PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION RELEASES FINAL ENVIRONMENTAL JUSTICE POLICY

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US Policy and Regulatory Alert

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The Pennsylvania Department of Environmental Protection (DEP) issued a final environmental justice (EJ) policy on 3 January 2026.[1] The final EJ policy retains the basic structure of the interim final EJ policy published on 16 September 2023,[2] on which a fuller discussion can be found here. The EJ policy is an important guidance document because it (a) creates enhanced public participation requirements for the issuance of certain major environmental permits in "EJ Areas" and (b) calls for DEP to prioritize enforcement of environmental laws in these areas.

While most of the interim final policy remains the same, the final EJ policy includes a handful of notable updates.

First, DEP altered the criteria for identifying EJ Areas, which are the census tracts in which the EJ policy applies. In the interim final policy, only those "census block groups with a PennEnviroScreen score above 80" were included in the policy. Under the final policy, census block groups that meet either one of the following criteria are considered EJ Areas:

1. "Census block groups with a PennEnviroScreen score equal to or above the 80th percentile score.
2. Census block groups lacking overall scores due to data gaps, but with the highest 5 percent of PennEnviroScreen Pollution Burden Scores."[3]

The additional criterion expands the geographical reach of the EJ policy in certain areas of the Commonwealth, meaning more projects will likely need to comply with the final EJ policy's enhanced public participation requirements. Interested persons can determine whether specific locations qualify as EJ Areas using DEP's PennEnviroScreen mapping tool.

Second, DEP clarified that it plans to regularly update both the substantive methodology for determining EJ Areas and the underlying data that is fed into PennEnviroScreen. Substantive changes to DEP's methodology will be subject to a public comment period; however, "updates to data alone for those indicators already included won't include a formal public comment period." It will be important to keep abreast of potential changes to the substantive criteria to take advantage of the ensuing comment period and to regularly check PennEnviroScreen to confirm that periodic data updates have not changed the contours of relevant EJ Areas.

DEP also released an updated version of it PennEnviroScreen Methodology Documentation,[4] which explains in detail the methodology behind the PennEnviroScreen tool. This additional document, an updated version of its 2023 counterpart,[5] includes a number of minor updates to DEP's PennEnviroScreen methodology, which result in further variation in identified EJ Areas.

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The final EJ policy demonstrates Pennsylvania's continuing commitment to EJ at a time when the federal government is scrutinizing state EJ policies that hinder development.[6] The firm's Environment, Land, and Natural Resources practice group is closely following state and federal EJ developments throughout the United States (see our 2 December 2025 EJ Update) and is ready to work with clients to understand how these and other changes may impact permitting timelines and future projects in Pennsylvania and other states across the nation.

FOOTNOTES

1 DEP. DOC. 015-0501-002 *Environmental Justice Policy* (Jan. 3, 2026).

2 53 Pa. Bull. 5854 (Sept. 16, 2023).

3 *See* DEP. DOC. 015-0501-002 *Environmental Justice Policy* App. B (Jan. 3, 2026).

4 DEP. DOC. 015-0501-003 *Pennsylvania Environmental Justice Mapping and Screening Tool* (PennEnviroScreen) *Methodology Documentation* (Jan. 3, 2026).

5 DEP Doc. ID 015-0501-003, Pennsylvania Environmental Justice Mapping and Screening Tool (PennEnviroScreen) Methodology Documentation 2023 (Sept. 16, 2023).

6 Executive order 14260, Protecting American Energy From State Overreach (Apr 8, 2025) https://www.whitehouse.gov/presidential-actions/2025/04/protecting-american-energy-from-state-overreach/.

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