



## Senate of Pennsylvania

November 30, 2023

Jessica Shirley  
Acting Secretary  
Department of Environmental Protection  
Rachel Carson State Office Building, 16<sup>th</sup> Floor  
400 Market Street  
Harrisburg, PA 17105

Dear Acting Secretary Shirley:

We write to express our strong opposition to the Pennsylvania Department of Environmental Protection's (DEP) Interim Final Environmental Justice Policy ("Policy").

Governor Shapiro has indicated permitting reform is a primary goal of his administration. While we agree that reforming DEP's difficult, lengthy, and unpredictable permitting process is necessary, this Policy represents a bold step in the opposite direction. This Policy will further complicate—rather than streamline—the permitting process in Pennsylvania. The Policy adds additional layers of regulatory requirements that will cost Pennsylvania jobs and new investments in our Commonwealth. Businesses and facilities located in environmental justice communities will face increased regulatory scrutiny in both permitting and compliance.

In addition to the chilling effect the Policy will have on economic growth in Pennsylvania, DEP has exceeded its authority by putting forth the Policy despite the lack of any statutory authorization to do so. During its unveiling of the Policy before the Aggregate Advisory Board and the Environmental Quality Board, when DEP was asked about its statutory authority to designate areas of the Commonwealth as environmental justice communities, DEP acknowledged it lacked any statutory authority to do so. Instead, DEP relies on its existing enforcement discretion as its authority, and asserts the Policy does not impose any new obligation on regulated entities. However, this Policy very clearly sets forth significant modifications to the permitting and review process in Pennsylvania. Pennsylvania has already enacted some of the strongest laws in the nation to protect our communities from air and water pollution. Moreover, history has shown more often than not, it is out-of-state interest groups who appear to express their viewpoint on environmental justice issues rather than actual residents of the community.

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The Policy mandates various additional opportunities for public outreach and public participation in the permitting process, which will add to existing permit delays and project costs. It further provides for increased scrutiny of ongoing operations in environmental justice communities, and provides for the imposition of new civil penalties when a violation occurs. In addition, the policy requires that the identification and mapping of environmental justice areas be updated every two years. Again, this represents a step in the wrong direction from the Shapiro administration's purported goal of making the permitting process in Pennsylvania more straightforward and predictable.

While we applaud the Shapiro administration's objective of ensuring equity and environmental justice in the administration of DEP's constitutional, statutory, and regulatory duties, such drastic reforms must be enacted through the legislative process. DEP unilaterally adopted this Policy and has been operating under its terms since September—long before the close of the public comment period. It is certainly ironic that DEP would adopt such a policy—which is intended to withhold permits from applicants who seek to do business in Pennsylvania unless and until they have received the requisite level of public input—while DEP itself has adopted this policy without considering any public comment or input.

In light of all of the foregoing, we urge the DEP to immediately withdraw this policy and work with the General Assembly to address environmental injustices that may exist in our communities across the Commonwealth.

Sincerely,



Kim Ward  
President Pro Tempore



Joe Pittman  
Majority Leader



Scott Martin  
Chair  
Appropriations Committee



Gene Yaw  
Chair  
Environmental Resources and  
Energy Committee