

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
POLICY OFFICE**

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TITLE: Interim Environmental Justice Policy

EFFECTIVE DATE: November 25, 2002

AUTHORITY: Not applicable

POLICY: The Department of Environmental Protection (DEP) is expanding its public participation activities for some permits in specific geographic areas to accommodate environmental justice concerns.

BACKGROUND: In the Spring of 1999, the Environmental Justice Work Group (EJWG) was established to assist DEP in meeting its environmental justice objectives. In June 2001, the work group issued its report that made recommendations in five broad categories: improving the condition of environmentally burdened communities; the permitting process; monitoring and enforcement; DEP organizational change; and ensuring implementation.

PURPOSE: The purpose of this policy is to implement certain recommendations of the EJWG Report of June 2001. Specifically, it provides direction and guidance to DEP staff on how to enhance public participation during the permitting process for some permits in certain areas. It also describes how the department intends to address the recommendation to improve the conditions of environmentally burdened minority and low-income communities through the Environmental Futures Planning Process (EFP2).

APPLICABILITY: This policy applies to permitting programs, specifically to certain trigger permits located in determined areas of concern. It also applies to general department activities that may have an impact upon environmental justice issues as evaluated by EFP2.

DISCLAIMER: The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall effect regulatory requirements.

The policies and procedures herein are not an adjudication or regulation. There is no intent on the part of DEP to give the rules in these policies 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.

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I. General Information

A. Background

In the Spring of 1999, the Environmental Justice Work Group (EJWG) was established to assist DEP in meeting its environmental justice objectives. In June 2001, the work group issued its report that made recommendations in five broad categories: improving the condition of environmentally burdened communities; the permitting process; monitoring and enforcement; DEP organizational change; and ensuring implementation. The EJWG defined environmental justice as the fair treatment and meaningful involvement of all people with respect to the identification of environmental issues, and the development, implementation, and enforcement of environmental policies, regulations, and laws.

II. Permitting Process

A. Trigger Permits

DEP reviews a multitude of different types of environmental approvals. In an effort to focus the department's resources, the EJWG identified a group of trigger permits that regulate activities that may lead to significant public concern due to potential impacts on human health and the environment. The following guidance applies only to applications for these trigger permits. The list of trigger permits is attached as Appendix A.

B. Ten-step Permit Review Process for Trigger Permits

The work group recommended a ten-step review process for trigger permits. This policy covers only the first two steps. It is the department's intent to implement all ten steps. The remaining eight steps deal with issues that are more technical and regulatory in nature, such as impacts analysis, that need further discussion. The Environmental Justice Advisory Board and DEP staff are developing an approach to address these eight steps and this policy will be revised to incorporate the results of that effort when complete.

C. How to Identify an Area of Concern and Status of Community

For all trigger permits, the area of concern is defined as all US census tracts contained entirely or in part within:

- A circle defined by a radius of one-half mile from the center of a proposed permit activity or, where an activity is not centralized, an area extending one-half mile beyond the boundary of the proposed activity
- Areas of impact for which DEP is authorized to require analysis, such as traffic corridors, groundwater plumes and areas of significant air impact
- Other reasonably anticipated impacts such as noise, subsidence, vibration or odor associated with the proposed permitted activity.

If there is any census tract within this area with a 30 percent or greater minority population or 20 percent or greater at or below the poverty level as defined by the US census bureau, it is considered an Environmental Justice Community.

D. Enhanced Public Participation in Environmental Justice Communities

An application for a trigger permit in an Environmental Justice Community within an Area of Concern is subject to enhanced public participation, leading to improved communication among DEP, the applicant, and the people that live within an area of concern.

Program staff must notify the Office of Environmental Advocate upon receipt of an application for a trigger permit in an Environmental Justice Community within an area of concern. A public participation strategy should be developed between the Office of Environmental Advocate and appropriate regional or district office program and community relations staff for each of these applications. The specific strategy developed for each application may vary, but should address the following components:

1) Community Outreach

- a) DEP should strongly encourage applicants to meet with community stakeholders.
- b) DEP should produce and distribute information sheets regarding the proposed activity.
- c) DEP should use mobile or temporary offices located within an area of concern whenever possible.
- d) DEP should provide residents with information regarding permit conditions.

2) Public Information

- a) DEP should encourage the use of eNOTICE, DEP's automated e-mail notification of permit activities in an area defined by the user.
- b) Public Notices should be written in terminology and languages easily understood by the majority of readers within the area of concern. Notices should be sent to publications widely read by those residents, and placed locally in areas of high visibility. Examples of effective vehicles for notification include, but are not limited to local newspapers, community newsletters, church bulletins, public service announcements and notices on local radio and television stations, notices posted in areas of high foot traffic, notices to environmental activist groups, and notices to local community centers.

- c) Applicants are encouraged to mail appropriate information about the project to all residents of an Environmental Justice Community in an area of concern.

3) Informational Meetings

- a) DEP, in coordination with the applicant, should schedule and hold an informational meeting within 60 days of receipt of application. The purpose of the meeting is to inform the residents of an Environmental Justice Community within an area of concern of the scope and nature of the project in a timely, interactive manner. This meeting is in addition to any other currently required public meetings and hearings.
- b) Applicants are encouraged to fully participate in the meeting, and may take the lead in setting up and conducting the meeting. It is to everyone's benefit that the meeting takes place as early in the process as possible.

4) Summary of Application

DEP should provide a plain language summary of the application that explains the project in terms understandable to a majority of readers within an area of concern. It should address the purpose and location of the proposed activity or facility, and anticipated impacts. These summaries can also be used in other aspects of public outreach.

A sample plain language summary is attached as Appendix B.

5) Document Availability

Access to relevant information is vital to meaningful participation of Environmental Justice Community in the permitting process. Steps to ensure access to this information for members of an Environmental Justice Community can include extended hours or by appointment to include evenings and weekends; identification of convenient locations where the public can review applications; additional support on how to locate materials in a file; and full copies of files at remote locations.

III. Improving the Condition of Environmentally Burdened Communities.

The department has put in place the Environmental Futures Planning Process (EFP2). EFP2 is a watershed-based planning tool that will allow DEP to target its resources to provide maximum environmental benefit. EFP2 includes the ideas of continuous improvement, cause and effect analysis, measurement of specific environmental indicators, local solutions to local problems, and extensive public input.

The EJWG recommended that the department seek to improve the condition of environmentally burdened communities by establishing benchmarks for improvement, assessing DEP programs for effectively improving conditions of these communities, and developing plans to improve conditions.

It is the department's intent to ensure that the needs of environmentally burdened communities are considered through EFP2. Specific environmental justice objectives, indicators and actions will be established to measure improvements in Environmental Justice Community, and additional public participation efforts for EFP2 will specifically be targeted to these communities.

Appendix A Trigger Permits

Trigger Permits are for those DEP regulated activities that may lead to significant public concern due to potential impacts on human health and the environment. Application reviews for these permits warrant heightened scrutiny by DEP and an enhanced public participation process.

1. NPDES (water) Permits

- A. Industrial wastewater facilities (discharge at or above 50,000 gallons per day)

2. Air Permits

- A. New major source of hazardous air pollutants or criteria pollutants
- B. Major modification of a major source

3. Waste Permits

- A. Landfills and other disposal facilities
- B. Transfer stations
- C. Commercial incinerators and other waste processing facilities
- D. Commercial hazardous waste treatment, storage and/or disposal facilities
- E. Major modification of the above

4. Mining Permits

- A. Bituminous underground mines
- B. Bituminous and anthracite surface mines
- C. Large industrial mineral surface mines
- D. Coal refuse disposal
- E. Large coal preparation facility
- F. Revision or transfer of the above permits
- G. Using biosolids for reclamation

5. Land Application of Biosolids

- A. Individual permit

6. CAFO (Concentrated Animal Feeding Operation)

- A. New or expanded operation of greater than 1,000 Animal Equivalent Units (AEUs)
- B. Concentrated Animal Operation of greater than 300 AEUs in Special Protection Watershed
- C. Concentrated Animal Operation with direct discharge to surface waters.

7. Opt-in Permits

Individual permits not specified above, including renewals of the above permits, may serve as Trigger Permits if DEP believes they warrant special consideration. In making its determination for including Opt-in Permits, DEP should consider 1) identified community concerns; 2) present or anticipated environmental impacts; and 3) reasonably anticipated significant adverse cumulative impacts. The applicant should not be required to provide information to DEP regarding neighboring facilities in order to determine whether the permit is an opt-in Trigger Permit. DEP should initiate and perform this analysis based on information and tools at its disposal including information from the applicant's facility or project.

Appendix B Sample Plain Language Summary

(Insert sample from Alisa)

Appendix C Community Involvement Checklist

(Insert Checklist from Alisa)