



November 30, 2023

Jessica Shirley, Interim Acting Secretary
Department of Environmental Protection
16th Floor Rachel Carson Building
400 Market Street
P.O. Box 2063
Harrisburg, PA 17105-2063

Re: Interim Final Environmental Justice Policy (015-0501-002); Pennsylvania Environmental Justice Mapping and Screening Tool Methodology Documentation 2023 (015-0501-003); PennEnviroScreen Tool submitted electronically via <https://www.ahs.dep.pa.gov/eComment/> and eComment@pa.gov

Dear Interim Acting Secretary Shirley:

The Marcellus Shale Coalition (MSC), a regional trade association with a national membership, appreciates the opportunity to submit comments regarding the above-referenced interim final Environmental Justice Policy (EJ Policy or Policy) and associated documents. The MSC was formed in 2008 and is currently comprised of approximately 140 producing, midstream, transmission and supply chain members who are fully committed to working with local, county, state and federal government officials and regulators to facilitate the development of the natural gas resources in the Marcellus, Utica and related geological formations. Our members represent many of the largest and most active companies in natural gas production, gathering, processing and transmission in the country, as well as the suppliers, contractors and professional service firms who work with the industry.

Introduction

The MSC and its members support policies that enable disadvantaged communities to participate fully in the public comment and public information sharing that accompanies the review of permits. Members of the MSC take seriously their responsibility to engage proactively and constructively with the communities in which they operate, including local elected officials, property owners, concerned citizen organizations and the general public.

By the very nature of the industry, operators rely upon this engagement to secure the legal right to develop natural gas and transport it safely to market. Operations are centered upon areas of the Commonwealth where the resource is located, and operators that do not own the mineral rights outright can only develop resources which they have leased through the consent of property owners. This up-front engagement – long before physical development occurs on the ground – allows community members and local elected officials to familiarize themselves with the development process. In addition, local approvals and authorizations are often necessary for development to occur, separate from the permitting requirements of the state. These local actions provide additional opportunity for public awareness and engagement.

Timely review and issuance of applicable permits is also critically important for operators to make necessary modernization improvements to facilities, thereby protecting the safety of landowners, the public, and company personnel all while providing critical energy deliveries to communities, local businesses and other markets.

Unconventional natural gas development is well-into its second decade throughout Pennsylvania. The industry is rightfully proud of both its economic and environmental enhancement contributions to the Commonwealth and the communities in which it operates. From an economic perspective, countless citizens have benefited financially from lease agreements, including ongoing royalty payments attributable from the more than 11,000 producing wells across Pennsylvania. There is no question that many of these residents reside in largely rural, oftentimes economically disadvantaged communities.

From a broader perspective, despite a rise in energy prices generally in 2022 due to a variety of international factors, all citizens of Pennsylvania are benefitting from lower energy costs when compared to 15 years ago. More than 50% of homeowners rely upon natural gas to heat their homes, and the vast majority of Pennsylvanians use electricity, of which over 50% now comes from natural gas generation. Wholesale electric price reductions of over 40%, and natural gas commodity price reductions of nearly 75%¹, have translated into savings of several thousands of dollars annually for many residents. To the extent that poverty and low-income thresholds have a correlation to a community being in an environmental justice area, overall household savings due to lower energy commodity prices have been a significant benefit to these citizens.

This positive outcome should reinforce the need for the Department of Environmental Protection (PA DEP or Department) to work cooperatively with permit applicants to encourage domestic energy production in Pennsylvania.

From an environmental perspective, increased utilization of natural gas in the electric power generation sector² has provided significant benefits to all Pennsylvanians. Due to the conversion to natural gas as the primary fuel choice for electric generation, since 2005 Pennsylvania has seen a reduction of volatile organic compounds (40%), nitrogen oxides (81%) and sulfur oxides (93%)³. These historic reductions translate into cleaner and healthier air for all, particularly those citizens most vulnerable to respiratory ailments such as children and senior citizens.

In fact, when utilizing the exact same methodology used by the Department in its recent analysis of the Regional Greenhouse Gas Initiative, the aforementioned reduction of key pollutants, due in large part to the increased use of natural gas for electric generation, translates to approximately \$31 Billion to \$71.5 Billion in annual public health benefits for the citizens of Pennsylvania.

¹ Source: PA PUC Average natural gas price reduction for six largest PA natural gas utilities 2008 – 2020.

² Natural gas as a share of Pennsylvania's electric power generation has increased from approximately 1.5% in 2001 to 53% in 2021. Source: U.S. Energy Information Administration – Electricity Data Browser

³ Source: PA Department of Environmental Protection – Air Emission Report (Power BI)

The MSC offers the following specific comments regarding the interim final EJ Policy for consideration by the Department. In addition, the MSC submits comments regarding the Pennsylvania Environmental Justice Mapping and Screening Tool Methodology Documentation 2023 as well as the PennEnviroScreen Tool, since each of these items are inextricably linked to the implementation of the Policy.

INTERIM FINAL ENVIRONMENTAL JUSTICE POLICY

Comment and Response Document

Unfortunately, the Department did not prepare a Comment and Response Document to allow interested parties to compare the Interim-Final document with the proposed EJ Policy released in early 2022. This makes evaluating and recognizing which changes have been made – and the impetus for the change – difficult for the public and prior commenters.

With respect to the interim final Policy, the MSC strongly encourages the Department to prepare a Comment and Response Document. The MSC further encourages the Department to include a key, code, or other method in the Comment and Response Document which allows public commentators to identify their comments in the document and how the Department has responded. The Department previously has prepared the Comment and Response Documents in this manner, which is extremely helpful and efficient. Such a method also underscores that the Department has identified and fairly considered all unique comments which it received during the public comment period, and that comments have not been overlooked or ignored under the guise that a generic, catch-all response is sufficient.

General Comments

Acknowledgement of Improvements from Draft Environmental Justice Policy

Despite the lack of a Comment and Response Document, the MSC would like to acknowledge that significant, problematic and excessively overreaching provisions of the draft EJ Policy released in early 2022 have been removed from the interim final Policy. In addition, many (though not all) of the provisions of the draft Policy which sought to impose an obligation upon the regulated community – which is an inappropriate use of a Department Policy document – have been either removed or modified. The MSC expresses its appreciation for recognizing that many of the provisions of the draft Policy were outside the scope of a Department policy document.

With these comments in mind, however, the MSC seeks clarification on the Department's authority to impose certain obligations upon applicants for permits or other authorizations via a policy document. Examples of such obligations are expanded upon further in these comments under specific sections of the Policy (e.g., Section III – Environmental Justice Area Criteria).



Managing Expectations of Stakeholders

The MSC encourages the Department to use the Policy and its implementation to educate all stakeholders regarding the current requirements in place with respect to a particular project to protect public health and the environment. Likewise, the Department is encouraged to educate stakeholders regarding its decision-making process and the criteria that inform this process.

The MSC expands upon these comments under Section ((V)(B)(3)(i)) (relating to Public Participation Strategy).

Authority

The MSC recognizes that many policies issued by the Department include a section on “Authority”. With respect to the Policy, nearly every environmental statute administered by the Commonwealth is listed, as well as the Civil Rights Act of 1964.

Consistent with the Department’s stated intent that this Policy “*is not an adjudication or regulation*” and that “*DEP does not intend to give this guidance that weight or deference*”, it is unclear why an Authority section is necessary in the Policy. References to statutory, regulatory or other legal authority are necessary and appropriate if an administrative agency seeks to impose a legal obligation upon an entity (in this case, an applicant which seeks a permit or authorization from the Department).

Moreover, when a citation of statutory, regulatory, or other legal authority is called for, the Department should be explicit in its citation. In summary, since this Policy cannot impose any regulatory obligations upon an entity under the jurisdiction of the Department, and has no legal weight or effect, no citation of legal authority is necessary.

The MSC recommends that this section be stricken in its entirety. If no authority is asserted, no authority need be cited.

Disclaimer

This section reads as follows:

“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.”



The MSC recognizes that this is standard language which the Department includes in nearly all of its policies or Technical Guidance Documents. Nonetheless, it is reasonable to interpret the statement “...are intended to supplement existing requirements” as imposing *additional* requirements beyond those which exist in current statute or regulation. In fact, the Policy does seek to create binding criteria and impose obligations on permit applicants, notwithstanding the careful use of the word “should.”⁴

A clear example of this can be found on the Department’s publicly accessible EJ Policy revision website, which stated (as of September 11, 2023):

*“If a DEP permit applicant plans to file a permit application on or after September 16, the applicant **should consider using** the new PennEnviroScreen tool to determine if the permit’s facility is in an environmental justice area.”* (Emphasis added).⁵

Compare this to an earlier version of similar guidance found on the Department’s publicly accessible EJ Policy revision website, which stated (as of August 21, 2023):

*“If a DEP permit applicant plans to file a permit application on or after September 16, the applicant **must** use the new PennEnviroScreen tool to determine if the permit’s facility is in an environmental justice area.”* (Emphasis added).⁶

The MSC takes note and expresses appreciation that the Department changed its website (specifically changing “*must use*” to “*should consider using*”) after an informal inquiry from the MSC to the Department. While these words have been altered, there remains concern that use of the PennEnviroScreen tool and the Policy will be regarded as obligatory by some Department permit staff. Oil and gas permit and executive staff have already expressed their intent to give this Policy the weight of regulation. Applicants have sufficient experience with DEP permit reviewers who insist that procedures, information or other criteria be adhered to – even if not grounded in statutory or regulatory requirements – if the applicant hopes to have their application acted upon favorably. Indeed, as discussed later in the MSC’s comments on Environmental Justice Area Criteria (Section III), it states that the “*EJ Policy shall be implemented using the PennEnviroScreen*” unless an applicant has identified an alternative screening method which presumably is approved by the Department.

The Department is urged to state explicitly in the Policy, and on its environmental justice website, that no applicant is legally required to utilize the Policy or the associated PennEnviroScreen Tool, and that failure to utilize either will not negatively impact review or consideration of the permit application or authorization request.

⁴ According to dictionary definitions the term ‘should’ is “an auxiliary verb to indicate that an action is considered by the speaker to be obligatory” and synonyms include “must” and “shall.”

⁵ PA EnviroScreen Tool: <https://www.dep.pa.gov/PublicParticipation/OfficeofEnvironmentalJustice/Pages/Policy-Revision.aspx> (Accessed September 11, 2023)

⁶ PennEnviroScreen Tool: <https://www.dep.pa.gov/PublicParticipation/OfficeofEnvironmentalJustice/Pages/Policy-Revision.aspx> (Accessed August 21, 2023)

Section I Introduction

The Policy states, in part:

“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.”⁷

It is unclear how the reference to “addressing climate change” comports with the balance of this statement. The Policy document is, fundamentally, supposed to be guidance to the Department on how it will engage interested and affected communities during the permit or authorization process. Furthermore, the statement above seems focused specifically upon the Department’s reliance of the Policy to (in part) meet its obligations under Title VI of the Civil Rights Act of 1964. In reviewing the applicable sections of the Civil Rights Act, the provisions are focused upon prohibiting exclusion from participation based upon race, color or national origin. As drafted in the Policy, the clause “addressing climate change” relates back to the Civil Rights Act. This reference in the Policy is inconsistent with the text of the Civil Rights Act, confusing as to its inclusion in the introduction, and should be removed for the sake of clarity.

Additionally, the Department currently has a “*Policy on Public Participation in the Permit Review Process*”⁸ (Public Participation Process Policy). To the MSC’s knowledge, the applicability of the Public Participation Process Policy is not limited to just non-EJ Areas. Rather, it applies to all permits and authorizations issued by the Department for which a formal public comment period is provided. This includes permits or authorizations proposed for EJ Areas. While recognizing that the EJ Policy is focused on *enhanced public participation*, it seems worthwhile to include reference to the Public Participation Process Policy in the EJ Policy if for no other reason than to inform the reader – and the general public – that the Department has in fact had a policy on public participation in place for many years. The absence of a reference is conspicuous.

Section II Definitions

Area of Concern. This definition effectively expands areas designated as Environmental Justice Areas (EJ Area) by one-half mile in all directions. As the Department does not treat proposed projects within an Area of Concern any differently than within the EJ Area proper, there is de facto no practical difference between the two.

Even accepting, for sake of argument, the underlying criteria utilized by the Department to designate an EJ Area, no rational reason is offered for extending this designation by one-half

⁷ Page 1, fourth paragraph

⁸ Policy # 012-0900-003 Policy on Public Participation in the Permit Review Process. Revised March 1, 2014: <https://www.depgreenport.state.pa.us/elibrary/GetDocument?docId=7520&DocName=POLICY%20ON%20PUBLIC%20PARTICIPATION%20IN%20THE%20PERMIT%20REVIEW%20PROCESS.PDF%20%20%3Cspan%20style%3D%22color%3B%22%3E%3C%2Fspan%3E%20%3Cspan%20style%3D%22color%3B%22%3E%3C%2Fspan%3E>



mile in all directions. Indeed, in reviewing the PennEnviroScreen Tool, there are many areas of the Commonwealth where the half-mile distance of the Area of Concern will be much wider (geographically) than the adjacent EJ Area.

In addition, the definition includes the following phrase:

“0.5 miles in all directions from the location of the proposed public participation Trigger or Opt-In Project.” (Emphasis added).

When utilizing the associated PennEnviroScreen Tool, it appears that the 0.5-mile buffer is tied to the edge of the census block group, not from the location of the proposed project. For example, if a project is situated in the middle of a large census block group, the Area of Concern may be very different if measured from the footprint of the proposed project, rather than from the edge of the census block group. While the Department has since stated publicly that the intent is a 0.5-mile buffer from the project, the MSC requests clarification from the Department on where the 0.5-mile buffer measurement is based upon and whether the PennEnviroScreen Tool will be realigned to this measurement.

Additionally, the MSC requests an explanation for the technical basis of establishing the 0.5-mile buffer threshold. Beyond simply wishing to have a buffer area, what is the substantive rationale for selecting 0.5-miles?

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Community-Based Organizations. To the extent that the Department and applicant are to work with Community-Based Organizations to facilitate enhanced outreach to residents regarding a proposed project, the MSC recommends that such organizations and their leadership actually be comprised of local residents from the community where the project is located. Otherwise, it is not difficult to imagine non-governmental organizations which are philosophically opposed to certain types of activities self-appointing themselves as representatives of a local community and using the imprimatur of their designation to advance an agenda which may not be aligned with the residents of the local community.

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Community Liaison. Similar to the comment on Community-Based Organizations, the MSC recommends that any designated community liaison be an actual resident of the community where the project is located.

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Cumulative Environmental Impacts. Neither within the definition nor elsewhere within the Policy does the Department explain how such impacts will be calculated or factored into the agency’s implementation of the Policy. The Department is urged to clarify these uncertainties and either provide specifics or remove the definition altogether.



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Environmental Justice Area (EJ Area). This definition includes the phrase “A geographic area characterized by increased pollution burden, **and sensitive or vulnerable populations based on demographic and environmental data.**” (Emphasis added).

As drafted, this definition states that EJ areas are defined by the presence of both an increased pollution burden and vulnerable populations. It is important to note that the terms “*increased pollution burden*” and “*vulnerable populations*” are not defined but should be.

Regardless of how these terms are defined, it is clear under the definition of EJ Areas that both criteria are to be met. The MSC agrees with this stipulation. However, it is clear from utilizing the PennEnviroScreen Tool that there are several occurrences where an EJ Area is met by meeting only one of these criteria. One of the most pronounced examples of this is in regions where the mere presence of unconventional gas wells⁹ catapults a census tract into an EJ Area.

As currently implemented (noting that the interim-final Policy is in effect as of September 16, 2023), the PennEnviroScreen Tool – utilized to calculate data inputs and visualize EJ Areas – is simply not consistent with the definition of EJ Area.

The MSC urges the Department to align its definition of EJ Area with its application within the PennEnviroScreen Tool by requiring that both criteria be met. The MSC further urges the Department to consider including definitions of “increased pollution burden” and “vulnerable populations” to the extent that these definitions are fundamental to the Policy’s application.

Finally, the MSC has significant concerns with the inclusion of unconventional natural gas wells as an “Environmental Effect” and will expand upon these concerns in its comments related to the Methodology Documentation and PennEnviroScreen Tool. But it bears observing: including the mere potential presence of a facility or feature in the calculation of what constitutes an EJ Area – when the existing presence of those facilities has not translated into actual environmental burdens borne out by the Department’s own data– simply is contrary to the inherent intent of any rational EJ Policy.

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Project. This definition reads as follows: “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.**” (Emphasis added).

⁹ While recognizing that “oil and gas” are often used interchangeably to refer to the industry, it bears noting that Pennsylvania only has unconventional natural gas wells. According to the Department’s data, out of over 13,000 spud unconventional wells, only one unconventional oil well has ever been spud in Pennsylvania. This unconventional well exclusively produces natural gas, indicating the filing may have been in error. The distinction regarding Pennsylvania as an exclusive unconventional natural gas state is important, as Pennsylvania’s experience is different from other states’ experiences where both oil and natural gas are produced from shale formations.

The second sentence of this paragraph, emphasized above, is a fair informational point for the awareness of residents. However, it does not appear to belong within a definition, whose purpose is to be precise in its meaning and use within the document. In addition, the use of the term “development” seems somewhat limiting when describing what might require a permit, authorization or approval from DEP. Finally, the definition is broad enough on its face to include minor changes to existing permits that require some level of PA DEP approval. The MSC recommends that the definition of Project be modified to read as follows:

“Project – A proposed activity which requires one or more permits, authorizations, or approvals from DEP. The term Project does not include approvals or authorizations for items that are considered minor changes under applicable statutes, regulations or Department policy and guidance.”

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Trigger Project. This definition reads, in part, as follows: “*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.*” (Emphasis added).

The MSC presumes that the phrase “located in EJ Areas” refers to the physical, fixed location of any surface activity for which Department authorization is sought, commonly recognized by utilization of either a physical street address or GPS coordinates. The PennEnviroScreen Tool also appears to be operated in a manner consistent with this presumption. The MSC recommends that this presumption be stated for applicant clarity both within this definition and on the PennEnviroScreen Tool website.

Section III Environmental Justice Area Criteria

The Department states its intent to regularly update the criteria used to evaluate EJ Areas. Given that these criteria – which are ultimately entered into the PennEnviroScreen Tool – are inextricably linked to the Policy, the MSC recommends that any such updates be opened to public comment. Doing so is not only consistent with the Department’s stated intent to be transparent in its work, but also allows for review and constructive feedback that may result in a better screening tool and ensure predictability for applicants.

Additionally, this section states, in part: “*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.*”

There are several concerns with this provision:



- The phrase “*provide the same or greater level of protection*” suggests that the EJ Policy is a component of environmental protection requirements. It is not. By the Department’s own statements, the purpose of the Policy is fundamentally about ensuring equity in the public engagement process and ensuring that communities have the tools, resources and information necessary to be both aware of projects within their community and to provide meaningful input in the Department’s decision-making process. Respectfully, it is not about permitting conditions or criteria, or statutory and regulatory requirements, that drive environmental protection. Federal and state statutes, and duly promulgated regulations, are the proper (and only) means of dictating standards to protect the environment.
- The phrase “*in order to satisfy the needs of the EJ Policy*” is both awkward phrasing and an inappropriate imposition of a regulatory obligation within a Policy. It is not the duty of a permit applicant to satisfy the “needs” of a Policy document. It seems clear that the term “needs” was substituted for “requirements” in order to avoid an overt regulatory obligation. Nonetheless, the practical implication is to impose a regulatory obligation upon an applicant seeking a permit or authorization from the Department. It seems clear that a permit reviewer will not regard an application which does not utilize the screening tool as being administratively complete.
- Furthermore, while the Department suggests that an applicant may propose an alternative method of calculating community environmental burden, the Policy states that the PennEnviroScreen Tool must be utilized “*until such time as alternative methods of considering community environmental burden are complete.*” Again, this is awkward phrasing. It is unclear what “*alternative methods...are complete*” means. It again appears that the Department is substituting the use of the term “complete” in place of “approved” to avoid an overt regulatory requirement. In doing so, it both creates confusion (what is meant by “complete”? Must the Department approve it? May an applicant simply submit it without review?) and it underscores that the Department intends to use this Policy to impose a regulatory obligation by requiring an applicant to utilize the screening tool. Read literally, if an applicant does not utilize the PennEnviroScreen Tool, it appears that the Department will regard the submitted application as not satisfying the “*needs of the EJ Policy*”. That is not appropriate.

With this in mind, the MSC strongly recommends that the following language be struck in its entirety:

~~*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.*~~

Additionally, and as expanded upon in the later comments regarding the PennEnviroScreen Tool, the Department is urged to outline how applicants as well as the public will be advised of changes to the criteria for determining EJ Areas and have an opportunity for input.

The Department is also urged to apply the EJ Areas that are in place at the time of application submission – rather than at the time of Administrative Completeness – since the Department can take months to make a determination on when an application is Administratively Complete. This delay is often due to the failure of the Department to enter an application into its internal review process. Applicants should not be expected to revise a permit or authorization application that they have submitted to the Department *after the fact* merely because the Department chose an inopportune time (in the eyes of the applicant) to revise its EJ Area criteria.

Section IV Proactive Community Outreach and Engagement

The MSC supports and encourages the Department’s outreach efforts to communities across the Commonwealth broadly. It is the responsibility of government agencies generally to be accessible to the communities and citizens that they serve.

This accessibility should not be limited to EJ communities. To the extent that the Department wishes to prioritize, or place added emphasis on outreach efforts to certain communities, that is certainly its prerogative. It is worth observing that PA DEP’s definition of a community under this Policy differs substantially from what most citizens regard as their “community.” Few residents are familiar with what census block group they reside in; even fewer (if any) residents actually relate to their census block group as their “community.” Many municipalities which may have a geographic area encompassing what PA DEP defines as an EJ community do not look at themselves through that lens. Should the Department develop a communications strategy for this outreach – as is suggested in the Policy – the Department is strongly urged to be mindful of how residents actually associate themselves with a sense of their community – and not simply rely upon how the Department has chosen to categorize them.

The MSC recommends that the Department also review and revise subsection (A)(5) for both readability and grammar. Additionally, a Department policy should not “strongly suggest” to itself what the Department ought to consider doing; it should lay out clearly what the Department intends to do.

Section V Enhanced Public Participation

Opt-In Projects ((V)(A)(2))

The Policy states the following:

“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.”



While the Policy became effective as interim-final upon publication in the *Pennsylvania Bulletin* on September 16, 2023, the MSC is unaware of the existence of the above-referenced Opt-In Project Request Form (Form). Recognizing that the Department states that the Form is not required to be utilized for consideration in designating a project as an Opt-In Project, it nonetheless would be helpful for the public to review and provide input on this Form as part of the public comment period.

Absent this opportunity, the MSC urges the Department to give careful consideration of who is eligible to request consideration of elevating a project to an Opt-In Project. At a minimum, it seems reasonable that the requestor be a resident of the census block group where the project is proposed. After all, the impetus for this Policy is to ensure residents *within EJ Areas* are fully informed and have the opportunity to engage in the public input process. It bears noting that since the inception of the EJ movement, some have attempted to use EJ to advance separate agendas, often advanced by people who have no genuine connection to disadvantaged communities. Using EJ in this manner or for other ulterior motives detracts from its laudable purposes, often to the detriment of the people it was designed to help.

It is not unreasonable for the Department to attach a residency stipulation to opt-in requests, be it through use of the Form or other means of requesting consideration for Opt-In status. The Department has limited resources and needs to be mindful that some entities which seek to oppose a project will attempt to request Opt-In status as part of their playbook of delaying a project. Why would they not? Environmental permitting in Pennsylvania is rife with examples of entities which harbor opposition to a particular project or activity utilizing any tools at their disposal not to elevate public engagement, but to delay project advancement.

It also seems reasonable for the Department to compel some level of articulation by the individual or entity requesting Opt-In status as to why the current process for public awareness, notice and engagement is insufficient. While it is undeniable that some projects do generate heightened public interest and concern, it is also undeniable that the Department has done a commendable job over the years in refining the public engagement and participation process for those particular permits. The issuance of an environmental justice policy does not represent the initiation of these efforts. Current permit review processes must be factored into the Department's consideration as to whether Opt-In status is warranted and the existing engagement process is insufficient. Applicants arguing that the current engagement process is insufficient should be able to demonstrate a modicum of understanding of what that process is.

Public Participation Strategy ((V)(B)(3)(i))

As the Department develops its public participation strategy for a Trigger or Opt-In permit application, it is imperative to bear in mind that many projects are on strict timelines and can be unduly impacted by unnecessary delays. These timelines may relate to the underlying business case for the project, to adherence to other related regulatory requirements (e.g., limitations on tree clearing), or to time-sensitive timelines driven by other approvals, including local or federal authorizations.



In addition, it is important to note that these additional authorizations (local or federal) are often accompanied by their own public input period. These opportunities should be recognized by the Department in their consideration of a public participation strategy and are consistent with the desire of the Department to take a wholistic, project-based approach to this Policy. The Department should also acknowledge, and share with community stakeholders, the limits on its own authority with respect to certain permit or authorization review, such as projects governed by the Natural Gas Act or other relevant federal statutes.

Separately, the Department is urged as part of its public participation strategy to manage expectations of the public regarding relevant factors in the Department's decision-making process. It is understandable that members of the public are often not well-versed in the existing statutory and regulatory requirements that govern a project and are intended to ensure that public health and the environment are protected. It is also understandable that members of the public may not be familiar with the criteria that the Department must consider regarding approving, denying or conditioning a permit application.

The Policy, and its incorporated public participation strategy, is a prime opportunity for the Department to educate all stakeholders on existing safeguards in place to protect public health and the environment. Likewise, informing stakeholders on what relevant and legally defensible criteria may be considered during a permit review will both manage the expectations of the public and provide direction on what relevant issues the public should focus upon during the comment period.

Failure to incorporate these opportunities may very well result in disillusioned stakeholders who feel that neither the Department nor the permit applicant are interested in their concerns, and who view the Department as powerless because a project they oppose is ultimately approved. These concerns seem justified by a cursory review of comments already submitted to eComment regarding the Policy, where residents question the effectiveness of a Department that will not simply deny a permit if enough residents oppose the underlying project. Cautioning residents that permit applications or authorizations are not public referendums seems prudent.

Pre-Application Meeting ((V)(B)(3)(ii))

As the Department encourages applicants to consider pre-application meetings, it is important for the Department to ensure that it is adequately staffed, able and willing to accommodate these requests. The MSC agrees that there can be value for all parties with pre-application meetings, but experience has shown that they are at times discouraged in practice.

Section VI Inspections, Compliance, and Enforcement

Prioritization of Competing Demands ((VI)(B)(1))

The second full paragraph of this subsection reads as follows:



“The Department plans to form a 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.”

This paragraph is a bit disjointed, and readers would benefit from the Department restructuring it to better understand the purpose and priorities of the Enforcement and Compliance Team.

Civil Penalty Calculations ((VI)(B)(2))

This subsection reads, in part, as follows:

“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 a violation caused the harm and the penalty amount fits within the statutory limits.”

The MSC agrees with the Department that it is constrained by statute regarding the amount of fines and the considerations that are to be taken into account when determining a financial penalty amount. However, it is unclear how specifically the Department proposes to implement this policy statement. To seek clarity, the MSC poses the following questions:

- 1) Is DEP proposing to assess a larger civil penalty for a violation that occurs within an EJ area than DEP would assess for a similar violation which occurred outside of an EJ area?
 - a. If so, by what ratio does the Department believe such a civil penalty should be enhanced?
- 2) Would an enhanced civil penalty within an EJ area only be applicable if the violator operated a facility that is covered by a Trigger Permit?
- 3) For purposes of an enhanced civil penalty, does the Department plan to apply this only for violations within the EJ area, but not within the Area of Concern (the 0.5-mile buffer surrounding an EJ area)?
- 4) What is the statutory authority for enhancing civil penalties based upon the violation’s geographic location within the Commonwealth?

Use of Civil Penalties ((VI)(B)(3))

The Department notes that under certain statutes, such as the Pennsylvania Air Pollution Control Act¹⁰, a portion of civil penalties are remitted to the municipality for projects generally related to environmental improvement and conservation.

The MSC certainly has no objection to a municipality spending any portion of civil penalties that it receives in the manner it deems appropriate. The law already lays out a process for the Department to notify the municipality’s governing body of the opportunity to allocate these civil penalties. However, it is unclear under this subsection what the phrase “*DEP will notify any relevant EJ community about the existence of this opportunity*” for the municipality to allocate resources actually means? Who is the Department notifying, beyond the governing body of the municipality? Perhaps the Department should simply urge the municipality itself to solicit public input on high priority projects to fund through any portion of civil penalties that they receive.

Community Environmental Projects ((VI)(B)(4))

The MSC draws the Department’s attention to the footnoted grammatical comment.¹¹

Section VII Community Development Investments, Brownfields, and Mitigation Practices

The MSC draws the Department’s attention to the footnoted grammatical comment.¹²

The MSC draws the Department’s attention to the footnoted grammatical comment.¹³

Mitigation Practices ((VII)(C))

Under this section, the Department encourages applicants for a permit or other authorization tied to a project located in an EJ Area 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.*”

It is unclear what weight or deference the Department intends to provide to voluntary mitigation measures. Its inclusion in the record of review suggests that the Department intends to rely upon such “voluntary” measures to defend its decision-making process should a permit or authorization be appealed. It is also not clear if the Department is suggesting the inverse: that failure of an applicant for a permit or authorization to include “voluntary” mitigation efforts in

¹⁰ For sake of accuracy, the MSC notes that the formal name of the Act is the “Air Pollution Control Act”.
<https://www.legis.state.pa.us/cfdocs/legis/LI/uconsCheck.cfm?txtType=HTM&yr=1959&sessInd=0&smthLwInd=0&act=787&chpt=0&sctn=1&subctn=0>

¹¹ In the 8th line of this subsection, the word “chose” should be “choose”.

¹² Subsection (A) should include the word “which” before the phrase “emphasize EJ” at the end of the first paragraph.

¹³ Subsection (C) should include the word “in” before the phrase “the project’s files” at the end of the paragraph.

their project application will be a factor in the Department’s decision-making process. However, this is a reasonable inference for an applicant to make. To do so seems wholly inappropriate.

Furthermore, the Department includes some examples of mitigation measures that it would presumably consider in its decision-making process. Regardless of whether they should be considered as part of an application decision, several of these appear to be reasonable mitigation measures (limiting hours of operation; sound barriers; open space or trail enhancements). However, the inclusion of “solar panels” seems wholly inappropriate and out of place here. The Department should be neutral and agnostic when it comes to administering the environmental laws of the Commonwealth. Every form of energy – including solar – has impacts. The Department should not be tipping its hand that it considers the installation of solar panels to be a preferable energy source – and by extension, other energy sources to be less desirable.

The job of the Department is to apply the laws of the Commonwealth (and federal government, when delegated) and to apply these laws fairly and without prejudice. Decisions on applications for permits or authorizations should be based upon the applicable law and duly promulgated standards applicable to the proposed project. A permit application either meets these standards – or it does not. Experience already demonstrates that those opposed to a project and likely to appeal the issuance of a permit or authorization do not care what compulsory mitigation measures an applicant might have incorporated into a project, let alone voluntary measures.

The Department is encouraged to delete this entire subsection (C). Any direction or guidance to permit applicants should be constrained to the actual permit application documents and accompanying instructions – not included as randomized subsections within a Policy focused on enhanced public engagement with environmental justice communities.

Section VIII Climate Initiatives

This section states:

“DEP will ensure climate-related initiatives consider and prioritize communities disproportionately impacted by climate change.”

Later, this section states:

“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...”

While the MSC defers to the Department as to how it seeks to drive out funding allocated for climate-related initiatives, the Department is cautioned that there is no record established which demonstrates that EJ Areas – by definition – have been or are disproportionately impacted by climate change impacts. In fact, as discussed above, there could not be such a correlation since each and every agency which defines an “environmental justice community” does so differently from others. It is entirely possible that communities which are “disproportionately impacted by



climate change” are in fact communities that do not exhibit the characteristics which PA DEP has ascribed to EJ Areas.

The Department should decide if its priority is directing climate-related investments to communities that the Department has classified as EJ Areas, or if its priority is to direct climate-related investments to those communities disproportionately impacted by climate change. However, while there no doubt may be overlap among these two distinctions, it is a false equivalency to simply presume that these communities are one in the same. They are not.

Section IX Policy Updates

The MSC supports efforts of the Department to review and update the Policy on a regular basis, and to include a formal public comment and engagement process for substantive updates.

Given that the PAEnviroScreen Tool is inextricably linked to the Policy and incorporates various factors that are calculated to determine which areas of the Commonwealth are designated as EJ areas, the MSC urges the Department to also conduct a formal public comment and engagement process for proposed revisions to the Tool as well. What the Department determines are or are not relevant criteria for consideration in the Tool would benefit from public review and input.

Lastly, this section states:

“In its public engagement, DEP will provide consideration to communities experiencing environmental injustice.”

While it is reasonably understood what the Department is getting at here, it is worth noting that the term “environmental injustice” is not defined. Presumably this could mean a community that is already designated as an EJ area, or an area that would shift to an EJ area under a revised definition. Regardless, since the Department presumably would be providing equal consideration to *all* relevant input from Pennsylvanians (which is the crux of “environmental justice”), this sentence really doesn’t serve a purpose and it is recommended that it simply be struck.

The gist of the Policy Update provisions would remain the same: the Department would conduct a formal input process and welcomes engagement from all stakeholders across Pennsylvania.

Appendix B Environmental Justice Area Criteria

80th Percentile

This section states the following:

*“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.”* (Emphasis added)¹⁴.

¹⁴ Appendix B (Environmental Justice Area Criteria) Page 23

While a somewhat minor detail, the MSC notes that the “*above 80*” provision referenced above is slightly different from the Methodology Document, which states that EJ Areas shall include block groups that are “*at or above the 80th percentile.*”¹⁵ (Emphasis added). The MSC urges the Department to clarify the exact threshold that constitutes an EJ Area.

Opt-In Projects Outside of EJ Areas

This section states the following:

“The Department can consider projects outside of EJ Areas as Opt-In Projects.”¹⁶

One of the essential elements of an effective public policy is providing clarity and consistency to those affected by the public policy. While some degree of flexibility within a public policy is often prudent, the Policy as drafted fails to provide clarity and consistency and takes the idea of providing flexibility to an untenable level.

As drafted, the Department is stating that any permit or authorization under its jurisdiction can be regarded as an EJ trigger permit for any projects located anywhere within the Commonwealth, even if that region is not an EJ area.

This discretion removes any level of certainty and predictability for all affected parties, including the regulated community, local residents and Department staff. For example, no guidance is offered on what the Department regards as “*identified community concerns*” or “*reasonably anticipated significant adverse community environmental burden*” that may cause the Department to opt-in a permit to be subject to the Policy. It is not uncommon for projects to often be opposed by residents who simply do not want it. It is not difficult to imagine the Department being inundated on a consistent basis with requests for any permit or authorization – located anywhere within the Commonwealth – to be considered under the Department’s EJ Policy.

The Department is encouraged to either remove this section in its entirety or clearly define the criteria that would justify elevating an opt-in permit to consideration under the Policy. The Department is further encouraged to clearly state that the Policy is only applicable to projects (be they Trigger Projects or Opt-In Projects) proposed within the final definition of an EJ area.

Designation of EJ Areas

The Department has established a complex scoring system which is difficult for the public to evaluate, much less determine whether appropriate weight is afforded to each of the data input points or whether the data points are appropriate for inclusion. With this in mind, the MSC offers the following comments for consideration:

¹⁵ Methodology Document (015-0501-003) Page 84 line 5

¹⁶ Appendix B (Environmental Justice Area Criteria) Page 23

- As currently constructed, with census block groups scoring within the 80th percentile, it stands to reason that 20% of all census block groups in Pennsylvania will always be designated as EJ Areas. This makes it difficult to gauge progress over time while also tacitly implying that some portions of the Commonwealth will always bear a disproportionate impact of environmental burdens.
- The census data utilized in the designation of EJ Areas is based upon the 2010 census. The rationale for why 2022 census data is not utilized is not well articulated in the Policy or accompanying Methodology Document.
- The MSC reiterates its comment from Section II (related to definitions) with respect to the definition of Environmental Justice Area. Specifically, the definition includes the phrase “A *geographic area characterized by increased pollution burden, **and** sensitive or vulnerable populations based on demographic and environmental data.*” It is clear from this definition that an EJ Area is to exhibit both of these criteria (increased pollution burden and the presence of sensitive or vulnerable populations). However, it is also clear that there are several, if not numerous, EJ Areas identified within the PennEnviroScreen Tool that are designated as EJ Areas but only meet one of these criteria. The MSC believes this is a fundamental disconnect between the definition of an EJ Area – which is a cornerstone of the Policy – and the actual implementation of the Policy as applied by the screening tool. The MSC believes that elements of both criteria should be met in order to designate an area as an EJ Area, and strongly urges the Department to revisit the PennEnviroScreen Tool to align its implementation with the definition of EJ Areas.
- The criteria entered into the PennEnviroScreen Tool leads to some intriguing outcomes; however, it is nearly impossible to understand how various data points are weighted to lead to these outcomes, or whether doing so is appropriate:
 - For example, a geographically-large census block group¹⁷ in the middle of Sproul State Forest – one of the most remote areas of the Commonwealth with little if any industrial activity – scores very high on the cancer percentile rankings, helping to elevate the census group tract into an EJ area. Yet, the overwhelming majority of the City of Philadelphia scores near the lowest percentile of cancer rankings in the state.
 - A census block group in Tioga County¹⁸ is designated an EJ area, with a final score percentile of 87%. The presence of unconventional wells, compressor stations, municipal waste and degraded streams from historic mining appear to be significant, determining factors in this designation. Meanwhile, the census block group scores among the lowest (best) percentiles with respect to actual environmental exposures, including ozone (5%), PM2.5 (1%), Diesel PM10 (1%) and Toxic Air Emissions (3%). Ironically, ‘traffic’ is also listed as a significant contributor to the final score (92%) – despite this census block group

¹⁷ Block Group ID 420350301002; West Keating, East Keating and Leidy townships, Clinton County

¹⁸ Block Group ID 421179505001; Sullivan, Ward and Hamilton townships, Tioga County

demonstrating one of the best air qualities of any region in the entire Commonwealth. Another significant contributor appears to be “toxic water emissions” related to non-regulated, historic mining activities. Ironically, a permit application from a Good Samaritan which sought to remediate this toxic discharge may very well be subjected to a stricter permit review process due to the EJ area designation.

- A census block group in remote Greene County¹⁹ is designated an EJ area largely due to the presence of conventional and unconventional wells, compressor stations and coal mining. Despite the presence of these facilities and physical assets, the region scores very favorably with respect to environmental exposures, with the lowest toxic water emissions score in the state (0%), extremely low particulate matter scores and favorable, below average ozone levels.

Ironically, the entirety of Ryerson Station State Park – one of the crown jewels of Pennsylvania’s state parks system – is located within the census block group and therefore designated an EJ area.

- Another geographically-large census block group in Greene County²⁰ – comprised of significant State Game Lands and hosting a population of approximately 1,200 people – is designated an EJ area due to the presence of conventional and unconventional wells, compressor stations, mining, and waste storage.

It is worth noting that the presence of municipal waste sites appears to be a significant contributor to several census block group’s final percentile scoring. The presence of these facilities is regarded as an environmental burden. Yet nowhere is there a recognition that the location of these facilities is heavily regulated by the Department (among other environmental and regulatory agencies) and that state law mandates that every county in the Commonwealth provide for its waste planning and disposal needs. These plans are reviewed and approved by local elected officials after extensive public input and facilities are permitted and inspected by state environmental officials after extensive public input and comment, including public hearings.

The issue of unconventional wells, compressor stations, and municipal waste facilities is emblematic of larger issues within the PennEnviroScreen tool: an asset or facility which serves a public purpose or meets a public need, is heavily regulated by the appropriate environmental officials, and ultimately finds itself in a location driven through a comprehensive public engagement process is simply characterized as an environmental burden, with no surrounding context as to its placement, and then utilized to advance a narrative that the local community has borne disproportionate environmental impacts and is therefore in need of enhanced protection from those seeking to impose these burdens upon them.

¹⁹ Block Group ID 420599704002; Richhill and Gray townships, Greene County

²⁰ Block Group ID 420599705024; Whitely Township and Fordyce, Greene County

Respectfully, it seems presumptuous to assume certain communities are disproportionately burdened while at the same time acknowledging that you do not know *which* communities are disproportionately burdened until the development of a unique, complex formula with a host of subjective inputs that Pennsylvanians are expected to simply accept as being equitable. It appears that a host of Pennsylvania communities are only finding out how poorly they have it because the Department is telling them it is so.

Appendix C

Public Participation Trigger Projects

The MSC agrees with the Department that oil and gas development and associated drilling permits should not be included in the listing of Trigger Projects. The rationale for not including drilling permits is similar to the comments on the Methodology Documentation contained later in this letter related to why existing unconventional natural gas sites should be removed from inclusion as an environmental burden. However, it is important to underscore several key points here.

Perhaps most importantly, because the oil and gas rights underlying land are most often held by private landowners, development of these rights only occurs with the consent of the property owner, who is more often than not also the surface landowner.²¹ It seems presumptuous to tell residents who have chosen to lease their property that they have had an environmental burden unfairly imposed upon them.

Moreover, another underlying premise of environmental justice is ensuring that residents are aware of proposed activity within their community, so that they have the ability to both be informed generally, but also to raise relevant and legitimate questions related to the proposed project. This criteria is already met under current operational necessities and regulatory requirements.

In addition to the primary point stressed above – that an unconventional well comes to be where it is in large respect through the consent of the property owner – the current permitting regime for unconventional wells is extremely comprehensive and robust, requiring substantial advance notifications to stakeholders. Consider the following notices required to be delivered by certified mail just for an unconventional well drilling permit:

- The surface owner.
- The lessor, if not the surface owner.
- The municipality where the well is proposed.
- Each municipality within 3,000 feet of the proposed well.
- Each municipality adjacent to the municipality where the well is proposed.
- All surface landowners and water purveyors within 3,000 feet of the proposed well.

²¹ Certain exemptions may apply to this general rule in situations where the oil and gas rights have been severed from the surface estate.

- The owner, lessee and operator of any coal seam required to be identified on the well permit application.

Additionally, operators must separately submit an Act 14 notification²² to both municipal and county government officials in advance of submitting an erosion and sediment control permit application, which is necessary for constructing the well pad and any access road development. Similar substantial notices are also required for associated midstream, transmission and processing facilities.

For all of these reasons, including unconventional well drilling permits within the list of Trigger Projects is in conflict with the Department's goals and objectives related to the Policy, syphons off limited Department staff and resources to apply the Policy to the Department's review of drilling permits, and fails to meet or achieve any articulated need. Those advancing a narrative that such permits ought to be included in the listing of Trigger Projects have demonstrated a general adversity to natural gas development, and ultimately seek to deprive their fellow citizens and neighbors of the right to development and enjoyment of their own property rights.

Public Participation Opt-In Projects

The Public Participation Opt-In Projects includes a non-exhaustive list of eleven (11) permits, authorizations or approvals which may, at the Department's discretion, be elevated to inclusion under the Policy. Recognizing that DEP may choose to elevate ANY permit, authorization or approval under its jurisdiction to coverage under the Policy, it is unclear why any examples are listed. It is particularly concerning that General Permits – which by definition are not intended to have unique, site-specific conditions attached to their issuance – are referenced within the Opt-In category. For example, there is no rationale reason why ESCGPs (erosion and sediment control general permits) related to unconventional oil and gas development are included. ESCGPs simply authorize earthmoving and prescribe standards to protect against water runoff and impacts to local wetlands or waterways. Many activities unrelated to unconventional oil and gas development must obtain permits to move earth.

The MSC questions why only one type of earthmoving permit is highlighted in the policy – not because of the activity it would authorize (earthmoving), but because of who has applied for it. This suggests that moving earth for purposes of oil and gas development is somehow more burdensome or impactful than moving earth for some other unrelated purpose. Furthermore, including such a basic permit among a litany of other, obviously highly impactful permits (sewage treatment plants, landfills, major sources of air pollution, etc.) implies to the local community that these examples of permits are somehow on par with each other. They are not, and DEP ought to remove any reference to General Permits and should not focus upon who the applicant is but rather the activity that is proposed to be undertaken.

To add clarity and predictability to the permitting process, for the benefit of applicants, Department staff, and community members, the catch-all provision that would allow any permit to be elevated to an Opt-In permit should be removed.

²² Act 14 of 1984, P.L. 75

**PA ENVIRONMENTAL JUSTICE MAPPING AND SCREENING TOOL
METHODOLOGY DOCUMENTATION 2023
(015-0501-003)**

REFERENCED STUDIES

The Pennsylvania Environmental Justice Mapping and Screening Tool Methodology Documentation 2023 document (Methodology Document) seems to provide background information to inform on how the Department included certain pollution burdens or environmental factors in the PennEnviroScreen Tool (Screening Tool).

With respect to “Oil and Gas – Unconventional Wells” (page 30-31), the Department’s rationale is offered with respect to the inclusion of unconventional wells within the Screening Tool. Rather than outlining a coherent rationale, this section merely includes references to a variety of studies that allege harmful activities related to unconventional wells.

Like many other studies, the ones referenced in the Methodology Document are long on association, and short on causation. In fact, none of the studies cited by the Department conclusively demonstrate a causation between the development or operation of unconventional wells and an adverse health or environmental outcome. The MSC discusses several specific studies below.

What is jarringly absent from this rationale is any reference whatsoever to the strict and comprehensive environmental protection regulatory requirements which are in place in Pennsylvania, and which the Department is charged with administering each day. It is disconcerting that a member of the public would read the Methodology Document, conclude that a host of ills emanate from the industry’s operations, and that nothing is done about it.

Certainly, any activity that operates unencumbered by regulatory requirements can have a negative impact on the environment or public health. But that is not the case with unconventional well development. Every step of the development, production, gathering and transportation process is highly regulated. All activities are covered under permits or associated regulatory requirements that pertain to earthmoving, stormwater management, waste management, protection of surface and groundwater supplies, air quality and other media, and subjected to perhaps the most rigorous inspection process of any industry in Pennsylvania. The Department is in a unique position to both understand this and, more importantly, to educate the public regarding this work.

It is concerning that the Department would accept on facial value a variety of studies – many of which utilize questionable methodologies and others which have been advanced by anti-American energy activists – as a rationale for including unconventional wells as a “Pollution Burden” worthy of including in the Screening Tool.



NUMBER OF UNCONVENTIONAL WELLS

While the MSC does not quibble with the Department’s estimation of the number of unconventional natural gas wells drilled in the state, it is unclear why the Methodology Document references the Pennsylvania Department of Health as its source. The Department should consult with its own Office of Oil and Gas Management for any data related to unconventional well activity within the Commonwealth, as the Office of Oil and Gas Management maintains a comprehensive GIS website and associated well permitting and drilling databases.²³

HYDRAULIC FRACTURING DISCLOSURE

The Methodology Document states²⁴ the following:

“Many chemical compounds used in the hydraulic fracturing process are unknown or understudied, making it difficult to full assess the public health risks.”

Respectfully, this is an absurd and factually inaccurate statement. This sentence demonstrates that we have one office within the Department of Environmental Protection justifying the inclusion of unconventional wells as a “pollution burden” in part because it does not know the “chemical compounds used in the hydraulic fracturing process.” Yet, another office within the same state agency knows exactly what is in the chemical compounds used in the hydraulic fracturing process – because it collects this data on a routine basis as disclosure of these materials is required by law. The Office of Environmental Justice is urged to familiarize itself with this information, which is readily available on the Department’s own website.²⁵

Indeed, the Department should be well acquainted that additives used in the hydraulic fracturing process have been required to be disclosed for over a decade. Act 13 of 2012 codified and strengthened regulatory requirements for disclosure which were promulgated in 25 PaCode Chapter 78 early in 2011. Act 13 requires two separate disclosures²⁶, both available to the general public through either the Department’s own publicly accessible website or Frac Focus (www.fracfocus.org). And while state and federal law protect the public disclosure of certain additive formulas, regulatory and public health staff have access to all of this information.

It is important to note that many of the compounds utilized in the hydraulic fracturing process – which is a relatively brief duration of time during the development phase of a well’s life – are common additives found in products used in our daily lives each day. The use of these additives is not unique to the hydraulic fracturing process, as they can have multiple societal purposes. As with any such product, it should be used as intended and directed.

²³ <https://www.dep.pa.gov/DataandTools/Reports/Oil%20and%20Gas%20Reports/Pages/default.aspx>

²⁴ Methodology Document (Pg. 30):

<https://files.dep.state.pa.us/PublicParticipation/Office%20of%20Environmental%20Advocacy/EnvAdvocacyPortalFiles/2023/015-0501-003-InterimFinal.pdf>

²⁵ <https://www.ahs.dep.pa.gov/eSubmissionPublicSearch/> - choose “Completion Report (Unconventional Well)”

²⁶ 58 Pa.C.S. §3222 (relating to well reporting requirements) and 58 Pa.C.S. §3222.1 (relating to hydraulic fracturing chemical disclosure requirements)



The suggestion that these compounds are understudied is not supported by any evidence within the Methodology Document. For example, at least four commonly utilized hydraulic fracturing additives are also utilized in the COVID-19 vaccine developed by Moderna²⁷. It is fair to presume that these additives – and many others – have undergone extensive study.

It is concerning that the Department includes such sweeping statements as referenced at the beginning of this subsection and asserts it as evidence to justify the inclusion of unconventional wells as a “pollution burden”, rather than itself looking inward for the information and context offered here.

HOSPITAL UTILIZATION RATES

The Methodology Document states the following:

“In Pennsylvania, unconventional oil and gas drilling has been associated with increased hospital utilization rates in areas with a high density of wells.”

This statement and its broad conclusions are attributed to a study released in 2015 by researchers from the University of Pennsylvania and Columbia University.²⁸ A close examination of the actual data from this study does not support this assertion, and in fact counters many of the conclusions offered by the researchers and given credence by the Department in the Methodology Document.

Consider the following key facts as identified in an analysis of the study authored by Energy-in-Depth²⁹:

- This study looked at hospital utilization rates in three counties in northeastern Pennsylvania: Bradford, Susquehanna and Wayne counties. Yet the county with the highest number of wells, and the highest density of wells (Bradford) actually had the lowest overall inpatient occurrence of the three counties.
- Hospital utilization rates remained stable, and in some instances, actually *declined* within the study counties during the study period (2007 – 2011).
- Of the counties studied, Wayne County had the highest hospital utilization rate. Yet, due to a moratorium upon natural gas development, **Wayne County has no unconventional wells.**

²⁷ Comparison of ingredients from Moderna vaccine fact sheet as produced by the U.S. Food and Drug Administration and chemical registries maintained by PA Department of Environmental Protection and FracFocus.org

²⁸ Unconventional Gas and Oil Drilling is Associated with Increased Hospital Utilization Rates (Jemielita et. al. Published July 15, 2015)

²⁹ Five Facts to Know About a New Pennsylvania Fracking and Health Study (Energy-in-Depth Published July 16, 2015) <https://www.energyindepth.org/five-facts-to-know-about-a-new-pennsylvania-fracking-and-health-study/?160>

This bears repeating: a study, relied upon by the Department to demonstrate that unconventional drilling has been associated with increased hospital utilization rates, actually found that a county with **no** unconventional drilling or development had a higher hospital utilization rate than two counties (Bradford and Susquehanna) that are among the most heavily drilled counties in the state, both today and in 2011.

- The study contradicts other studies, as well as the experience of public health experts, within the region. As stated by Dr. Theodore Them, then the Chief of Occupational and Environmental Medicine for the Guthrie Health System in Bradford County, studies such as this one often exclude confounders that may contribute to hospital utilization rates, such as smoking, drinking and drug use habits that “*never get accounted for in these studies and cause people to come to the wrong conclusions.*”
- The study was authored by at least one researcher who is an avowed anti-natural gas activist, including writing blogs for an organization (Protecting Our Waters) that states its mission is, in part, “*to stop fracking.*”

AIR QUALITY

Wilde Study

The Methodology Document states the following:

“Research has found that air quality around unconventional well pads is often worse, particularly during the pre-operational phase.”

This statement is attributed to a study released in 2022 from researchers with the University of York in the United Kingdom.³⁰

Frankly, it is bewildering that the Department would look at a study from Europe that examined pre-operational work at one well pad (which ultimately was never drilled) when significant data and information is available right here in Pennsylvania. It is also nearly impossible to compare an experience in a foreign country with the experience in Pennsylvania since there is no legitimate baseline of comparison for what operational or regulatory standards each are subject to meeting.

In Pennsylvania, air quality issues for unconventional wells are regulated through either criteria attached to the Department’s Air Permit Exemption List, or through acquiring and adhering to a general permit (GP-5A). What, if any, regulatory standards are applicable in the United Kingdom is unknown, but it is fair to presume that the United Kingdom has not developed a mature and comprehensive regulatory regime like Pennsylvania has due to the Commonwealth’s nearly two decades of experience with unconventional well development.

³⁰ The Air Quality Impacts of Pre-Operational Hydraulic Fracturing Activities (Wilde et. al. Published February 1, 2023)

There are other aspects of the University of York study worth observing. While recognizing that the hydraulic fracturing process is of relatively brief duration, the authors assert that in the United States, it is common to develop multi-well pads (10-20 wells) and put all of those wells into production at the same time. This assertion is then used to justify the statement that “*pre-operational emissions would be expected to occur for a significant proportion of the entire extraction process and are thus important to consider.*” This is an utterly absurd assumption to make, given that the extraction process for an individual well is anticipated to be several decades. The pace and duration of pre-operational activity, and thus associated emissions, on a well pad simply is not as the University of York researchers reflect it to be.

And finally, with respect to the one well pad evaluated for this study, even the authors recognized that their findings were influenced by the unique and significant public attention paid to the pad’s development. The authors’ findings with respect to air emissions were, in part, exacerbated by idling vehicles from protesters, high levels of police presence, and heightened media interest.³¹ The irony should not be lost that one of the contributing factors to poorer air quality at the site in the United Kingdom was from those protesting the potential environmental impact of shale gas development.

It is concerning that Department staff saw value or application of the Wilde et. al. study to operations in Pennsylvania. This study should be dismissed in its entirety for the reasons outlined above and the Department should defer to empirical data from Pennsylvania operations which demonstrate no adverse local air quality impacts, as discussed below.

Pennsylvania Studies

There are several air quality studies related to Pennsylvania’s experience with shale gas development that are much more relevant and worthy of consideration by the Department.

A long-term study and data collection effort which examined all phases of well development, from pad construction to well production, conducted in proximity to a school campus in Washington County, Pennsylvania showed that “*measured fine particulate matter and VOC concentrations were consistently below health-based air comparison values and thus are not expected to pose acute or chronic health concerns.*”³² This study was peer-reviewed and published in the Journal of Exposure Science and Environmental Epidemiology in February 2021.³³

Data collected over a two-and-a-half-year period (July 2019 – December 2021) at another site in Washington County was subject to an independent analysis to determine what, if any, impact occurred to ambient air quality near a shale gas well. The independent analysis determined that

³¹ “...traffic volume due to delivery trucks increased along with additional idling vehicles in close vicinity to the site from protest activities as well as a high volume of policing and media interest.” (Wilde et. al. – 1.1 UK Context)

³² Public Health Evaluation of Ambient Air Near a Shale gas Well Site and School Campus.
https://www.rangeresources.com/wp-content/uploads/2021/10/Fact_Sheet.pdf (May 2019)

³³ “Health-based evaluation of ambient air measurements of PM 2.5 and volatile organic compounds near a Marcellus Shale unconventional natural gas well pad site and a school campus.”
<https://www.nature.com/articles/s41370-021-00298-5> (February 2021)

the data “*does not indicate that Augustine well pad air emissions contributed to elevated increases in long-term average concentrations of potential health concern for either particulate matter (PM 2.5) or the measure volatile organic compound species.*”³⁴

Finally, the Department has access to a host of additional information gathered from its own short-term and long-term air quality studies related to unconventional natural gas development. Additionally, many operators submit extensive monitoring and air quality data directly to the Department’s Bureau of Air Quality.

Given the shortcomings identified in the United Kingdom study relied upon by the Department, and the availability of more scientific and relevant study information related to development activity here in Pennsylvania, the MSC believes that – taken together – this information further supports the recommendation to remove the presences of unconventional wells as “Environmental Effects Indicators” in the PAEnviroScreen Tool. The MSC further discussed this below in its Conclusion.

80TH PERCENTILE

The MSC draws the Department’s attention to its prior comment on Appendix B, and the need for clarity regarding the exact percentile threshold which constitutes an EJ Area.

HOW DID THAT WELL GET THERE?

An underlying premise of addressing issues faced by EJ communities is that EJ communities bear a disproportionate burden of facilities located against the will of local residents.

While recognizing that there are a host of factors which influence where facilities are located – most notably local geography and local zoning regulations which are both beyond the control of either the state or permit applicant – the location of natural gas wells is unique among the environmental effects indicators identified by the Department to determine what constitutes an EJ Area.

Importantly, because the oil and gas rights underlying land are most often held by private landowners, development of these rights through construction of a well only occurs with the consent of the property owner, who is more often than not also the surface landowner.³⁵ It seems presumptuous to tell residents who have chosen to lease their property that they have had an environmental burden unfairly imposed upon them.

Moreover, another underlying premise of environmental justice is ensuring that residents are aware of proposed activity within their community, so that they have the ability to both be

³⁴ Range Publishes Public Health Evaluation of Ambient Air Nearby to a Shale Gas Well Site (Augustine Well Site). <https://www.nature.com/articles/s41370-021-00298-5> (Updated February 2023)

³⁵ Certain exceptions may apply to this general rule in situations where the oil and gas rights have been severed from the surface estate.

informed generally, but also to raise relevant and legitimate questions related to the proposed project.

In addition to the primary point stressed above – that an unconventional well comes to be where it is in large respect through the consent of the property owner – the current permitting regime for unconventional wells is extremely comprehensive and robust, requiring substantial advance notifications to the community. Consider the following notices required to be delivered by certified mail just for an unconventional well drilling permit:

- The surface owner.
- The lessor, if not the surface owner.
- The municipality where the well is proposed.
- Each municipality within 3,000 feet of the proposed well.
- Each municipality adjacent to the municipality where the well is proposed.
- All surface landowners and water purveyors within 3,000 feet of the proposed well.
- The owner, lessee and operator of any coal seam required to be identified on the well permit application.

Additionally, operators must separately submit an Act 14 notification³⁶ to both municipal and county government officials in advance of submitting an erosion and sediment control permit application, which is necessary for constructing the well pad and any access road development. Similar substantial notices are also required for associated midstream, transmission and processing facilities.

Included with these notices is information on accessing relevant documents, points of contact, timelines and other pertinent material. It is difficult to fathom that the intent of environmental justice – robust community awareness and opportunity for engagement – is not already being realized with respect to unconventional natural gas development. And while recognizing that unconventional well permits themselves are not default trigger project permits (though they can be opted-in), the MSC and industry’s objection remains as to the inclusion of unconventional wells and assets as ‘environmental burdens’ for purposes of calculating an EJ area.

POTENTIAL FOR POLLUTION

Beyond the studies cited in the methodology document, the MSC understands that the Department has included unconventional wells as “pollution burdens” in its formula for determining EJ areas because of the potential for pollution that exists on site. It is important to note that potential for pollution is mitigated significantly by regulatory requirements designed to protect air, water, and land resources as well as public health.

However, if the Department still relies upon the concept of potential for pollution as justification for including unconventional wells in its formula matrix, it stands to reason that the Department should include a host of other facilities as well. There is no rational reason for only including such a limited subset of facilities in the EJ area formulation.

³⁶ Act 14 of 1984, P.L. 75

For example, under the Department’s rationale the following facilities would seem to also possess a “potential for pollution”:

- Underground storage tanks, including vehicle and aviation fuel
- Septic tanks
- Sanitary sewer lines
- Wastewater treatment plants
- Concentrated Animal Feeding Operations
- Storage of material containing PFAS (i.e. fire suppression foams)
- Fertilizer storage facilities
- Milk storage/transport (feeds growth of bacteria; renders potable water undrinkable)
- Asphalt plants
- Dry cleaners (solvent tanks)

To be clear, the MSC is not suggesting that these facilities bear a potential for pollution that warrants inclusion in the Department’s EJ area formula. However, the MSC strongly objects to a Policy which irrationally differentiates between facilities and includes unconventional wells and compressor stations but excludes other facilities that possess a similar or even greater potential to pollute.

With respect to unconventional wells, it bears noting that there is a significant difference between an active well site, which may be undergoing land clearing, pad construction, active well drilling, or completion and a producing well site. Even if the Department ascribes to the potential for pollution rationale, it should at a minimum make a distinction between a site with activity related to bringing new wells online compared with producing sites devoid of the equipment, supplies, personnel and activities associated with new well development.

CONCLUSION – METHODOLOGY DOCUMENT

The inclusion of the various studies in the Methodology Document, and the credibility extended to them by the Department, are both extremely troubling. If anything, several of these studies argue *against* the Department’s inclusion of unconventional wells as a “Pollution Burden”.

The MSC strongly urges the Department to remove the presence of unconventional wells, compressor stations and related facilities as Environmental Effects Indicators within the PAEnviroScreen Tool. Categorizing these facilities and assets as ‘environmental burdens’ is not accurate, unfairly suggests that there are insufficient protective standards in place to protect the environment and public health and sends a concerning signal to those contemplating capital investment in Pennsylvania as to how this activity is regarded.

The MSC strongly urges the Department to take a more critical role in evaluating public health impact studies related to the unconventional natural gas industry, and not merely accept what too often are misplaced conclusions at face value. The Department has stated, on more than one occasion, that it will be guided by science. We urge the Department to do just that.



PENNENVIROSCREEN TOOL

ACKNOWLEDGEMENT THAT USE OF PENNENVIROSCREEN TOOL IS NOT LEGALLY REQUIRED

While included in the Disclaimer comments, for ease of reference the MSC restates the following comment since it applies to the PennEnviroScreen Tool:

The Department is urged to state explicitly in the Policy, and on its environmental justice website, that no applicant is legally required to utilize the Policy or the associated PennEnviroScreen Tool, and that failure to utilize either will not negatively impact review or consideration of the permit application or authorization request.

Given past experience with both field personnel and permit review staff, the MSC believes an explicit statement is essential to provide clear guidance to both Department staff and applicants.

It bears emphasizing: this request is intended to reflect the proper and legal distinction between a statutory or regulatory requirement and a Department policy. The request does not imply or infer that the MSC and its member companies do not take seriously the obligation to engage with the citizens of the communities in which they operate. Indeed, the industry is proud of the fact that its customary practices routinely exceed any mandatory engagement that might be required under either federal, state or local laws or ordinances. However, it is concerning that the Department may view failure to voluntarily utilize a tool it has developed – which the comments herein outline as having significant flaws in need of rectification – as a failure to be a good, corporate citizen.

The Department can rectify this concern through an explicit statement as requested, coupled with guidance and proper training of Department staff.

DISTRIBUTION OF ENVIRONMENTAL JUSTICE AREAS ACROSS PENNSYLVANIA

While recognizing that the intent of identifying EJ areas was not to distribute such designations proportionately across the Commonwealth, it does bear noting that the current EJ area designations disproportionately impact southwestern Pennsylvania³⁷.

According to an MSC member company analysis, 6% of land outside of southwestern Pennsylvania is designated an EJ area, while 17.3% of land in southwestern Pennsylvania is designated an EJ area. In total, over 40% of all EJ areas are found in southwestern Pennsylvania despite these counties comprising less than 19% of the state's land mass.

The following chart³⁸ shows the total land area of select counties and their proportion of EJ areas compared to the balance of the Commonwealth:

³⁷ For purposes of these comments, southwestern Pennsylvania includes the counties of Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Fayette, Greene, Indiana, Somerset, Washington and Westmoreland.

³⁸ MSC Member Company Analysis

Area (county)	Total Land Area (sq miles)	EJ Areas (sq miles)	Percent EJ Areas
Pennsylvania	79,358	6,429.2	8.1%
Non-Southwest PA	64,420	3,846	6.0%
Southwest PA	14,938	2,583	17.3%
Allegheny County	1,287	264.5	20.5%
Armstrong County	1,160	520.9	44.9%
Beaver County	773	80.3	10.4%
Blair County	912	6.7	0.7%
Butler County	1,394	144.3	10.4%
Cambria County	1,201	89.5	7.5%
Fayette County	1,359	210.3	15.5%
Greene County	981.9	283.2	28.8%
Indiana County	1,451	452.4	31.2%
Somerset County	1,159	1.5	0.1%
Washington County	1,477	176.1	11.9%
Westmoreland County	1,784	353.4	19.8%

These designations and calculations of total land area include the one-half mile Area of Concern buffer area since these areas are de facto EJ areas.

Examining the distribution of EJ areas across the Commonwealth may be instructive in evaluating whether the list of inputs (health concerns; demographic information; environmental effects) into the screening tool are appropriate or should be revisited. The MSC reiterates its comments related to “Potential for Pollution” found on page 25.

INCLUSION OF LAND REMEDIATION AND ACT 2 (BROWNFIELD REDEVELOPMENT) SITES

The PennEnviroScreen Tool includes among its Environmental Effects criteria certain sites undergoing land remediation, including Act 2³⁹ sites. It seems counterintuitive to include as “environmental burdens” those sites which have gone or are undergoing remediation to standards that ensure appropriate levels of public health and environmental protection for the intended use of the site. While the intent may be to only include those sites which are under active remediation and have yet to achieve the intended standards, past and current practice has demonstrated that it is nearly impossible to have the Department update its Act 2 site database in a timely and accurate manner. As a result, sites which have successfully undergone remediation – and which ought to be celebrated and acknowledged for their environmental progress – will instead end up contributing to a census block group’s score and help elevate such an area closer to an EJ Area designation.

It is not sufficient to simply state that the Department will endeavor to keep the Act 2 database up to date. Moreover, because of the opaqueness of the PennEnviroScreen Tool, an applicant for

³⁹ The Land Recycling and Environmental Remediation Standards Act (Act 2 of 1995)

a Department permit or authorization will be unable to see if the inclusion of specific land sites – which have been successfully remediated – has contributed to an EJ Area score, and therefore will be unable to bring this specific matter to the attention of the Department.

COMPARISON TO OTHER ENVIRONMENTAL JUSTICE SCREENING TOOLS

It is important to observe that a multitude of other regulatory agencies as the federal level have developed mapping screening tools of their own related to environmental justice community.⁴⁰

Among these other agencies are:

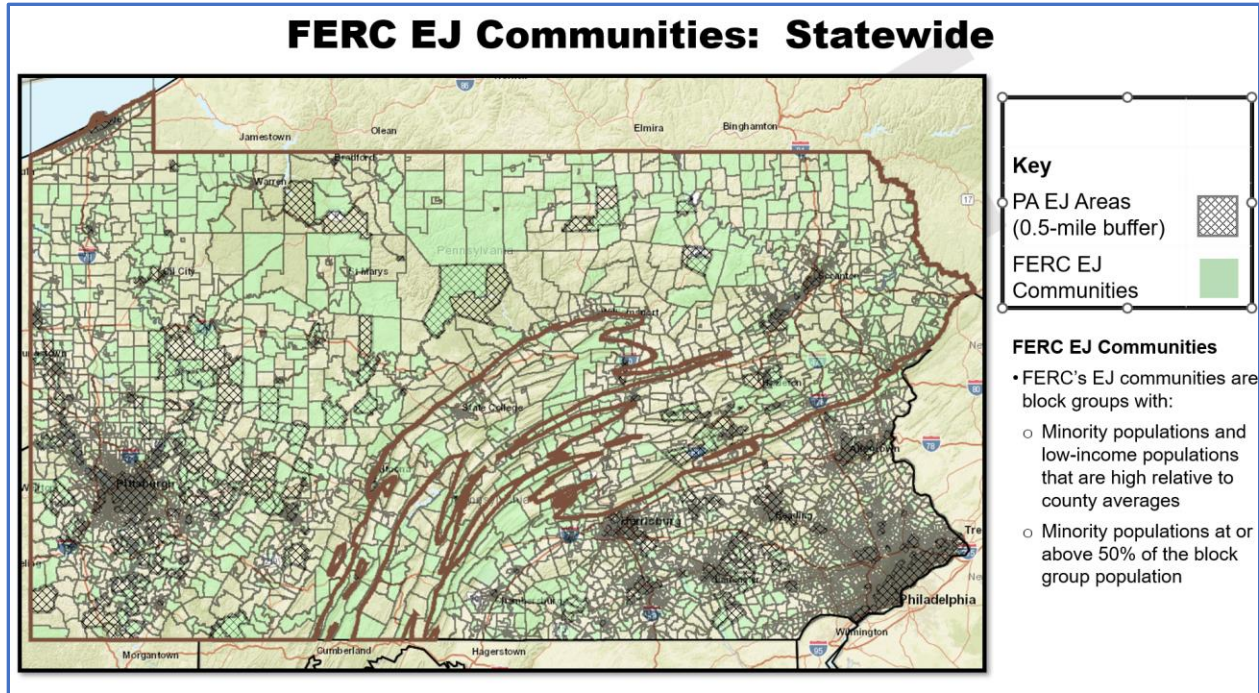
- U.S. Environmental Protection Agency
- U.S. Centers for Disease Control and Prevention
- U.S. Department of Energy
- Federal Energy Regulatory Commission
- White House Council on Environmental Quality

While some of these screening tools are utilized for permitting processes or assessment of compliance penalties – as the Department’s EJ Policy is intended – others also serve to inform policymakers on future policy decisions, which is also in alignment with DEP’s EJ Policy.

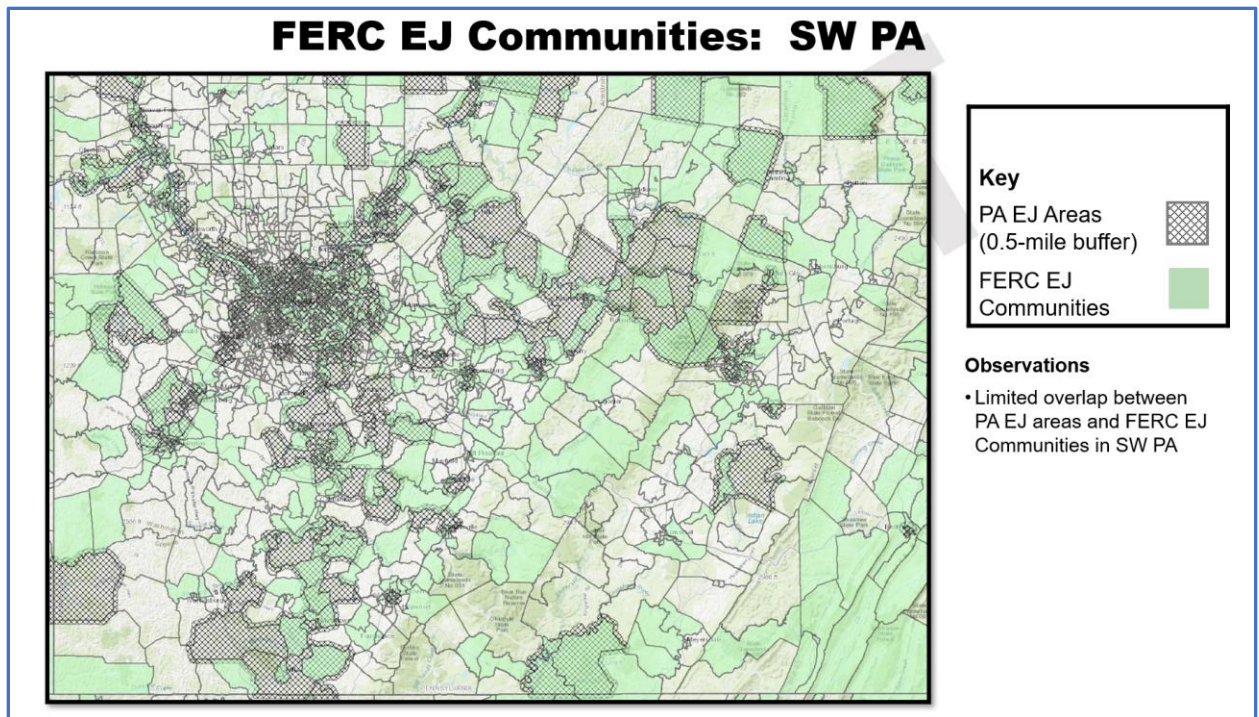
There is often little symmetry between the various definitions and criteria used by these multitude of agencies, and the resulting screening tool maps that the criteria generate. For example, consider the following map⁴¹ which overlays the PA DEP EJ Areas with those of the Federal Energy Regulatory Commission (FERC):

⁴⁰ While recognizing that different agencies utilize different terms, such as Environmental Justice, Disadvantaged Communities, Areas of Concern, Environmental Justice Indexes and other monikers, for ease of these comments, the term “environmental justice communities” is used in a broad, generalized manner.

⁴¹ MSC Member Company Analysis



When examining this map closer for an analysis of southwestern Pennsylvania, it becomes clear again that there is limited overlap between what PA DEP regards as an EJ Area, and what FERC regards as an EJ area:



This comparison seems apt, as many linear infrastructure projects (i.e., interstate pipelines, electric transmission) that are FERC regulated would in most cases also be required to obtain state environmental permits.

Additionally, applicants' concerns with the Department's screening tool, and the opt-in process, are heavily informed by their experience with other agencies' own EJ processes. For example, FERC has implemented an Equity Action Plan⁴² as part of its environmental justice initiatives and requires applicants to determine whether a proposed project is located within an "Area of Concern". Projects within Areas of Concern are expected to undertake a variety of additional outreach to various community stakeholder organizations under the guise of environmental justice, even if robust community outreach and engagement was already incorporated into the FERC project approval process.

Yet, there are instances where FERC has ignored the determination that a project is outside of a designated Area of Concern and insisted that a project applicant undertake a host of additional outreach under the auspices of environmental justice. Consider an applicant – outside of a designated Area of Concern – who was informed⁴³ that they are to undertake the following:

28. Provide an expanded project mailing list that includes addresses for environmental justice stakeholders who may be interested in the project, including but not limited to: civic associations; minority business associations; environmental and environmental justice organizations; legal aid providers; homeowners', tenants', and neighborhood watch groups; rural cooperatives; business and trade organizations; community and social service organizations; universities, colleges, vocational and other schools; labor organizations; civil rights organizations; local schools and libraries; senior citizens' groups; public health agencies and clinics; religious organizations; and other places where people gather in the community.

29. Describe public outreach efforts conducted for environmental justice communities. For example, provide:

a. a list of environmental justice stakeholders (e.g. : civic associations; minority business associations; environmental and environmental justice organizations; legal aid providers; homeowners', tenants', and neighborhood watch groups; rural cooperatives; business and trade organizations; community and social service organizations; universities, colleges, vocational and other schools; labor organizations; civil rights organizations; local schools and libraries; senior citizens' groups; public health agencies and clinics; religious organizations; and other places where people gather in the community) contacted;

b. a summary of outreach conducted prior to filing the application (include the date, time, and location of any public meetings);

⁴² FERC Equity Action Plan overview: <https://www.ferc.gov/equity>

⁴³ Request to project applicant was November 2023

- c. a summary of key issues identified by community organizations or groups; and*
- d. planned future outreach activities (e.g., project notifications via mail or providing notices and project materials at frequently visited community locations).*

The non-exclusive list of entities to be identified and contacted included in paragraph (28) of FERC’s request is, to put it mildly, absurd. In addition to applying its environmental justice Equity Action Plan to all areas – rather than those designated in some manner as disadvantaged – the litany of stakeholders expected to be identified is simply overwhelming, costly, time consuming, and done without any justification as to why current outreach efforts (unrelated specifically to “environmental justice”) are insufficient.

While FERC’s process is not the Department’s, it is understandable that permit applicants are wary that the Department’s policy will evolve in a similar manner. It also underscores the necessity for the Department to consider the entirety of a proposed projects’ outreach efforts when determining if any additional outreach steps are appropriate. If it is appropriate to consider the cumulative environmental impacts of a proposed project, it seems appropriate to consider the cumulative public outreach and engagement efforts attached to a proposed project as well.

Conclusion

The MSC appreciates your review and consideration of these comments and welcomes the opportunity to discuss them in greater detail with the Department. As shared above, and put into practice each day, our member companies – representing the entire spectrum of natural gas development, transportation and utilization – value their engagement with the communities in which they operate. After all, these communities are more likely than not the same communities in which our industry’s employees live and raise their families.

Sincerely,



David E. Callahan
President

cc: Akbar Hossain, Secretary of Policy and Planning
Office of the Governor
Fernando Trevino, Special Deputy Secretary
Office of Environmental Justice
The Honorable Cindy Adams Dunn, Secretary
Department of Conservation and Natural Resources
Kurt Klappkowski, Deputy Secretary
Office of Oil and Gas Management
Ben Kirshner, Chief Transformation Office
Governor’s Office of Opportunity and Transformation

