



AEA 2020
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Environmental Justice Legislation

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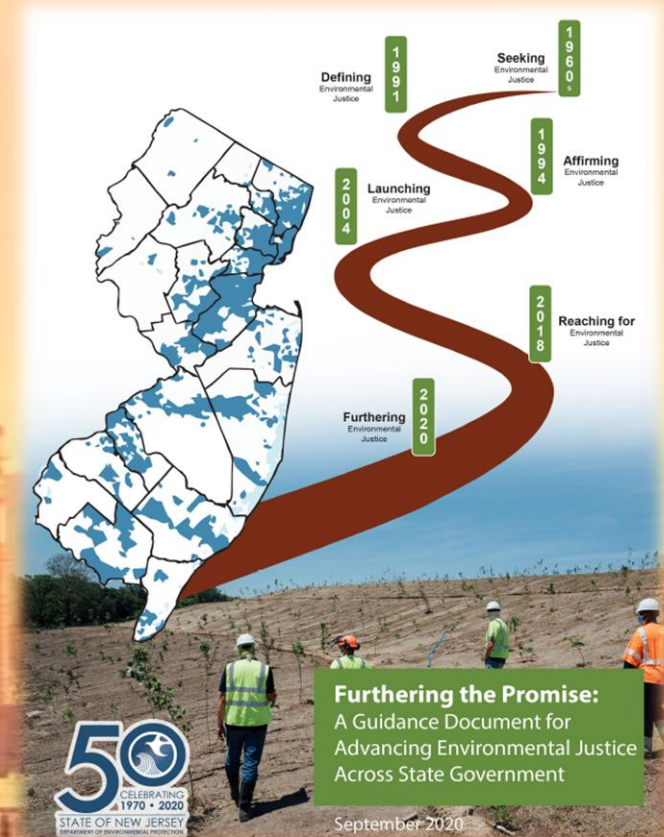


Furthering the Promise of Environmental Justice

- ❖ 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)



Olivia Glenn
Deputy Commissioner for
Environmental Justice & Equity



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION



S232 – NJ ENVIRONMENTAL JUSTICE LAW



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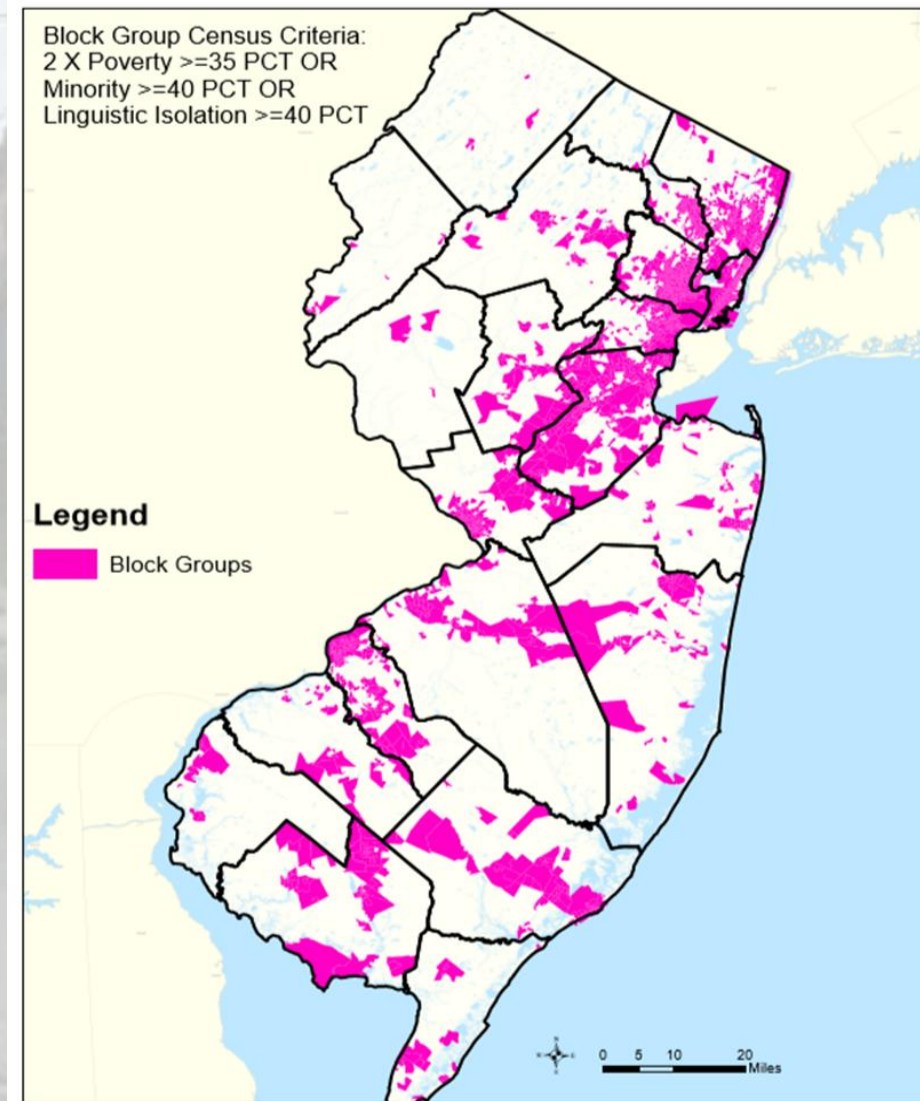


Facilities and Permits Covered

- 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

Requirements for DEP and Applicants

- Requires the submission of an environmental justice impact statement and public hearing for any application for a permit to expand, construct or renew the authorization to operate a covered facility.
- Environmental justice impact statement identifies existing public health and environmental stressors in the community.
- NJDEP reviews the environmental justice impact statement, along with other relevant information, to determine whether there is a disproportionate impact from environmental and public health stressors that cannot be avoided through additional controls.
- If there is a disproportionate impact that cannot be avoided for a new facility, DEP will deny the application unless there is a compelling public interest.
- For renewals and expansions, DEP can only apply additional conditions but cannot deny a permit

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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 work at projects sites that have or require DEP permits.
- 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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Next Steps

1. Rulemaking efforts will be in-line with Commissioner McCabe's guiding principles:
 - a) Follow the law
 1. Follow the science
 2. Find Balance
2. Stakeholdering
 - a) Local community participation is key
3. Rule Development
 - a) Defining conditions
4. Implementation



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Key Issues

- **Public Process – hallmark of the bill**
 - Elements of an environmental justice impact statement (EJIS)
 - Public hearings – meaningful public participation/coordination with other requirements
- **Defining Conditions:**
 - Clarity to environmental and public health stressors
 - What is a compelling public interest?
- **Quantification of Impacts:**
 - Appropriate methodology to ensure predictability and objectivity
- **Conditions to reduce impacts to environmental and public health stressors**
- **Geographic points of comparison**



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First Steps to Rulemaking

Initial EJ Rulemaking Public Info Session

- Held virtually on Oct. 22
- Provided background on Environmental Justice and S232/A221
- Solicited input and feedback on key aspects of the bill in anticipation of rulemaking. Followed up with a survey and are accepting comments following the stakeholder session.
- **Note:** This was only the first step in our rulemaking and there will be other opportunities to provide input as the process moves forward
- You can watch the session and get more information on upcoming events at nj.gov/dep/ej/ under the Law, Policy and Regulations Tab



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Thank You