



April 2, 2025

The Honorable Greg Vitali, Chairman  
House Environmental & Natural  
Resource Protection Committee  
30 East Wing  
Harrisburg, PA 17120

The Honorable Jack Rader, Republican Chairman  
House Environmental & Natural  
Resource Protection Committee  
423 Irvis Office Building  
Harrisburg, PA 17120

Dear Chairman Vitali and Chairman Rader:

The Marcellus Shale Coalition (MSC) represents the operators, professional service firms, skilled building trades and supply chain companies engaged in safely and responsibly developing Pennsylvania's unconventional natural gas resources. On behalf of the MSC, I write to express our concerns regarding House Bill 109, which is slated for Committee consideration on April 7<sup>th</sup>.

House Bill 109 seeks to impose conditions on certain permits for facilities to be located in designated environmental justice areas. While mindful of and sensitive to the importance of working with residents in any area of the Commonwealth that our member companies do business, as currently drafted House Bill 109 creates significant ambiguity and confusion for permit applicants, lengthens the permitting process at a time that Governor Shapiro and the General Assembly are working to enhance permit predictability, and provides nearly unfettered discretion to the Department of Environmental Protection (PA DEP) to implement this act.

With these overarching concerns in mind, the MSC also offers the following specific concerns for the Committee's consideration:

- The definition of "environmental justice area" references a geographic area characterized by both an increased pollution burden and vulnerable populations. However, PA DEP's implementation of its own environmental justice policy to date – despite similar constraints – includes geographic areas that meet *either* the pollution or population description, rather than both.
- Section 4303 of the bill defers entirely to PA DEP to both identify the method of designating environmental justice areas and the actual designation of said areas. No constraints are offered to guide the Department in this process, to provide for legislative or public review of the method or designation, or to provide any continuity between state-designated environmental justice areas and others that the regulated community must currently navigate. For example, the U.S. Environmental Protection Agency, Federal Energy Regulatory Commission and other federal agencies have designated environmental justice areas which currently have little if any similarity to the PA DEP's current designated environmental justice areas.

- Similar concerns to the above were shared with PA DEP during the public comment period of the Department's interim-final environmental justice policy. Despite receiving this public input and detailed concerns, the Department has yet to revise its environmental justice policy to address any of these concerns nearly 500 days after the close of the comment period. It is unclear how the Department is anticipated to be able to implement this proposed Act when it has struggled to implement its own policy
- Section 4304(b) states that PA DEP may not issue a permit decision until at least 60 days after a public hearing. This date is arbitrary with no rationale offered and simply ensures that permit decisions will be further delayed at a time that policymakers ought to be focused on increasing the Commonwealth's competitiveness.
- Section 4304 (d) authorizes the Clerk of a municipality which is in an environmental justice area to recommend conditions to PA DEP on the pending permit. There is no rationale for authorizing an unelected municipal official with little if any environmental expertise to recommend conditions on a state-issued permit. Furthermore, the requirement for PA DEP to justify its response to the recommended conditions and publishing said response in the *Pennsylvania Bulletin* is entirely unnecessary. PA DEP – not municipal employees – are charged with administering the state environmental laws of the Commonwealth.
- Section 4305 states that *"The Department and Environmental Quality Board shall adopt and promulgate rules and regulations to implement this chapter."*
  - It is unclear if the method of designating environmental justice areas and the actual designation of said areas are required to be promulgated by regulation.
  - We are unaware of other instances when both "the Department and Environmental Quality Board" are charged with promulgating regulations, or how such a process would work. Typically, the Environmental Quality Board is charged with promulgating regulations under state environmental laws.

Thank you for your consideration of these comments. Should you have any questions, please do not hesitate to reach out.

Sincerely,



Patrick Henderson  
Vice President

Government Affairs & Communications

