

NJDEP's Environmental Justice Efforts

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Furthering the Promise of Environmental Justice

- ❖ Looking inward: Furthering the Promise: A Guidance Document for Advancing Environmental Justice Across State Government
- ❖ Looking outward: the nation's most empowering environmental justice law (Sept. 18, 2020)



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S232 – THE ENVIRONMENTAL JUSTICE LAW

- The Legislature finds and declares....
 - All New Jersey residents, regardless of income, race, ethnicity, color, or national origin, have a right to live, work, and recreate in a clean and healthy environment
 - Historically, New Jersey's low-income communities and communities of color have been subject to a disproportionately high number of environmental and public health stressors, including pollution from numerous industrial, commercial, and governmental facilities located in those communities
 - The legacy of siting sources of pollution in overburdened communities continues to pose a threat to the health, well-being, and economic success of the State's most vulnerable residents and that it is past time for the State to correct this historical injustice

S232 – NJ ENVIRONMENTAL JUSTICE LAW

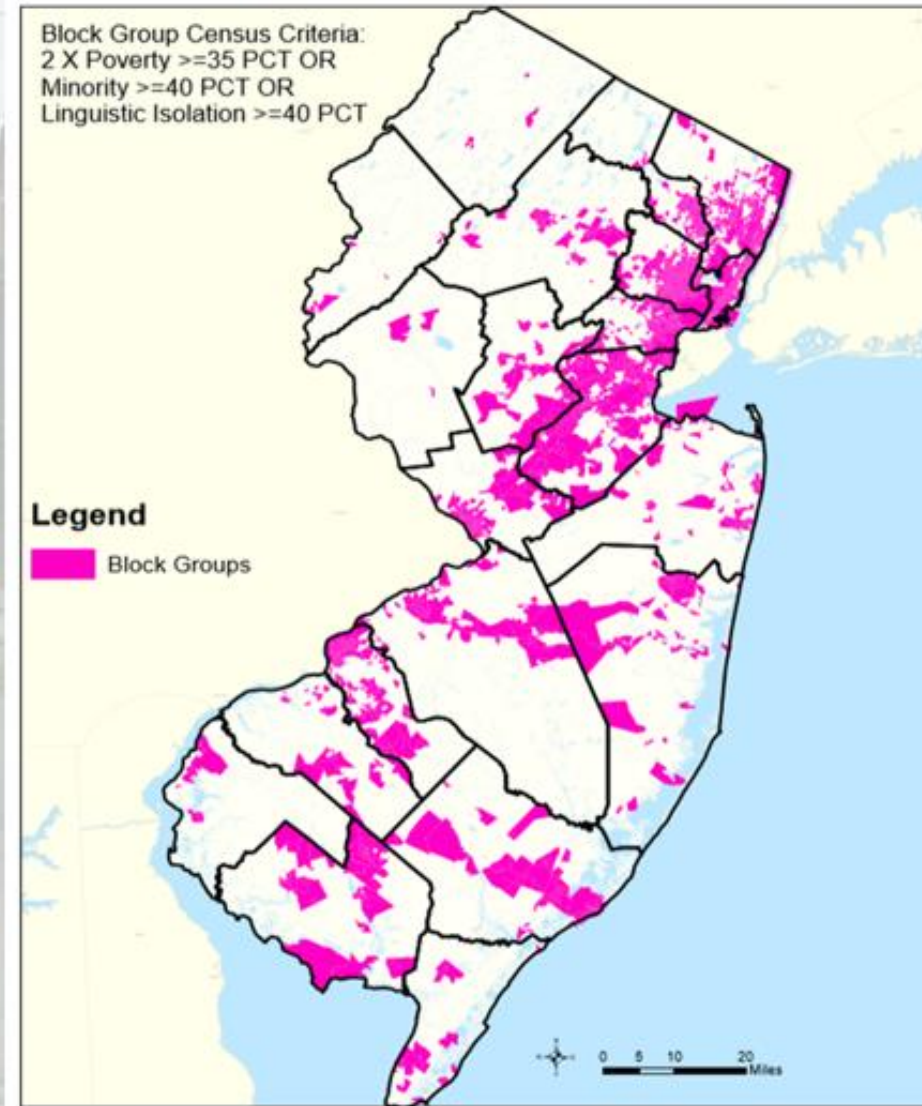
- The Legislature finds and declares....
 - No community should bear a disproportionate share of the adverse environmental and public health consequences that accompany the State's economic growth
 - The State's overburdened communities must have a meaningful opportunity to participate in any decision to allow facilities which, by the nature of their activity, have the potential to increase environmental and public health stressors
 - It is in the public interest for the State, where appropriate, to limit the future placement and expansion of such facilities in overburdened communities

Facilities and Permits Covered

- One of eight (8) types of facilities:
 - major sources of air pollution (e.g., power plants, cogeneration facilities);
 - incinerators or resource recovery facilities;
 - large sewage treatment plants (more than 50 million gallons per day);
 - transfer stations or solid waste facilities;
 - recycling facilities that receive at least 100 tons of recyclable material per day;
 - scrap metal facilities;
 - landfills; or
 - medical waste incinerators, except those attendant to hospital and universities.
- Seeking a specific permit
 - Including solid waste and recycling, development (wetlands, CAFRA, Flood Hazard), water supply and pollution, air pollution and pesticides
- For facilities located or proposed to be located in an “overburdened community”

Defining “Overburdened Community”

- **Low-Income:** At least 35% of households qualify as low-income households; or
- **Minority:** at least 40% of the residents identify as minority or as members of a state recognized tribal community; or
- **Limited English proficiency:** at least 40% of the households have limited English proficiency



Environmental and Public Health Stressors

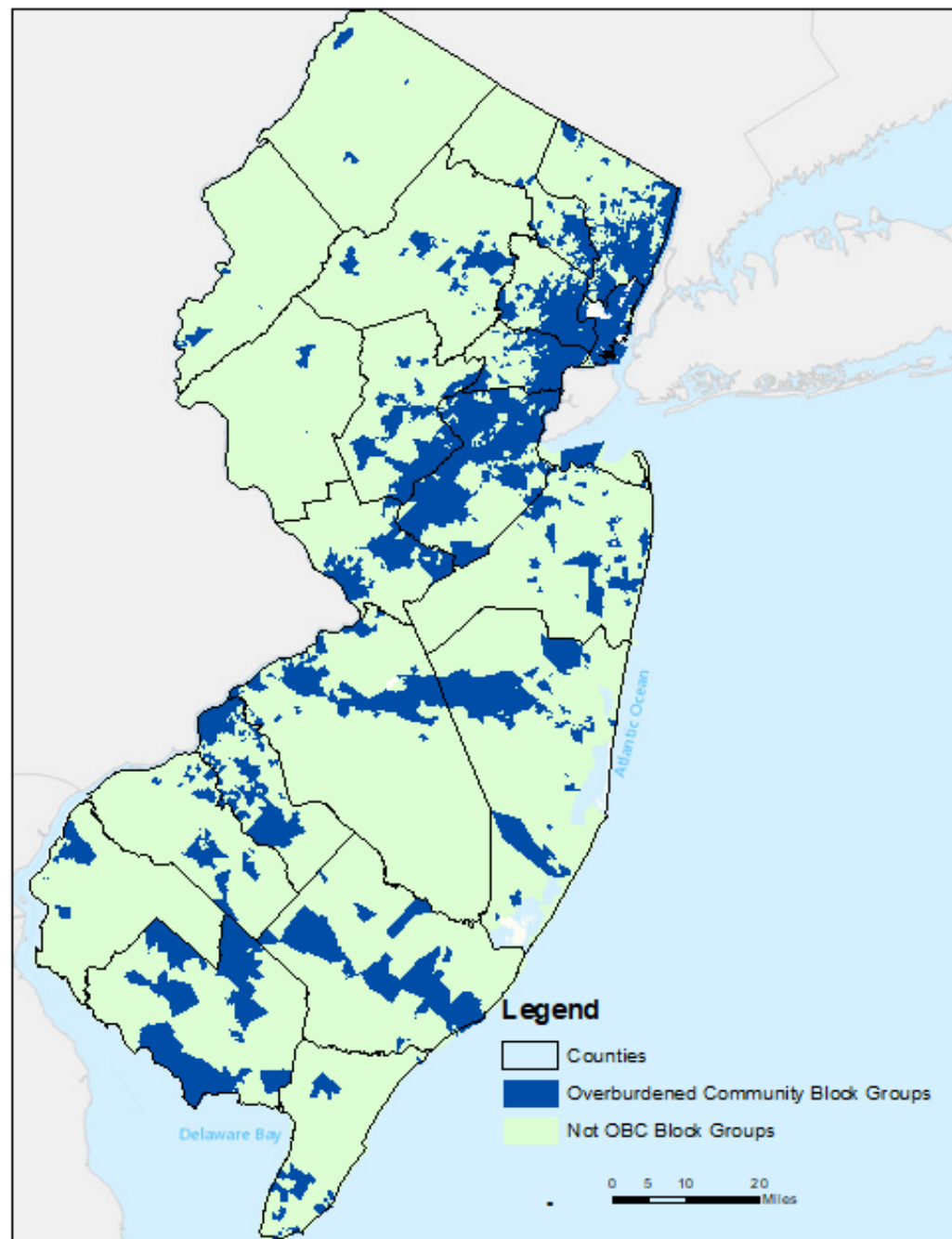
Environmental stressors to include, but not be limited to:

Concentrated areas of air pollution;
Mobile sources of air pollution;
Contaminated sites;
Transfer stations or other solid waste facilities;
Recycling facilities;
Scrap yards, and
Point-sources of water pollution including, but not limited to, water pollution from facilities or combined sewer overflows.

- Public health stressors are “conditions that may cause potential public health impacts in the overburdened community
- Public health impacts include, but are not limited to:
 - Asthma
 - Cancer
 - Elevated blood lead levels
 - Cardiovascular disease
 - Developmental problems

Geographic Point of Comparison

- The Bill requires the Department to determine whether environmental or public health stressors are “higher than” those borne by other communities within the State, county, or other geographic unit of analysis as determined by the department.
- What is the appropriate geographic unit?
 - County?
 - State?
 - Region?



Potential Process: 3 Steps

Step 1 – Initial Screen: Using the publicly-available data (including DEP’s EJ mapping tool), determine whether an Overburdened Community is subject to adverse environmental and public health stressor levels that are higher than the appropriate geographic point of comparison.

Step 2 – Environmental Justice Impact Statement (EJIS) Process: Through the development of an Environmental Justice Impact Statement, including a public comment period and hearing in the Overburdened Community, an applicant assesses whether and how the proposed facility will cause or contribute to adverse stressor levels in the Overburdened Community that are higher than the appropriate geographic point of comparison (Step 1). If so, the applicant would propose measures to avoid or eliminate those impacts. If the Applicant cannot avoid causing or contributing to those “higher” stressor levels, a disproportionate impact is present.

Potential Process: 3 Steps

Step 3 – Departmental Review: Where a disproportionate impact is present:

(a) New Facilities: Denial, unless Demonstrated Compelling Public Interest in Overburdened Community: The Department shall deny the permit application for a new facility unless the facility is of the type that will serve a Compelling Public Interest in the Overburdened Community where it is to be located. If so, the Department may impose binding permit conditions on the construction and operation of the facility to protect public health and improve baseline environmental and public health stressors in the Overburdened Community.

(b) Permit Conditions (Facility Expansions/Title V Renewals/New Facilities): The Department imposes binding permit conditions concerning the construction and operation of the facility.

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What the Bill is NOT:

- The Bill *does not* require absolute denial of environmental permits for new facilities.
- The Bill *does not* allow DEP to deny facility expansions or permit renewals under any circumstances.
- The Bill *does not* prevent public works projects that demonstrate a compelling public interest
- The Bill *does not* allow for delay of permits and projects; it requires DEP to analyze the environmental justice impact statement alongside the permitting process that is already required.



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Stakeholder Process

1. Rulemaking efforts will be in-line with Commissioner McCabe's guiding principles:
 - a) Follow the law
 - b) Follow the science
 - c) Find Balance
2. Stakeholdering
 - a) Completed focused meetings on discrete topics (geographic point of comparison, facility and permit definitions, public health and environmental stressors, renewal conditions and compelling public interest and the environmental justice impact statement process)
3. Rule Development
 - a) Goal: September 2021 Proposal
4. Implementation

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Thank You