

ENVIRONMENTAL JUSTICE RULEMAKING

PUBLIC INFORMATION MEETING
OCTOBER 22, 2020



Meeting Agenda

1. Introductions and Opening Remarks
2. Rules of Engagement
3. Framing and Understanding Environmental Justice
4. Overview of S232/A2212
5. Facilitated Public Input
6. Next Steps
7. Our Contact Information

Rules of Engagement

- Please remain on mute unless speaking.
- When you want to speak during facilitated discussion, please use the "Raise Hand" function. We will answer hands in the order they were raised.
- Treat everyone with respect.
- Limit your comment or question to the topic being discussed.
- Limit facilitated discussion comments to two minutes. We will physically raise our hand as you approach 90 seconds.
- Please note that this meeting is being recorded and will be posted on the DEP website after the session concludes.

Purpose for Today's Meeting

- Provide background on Environmental Justice and the key aspects of S232/A221
- Solicit input and feedback in key aspects of the bill in anticipation of rulemaking

Note: This is only the first step in our rulemaking and there will be other opportunities to provide input as the process moves forward

Framing Environmental Justice

Environmental Justice is the *fair treatment* and *meaningful involvement* of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

Understanding the Legacy of Environmental Justice

- Historic Legacy of Environmental Justice
- Communities Defining Environmental Justice
- Governmental Response to Environmental Justice
- Opportunity within the law and rulemaking process

Overview of S232/A2212

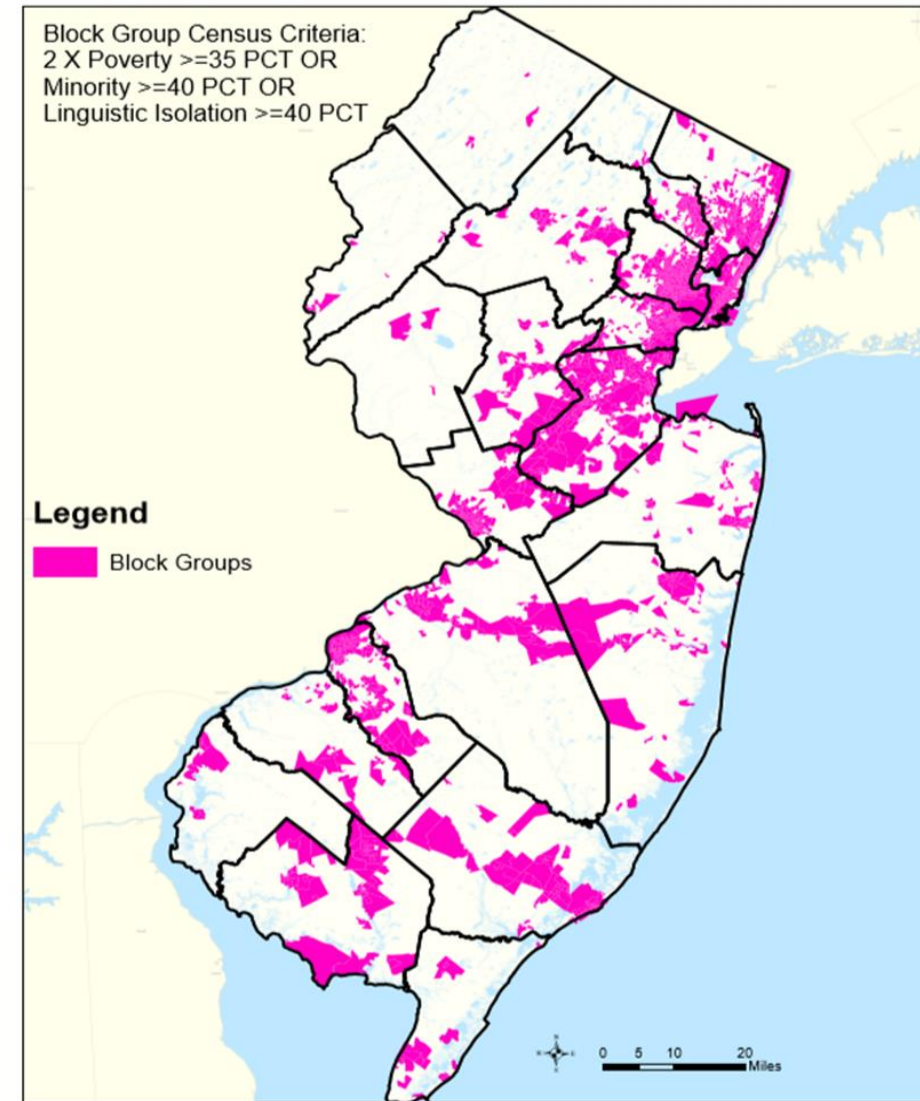
- Environmental standards are often formulated based on the effect pollution has upon general populations spread over wide geographic areas;
- Existing environmental laws fail to fully consider localized impacts;
- Creates pockets of high pollution and concentration of pollution-generating facilities in predominantly minority and low-income communities and disproportionate impacts to their public health and environment.

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



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

Limitations

- 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
- Requires an analysis of localized public health and environmental impacts and an analysis of additional controls that can be put in place to reduce localized pollution as conditions to any permit.
- Not effective until adoption of regulations

Implementation

- **Guiding Principles**

- Follow the law – look to the guideposts set forth in the Bill
- Follow the science – data driven - create methods and quantify impacts in a way that allows us to create as objective and defensible a process as possible. Data used needs to be reliable.
- Find balance – Consider the perspectives of those impacted by the bill.

- **Stakeholder Process**

- Initial meeting to broadly discuss topics and receive input
- Consider input in the formulation of potential policy decisions
- Followed by a series of smaller, more focused discussions to present and discuss policy decisions in more detail

Facilitated Discussion

Environmental Justice Impact Statement (EJIS)

- Potential environmental and public health stressors associated with proposal, including any adverse environmental or public health stressors that cannot be avoided if the permit is granted
- Environmental or public health stressors already borne by the overburdened community as a result of existing conditions located in or affecting the overburdened community

Environmental Justice Impact Statement

What should be included in an Environmental Justice Impact Statement to ensure proper evaluation of the project and analysis of existing localized public health and environmental impacts and stressors?

Environmental Justice Impact Statement: Potential Starting Points

- **Environmental Impact Statement:**
 - Purpose/need
 - Alternatives
 - Affected environment and effects of propose project
- **Environmental and Health Impact Statement:**
 - Existing conditions
 - Description of proposed facility operations
 - Relationship of the proposed facility to Federal, State, county, and local land-use or environmental plans/policies/controls/regulations/status of applications
 - Operational plans
 - Environmental and health impact assessment, potential adverse impacts and control measures
 - Alternatives
 - Resource commitments

EJIS: Public Process

How can DEP ensure meaningful participation in public hearings?

Environmental and Public Health Stressors

The Bill defines 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.

Environmental and Public Health Stressors

- What should DEP consider as concentrated areas of air pollution?
 - How should DEP measure?
 - What should DEP exclude?
- Mobile sources?
- How should these stressors be compared relative to each other?
 - Are certain stressors more impactful than others?

Environmental and Public Health Stressors

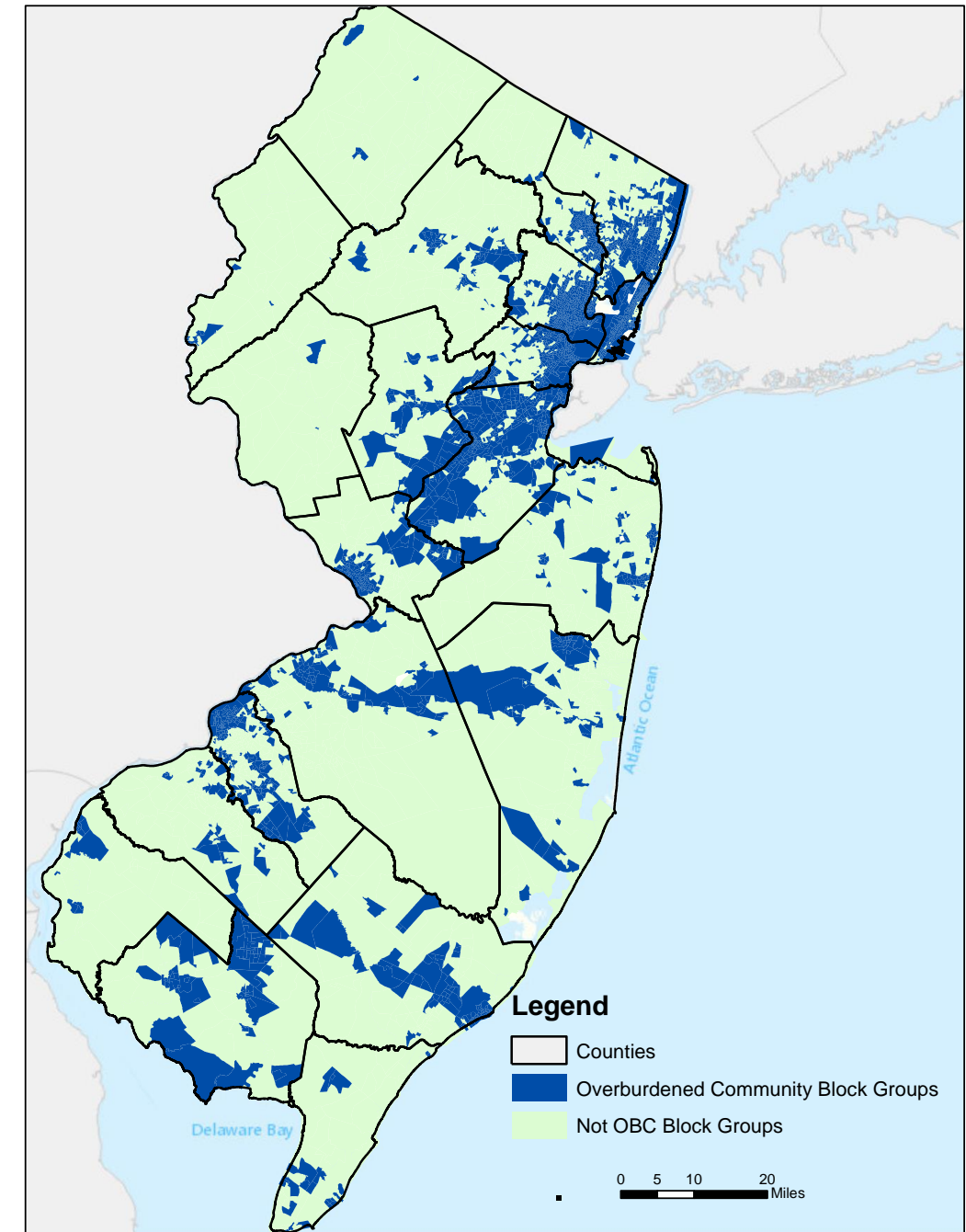
- The Bill defines public health stressors as “conditions that may cause potential public health impacts in the overburdened community
- Public health impacts include, but are not limited to:
 - Asthma
 - Cancer
 - Elevated blood lead levels
 - Cardiovascular disease
 - Developmental problems

Environmental and Public Health Stressors

- What should DEP consider as conditions that may cause for these public health impacts?
 - Age of housing?
 - Presence of lead service lines?
 - Ambient air monitoring data?
 - ER visits?
- How should DEP quantify/measure these impacts?
- How should the impacts be compared relative to each other?
- Available sources of data DEP should consider?

Geographic Point of Comparison

- The Bill requires the Department to determine whether environmental or public health stressors are disproportionate to 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?
- What does it mean for an impact to be disproportionate?



Permit Application Evaluation

Section 4(a) provides that "DEP shall consider . . . conditions to . . . avoid or reduce the adverse environmental or public health stressors affecting the overburdened community."

Permit Application Evaluation: Proposed Project

- How should DEP consider conditions that avoid or reduce stressors?
- Is the reduction of a different stressor ever acceptable?
 - Should that analysis consider environmental benefits that might be lacking?
 - For example – could the addition of green space help to avoid or reduce a stressor (e.g., noise)?
- What other considerations should DEP take into account on this issue?

Permit Application Evaluation: Defining Compelling Public Interest

- What factors should DEP consider in determining whether the facility will serve a compelling public interest in the community?
- How should DEP consider factors to protect public health upon a finding of a compelling public interest?

Outreach & Engagement

Should we have alternative ways to provide input other than formal stakeholder meetings?

Outreach & Engagement

What information would help meaningful engagement in the process?

Other Questions?

Next Steps

CONTACT

Please submit any written comments to:
ejrulemaking@dep.nj.gov