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COMMITTEES

AGING AND OLDER ADULT SERVICES
ENVIRONMENTAL RESOURCES AND ENERGY
HUMAN SERVICES

May 10, 2022

The Honorable Patrick McDonnell
Secretary, Pennsylvania Department of Environmental Protection
400 Market Street
Harrisburg, PA 17101

Dear Secretary McDonnell,

Thank you for the opportunity to comment on the DEP's draft Environmental Justice Policy (012-0501-002).

The Environmental Justice initiative is an important step toward ensuring that all Pennsylvanians—regardless of where they live—are protected from environmental hazards. This policy is well within the DEP's statutory authority and will help bring the Commonwealth another step closer to fulfilling the promise of the Environmental Rights Amendment.

I appreciate the steps the Office of Environmental Justice has taken to improve the existing policy, and I support the proposed revisions that would give marginalized communities a more robust choice, additional opportunities to comment, and more information concerning possible development in their area.

I particularly support the specific provisions below and encourage the DEP to retain them as is in the final draft:

- Creating a structure to use fines to fund community environmental projects in areas where violations have occurred, rather than putting proceeds from fines into the DEP's general budget (Section VII)
- Adding public engagement practices around unconventional oil and gas operations (Section IV)
- Ensuring that Environmental Justice issues are considered and included in Climate Initiatives, including the Climate Action Plan (Section VI)
- Expanding the activities that are considered Public Participation Trigger Permits, and strengthening provisions around Opt-in Permits (Sections II and III)
- Establishing regular review of designated Environmental Justice areas of concern to make sure demographic and economic shifts are accounted for. (Section VIII)

While the draft policy is a significant step forward, I also have some areas of concern. Specifically, much of the language throughout the draft policy is non-committal, particularly in the Public Participation, Community Input, and Oil and Gas Public Engagement sections, where each process step uses “should” language instead of “shall” or “will.” Applicants’ participation in public engagement and adherence to the proposed Environmental Justice policies should be mandatory, not merely suggested or optional. Applicants must be required to fully participate in these activities so they can fully understand and adequately address the concerns of Environmental Justice communities.

Further, I share the concern expressed by Clean Water Action that an annual inspection of operators or well permit operations (Section IV. A.) is too infrequent for active sites (and here again, the use of “should” stops short of making these inspections mandatory). To ensure the residents of Environmental Justice communities are protected, the Department should require and conduct these assessments on a quarterly basis.

A third area of concern is the separation of Oil and Gas Public Engagement (Section IV) from the general permit review and community input process.

The advent of fracking in Pennsylvania has brought complex and myriad public health and environmental issues, such as groundwater contamination, increased cancer risk, uncontrolled methane releases, and more.

I acknowledge that current state law around unconventional gas and oil extraction permits does not allow enough time for Environmental Justice review as envisioned in the draft policy. This does not, however, absolve the DEP of the need for a thorough review and appropriate public engagement. Environmental Justice should apply equally to all affected communities, regardless of the type of activity that is bringing potential harm.

I urge you to consider including unconventional Oil and Gas permits under the Public Participation section of the Environmental Justice policy, rather than separating it out. I would welcome your recommendations for legislative relief of the existing timeframe issues.

Thank you again for your ongoing efforts to improve Environmental Justice policy in Pennsylvania and for the opportunity to comment.

Sincerely,



Danielle Friel Otten
State Representative
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Member, House Environmental Resources and Energy Committee
House Chair, Pennsylvania Legislative Climate Caucus

Submitted via DEP eComment Portal