



November 30, 2023

On behalf of the undersigned members of the Choose Clean Water Coalition and the Coalition for the Delaware River Watershed, we respectfully submit the following comments for your consideration as the PA Department of Environmental Protection (Department) continues to review its Environmental Justice (EJ) Policy. We are commenting on three issues with the current policy - 1) the Department's inability to enforce the Environmental Justice Policy and the subsequent need for its codification, 2) the need for the Department to actively protect EJ communities and not just inform (or be informed by) them, and 3) the need for the Department to more effectively address cumulative impacts.

Together the Choose Clean Water Coalition and the Coalition for the Delaware River Watershed harness the collective power of more than 350 organizations across two watersheds to advocate for healthy rivers and streams. For years, we have advocated for the codification of the Office of Environmental Justice because the communities and watersheds that we serve will only benefit from a robust approach to Environmental Justice.

Our Coalitions appreciate that the Environmental Justice Policy has made a commendable step in broadening the criteria that the Department considers when characterizing EJ areas to encompass crucial factors such as toxic water emissions, impaired lakes & streams, and flood risk. However, we find that the Policy as written is lacking in its ability to be enforced because it is a guidance document and not a regulation. That lack of enforcement authority/ability leaves environmental justice communities at risk, and quite frankly, without meaningful protection. Currently, the Policy is simply a set of guidelines. We are therefore calling on the Department to seek a rulemaking that would provide it with the authority to implement – and enforce – said policy.

Similarly, we are encouraged by the efforts that the Department, through the Office of Environmental Justice, is making to provide opportunities for residents of Environmental Justice communities to offer their input and receive information regarding projects that will impact them. However, community or public involvement cannot be considered “meaningful” unless it has the potential to change the outcome of the Department’s decision making. Ultimately, if public comments do not affect the Department’s actions, then the Policy does not, and cannot, further environmental justice. Specifically, the current Policy does not call on the Department to deny permits that would disproportionately harm environmental justice communities. The



ability to speak at a hearing, while a critical part of robust civic engagement, is not “meaningful involvement” if the decision maker will not act on the speaker’s words, and “fair treatment” requires communities to be free from disproportionate environmental risk, not just to be informed of the risks they face.

As currently drafted, the Policy does not advise the Department to take action based upon the information it receives from the public. Yes, it must hold public meetings, accept public comments, and publish a response document, but that is not the equivalent to taking tangible steps to directly act on those comments and concerns expressed. To achieve “meaningful involvement,” the public’s comments and opposition must be able to change the outcome of the Department’s decision making.

Lastly, our Coalitions and members witness the cumulative impacts of poor water quality across our two river basins, which are home to over nine million people in Pennsylvania. It is vital that the Department have the ability to recognize and address the cumulative impacts that many downstream and frontline Environmental Justice communities experience. It seems contrary that the Department would recognize that myriad social, health, and environmental impacts and pollution burdens make an EJ community, but then not consider how a proposed project would add to the existing environmental injustice and pollution burdens of that EJ community or do anything to mitigate or stop additional cumulative impacts from befalling that community. To achieve its goal of “fair treatment” of “all people regardless of race, color, national origin, or income” the Department must prevent (and reverse) the buildup of cumulative and disparate harms on Black and brown communities, immigrant communities, and low-income communities, even if each application it receives appears to comply with other regulatory requirements. Until the Department acknowledges its authority under existing law to shape the substantive outcomes of the permitting process, any environmental justice policy will fail to promote the fair treatment or meaningful involvement of all Pennsylvanians. The Policy must direct the Department to deny permits based on public opposition, cumulative impacts, and disproportionate harms to environmental justice communities. Similarly, the Policy must direct the Department to prevent disparate outcomes, which signify the conditions of environmental injustice.

Respectfully submitted,



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