Furthering Environmental Justice in New Jersey

EPA Region 2 Environmental Conference
May 19, 2023

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Director, Office of Environmental Justice
Priority 1:
Amend DEP's internal work to incorporate environmental justice.

Priority 2:
Facilitate a council of NJ agencies to amend the way the entire state achieves environmental justice.

Priority 3:
Engage with overburdened communities to remove barriers to accessing resources so that communities are better informed, heard, and able to advocate for justice locally.
NJ’s Executive Order No. 23 and EJ Law

Executive Order No. 23 signed April 20, 2018

EJ Law signed September 18, 2020
Environmental Justice Rule
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.
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.
Disproportionate Impact

Goal: Avoid disproportionate impact to overburdened communities

“Disproportionate impact” occurs under two scenarios:

1. Facility creates adverse cumulative stressors in an overburdened community as a result of its contribution; or

2. Facility contributes to an adverse environmental and public health stressor in an overburdened community that is already subject to adverse cumulative stressors.

Where cannot avoid: analyze and propose feasible measures to minimize contributions to environmental and public health stressors, or provide a net environmental benefit.
Step 1: Applicability Determination

(1) Located in **Overburdened Community** census block group in which:
   - at least 35 percent of the households qualify as low-income households;
   - at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or
   - at least 40 percent of the households have limited English proficiency

(2) **Facility**
   - 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.

(3) **Permit:** solid waste and recycling, land use, water supply and pollution, and air pollution.
   - Applies to individual permits (those permits for more substantial activities requiring deeper review) and excludes authorizations or approvals necessary to perform remediation and minor modification to major source air permits that do not increase emissions
   - Applies to new facilities, expansions and Title V renewals only

Applicants seeking clarification regarding applicability of the rules to a specific activity, expansion, or otherwise, may seek an applicability determination pursuant to N.J.A.C. 7:1C-2.1(g).

**Note:** If the EJ rules are applicable, all permitting clocks are stopped until the completion of the EJ process.
Definition of “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
• 5-year American Community Survey Data, 2017-2021
• The final EJMAP tool includes a revised analysis based on 2021 ACS data
• OBC data will be updated at least every two years

Information that can be found on the Office of Environmental Justice’s website:
  • Excel Spreadsheet listing Overburdened Communities (OBCs) block groups with town names
  • PDF maps
  • OBC technical notes
  • OBC frequently asked questions

• EJMAP also shows relative stressor values – “living” resource that the Department will continue to update to provide updated data and ease understanding of what is covered by the rule
  • Updates will be made biannually (January/July)
  • Version current at time of application controls
“Environmental or public health stressors” means sources of environmental pollution, including, but not limited to:

1. concentrated areas of air pollution,
2. mobile sources of air pollution,
3. contaminated sites,
4. transfer stations or other solid waste facilities, recycling facilities, scrap yards, and
5. point-sources of water pollution including, but not limited to, water pollution from facilities or combined sewer overflows;

or conditions that may cause potential public health impacts, including, but not limited to:

1. asthma,
2. cancer,
3. elevated blood lead levels,
4. cardiovascular disease, and
5. developmental problems in the overburdened community.

Note: The Department provides baseline stressor information via [EJMAP](https://www.epa.gov/).
Environmental & Public Health Stressors

• After considering data availability, data quality, appropriate geographic scale, quantifiability, and marginal value, we are now considering 26 stressors.
## Concentrated Areas of Air Pollution

<table>
<thead>
<tr>
<th>Stressor</th>
<th>Description</th>
<th>Data Source &amp; Scale</th>
<th>EJScreen</th>
<th>CalEnviroScreen</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Ground-Level Ozone</td>
<td>Days above National Ambient Air Quality Standard (NAAQS)</td>
<td>• NJ monitoring data • Points (monitors)</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>2 Fine Particulate Matter (PM 2.5)</td>
<td>Days above National Ambient Air Quality Standard (NAAQS)</td>
<td>• NJ monitoring data • Points (monitors)</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>3 Cancer Risk from Diesel PM</td>
<td>Estimated cancer risk</td>
<td>• NATA data • Census Tract</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>4 Cancer Risk from Air Toxics Excluding Diesel PM</td>
<td>Estimated cancer risk</td>
<td>• NATA data • Census Tract</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>5 Non-Cancer Risk from Air Toxics</td>
<td>Estimated noncancer risk</td>
<td>• NATA • Census Tract</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>6 Permitted Air Sites</td>
<td>Number of sites per square mile</td>
<td>• NJ Air Permitting data • Points (facility locations)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Mobile Sources of Air Pollution

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<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>7 Traffic - Cars, Light- and Medium-Duty Trucks</td>
<td>Vehicle density per square mile</td>
<td>• USDOT FHA&lt;br&gt;• Highway Performance Monitoring System (HPMS)</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>8 Traffic – Heavy-Duty Trucks</td>
<td>Vehicle density per square mile</td>
<td>• USDOT FHA&lt;br&gt;• Highway Performance Monitoring System (HPMS)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9 Railways</td>
<td>Rail miles per square mile</td>
<td>• ArcGIS Railroad Layer&lt;br&gt;• Line segments</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Point Sources of Water Pollution

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>10 Surface Water</td>
<td>Non-attainment of designated uses for the Integrated Report</td>
<td>• Integrated Report&lt;br&gt;• Block Group</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>11 Combined Sewer Overflows</td>
<td>Number of CSOs in block group</td>
<td>• NJPDES Permitting Database&lt;br&gt;• Points (CSO locations)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12 NJPDES Sites</td>
<td>Number of sites per square mile</td>
<td>• NJPDES Permitting Database&lt;br&gt;• Points (facility locations)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Solid Waste & Scrap Yards

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</tr>
</thead>
</table>
| 13 Solid Waste Facilities      | Number of transfer stations, solid waste and recycling facilities, and incinerators per square mile | • NJDEP Division of Solid and Hazardous Waste Database  
• Points (facility locations) |                      | ✓                |
| 14 Scrap Metal Facilities      | Number of sites per square mile                                              | • NJ Environmental Management System  
• Points (facility locations) |                      | ✓                |
## Contaminated Sites

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</table>
| 15 Known Contaminated Sites                   | Density of Weighted Known Contaminated Sites (KCSL)                          | • NJDEP Site Remediation Database  
• Points (facility locations)                   | ✓                                   | ✓               |
| 16 Soil Contamination Deed Restrictions       | Percent acres of the block group with Deed Notice restrictions              | • NJDEP Site Remediation Database  
• Polygons                                    |                      |                 |
| 17 Groundwater Classification Exception Areas/Current Known Extent Restrictions | Percent acres of block group with Classification Exception Area (CEA) or Currently Known Extent (CKE) notice restrictions | • NJDEP Site Remediation Database  
• Polygons                                    |                      |                 |
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</table>
| 18 Drinking Water          | Number of Maximum Concentration Level (MCL), Treatment Technique (TT), and Action Level Exceedance (ALE) violations | • Public Violations Reports for MCL, TT, and ALE  
• Purveyor Areas                                                                 |          | ✓               |
| 19 Emergency Planning Sites| Density of TCPA, DPCC and CRTK facilities                                    | • FACITS, NJEMS, NJDEP databases  
• Points (facility locations)                                                   |          | ✓               |
| 20 Potential Lead Exposure | Percent of pre-1950 housing                                                   | • US Census Data  
• Block Group                                                                       | ✓        | ✓               |
## May Cause Public Health Issues (Environmental, 2/2)

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<tbody>
<tr>
<td>21 Lack of Recreational Open Space</td>
<td>Population living greater than a ten-minute walk (¼ mile) from Public Recreational Open Space</td>
<td>• ArcGIS Dataset • Polygons of open space</td>
<td></td>
<td></td>
</tr>
<tr>
<td>22 Lack of Tree Canopy</td>
<td>Spatially weighted mean tree canopy cover</td>
<td>• USDA Tree Cover Data • Raster, 100 ft. grids</td>
<td></td>
<td></td>
</tr>
<tr>
<td>23 Impervious Cover</td>
<td>Percent impervious surface in a block group</td>
<td>• ArcGIS Data Layer • Polygons</td>
<td></td>
<td></td>
</tr>
<tr>
<td>24 Flooding (Urban Land Cover)</td>
<td>Percent of urban land use area flooded</td>
<td>• FEMA Maps/NJDEP Flood Hazard Standards • Polygons</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
# May Cause Public Health Issues (Social)

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<th>CalEnviroScreen</th>
</tr>
</thead>
<tbody>
<tr>
<td>25 Unemployment</td>
<td>Percent of an adult population that is unemployed</td>
<td>• US Census Data • Block Group</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>26 Education</td>
<td>Percent of an older population that has less than a high school diploma</td>
<td>• US Census Data • Block Group</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>
Environmental Justice Impact Statement (EJIS) Assesses

- The potential environmental and public health stressors associated with the facility;
- The environmental or public health stressors already borne by the overburdened community;
- Any adverse environmental or public health stressors that cannot be avoided if the permit is granted; and
- Measures to avoid or minimize facility contributions to stressors in the OBC.

EJIS plus Supplemental Information

- Supplement information required when a community is already subject to adverse cumulative stressors, or where a facility will create adverse cumulative stressors.

Meaningful Public Participation

- The applicant conducts a public hearing in the overburdened community to present EJIS.
- Public Notice in multiple forms: newspaper, property owners within 200 feet, sign at facility, online and additional community-specific methods.
- There is a minimum 60-day public comment period, and applicants must respond to all public comments in writing.
The Department considers the EJIS and any supplemental information, testimony, written comments, the applicant’s response to comments, and determines whether the facility can avoid a disproportionate impact.

If the facility can avoid a disproportionate impact to the overburdened community, the Department would impose permit conditions necessary to ensure that a disproportionate impact remains avoided.

If the facility cannot avoid a disproportionate impact to the overburdened community, the Department would:

- Deny an application for a new facility unless it demonstrates it will serve a compelling public interest in the overburdened community.
- Expanded facilities/Major source renewals: authorize the applicant to proceed with Department permitting subject to appropriate conditions to address facility impacts to environmental and public health stressors.
The Office of Environmental Justice’s website is updated to include the final copy of the rule and supportive materials.

**Policy**
- Environmental Justice Law
- Environmental Justice Rule
- Frequently Asked Questions
- EJ Rule Training Video
  - EJ Rule Training Presentation
- Glossary of Terms

**Environmental Justice Mapping, Assessment and Protection (EJMAP) Tool**
- Environmental Justice Mapping, Assessment and Protection (EJMAP) Tool
- EJMAP Tutorial
- EJMAP Technical Guidance
- OBC Technical Notes
- OBC Frequently Asked Questions

**Applicant Resources**
- EJ Submission Service Instructions
- Public Hearing Best Practices
Thank You!

Learn more about Environmental Justice
nj.gov/dep/ej/

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