and a segment of the population which they informally represent and who also assists in sharing information between the public and DEP.

*Community Environmental Burden* — The combination of the cumulative degradation of air, water, and land in a defined geographic area together with social determinants of health that make the population more sensitive to degraded environmental conditions.

*Cumulative Environmental Impacts* — The totality of exposures to environmental pollution and effects on health, well-being, and quality of life outcomes. This definition does not modify existing regulatory uses of the term cumulative, including cumulatively, cumulative effect, and cumulative risk.

*Disproportionate Environmental Impacts* — Environmental effects on a group of people based on inequitable exposure to environmental factors that systematically affect one group more harshly or negatively than others. These effects are typically associated with race, ethnicity, and socioeconomic status as predicting factors for increased geographical distribution of the resulting environmental burdens.

*Enhanced Public Participation* — Outreach activities and other support for EJ communities regarding public participation Trigger and Opt-In Projects that is in addition to minimum legal requirements related to municipal or public notice, public meetings, public hearings and the opportunity for comment on applications or other regulatory decisions under review by DEP. Enhanced Public Participation may additionally facilitate meaningful public comment through technical or other consulting support.

*Environmental Justice (EJ)* — Environmental justice means the just treatment and meaningful involvement of all people, regardless of income, wealth, race, color, national origin, area of residence, Tribal affiliation, or disability, in agency decision-making and other activities that affect human health and the environment so that people: are fully protected from disproportionate and adverse human health and environmental effects (including risks) and hazards, including those related to climate change, the cumulative impacts of environmental and other burdens, and the legacy of racism or other structural or systemic barriers; and have equitable access to a healthy, sustainable, and resilient environment in which to live, play, work, learn, grow, worship, and engage in cultural and subsistence practices. It further involves the prevention of future environmental injustice and the redress of historic environmental injustice.

*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 (EJ Area)* — A geographic area characterized by increased pollution burden, and sensitive or vulnerable populations based on demographic and environmental data. 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 [Appendix B](#) to this policy and will be updated regularly.

*Environmental Justice Project Portal* — DEP's website tool to share information about projects to which this policy applies with the public.

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

*Opt-In Project* — A project requiring permits, authorizations, or approvals from DEP that otherwise does not automatically trigger this policy through requiring a permit listed in [Appendix C](#), but which DEP determines should be evaluated utilizing this policy based on identified community concerns, present or anticipated environmental impacts, or reasonably anticipated significant adverse community environmental burden.

*Pennsylvania Environmental Justice Mapping and Screening Tool (PennEnviroScreen)* — An interactive EJ mapping and screening tool that contains environmental, health, socioeconomic, and demographic indicators and is the main tool for mapping EJ Areas referenced in this policy. (<https://gis.dep.pa.gov/PennEnviroScreen/>). The PennEnviroScreen tool works to map disproportionate impacts faced by socially vulnerable communities.

*Pre-Project Meeting (Pre-Application Meeting)* — A meeting during which DEP program staff, permit applicants, and their consultants discuss project details, and seek clarification on applicable regulatory and statutory requirements, and the Enhanced Public Participation applicable to the project. This is often, but not always, conducted through the Permit Application Consulting Tool ([PACT](#)).

*Project* — A development which requires permits, authorizations, or approvals from DEP. A project would likely require multiple permits, authorizations, or approvals from DEP and other entities such as municipal, county, or the federal governments.

*Public Hearings* — Formal, structured proceedings that afford the public the opportunity to provide verbal testimony for consideration by DEP in its review of applications for the project. DEP staff receives testimony but does not answer questions at public hearings. Verbal testimony provided at public hearings is transcribed by a court reporter and together with written comments are considered by DEP in the application review process and are typically addressed by DEP in a Comment-Response Document as part of a public comment period. While some hearings may be required by regulations, others may be held at DEP's discretion.

*Public Meetings* — Meetings at which DEP and project representatives provide information about a proposed project and foster dialogue through a question-and-answer format. The intent of DEP's participation in public meetings is to help the public obtain information about the DEP rules and regulations that apply to the proposed project. The content of public meetings does not become part of the official record and is not addressed in the Comment-Response Document issued by DEP. As used in this document, the term public meetings are used in reference to specific projects, though DEP and others may conduct meetings of general community outreach or information gathering, beyond the project specific context outlined in this policy.

*Trigger Project* — Specific types of projects to which the application of this policy is automatically considered. Trigger Projects are analyzed to consider the Enhanced Public Participation process in the review by DEP of the associated permits, authorizations, or approvals, as listed in [Appendix C](#), which create an Area of Concern which touches an EJ Area. Trigger Projects are those that have traditionally led to significant public concern due to potential impacts to the environment, human health, and communities. Projects in the Trigger Project category that are located in EJ Areas will be reviewed by DEP utilizing Enhanced Public Participation whether or not requested by the community.

### **III. Environmental Justice Area Criteria**

DEP plans to regularly update the criteria used to evaluate EJ Areas, the areas where this policy applies. This will ensure that DEP is using the latest available methodology, data, and science when implementing this policy. The criteria for determining EJ Areas includes an assessment of the relative community environmental burden existing within or affecting communities.

DEP has developed the PennEnviroScreen (<https://gis.dep.pa.gov/PennEnviroScreen/>) tool to standardize this assessment in an accessible format. The PennEnviroScreen tool is further described in [Appendix B](#). The methodology and criteria underlying the PennEnviroScreen will be regularly updated and reflected in [Appendix B](#).

To allow for a level of certainty, the EJ Areas in effect at the key decision point of the project will follow that project. For example, the EJ Area and Area of Concern at the time a permit application or renewal is deemed administratively complete will be used for permits. The EJ Areas at the time that grant application guidelines are released will be used for that round of grant funding.

The PennEnviroScreen tool is created to assist DEP and applicants in implementing this policy. The PennEnviroScreen tool is informed by national models and is regularly updated by DEP to ensure it maintains consistency with best practices. DEP provides the PennEnviroScreen tool and encourages applicants to use this tool to expedite the implementation of this policy in the

permitting process. The PennEnviroScreen tool is intended to be a technical reference to provide a level of certainty to DEP staff and applicants on targeting the EJ Policy to those areas of highest relative community environmental burden. The PennEnviroScreen tool has no independent regulatory authority. Alternate methods of calculating community environmental burden may be proposed by applicants in order to satisfy the needs of the EJ Policy if they provide the same or greater level of protection. If an applicant wishes to propose another model of calculating community environmental burden that is similarly comprehensive to PennEnviroScreen, they can submit that method to DEP for review and analysis. This EJ Policy shall be implemented using PennEnviroScreen until such time as alternative methods of considering community environmental burden are complete.

#### **IV. Proactive Community Outreach and Engagement**

DEP has long worked with communities around Pennsylvania, large and small, rural and urban, to further environmental justice in line with the statutes and authorities administered by the Department. DEP's work has included public engagement throughout the permitting process and will continue to, as it is outlined in Section V. Enhanced Public Participation below.

This section of the policy outlines ways to increase proactive outreach and engagement across Pennsylvania and build long-lasting relationships with communities outside of individual projects. DEP will continue to reach out to communities when they are facing an environmental crisis or dealing with a newly permitted facility. This policy recommends DEP increase strategic community education, outreach, engagement and capacity building trust through intentional action. This policy also recommends DEP reach out proactively to communities to help understand their concerns before issuing permits for new facilities and to provide communities with the tools to help address environmental issues.

DEP will continue to engage Community-Based Organizations (CBOs), community liaisons, stakeholders, and communities that have experience working on environmental justice issues but, in order to bring new voices to the environmental justice conversation in Pennsylvania, this Policy suggests DEP intentionally target CBOs, stakeholders, and communities that have not formally been engaged by the Department in the past. This outreach guarantees a diverse approach for engagement, not only in terms of the demographics they serve but also the stakeholder groups they represent and the geographical regions where they are located.

##### **A. Tactics**

The implementation of a comprehensive set of tactics in order to proactively educate, engage, and empower Pennsylvanians across the Commonwealth, with a focus in EJ areas, is recommended. The following list includes some of the tactics that OEJ could implement:

##### **1. Individual Targeted Outreach**

Identify advocacy organizations, CBOs, community liaisons, stakeholders, and community leaders to conduct individual targeted outreach to share OEJ's new vision and develop potential partnerships. DEP may also allow interested CBOs to self-identify through an online form.

2. Partner Events

The staff of OEJ will continue to participate as guest speakers at forums organized by partners. Furthermore, OEJ and other DEP staff may consider having a presence at festivals, fairs, community meetings, and similar events hosted by partner organizations and EJ communities.

3. DEP/OEJ Events

When appropriate and independently from any Enhanced Public Participation related to specific permits or projects, OEJ may coordinate community meetings and events to further the mission of the office.

4. Educational Forums

In coordination with partners, OEJ may present, host, and or sponsor educational forums to educate, engage, and empower Pennsylvanians.

5. Communications Strategy

The development and implementation of a communications strategy is strongly suggested. This strategy, that could be coordinated with DEP's Deputy Communications Director for Public Outreach, would maximize OEJ message and mission, promote activities and events, and share DEP news and updates with EJ communities via traditional and social media.

## **V. Enhanced Public Participation**

The Enhanced Public Participation described in this policy should be provided for reviews associated with public participation Trigger or Opt-In Project. The public participation provisions of this policy are targeted at minimum to the area located within the Area of Concern and to the census block group identified in PennEnviroScreen as having increased environmental burden that is affected by the project.

### **A. Projects Covered**

#### **1. Public Participation Trigger Projects**

Public Participation Trigger Projects ([Appendix C](#)), if located in an EJ Area, will be analyzed by DEP to consider inclusion of the Enhanced Public Participation process of the associated permits, authorizations, or approvals. Projects in the Trigger Project category that are located in EJ Areas will be reviewed by DEP utilizing Enhanced Public Participation whether or not requested by the community.

#### **2. Opt-In Projects**

Community members or DEP staff may request projects not specified as Public Participation Trigger Projects, be designated as Opt-In Projects for which



Enhanced Public Participation will be incorporated in the DEP application reviews. Through DEP's discretion and expertise this can apply to any project and associated permits, authorizations, or approvals.

There are particular types of projects that may warrant heightened consideration of Opt-In Project status, due to the fact that they could, in certain instances and project sizes, cause increased community concern if they involve facilities listed in [Appendix C](#).

Community members may utilize the Opt-In Project Request Form to request DEP designate a proposed project for Enhanced Public Participation in accordance with this policy. Utilization of the Opt-In Project Request Form however is not mandatory. DEP staff consider the Opt-In Project Request Form when using their discretion and expertise to designate an Opt-in Project, but this form is not required to designate an Opt-In Project.

When making a determination whether to designate a project as an Opt-In Project, DEP will utilize the PennEnviroScreen and consider identified community concerns, present or anticipated environmental impacts, and how those anticipated impacts relate to the existing community environmental burden.

DEP will maintain a list of all permit applications for project (both Trigger and Opt-In Projects) subject to this policy. The list will be accessible to the public and posted on DEP's EJ Project Portal website and updated regularly by the OEJ.

## **B. Enhanced Processes**

### **1. Pre-Project Community Outreach**

Local zoning and local government approvals of projects typically occur before applications are submitted to DEP and are the mechanism for review and approval of the siting of most facilities. DEP does not have constitutional, statutory, or regulatory authority related to local land use decisions. It is important to recognize that this early step in the project development process – which again typically occurs before DEP's involvement – is also a critical time and process for addressing environmental justice.

As early as possible in the development of a project, DEP strongly encourages project representatives to meet with community stakeholders prior to developing and submitting applications to DEP. Project representatives should contact DEP Office of Environmental Justice listed online at [dep.pa.gov/EnvironmentalJustice](https://dep.pa.gov/EnvironmentalJustice). The OEJ staff can assist in identifying community stakeholders. Project representatives are encouraged to also invite DEP to participate in pre-project community outreach events. OEJ or other DEP staff should attend such events and address community questions relating to the potential applicable regulations that may apply to the project and DEP's review process. The General Information Form (GIF) includes a question asking applicants to describe pre-application community outreach. If the applicant is planning on applying for specific permits from DEP, including the information about the permits that are expected to be

applied for and documenting that outreach in the Pre-Project Community Outreach can assist in meeting public participation strategy requirements described below.

## **2. Language Access**

Related to all statutes and regulations DEP administers the agency follows its Language Access Plan.

## **3. Permit Applications**

Applicants should use the PennEnviroScreen tool and note that the project creates an Area of Concern that crosses into an EJ Area when completing the General Information Form (GIF) of a permit application. If the project is proposed for an EJ Area, the applicant should also indicate the project's Area of Concern. The applicant should also provide a short description of the anticipated direct and indirect environmental impacts from the project. If the application does not require completion of the GIF, the applicant is still encouraged to utilize the PennEnviroScreen tool and note whether the project creates an Area of Concern that crosses into an EJ Area to applicable project permit applications and reach out to the communities as described above in Section IV.B.1. Pre-Project Community Outreach. DEP seeks to make its permitting process more efficient and expeditious by integrating the Office of Environmental Justice (OEJ) in the process to lead the policy's Enhanced Public Participation guidelines, while also ensuring the use of best practices and timely execution of the community engagement process.

### **i. Public Participation Strategy**

Once DEP has determined a Trigger or designated Opt-In Project permit application is complete, a public participation strategy should be developed by DEP's OEJ and appropriate regional or district office programs, Regional Communications Managers, and Local Government Liaisons. This project-specific 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 consider the characteristics of the community, the Area of Concern, and the type of facility proposed.

At a minimum, in addition to regulatory requirements, the public participation strategy for Trigger and designated Opt-In Projects should evaluate additional outreach methods to engage the public. This Enhanced Public Participation can include as appropriate, but is not limited to, notice, one or more public meetings or hearings (virtual or in-person), and the opportunity for comment that is consistent with regulatory review timeframes, or other appropriate Enhanced Public Participation. The public participation strategy should also address coordination where multiple authorizations or permits are required. The public participation strategy should describe how the Language Access Plan requirements will be satisfied. Additionally, consideration should be given regarding

whether technical consulting assistance is available or should be recommended to the community.

Notice. The public participation strategy for the project should specify the appropriate level of notice for the project. Notice may be provided as suitable by DEP or the applicant. Where appropriate, the public participation strategy will identify where all notices associated with the project (including notices related to applications, the opportunity for comment, and DEP's decision on the application) will be placed in high visibility areas of the community, and the publications widely read by residents within the EJ Area. The strategy should also indicate how and where notices will be disseminated electronically. Examples of effective vehicles for notification include, but are not limited to, local newspapers, community newsletters, faith community bulletins, public service announcements, social media posts shared with community groups and municipalities, local radio and television stations, postings in areas of high foot traffic, communications to local environmental groups, and postings shared with local community centers. Direct outreach to concerned residents may also be considered as notice for a project, whether through a phone call, letter, or email. Where appropriate, notices will also be published on DEP's website on the EJ Project Portal.

Language Access. The public participation strategy for the project should specify how DEP and the applicant will satisfy the requirements of the Language Access Plan, which may include translation of materials or interpretation services prior to, and during, public meeting or hearings. DEP should consider use of alternative media outlets such as community-based newspapers or media, websites, social media posts, diverse information repositories, and translation of materials or interpretation services prior to and during public meeting or hearings where a population within an EJ Area or Area of Concern uses a primary language other than English.

Access to Application Materials. The public participation strategy should indicate where the public may review application materials in person (if applicable) as well as where to find application materials electronically. Community liaisons may assist DEP by providing knowledge of local assets that can assist DEP in determining locations for hosting permit materials and assist in deciding 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 webpage EJ Project Portal.

Consistent with its current practice, DEP will be available to the local community throughout the permitting process. DEP will provide residents with information and assistance, as needed, and may recommend resources to facilitate understanding content within the permit application. DEP's role as permit application reviewer however is a constraint that

must be explained throughout the process, as DEP staff, including OEJ staff, may not serve as technical advisors to the community, nor may DEP reviewing staff advise the community of legal rights, interests, or privileges.

Public Meetings and Hearings. Public hearings are only held by DEP as part of a formal public comment period, but public meetings may be facilitated by either DEP or the applicant. If the applicant is holding a public meeting, they are encouraged to coordinate with DEP and community liaison(s) to structure a meeting that meets community goals as much as DEP's public meetings would. This usually involves the opportunity for two-way-conversation with community members either in person or virtually. Applicant-led meetings must cover the DEP project authorizations or permits in order to satisfy Enhanced Public Participation under this policy.

DEP, in coordination with community liaison(s) and the applicant, should begin scheduling a public meeting (and/or public hearings if required by the applicable regulations for the specific project permits) no later than within 30 days of accepting an application as administratively complete and technically adequate. These meetings can be in-person or held virtually, whichever is anticipated to reach the most concerned residents.

Meetings should be held in central and accessible locations and at dates and times that are convenient for most of the affected community. The public participation strategy for the project should indicate potential public meeting or hearing locations and identify convenient times for the affected community. If the project impact covers a large geographic area and community liaison input suggests it is an appropriate method, virtual or hybrid public hearings can be the best option for reaching the most people. If there is a very limited affected area, conference calls or virtual meetings may be able to reach all the concerned residents.

For permit applications with statutory or regulatory review timeframes, and for which a public meeting is not required by the statute or regulations, DEP may either hold the public meeting before receipt of the permit application or may hold the public meeting on or after providing five days' notice.

Comment. DEP will consider providing a public comment period for all Public Participation Trigger and designated Opt-In Project permit applications if public comment is not already required by the applicable regulations. The comment period timeframe will be based upon the applicable regulatory requirements. For permit applications which are not subject to mandatory regulatory public comment requirements, the comment period may be for a duration shorter than 30 days. The comment period duration will be specified in the public participation strategy for the project.

The public participation strategy elements above should be discussed with project representatives at the Pre-Application Meeting, or if no such meeting is requested or held, DEP will provide the applicant with the public participation strategy recommended outreach for the project once DEP determines the application/s are complete.

**ii. Pre-Application Meeting**

Many DEP permitting programs require applicants to request and participate in pre-application meetings. These are different than the “pre-project outreach events” described above. For projects where this policy applies, both public participation Trigger and potential Opt-In Projects, applicants are encouraged to request a pre-application meeting even if such a meeting is not a regulatory requirement.

In addition to the applicable regulatory requirements for the project, DEP will discuss the development of a public participation strategy with the applicant and may communicate about additional measures applicants may include to mitigate legacy environmental impacts in the community.

**iii. Notice**

Application Notice. In addition to any regulatory notice, DEP will post notice of receipt of the application on the DEP EJ Project Portal. The notice of application, which may be prepared by the applicant or DEP, must explain the project in plain language, include a description of the purpose and location of the proposed activity or facility, and should include the summary of anticipated direct and indirect environmental impacts for the Area of Concern. This notice should be published and disseminated in accordance with the public participation strategy developed for the project and must comply with the Language Access Plan. Notices of applications must indicate where the application materials are available for review, both in person and electronically. The anticipated permit process timeline should also be included in the notice.

Decision Notice. In addition to any regulatory requirements related to notice of DEP decisions on permit applications, DEP staff will publish notice on the DEP EJ Project Portal and will notify communities when a permit application decision is rendered. DEP will also post on the EJ Project Portal, the decision related documents, which may include, the Comment-Response Document, the permit issuance or denial, and any record of decision.

#### **iv. Public Meetings**

As specified in the public participation strategy for the project, whether or not required by the applicable regulations, DEP will consider holding one or more public meetings for Public Participation Trigger and designated Opt-In Project permit applications. Applicants are encouraged to fully participate in project public meetings. In public meetings, DEP should:

- Explain the agency's role in reviewing the permit and regulating the proposed project during potential operations;
- Describe all the permits and authorizations needed from DEP; and,
- Identify the specific permit application review timelines and specific opportunities for comment.

It is important to note that DEP can only consider authorizations that fall under DEP's purview. Most projects require authorizations that may be needed for the project which are not within DEP's jurisdiction.

Where possible, DEP will invite other agencies and local governments who may also have a role related to regulation or authorization of the proposed project.

#### **v. Public Comment**

The public comment period provides the opportunity for individuals, organizations, businesses, and other stakeholders to provide comments to DEP on a proposed permit application. DEP considers public comments received prior to making a determination on an application and typically provides a substantive response to each comment in a Comment and Response document.

As specified in the public participation strategy for the project, whether or not required by the applicable regulations, DEP may solicit public comment for Public Participation Trigger and designated Opt-In project permit applications.

#### **vi. Technical Support**

DEP will look to increase community access to technical support around environmental projects. OEJ will serve as a resource to share information about existing technical assistance resources. DEP will look to expand and create programs that provide direct technical assistance to communities.

#### **4. Communication After the DEP Authorization or Permit Action**

DEP staff should advise communities about substantial post-permit decisions relating to the regulated facilities in their communities and provide relevant documents pertaining to inspections, compliance, and enforcement at these facilities, including, but not limited to inspection reports, notices of violations, civil penalty assessments, administrative and judicial orders, and consensual documents. This information may be shared through the DEP [eNOTICE tool](#).

DEP should update the community when substantive changes are made to permits to which this policy is applied for regulated facilities, including when a permit renewal application is submitted, granted, or denied; when a permit is modified, and when a permit is transferred to another entity. This information should also be posted to the EJ Project Portal.

The public may request information about inspections, compliance, and enforcement from DEP informally via email or file review, or formally by submitting a Right to Know Law request. DEP's Regional Directors, District Mining Managers, and Regional Communications Managers may determine which methods will be appropriate based on the nature of the materials, the number of requests received, as well as other relevant criteria. DEP staff with responsibility for making these decisions may consult with community liaisons and relevant public officials to assist in making these decisions in a way that is of the most benefit to the community at large.

Permittees are encouraged to continue outreach to the community after DEP issues any final authorizations. Informing the community about general updates, such as when construction will commence, can help build community trust and understanding around a project.

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

#### **A. Inspections**

Each of DEP's permitting programs include requirements and specifications for how and when inspections are to be conducted. DEP will satisfy those requirements in EJ Areas as it does in all other communities and contexts. When DEP is faced with comparable inspection scenarios and does not have the resources to address all the inspections at the same time, DEP may exercise its discretion to prioritize the inspections in an EJ Area. In cases where DEP has the resources to conduct inspections beyond those required, DEP may exercise its discretion to prioritize inspections in EJ Areas.

During the inspections of regulated facilities in EJ Areas, DEP's inspectors will be particularly mindful of identifying and recording environmental and public health impacts that flow from noted violations. If environmental or public health hazards develop at a DEP regulated facility located in an EJ Area at a time when a regular inspection is not scheduled, DEP staff will inspect the hazardous conditions as quickly as possible.

## **B. Compliance & Enforcement**

DEP is focused on compliance with statutory, regulatory, and permit requirements at all the facilities it regulates, including facilities in EJ Areas. DEP's expectation is that all regulated facilities, including those in EJ Areas, maintain full compliance with all applicable requirements. Recognizing that noncompliance occurs, it is necessary on occasion for the agency to pursue enforcement. Some of the enforcement actions DEP is authorized to take include the issuance of orders, assessment of civil penalties, suspending or revoking permits, and referring a matter for criminal prosecution.

### **1. Prioritization of Competing Demands**

DEP is required to exercise its discretion in determining when to take an enforcement action and what tools to use in any given situation. In making those two decisions, DEP evaluates numerous factors, including, but not limited to, the willfulness of violator, the existence and severity of any environmental and public health impacts of the violation, the length of time the violation has been in existence, if the violation is located in an EJ Area, the difficulty involved in correcting the violation, collateral consequences which could flow from how the violation is corrected, the violator's compliance history, and the sufficiency of the evidence needed to prove the violation. When DEP is faced with comparable enforcement scenarios and does not have the resources to take all the necessary enforcement actions at the same time, DEP may exercise its discretion to prioritize taking enforcement actions in an EJ Area.

The Department plans to form an Enforcement and Compliance Team to prioritize inspection and monitoring at sites which have multiple authorizations, multiple on record complaints, habitual violations, sites with high volume generation or unique permit conditions, EJ communities, and sites of significant geographic location and to ensure timely and appropriate responses to violations, implement an efficient criminal referral protocol, and ensure effective collaboration.

### **2. Civil Penalty Calculations**

A civil penalty assessment is an enforcement tool used frequently by DEP to compel compliance by regulated entities with their permitting and regulatory obligations. The statutes authorizing civil penalty assessments require DEP to base its calculation of the penalty amount on specified factors. These factors vary slightly from statute to statute but generally include damage to natural resources, willfulness of the violator, the violator's history of compliance, deterrents of future violations, and "other relevant factors." DEP interprets impacts to the environment or the public health and safety at an EJ Area to be a relevant factor in the calculation of a penalty amount for a violation and may include a dollar figure in the penalty amount for such a violation provided there is adequate evidence to support a factual finding that the violation caused the harm and the penalty amount fits within the statutory limits.



### **3. Use of Civil Penalties**

As a general matter, the civil penalties paid to DEP must be deposited in the special funds created by the statutes authorizing the civil penalty assessment and used as designated in the relevant statute. For example, the Pennsylvania Air Pollution Control Act authorizes an additional use of its civil penalties. At Section 9.2(a.1), 35 P.S. § 4009.2(a.1), the statute provides that 25% of any civil penalty in the amount of or greater than \$50,000 should be given to the municipality where the violation occurred to be used for projects that eliminate or reduce air pollution or for parks, recreation projects, trails, or open spaces. The statute establishes procedures for the municipality's participation in identifying how the funds will be used.

In general, DEP would encourage the municipality to allocate such funds to projects that directly benefit EJ Areas. DEP will notify any relevant EJ community about the existence of this opportunity for their municipality so that the citizens can participate in the decision as to how the funds will be used.

### **4. Community Environmental Projects**

In certain circumstances DEP allows a party who owes civil penalties to perform remedial work of the same or greater value as the penalty amount rather than pay money to the Commonwealth. The terms pursuant to which DEP authorizes this arrangement are set forth in its policy entitled "Policy for the Consideration of Community Environmental Projects in Conjunction with Assessment of Civil Penalty (Document No. [012-4180-001](#)).” In this process, DEP identifies remedial projects, including projects to address environmental and public health and safety impacts in EJ Areas, which a violator may choose. The OEJ will develop and maintain a list of community-based projects which a violator may propose to undertake in satisfaction of a final penalty assessment.

### **C. Filing a Complaint Concerning Operation of a Regulated Facility**

A complaint concerning the operation of a permitted facility may be made by completing the online Environmental Complaint Form, at [dep.pa.gov/environmentalcomplaints](http://dep.pa.gov/environmentalcomplaints) or by calling 866-255-5158, or the appropriate DEP Regional Office or District Oil and Gas or Mining 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.

## **VII. Community Development Investments, Brownfields, and Mitigation Practices**

### **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.

Additionally, grants for technical support for the EJ Area Trigger or Designated Opt-In Project process will be shared by DEP where they are currently available. DEP will explore opportunities to provide additional technical support.

## **B. Promoting Brownfield 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 on brownfield redevelopment. DEP will continue to work with partners on training, technical assistance, capacity building, and strategic planning and identifying funding for brownfield redevelopment.

## **C. Mitigation Practices**

Applicants for DEP Permits or other authorizations for projects in EJ Areas are encouraged to voluntarily consider, and where possible, include pollution mitigation projects in their projects. DEP may consider and should acknowledge the inclusion of such pollution mitigation measures in the record of review for the project applications. Examples include: street trees, green infrastructure retrofits, solar panels, green roofs, green space, green trail enhancements, sound barriers, and limited hours of operation. Applicants are also encouraged to catalogue these voluntary efforts to share with DEP for inclusion the project's files.

# **VIII. 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 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). As well, DEP will integrate equity and EJ into climate adaptation planning with agency programs, policies, rulemaking considerations, and enforcement activities. DEP will 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.

## **IX. Policy Updates**

The DEP Secretary will review this policy at least every five 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 current 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 consideration to communities experiencing environmental injustice.

## Appendix A

# EXECUTIVE ORDER

Commonwealth of Pennsylvania  
Governor's Office

**Title:**

Executive Order 2021-07, Environmental Justice

**Date:**

October 28, 2021

**By Direction of:**



Tom Wolf, Governor

- WHEREAS, Article 1, Section 27 of the Constitution of the Commonwealth of Pennsylvania, the Environmental Rights Amendment (ERA), provides that the "people have a right to clean air, pure water, and the preservation of the natural, scenic historic and esthetic values of the environment"; and
- WHEREAS, the people's rights under the Pennsylvania Constitution are guaranteed regardless of race, ethnicity, color, natural origin, or income; and
- WHEREAS, the Commonwealth must ensure the rights and duties of Article I, Section 27 protect all the people of Pennsylvania, including generations yet to come; and
- WHEREAS, all Pennsylvanians should be able to live in and enjoy a clean and healthy environment, that includes outdoor spaces, access to clean energy resources, accessible public lands, and public natural resources; and
- WHEREAS, historically and currently, low-income communities and communities of color bear a disproportionate share of adverse climate and environmental impacts with accompanying adverse health impacts; and
- WHEREAS, all Pennsylvanians are entitled to fair and equitable treatment and meaningful involvement in decision-making that affects their environment, communities, homes, livelihoods, and health; and
- WHEREAS, meaningful public participation in the Commonwealth's environmental decision-making is necessary to reduce adverse impacts on low-income residents, communities of color, and vulnerable residents; and
- WHEREAS, the Commonwealth has acknowledged the importance of Environmental Justice and, in 1999, developed a statewide Environmental Justice Work Group that produced the Environmental Justice Work Group Report, with recommendations carried out through the development of an Environmental Justice Advisory Board and an Office of Environmental Justice within the Department of Environmental Protection (DEP) to address Environmental Justice issues; and

# EXECUTIVE ORDER

Commonwealth of Pennsylvania  
Governor's Office

WHEREAS, the Federal government has underscored the significance of Environmental Justice in Executive Order 14008 of January 27, 2021, *Tackling the Climate Crisis at Home and Abroad*, and prioritized Environmental Justice through actions such as development of a White House Environmental Justice Interagency Council, creation of a geospatial Climate and Economic Justice Screening Tool and maps and direction that 40 percent of Federal investments benefit disadvantaged communities.

NOW, THEREFORE, I, Tom Wolf, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do order and direct:

**1. Definitions.**

- a. **DEP.** The Commonwealth of Pennsylvania Department of Environmental Protection.
- b. **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.
- c. **Secretary.** The Secretary of DEP.

**2. Office of Environmental Justice.** The Office of Environmental Justice (OEJ) is established within the Department of Environmental Protection.

- a. OEJ is headed by the Director of Environmental Justice, who shall be appointed by and serve at the pleasure of the Secretary.
- b. Responsibilities:
  - (1) OEJ shall make recommendations to the Secretary on the integration of Environmental Justice considerations throughout DEP's programs, regulations, policies, and procedures, strengthening partnerships on Environmental Justice among Federal, state, and local government agencies and enhancing research and assessment approaches to Environmental Justice; coordinate the Environmental Justice Interagency Council; and staff the Environmental Justice Advisory Board.
  - (2) OEJ may establish an online repository of Environmental Justice information and data.
  - (3) OEJ may establish an Environmental Justice mapping tool to examine environmental and health impacts on vulnerable Pennsylvania communities with additional data provided by other agencies at the request of the OEJ.

# EXECUTIVE ORDER

Commonwealth of Pennsylvania

Governor's Office

- (4) OEJ shall work with other DEP program offices to identify economic development opportunities, environmental benefits, and funding opportunities that do, or should, consider Environmental Justice in the grant awarding process.
  - (5) OEJ shall develop and publish an Environmental Justice strategic plan (EJ Plan) every five (5) years. The EJ Plan should include recommendations for advancing Environmental Justice, focusing attention on the environmental and public health issues and challenges confronting the Commonwealth's minority and low-income populations. The plan should also make recommendations on the integration of Environmental Justice considerations into existing DEP programs.
  - (6) OEJ, in consultation with the Environmental Justice Advisory Board, Environmental Justice Interagency Council, and other stakeholders, shall develop, subject to public participation requirements, a revised comprehensive Environmental Justice Policy consistent with existing legal authority, that may include, but is not limited to the following:
    - (a) Develop a comprehensive statewide definition of "Environmental Justice Area," "cumulative environmental impacts," and "disproportionate environmental impacts."
    - (b) Establish criteria for Environmental Justice Areas.
    - (c) Develop an enhanced public participation plan for Environmental Justice areas potentially affected by development projects, brownfield remediation, industrial operations, and commercial facilities resources, that includes outreach activities that enhance public participation opportunities in Environmental Justice areas, includes a plan for communicating in multiple languages, includes guidelines for scheduling public meetings at locations and times convenient for neighborhood stakeholders, and which may also include resources for expert consultation.
    - (d) Identify economic development opportunities, environmental benefits, and other discretionary funding programs that do, or appropriately should, consider the needs of an Environmental Justice Population in the grant process.
    - (e) Develop standardized mitigation and/or restoration practices for consideration by applicants and permit application reviewers in the permitting or cleanup context.
3. **Environmental Justice Advisory Board.** The Environmental Justice Advisory Board (EJAB) is established within the Department.
- a. Composition of the EJAB.



# EXECUTIVE ORDER

Commonwealth of Pennsylvania  
Governor's Office

- (1) The EJAB shall consist of no fewer than nine (9) and no more than fifteen (15) members of the public who are appointed by the Secretary.
    - (2) A chairperson shall be selected by the members of the EJAB for a term of two (2) years.
  - b. Terms of Membership.
    - (1) Members shall be appointed for terms of two years and shall continue to serve thereafter until their successors have been appointed. A member may be reappointed for one or more additional terms. All members serve at the pleasure of the Secretary.
    - (2) Should a vacancy occur on the EJAB, the Secretary will appoint a successor; and the successor shall serve the remainder of the unexpired term.
  - c. Expenses. Members of the EJAB shall not be compensated for their services to the EJAB, but shall be entitled to reimbursement for expenses necessarily incurred in accordance with procedures established by the Commonwealth.
  - d. Responsibilities.
    - (1) The EJAB shall make written recommendations to the Secretary concerning policies, practices, and actions that DEP may implement to advance the goals of Environmental Justice.
    - (2) EJAB shall meet at least semi-annually. The EJAB may hold public meetings at its discretion for the purposes of receiving public comments and conducting inquiries concerning Environmental Justice.
4. **Environmental Justice Interagency Council.** The Environmental Justice Interagency Council (EJIC) is hereby established.
- a. Membership. The EJIC shall consist of the following members:
    - (1) Secretary or designee;
    - (2) Secretary of the Department of Conservation and Natural Resources or designee;
    - (3) Secretary of the Department of Education or designee;
    - (4) Secretary of the Department of Agriculture or designee;
    - (5) Secretary of the Department of Health or designee;
    - (6) Secretary of the Department of Transportation or designee;

# EXECUTIVE ORDER

Commonwealth of Pennsylvania  
Governor's Office

- (7) Secretary of the Department of Community and Economic Development or designee;
- (8) Such other Cabinet members or agency heads or their designees as determined by the Governor.
- b. The Secretary or designee shall convene meetings of the EJIC and serve as its Chair. The first meeting of the EJIC shall be held no later than 90 days after the effective date of this Executive Order. The EJIC shall meet at least semi-annually.
- c. The EJIC shall act in an advisory capacity and will:
  - (1) Review and provide input and information to DEP related to the agency's development, implementation, and update of the EJ Plan, including specific mechanisms for monitoring and measuring the effects of implementing the Plan.
  - (2) Identify and make recommendations to the Governor's Office to address potential disproportionate environmental impacts that state laws, regulations, policies, and activities may have on Pennsylvania residents in Environmental Justice Areas.
  - (3) Recommend to executive agencies processes to incorporate Environmental Justice considerations into decision-making.
  - (4) Make recommendations to the Governor's Office to ensure consistency with federal Environmental Justice programs.
  - (5) Recommend a comprehensive Environmental Justice training plan for executive branch Commonwealth agencies.
- d. Each EJIC member agency shall develop and post online every five years its own strategic plan to promote Environmental Justice in ways tailored to the specific agency and its authority, mission, and programs.
- 5. **Effective date.** This Executive Order shall take effect immediately and shall remain in effect until amended or rescinded by the Governor.



## **Appendix B**

### **Environmental Justice Area Criteria**

This Appendix will be regularly updated with the latest EJ Area Criteria and links to appropriate methodology documentation. Interactive mapping can be found on the *Pennsylvania Environmental Justice Mapping and Screening Tool (PennEnviroScreen)* that contains environmental, health, socioeconomic, and demographic indicators and is the main tool for mapping EJ Areas referenced in this policy. More detailed information and methodology around the PennEnviroScreen tool can be found in the Methodology Guidance Document.

For the purposes of the EJ Policy, census block groups with a PennEnviroScreen score above 80 will be considered EJ areas for consideration as Public Participation Trigger Projects. This highlights those parts of the commonwealth facing the most disproportionate environmental impact across multiple factors. These areas are highlighted in a map theme that includes a half mile buffer to show the Area of Concern as outlined in this policy. The Department can consider projects outside of EJ Areas as Opt-In Projects.

DEP plans to regularly update the criteria used to evaluate areas where this policy applies (EJ Areas). This will allow DEP to ensure that the agency is following the latest available methodology, data, and science when implementing this policy. To allow for a level of certainty, the EJ Areas in effect at the key decision point of the project will follow that project. For example, the EJ Area and Area of Concern at the time a permit application or renewal is deemed administratively complete will be used for permits. The EJ Areas at the time that grant application guidelines are released will be used for that round of grant funding.

Though there is a need to define EJ Areas for the policy and state programs, DEP understands that communities facing issues of environmental injustice aren't solely defined by these characteristics. Definitions for EJ Areas may vary between other Commonwealth agencies, federal agencies, and community groups.

## **Appendix C**

### **Public Participation Trigger Projects**

Public Participation Trigger Projects include DEP regulated activities that may lead to significant public concern due to potential impacts on human health and the environment. DEP will utilize the Enhanced Public Participation process for application reviews for these projects. Trigger Projects are identified by DEP analysis of the associated permits, authorizations or approvals, as listed below, which create an Area of Concern which touches an EJ Area.

**1. National Pollutant Discharge Elimination System (NPDES) 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 (subject to Prevention of Significant Deterioration or Nonattainment New Source Review)

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

### **Public Participation Opt-In Projects**

DEP may exercise its discretion and expertise to apply this policy to additional projects and associated permits, authorizations, or approvals. Examples of projects that could warrant heightened consideration of Opt-In status include:

- 1) Plan approvals at a 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
- 8) Medical waste incinerator
- 9) UIC Wells Associated with Oil and Gas development
- 10) Unconventional Oil and Gas Development (Drill & Operate permits, changes in use; ESCGPs)
- 11) Other projects as identified by the community

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 determines they warrant special consideration.