

THE GOVERNOR

GOVERNOR'S OFFICE

[4 PA. CODE CH. 5]

[EXECUTIVE ORDER 2021-07]

Environmental Justice

October 28, 2021

Whereas, Article 1, Section 27 of the Constitution of the Commonwealth of Pennsylvania, the Environmental Rights Amendment (ERA), provides that the “people have a right to clean air, pure water, and the preservation of the natural, scenic historic and esthetic values of the environment”; and

Whereas, the people’s rights under the Pennsylvania Constitution are guaranteed regardless of race, ethnicity, color, natural origin, or income; and

Whereas, the Commonwealth must ensure the rights and duties of Article I, Section 27 protect all the people of Pennsylvania, including generations yet to come; and

Whereas, all Pennsylvanians should be able to live in and enjoy a clean and healthy environment, that includes outdoor spaces, access to clean energy resources, accessible public lands, and public natural resources; and

Whereas, historically and currently, low-income communities and communities of color bear a disproportionate share of adverse climate and environmental impacts with accompanying adverse health impacts; and

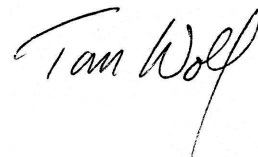
Whereas, all Pennsylvanians are entitled to fair and equitable treatment and meaningful involvement in decision-making that affects their environment, communities, homes, livelihoods, and health; and

Whereas, meaningful public participation in the Commonwealth’s environmental decision-making is necessary to reduce adverse impacts on low-income residents, communities of color, and vulnerable residents; and

Whereas, the Commonwealth has acknowledged the importance of Environmental Justice and, in 1999, developed a statewide Environmental Justice Work Group that produced the Environmental Justice Work Group Report, with recommendations carried out through the development of an Environmental Justice Advisory Board and an Office of Environmental Justice within the Department of Environmental Protection (DEP) to address Environmental Justice issues; and

Whereas, the Federal government has underscored the significance of Environmental Justice in Executive Order 14008 of January 27, 2021, *Tackling the Climate Crisis at Home and Abroad*, and prioritized Environmental Justice through actions such as development of a White House Environmental Justice Interagency Council, creation of a geospatial Climate and Economic Justice Screening Tool and maps and direction that 40 percent of Federal investments benefit disadvantaged communities.

Now, Therefore, I, Tom Wolf, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do order and direct:



Governor

Fiscal Note: GOV-2021-07. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 4. ADMINISTRATION
CHAPTER 5. COUNCILS AND COMMITTEES
Subchapter VVV. ENVIRONMENTAL JUSTICE

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§ 5.1031. Definitions.

The following words and phrases, when used in this subchapter, shall have the meanings given to them in this section, unless the context clearly indicates otherwise:

Department of Environmental Protection or *DEP*. The Department of Environmental Protection.

Environmental justice. The fair treatment and meaningful involvement of all people regardless of race, color, National origin or income, with respect to the Commonwealth's development, implementation and enforcement of environmental laws, regulations and policies.

Secretary. The Secretary of DEP.

§ 5.1032. Office of Environmental Justice.

(a) *Establishment*. The Office of Environmental Justice (OEJ) is established within the Department of Environmental Protection.

(1) *Director*. The OEJ is headed by the Director who shall be appointed by and serve at the pleasure of the Secretary.

(b) *Responsibilities*.

(1) The OEJ shall make recommendations to the Secretary on the integration of environmental justice considerations throughout DEP's programs, regulations, policies and procedures, strengthening partnerships on environmental justice among Federal, State and local government agencies and enhancing research and assessment approaches to environmental justice; coordinate the Environmental Justice Interagency Council (EJIC); and staff the Environmental Justice Advisory Board (EJAB).

(2) The OEJ may establish an online repository of environmental justice information and data.

(3) The OEJ may establish an environmental justice mapping tool to examine environmental and health impacts on vulnerable communities in this Commonwealth with additional data provided by other agencies at the request of the OEJ.

(4) The OEJ shall work with other DEP program offices to identify economic development opportunities, environmental benefits and funding opportunities that do, or should, consider environmental justice in the grant awarding process.

(5) The OEJ shall develop and publish an environmental justice strategic plan (EJ Plan) every 5 years. The EJ Plan should include recommendations for advancing environmental justice, focusing attention on the environmental and public health issues and challenges confronting the Commonwealth's minority and low-income populations. The plan should also make recommendations on the integration of environmental justice considerations into existing DEP programs.

(6) The OEJ, in consultation with the EJAB, EJIC and other stakeholders, shall develop, subject to public participation requirements, a revised comprehensive environmental justice policy consistent with existing legal authority, that may include, but is not limited to the following:

(i) Develop a comprehensive Statewide definition of "environmental justice area," "cumulative environmental impacts" and "disproportionate environmental impacts."

(ii) Establish criteria for environmental justice areas.

(iii) Develop an enhanced public participation plan for environmental justice areas potentially affected by development projects, brownfield remediation, industrial operations and commercial facilities resources, that includes outreach activities that enhance public participation opportunities in environmental justice areas, includes a plan for communicating in multiple languages, includes guidelines for scheduling public meetings at locations and times convenient for neighborhood stakeholders, and which may also include resources for expert consultation.

(iv) Identify economic development opportunities, environmental benefits and other discretionary funding programs that do, or appropriately should, consider the needs of an environmental justice population in the grant process.

(v) Develop standardized mitigation or restoration practices, or both, for consideration by applicants and permit application reviewers in the permitting or cleanup context.

§ 5.1033. Environmental Justice Advisory Board.

(a) *Establishment.* The Environmental Justice Advisory Board (EJAB) is established within the Department.

(1) *Composition of the EJAB.*

(i) The EJAB shall consist of no fewer than 9 and no more than 15 members of the public who are appointed by the Secretary.

(ii) A chairperson shall be selected by the members of the EJAB for a term of 2 years.

(b) *Terms of membership.*

(1) Members shall be appointed for terms of 2 years and shall continue to serve thereafter until their successors have been appointed. A member may be reappointed for one or more additional terms. Members serve at the pleasure of the Secretary.

(2) Should a vacancy occur on the EJAB, the Secretary will appoint a successor; and the successor shall serve the remainder of the unexpired term.

(c) *Expenses.* Members of the EJAB shall not be compensated for their services to the EJAB, but shall be entitled to reimbursement for expenses necessarily incurred in accordance with procedures established by the Commonwealth.

(d) *Responsibilities.*

(1) The EJAB shall make written recommendations to the Secretary concerning policies, practices, and actions that DEP may implement to advance the goals of environmental justice.

(2) The EJAB shall meet at least semi-annually. The EJAB may hold public meetings at its discretion for the purposes of receiving public comments and conducting inquiries concerning environmental justice.

§ 5.1034. Environmental Justice Interagency Council.

(a) *Establishment.* The Environmental Justice Interagency Council (EJIC) is established.

(1) *Membership.* The EJIC shall consist of the following members:

(i) The Secretary or designee;

(ii) The Secretary of the Department of Conservation and Natural Resources or designee;

(iii) The Secretary of the Department of Education or designee;

(iv) The Secretary of the Department of Agriculture or designee;

(v) The Secretary of the Department of Health or designee;

(vi) The Secretary of the Department of Transportation or designee;

(vii) The Secretary of the Department of Community and Economic Development or designee;

(viii) Other Cabinet members or agency heads or their designees as determined by the Governor.

(b) *Meetings.* The Secretary or designee shall convene meetings of the EJIC and serve as its Chair. The first meeting of the EJIC shall be held no later than 90 days after the effective date of this subchapter. The EJIC shall meet at least semi-annually.

(c) *Actions.* The EJIC shall act in an advisory capacity and will:

(1) Review and provide input and information to DEP related to the agency's development, implementation and update of the Environmental Justice Plan (EJ Plan), including specific mechanisms for monitoring and measuring the effects of implementing the EJ Plan.

(2) Identify and make recommendations to the Governor's Office to address potential disproportionate environmental impacts that State laws, regulations, policies and activities may have on Commonwealth residents in environmental justice areas.

(3) Recommend to executive agencies processes to incorporate environmental justice considerations into decision-making.

(4) Make recommendations to the Governor's Office to ensure consistency with Federal environmental justice programs.

(5) Recommend a comprehensive environmental justice training plan for executive branch Commonwealth agencies.

(d) *Strategic plan.* Each EJIC member agency shall develop and post online every 5 years its own strategic plan to promote environmental justice in ways tailored to the specific agency and its authority, mission and programs.

§ 5.1035. Effective date.

This subchapter shall take effect immediately and shall remain in effect until amended or rescinded by the Governor.

[Pa.B. Doc. No. 21-1978. Filed for public inspection December 3, 2021, 9:00 a.m.]