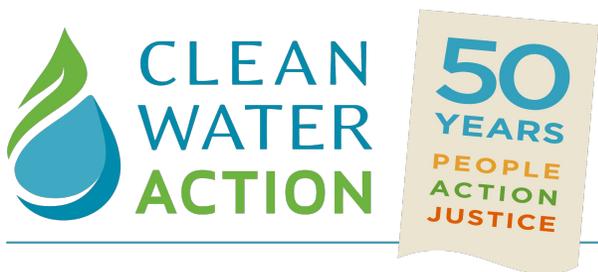


PREPARING FOR PUBLIC HEARINGS ON THE NJ ENVIRONMENTAL JUSTICE RULE

JULY 2022



Facilitators



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HISTORY: ENVIRONMENTAL INJUSTICE & LAW

- **Historically**, New Jersey's low-income communities and communities of color, **i.e.**, environmental justice communities, have been subject to a disproportionately high number of environmental and public health stresses/harms, including pollution from numerous industrial, commercial, transportation and governmental facilities located in and around those communities.
- The legacy of citing sources of pollution in environmental justice communities **continues** to pose a threat to the health, well-being, and success of the State's most vulnerable residents.
- EJ Law signed Sept. 18, 2020 in **attempt to correct** this historical injustice and create opportunities for more meaningful public participation in the process.
- **Effective only at rule adoption.**

FACILITIES INCLUDED:

- Major sources of air pollution (i.e., gas fired power plants, cogeneration facilities, etc.)
- Resource recovery facilities or incinerators; sludge processing facilities
- Sewage treatment plants with a capacity of 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
- Medical waste incinerators, except those attendant to hospitals and universities
- Transportation sources of pollution are not covered under the law nor are warehouse

FACILITY PERMITS: NEW, RENEWAL & EXPANSION

Shall Deny Permit IF disproportionate* impact cannot be avoided:

- **New:** Newly sited facility or change in use of existing facility

Can Set ON-SITE Conditions (“offsets” don’t count):

- **Expansion:** Expansion of footprint or increase in emissions of existing facility
- **Renewal:** Continuation of existing operations (typically a 5 yr cycle)
- **Statutory Exemption:** Minor modifications to major source permit for activities/improvements that do not increase emissions

***Disproportionate Impact means:** facility would contribute to **adverse** stressors that are already, or would make them, higher in host overburdened block group than the state or county wide average.

OVERBURDENED COMMUNITIES (OBC)

covered by the rule and defined using the most recent US Census

- at least 35 percent of the households qualify as **low-income** households (at or below twice the poverty threshold);
- at least 40 percent of the residents identify as **minority or tribal** community members; OR,
- at least 40 percent of the households have **limited English proficiency** (without an adult speaking English “very well”).

Approximately 348 NJ municipalities that have overburdened communities/census blocks within their municipalities.

Overburdened Community Criteria	# Block Groups	Population
Minority	1,919	2,693,726
Low Income and Minority	1,118	1,526,749
Low Income	211	277,118
Limited English	2	1,468
Low Income, Minority, and Limited English	114	156,558
Minority and Limited English	26	29,369
Low Income and Limited English	1	2,393
Adjacent	56	0
Total	3,447	4,687,381

COMPELLING PUBLIC INTEREST exception

Exception to requirement that new facility be denied where they cannot avoid disproportionate impact.

- Must **primarily serve** an essential environmental, health or safety need of the individuals in an overburdened community
- **Necessary to serve** the essential environmental, health or safety need; and no other means reasonably available to meet the established health or safety need.
- Focus on **public works-type projects** that are necessary to serve essential environmental, health or safety need of the individuals in an overburdened community such as those which directly reduce stressors (i.e., CSO projects).
- **Shall not consider economic benefits** of the proposed new facility – employment, tax revenue - in determining whether it serves a compelling public interest in an overburdened community.
- **Considers the position of members of the overburdened community**, supportive or otherwise, in determining whether a facility satisfies the compelling public interest standard.

ENVIRONMENTAL & PUBLIC HEALTH STRESSORS

NJDEP selected **26 “stressors”** to reflect the adverse pollution and health impacts that communities experience. They are used to determine whether a community is **disproportionately burdened** and requires extra protections and considerations in permit process.

ENVIRONMENTAL STRESSORS not 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
- Point-sources of water pollution including, but not limited to, water pollution from facilities or combined sewer overflows

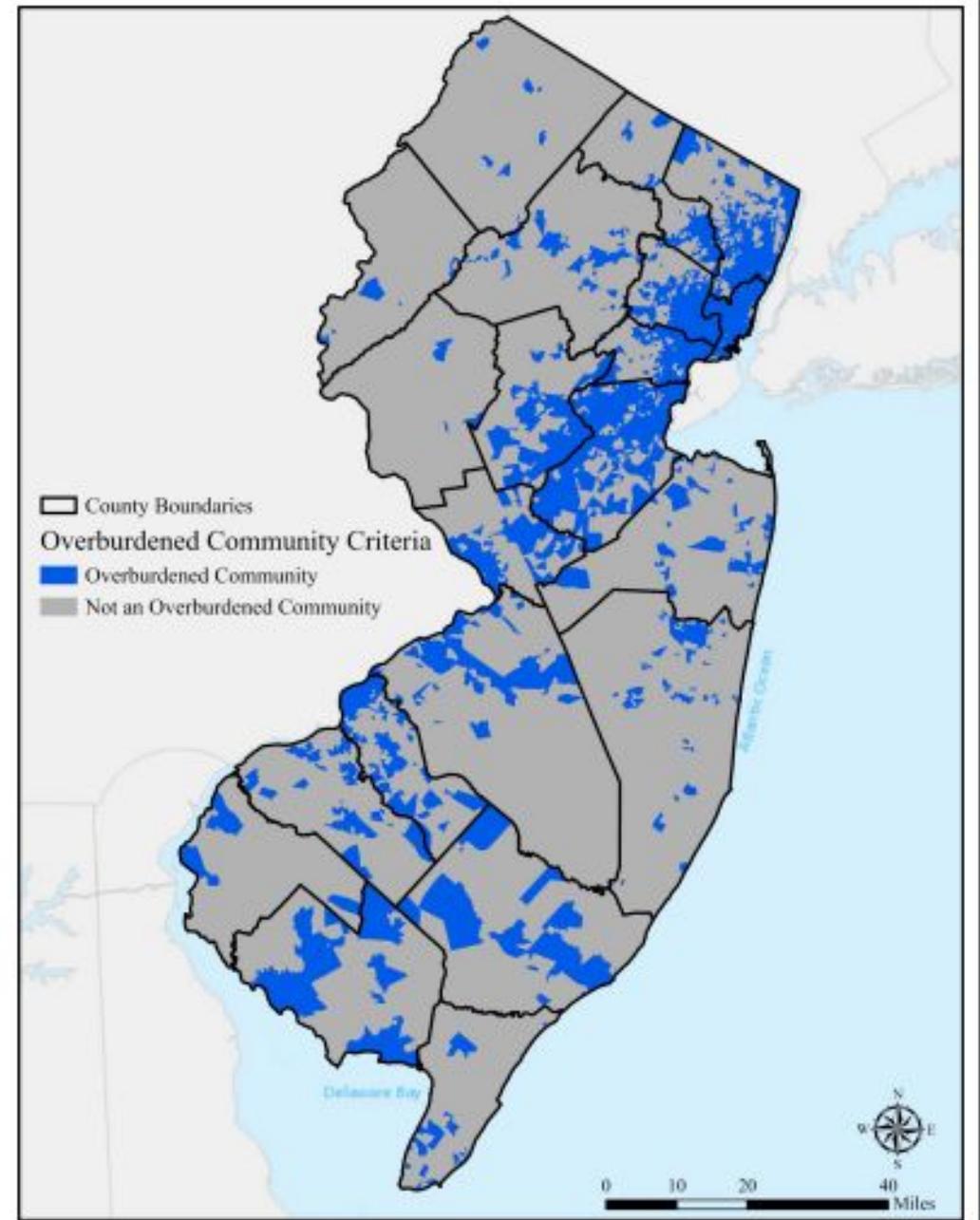
PUBLIC HEALTH STRESSORS not limited to:

- Asthma
- Cancer
- Elevated blood lead levels
- Cardiovascular disease
- Developmental problems

If # of stressors over the 50th percentile in an OBC is more than either their average statewide or countywide, the DEP may apply conditions on a permit renewal or expansion and shall deny a new permit to alleviate the stressor/s.

Geographic Point of Comparison

- Statutory Context
 - The Department must 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.
- Point of Comparison
 - Lower of State or relevant County, excluding overburdened communities (most like USEPA, who uses multiple geographic areas).



What Permit Applicant Submits to NJDEP

- Submits **“complete” facility permit application** (new, renewal or expansion)
- If proposed facility is in an OBC, applicant must prepare **EJ Impact Statement (EJIS)** that contains EJ analyses which determines if facility would cause stressors in host OBC to be higher (disproportionate impact) than elsewhere.
- **Permits can not include “offsets” in applications for a new pollution permit** (e.g. planting trees in neighborhood).
- Once public comment period is over, applicant **must respond to public comments and might have to modify their EJIS and permit based on public comment.**
- **If there is a disproportionate impact** then application for a new permit would be denied. Permit applications for a renewal or expansion would be conditioned in a way to reduce and/or avoid pollution.

Public Participation Process within EJ Rule

- Require public hearing in overburdened community at least 60 days after public release of the Environmental Justice Impact Statement (EJIS)
- 60-day notice of public hearing in newspaper, within 200 feet (we want 1000 feet), sign at facility, and additional means
- Minimum 60-day public comment period
- Applicant responds to all public comments

QUESTION: How would you want to improve public input?

HAVE YOUR VOICES HEARD before rule adoption

- ❑ **ATTEND/SPEAK AT JULY PUBLIC HEARINGS:** 3 minute limit
- ❑ **SUBMIT WRITTEN COMMENTS:** no page limit, but be clear and to the point

COMMENT TIPS:

- Pick your **3 most important points**, state at beginning & end, explain in middle.
- Explain why **rule needs to be as strong** as possible, adopted as **fast** as possible, and be **inclusive** of the community throughout process
- Tell a personal **experience or story** to demonstrate the importance of rule

TOPIC IDEAS TO BRING UP IN YOUR COMMENTS

- **Notice**, format, translation and access for **multi-lingual** communities
- Best way to ensure and **maximize public participation** in permit process especially for people most impacted
- When should “NO” be an **absolute no**, never to be reconsidered.
- **No loopholes** with “compelling public interest” (CPI)
- Reiterate: 1) **economics and jobs cannot be a factor** in CPI, and 2) even de minimis (a tiny amount) new pollution is too much in OBC’s.
- People in **census tracts next to facilities** must be protected too
- NJDEP must **apply strict conditions on permit renewals** and expansions. Otherwise we have not reduced pollution in OBC’s, just not made it worse.

PUBLIC HEARING DATES

IN PERSON: No preregistration

VIRTUAL: Must pre-register

TRENTON: Monday, July 11, 2022, from 3:00 P.M. through 5:00 P.M. and 6:00 P.M. through 7:00 P.M. at the Department of Environmental Protection's (Department) Public Hearing Room, 401 E. State Street, Trenton.

CAMDEN: Wednesday, July 13, 2022, at 6:30 P.M. at the Ray and Jon Kroc Corps Community Multi Purpose Room; 1865 Harrison Ave., Camden, NJ 08105.

NEWARK: Wednesday, July 27, 2022, at 6:00 P.M. at the New Jersey Institute of Technology (NJIT), Campus Center Atrium, First Floor 150 Bleeker Street, Newark, NJ 07102. Parking is Available at the NJIT Summit Street Garage, 154 Summit Street:
<https://www.njit.edu/about/maps-directions>

VIRTUAL: Thursday, July 28, 2022, at 6:00 P.M through NJDEP's Microsoft Teams software. A link to the virtual hearing with telephone call-in option will be provided on the Department's website at <https://www.nj.gov/dep/rules/notices.html>.

WRITTEN COMMENTS

SUBMIT COMMENTS to NJDEP BY SEPTEMBER 4, 2022.

PREFER ELECTRONICALLY at www.nj.gov/dep/rules/comments

ALTERNATIVELY, PAPER COMMENTS MAY BE SUBMITTED TO:

Melissa P. Abatemarco, Esq.
Attn.: DEP Docket No. 04-22-04
Office of Legal Affairs
Department of Environmental Protection
401 East State Street, 7th Floor
Mail Code 401-04L
PO Box 402
Trenton, New Jersey 08625-0402

Each comment should be identified by rule number N.J.A.C.7:1C, DEP Docket Number: 04-22-04.
Proposal Number: PRN 2022-082. with the commenter's name and affiliation following the comment

RESOURCES: LINKS AND ORGANIZATIONS

Ironbound Community Corporation: <https://ironboundjustice.org>

NJ Environmental Justice Alliance: <http://www.njeja.org>

Clean Water Action: <https://www.cleanwateraction.org/nj>

NJDEP (EJ Home Page): <https://nj.gov/dep/ej/>

NJDEP (Tutorial on Rule) <https://www.youtube.com/watch?v=CAUgfYkkWpc>

end