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COMMENT OF GROUP AGAINST SMOG AND POLLUTION (“GASP”) TO THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (“DEP”) REGARDING REVISIONS TO ITS ENVIRONMENTAL JUSTICE POLICY

The Pennsylvania Department of Environmental Protection (“DEP”) should be applauded for prioritizing environmental justice initiatives and revising its outdated environmental justice policy to ensure the Keystone State residents most impacted by air, water, and other pollution have access to educational and other important public health resources.

GASP is also heartened to see that DEP has integrated environmental justice considerations into everything from grant funding decision-making and community development to the permit review process and climate investments. The expansion of public participation opportunities is also a welcome policy change.

DEP’s current environmental justice policy was promulgated before the widespread availability and use of the Internet, so in many ways DEP’s plan to utilize widely available online tools has been a long time coming. are a welcome update. The old adage is true: Knowledge is power. So empowering environmental justice communities with important educational resources, mapping tools, data sets and other public health information and making it easily accessible is crucial to fostering robust public participation. The way Currently DEP’s process for handles information requests now often requires residents to navigate the the Right to Know request process or request a formal file review and is prohibitive to many living in environmental justice communities.

Also appreciated are the additional details DEP has included regarding the opt-in permitting process, the new community engagement section related to unconventional oil and gas development, as well as its stated focus on inspection and compliance of this sector. GASP also believes in retooling the civil penalty policy to put it more in line with the scope of environmental remediation costs.

With that said, we wanted to provide details on what we consider to be some of the policy’s deficiencies. However, some of the policy’s details are deficient.

I. DEP should reconsider expanding how it defines “Area of Concern.”

We are concerned with how the DEP policy defines “Area of Concern.” Section 1A defines it as, “A geographic area measuring 0.5 miles in all directions from the location of the proposed permit activity with potential impact to the environment or community.” While we certainly understand that a geographical boundaries need to be drawn, GASP is concerned that leaving out areas that are more than one-half mile away from a source could exclude environmental justice areas that would be significantly impacted by large sources of air pollution (i.e.: coal-fired electric generating units (“EGUs”), coke works, oil refineries, etc.). DEP should consider defining "area of concern" on a case-by-case basis, to include areas that the Department finds are likely to be impacted significantly by the proposed permit activity."

II. DEP should reconsider how it defines “Public Participation Trigger Permits.”

Similarly, we believe that the definition of "Public Participation Trigger Permits" should be reconsidered. Again, while we understand that a line needs to be drawn somewhere boundaries must be drawn, the policy as currently crafted omits smaller sources of air pollution that could have significant (albeit sometimes very localized) impacts.

GASP encourages the DEP to retool the language used in this section. DEP acknowledges that language barriers exist in environmental justice communities, that information related to environmental justice must be crafted with language that is simple and easy to understand. The description of the permitting process is garbled and needs to be rewritten for clarity.

III. DEP should clarify language in section IV.A.1 regarding unconventional oil and gas facilities.

Section IV of the draft EJ Policy, concerning unconventional oil and gas facilities, is incomprehensible as currently written. DEP should carefully re-assess the language in Section IV and revise it so that it clearly describes the steps that DEP proposes to take to address EJ concerns in areas affected by new unconventional oil and gas development. More specifically:

- In Section IV.A.1, DEP should provide a noun for the adjective “anticipated.”
- In Section IV.A.2, DEP, rather than oil and gas operators, should bear the burden of explaining “the scope and operations of ... projects in terms understandable to a considerable majority of readers within an EJ Area.” DEP should further describe what constitutes a “considerable majority” and identify the factors that make an explanation “understandable.”
- In Section IV.B.1, DEP, rather than oil and gas operators, should plan and host meetings in EJ communities affected by oil and gas development. DEP should invite the operators to the meetings that it plans, along with local officials and community members.