

# 2nd EJ Rulemaking Stakeholder Meeting

Geographic Points of  
Comparison

Facility & Permit Definitions

01/20/21

# Rules of Engagement

- Please remain on mute unless speaking.
- When you want to speak during facilitated discussion, please use the "Raise Hand" function.
- 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 NJDEP website after the session concludes.



# Overburdened Communities & Geographic Unit of Analysis Comparisons

# Overburdened Community

**“Overburdened community”** means any census block group, as determined in accordance with the most recent United States Census, in which: (1) at least 35 percent of the households qualify as low-income households; (2) at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or (3) at least 40 percent of the households have limited English proficiency.



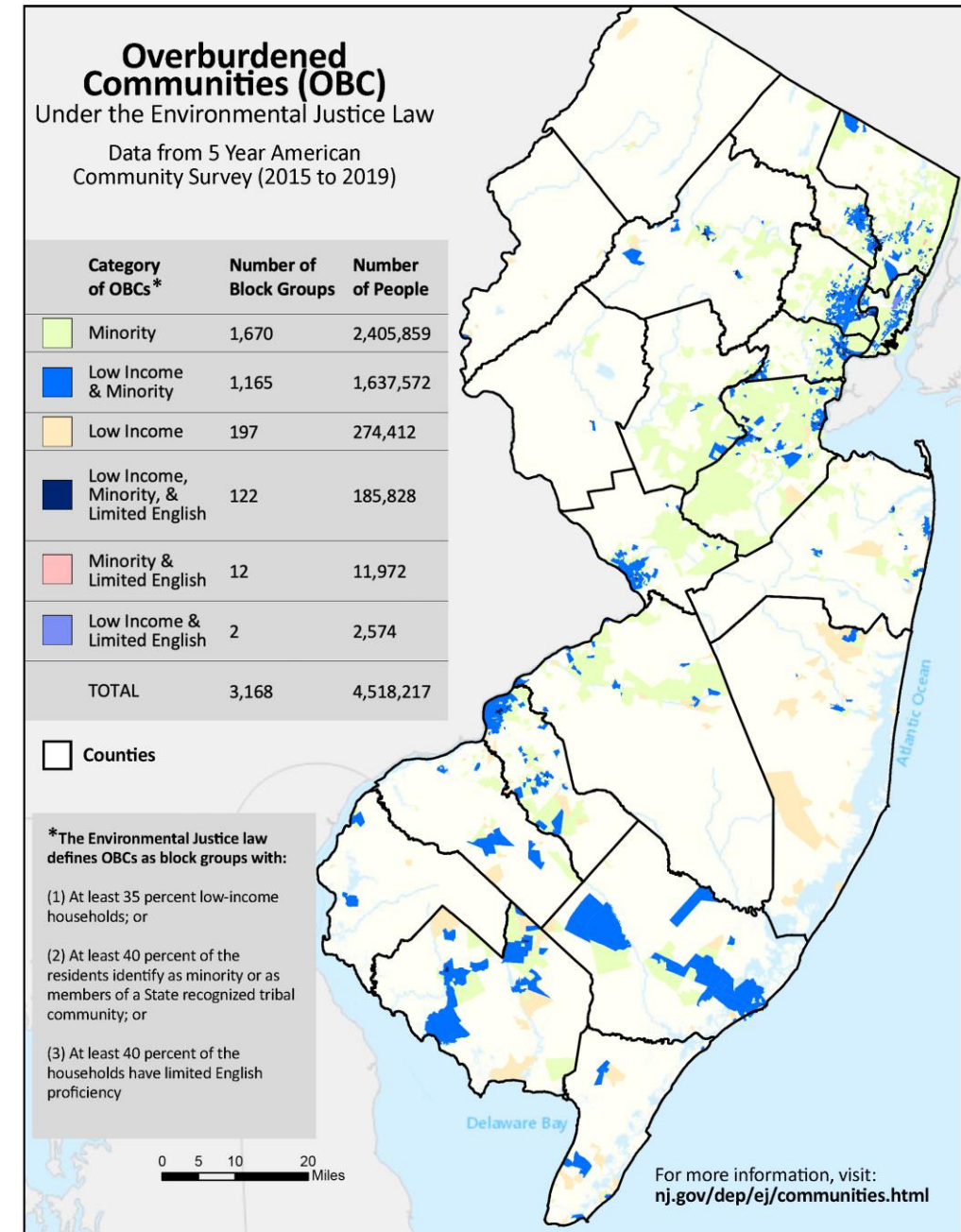


# Definition of Overburdened Community for 2019

5-year American Community Survey Data, 2015-2019

- This is “new” analysis, based on data made available 12/10/2020
- Updated from that used in the in EJ Guidance Document (which was 2018 ACS data for 2014 to 2018)

Overburdened Community Criteria	# Block Groups	Population
Minority	1,670	2,405,859
Low Income and Minority	1,165	1,637,572
Low Income	197	274,412
Low Income, Minority, and Limited English	122	185,828
Minority and Limited English	12	11,972
Low Income and Limited English	2	2,574
	3,168	4,518,217



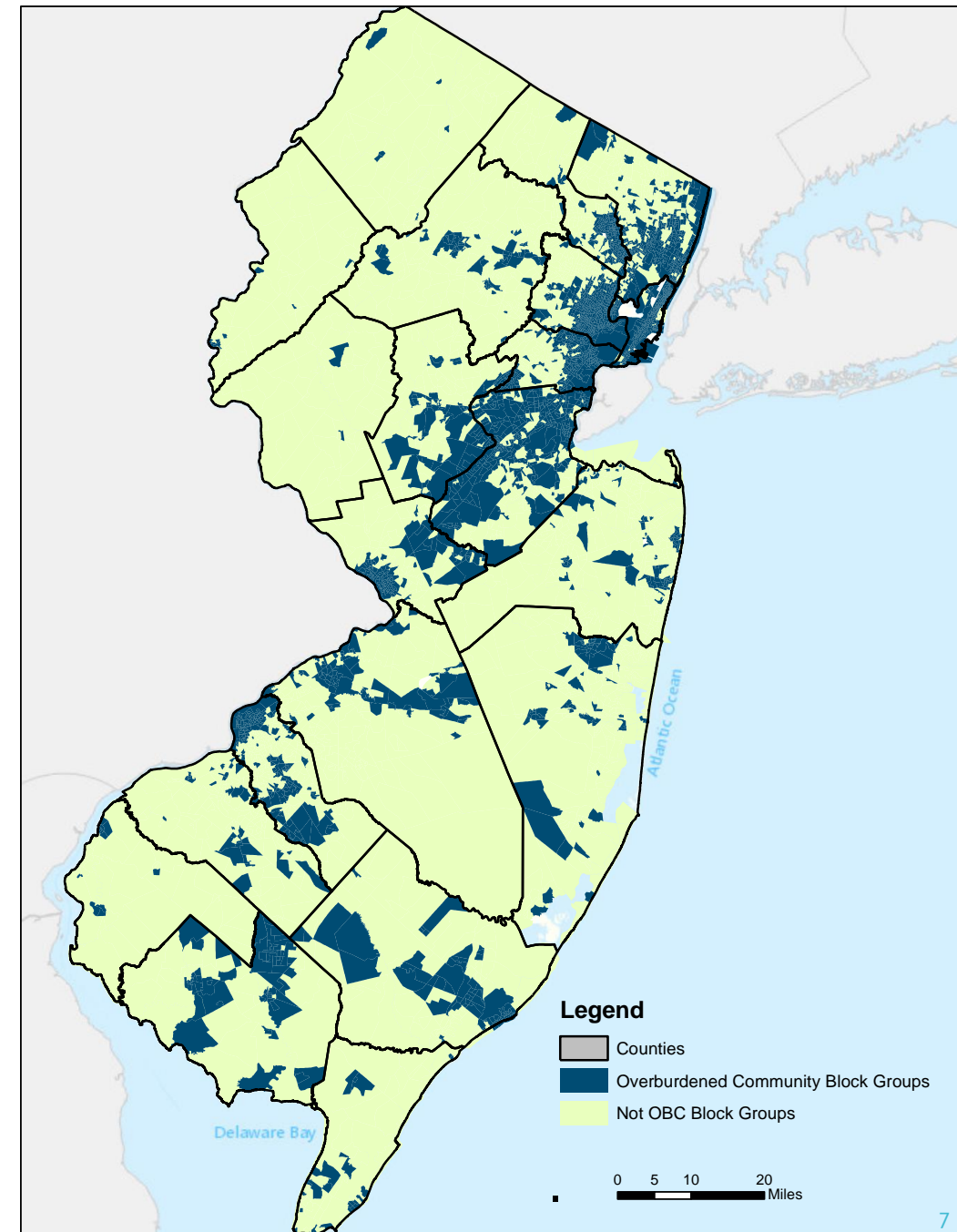
# Overburdened Communities

- Information can be found on the NJDEP Environmental Justice [website](#)
  - Excel Spreadsheet listing Overburdened Communities (OBCs) block groups with town names
  - PDF maps
  - GIS file and simple GIS Tool
- Municipalities were notified
- Webinar to answer questions post-release



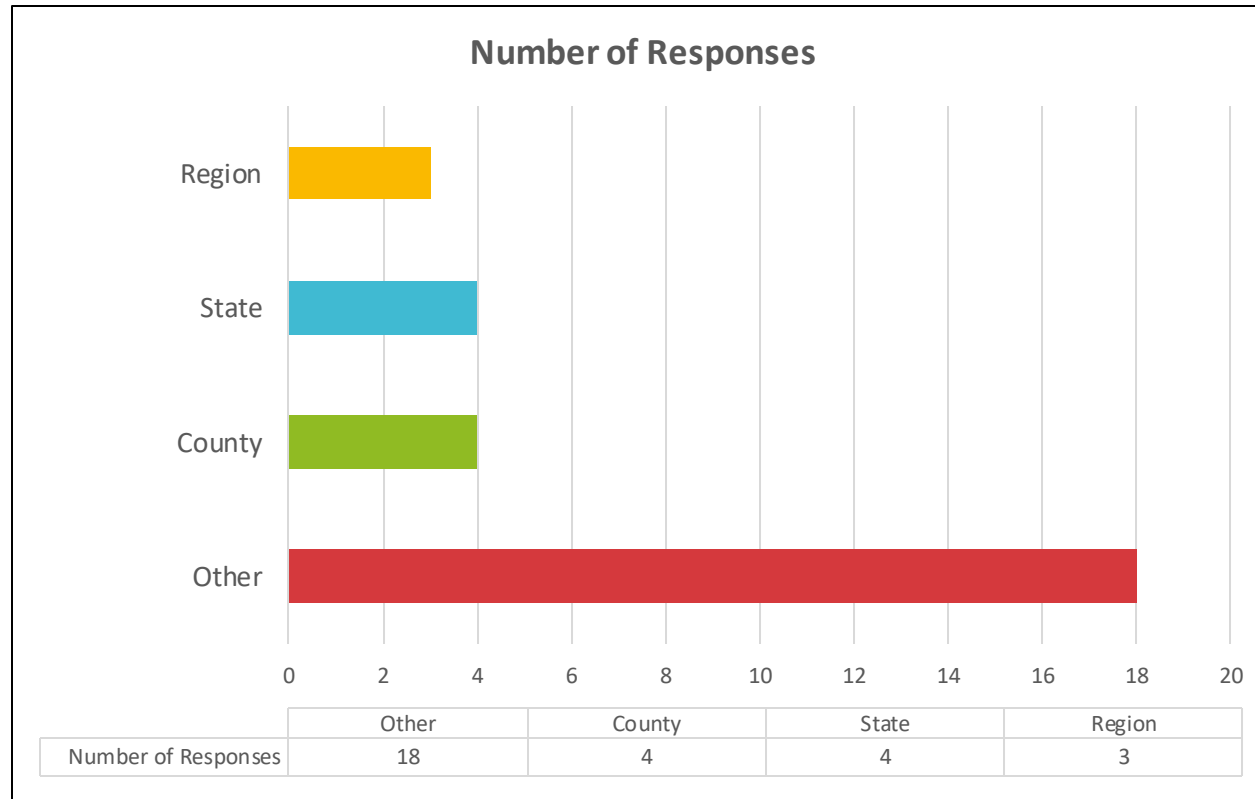
# Geographic Point of Comparison

- From S232 4 c.“...upon a finding that approval of the permit, as proposed, would, together with other environmental or public health stressors affecting the overburdened community, cause or contribute to adverse cumulative environmental or public health stressors in the overburdened community that **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?
  - State
  - State Non Overburdened Areas
  - County
  - County Non Overburdened Areas
  - Other areas?



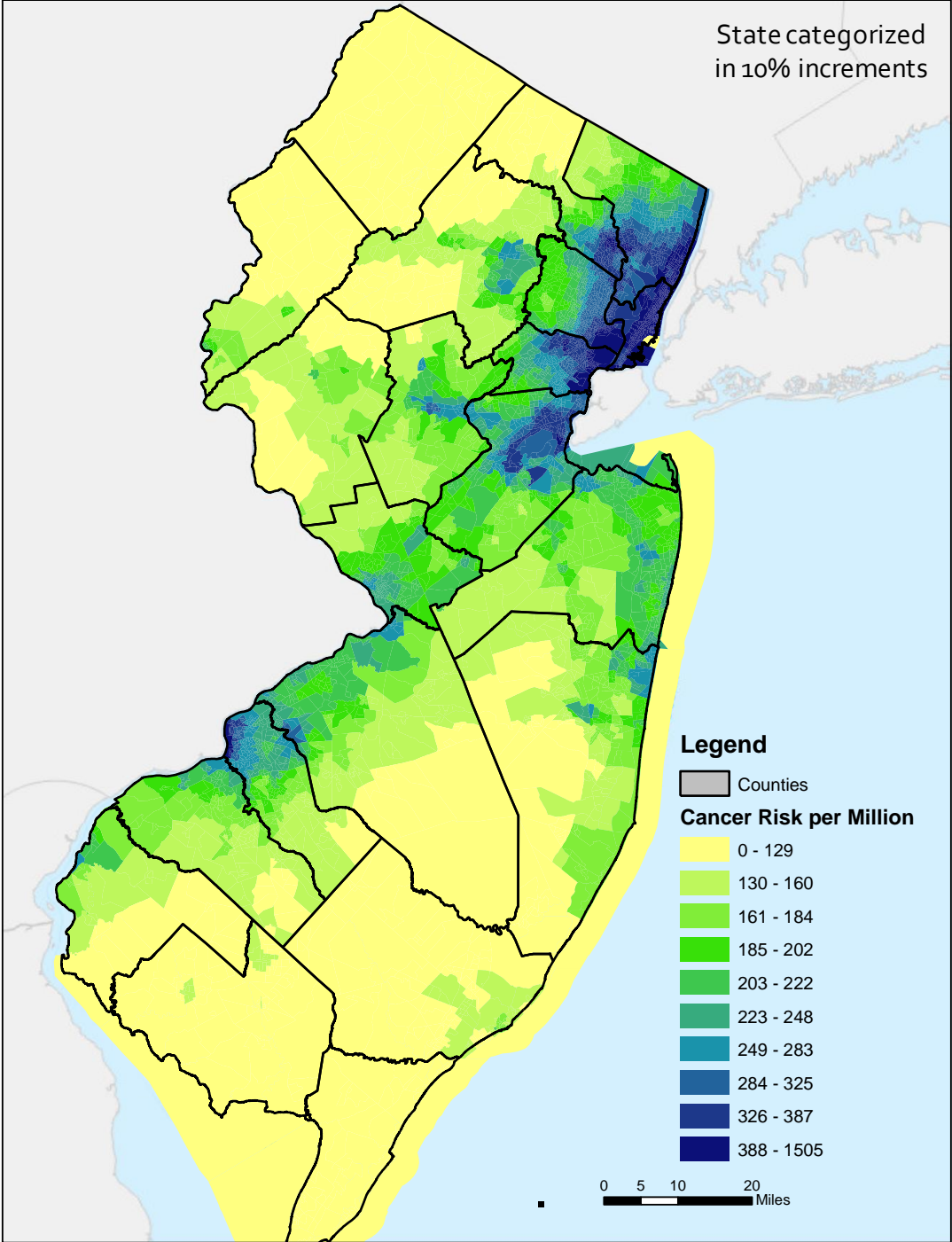
# Geographic Point of Comparison

- Comments received to date
  - Question 13: What is the appropriate geographic unit?
  - Answered: 29 Skipped 3



# Other (please specify) Date	
Neighborhood	4
Census Tract	3
Depends	3
Smallest Area	3
OBC	1
Reference Area	1
Zip Code and County	1
Both State and County	1
Block	1

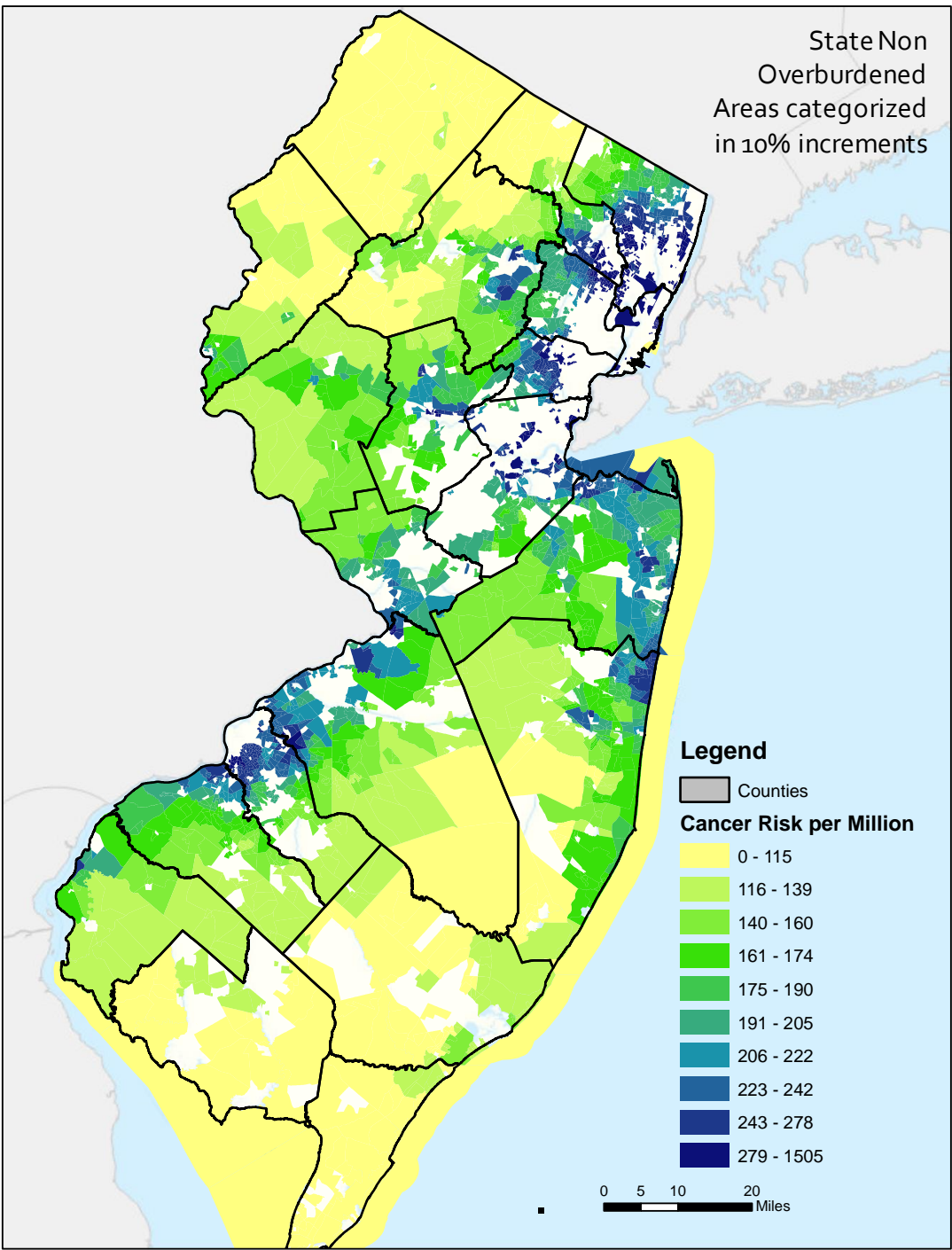




# Example

Stressor: USEPA National Scale Air Toxics Assessment (NATA)  
Total Cancer Risk per million  
Geographic Unit: State as a whole

	State
Comparison Statistic	
Number of Block Groups	6,300
Maximum	1,505
Mean	249
Median 50th Percentile	222
80th Percentile	325
90th Percentile	387

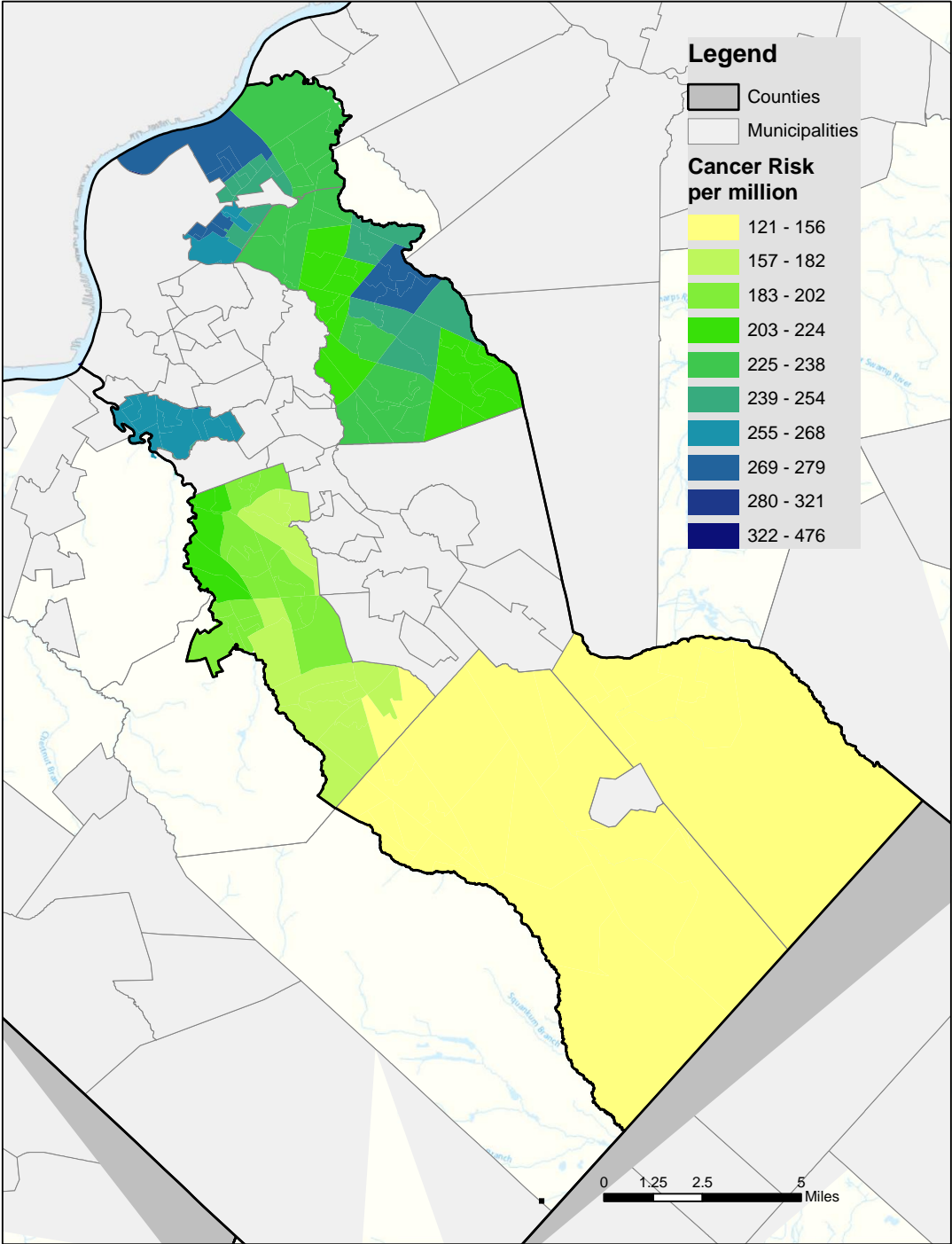


# Example

Stressor: NATA Total Cancer Risk per million  
Geographic Unit: State Non Overburdened Areas

	State	State Area Non Overburdened Community
Comparison Statistic		
Number of Block Groups	6,300	3,154
Maximum	1,505	1,505
Mean	249	203
Median 50th Percentile	222	190
80th Percentile	325	242
90th Percentile	387	278

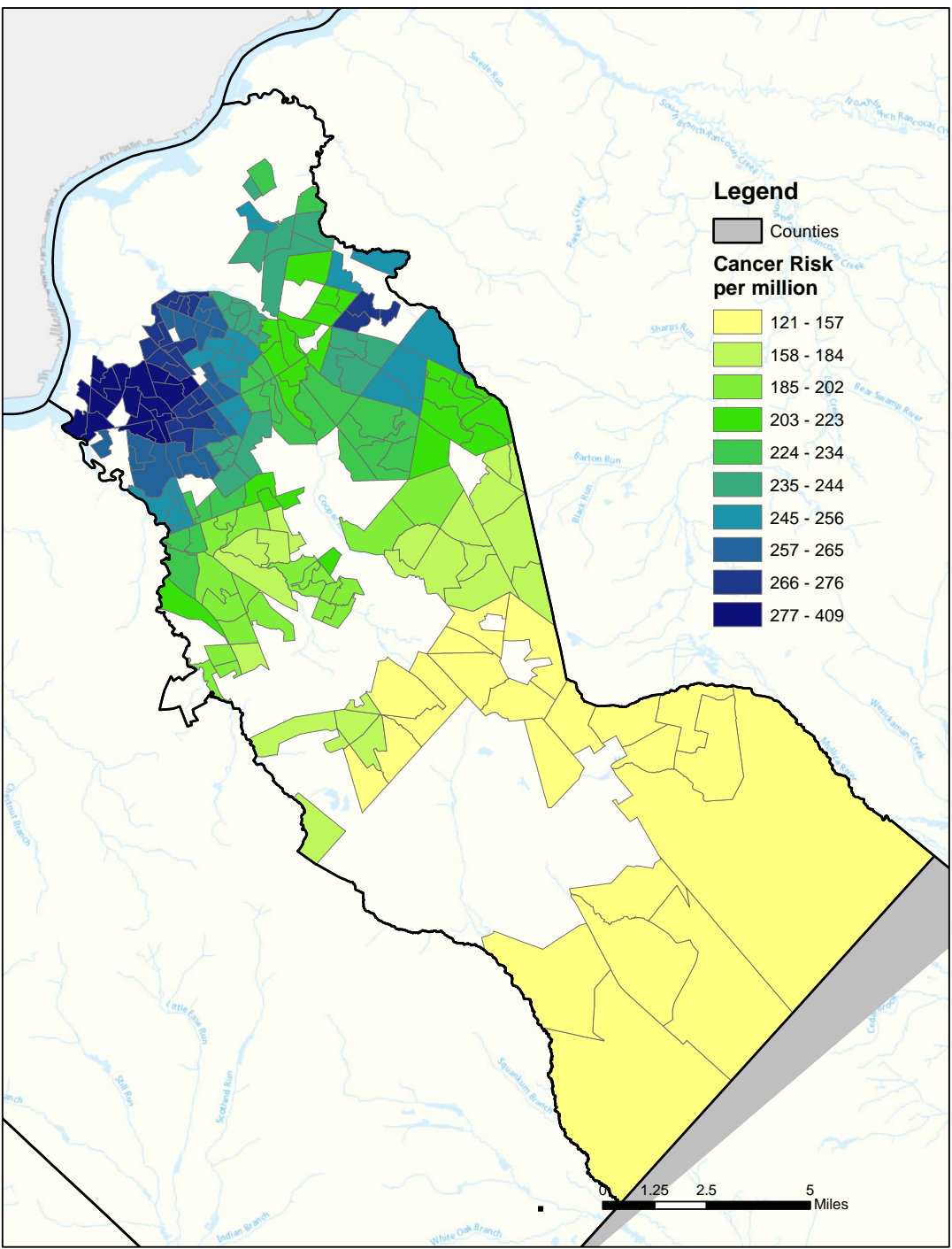




# Example

Stressor: NATA Total Cancer Risk per million  
Geographic Unit: Camden County

	State	State Area Non Overburdened Community	Camden County
Comparison Statistic			
Number of Block Groups	6,300	3,154	382
Maximum	1,505	1,505	476
Mean	249	203	237
Median 50th Percentile	222	190	237
80th Percentile	325	242	279
90th Percentile	387	278	320



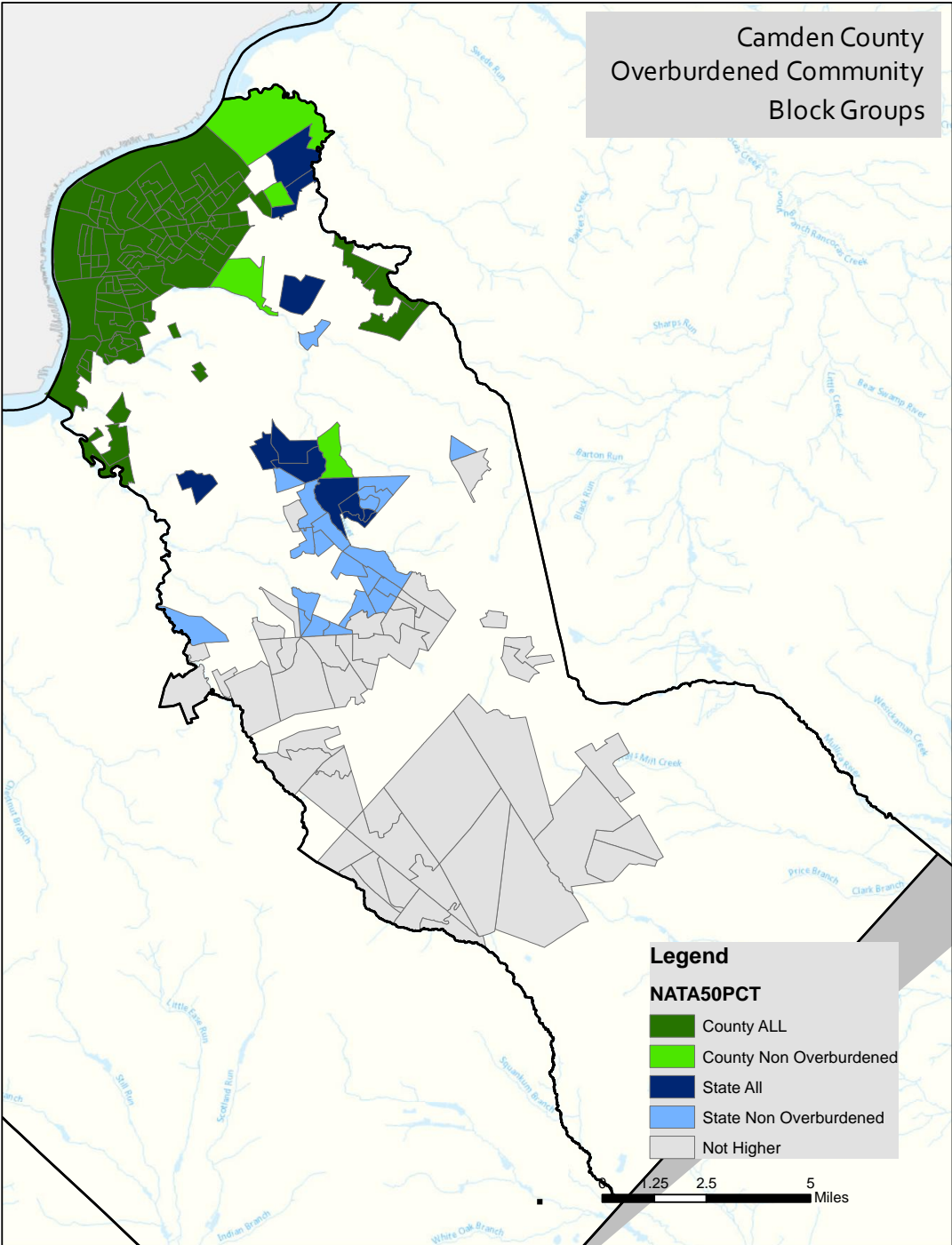
# Example

Stressor: NATA Total Cancer Risk per million  
Geographic Unit: Camden County Non Overburdened Areas

	State	State Area Non Overburdened Community	Camden County	Camden County Area Non Overburdened Community
Comparison Statistic				
Number of Block Groups	6,300	3,154	382	202
Maximum	1,505	1,505	476	409
Mean	249	203	237	225
Median 50th Percentile	222	190	237	231
80th Percentile	325	242	279	264
90th Percentile	387	278	320	276

- For 50<sup>th</sup> percentile in Camden County, the State Non OBC area is 190
- For 80<sup>th</sup> percentile in Camden County, the State Non OBC area is 242

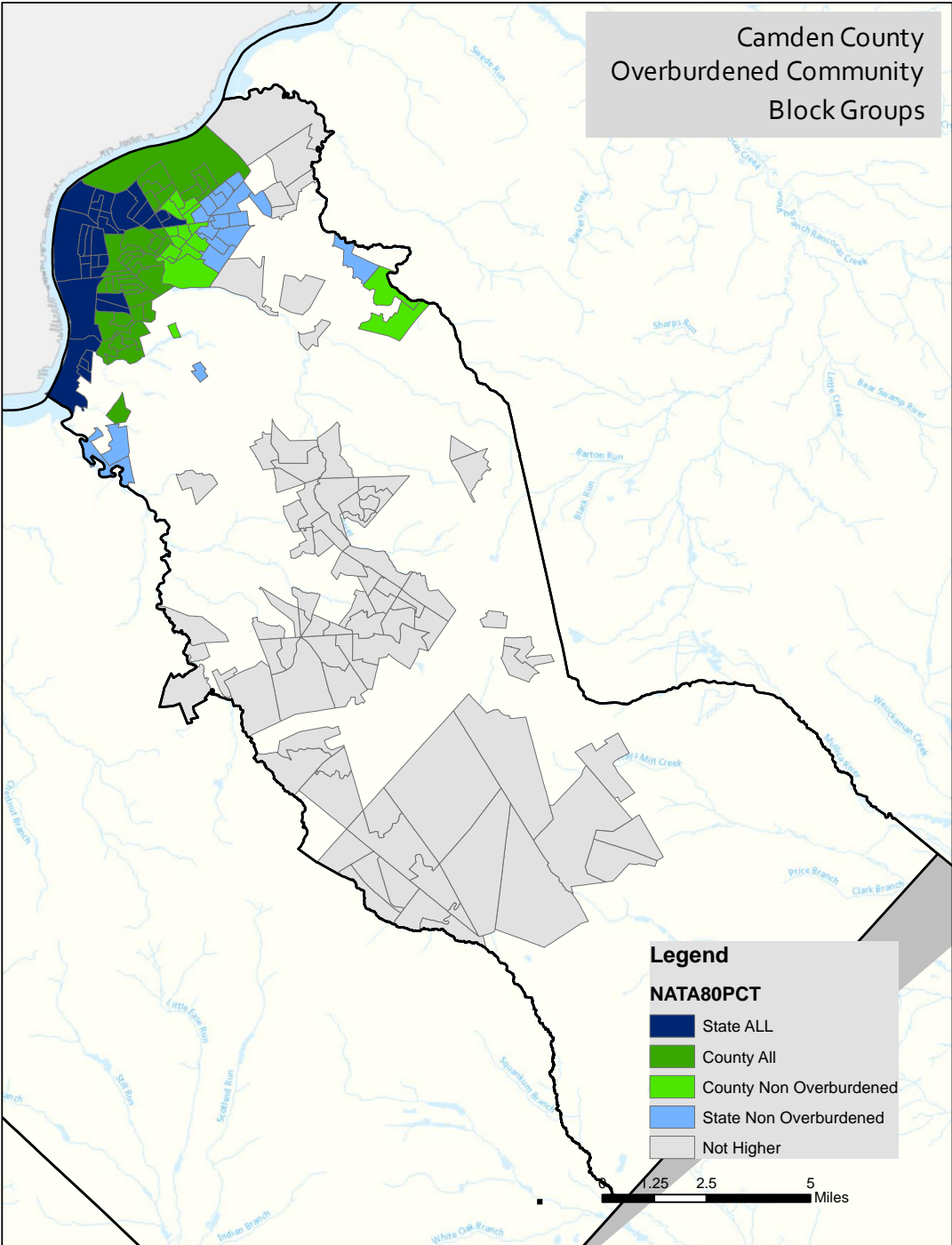




# Hypothetical Comparison: Camden County

- Compare each Overburdened Community block group to different geographic units at **50<sup>th</sup>** percentile
- Use **50<sup>th</sup> percentile** to define 4. c. “**higher** than those borne by other communities”

Geographic Analysis Unit	50th Percentile NATA Cancer Risk	# Block Groups	Population	Combined Block Groups	Combined Population
County ALL	237	98	120,240	98	120,240
County Non Overburdened	231	4	6,798	102	127,038
State All	222	11	14,772	113	141,810
State Non Overburdened	190	21	24,971	134	166,781
Not Higher		46	73,777		



# Hypothetical Comparison: Camden County

- Compare each Overburdened Community block group to different geographic units at **80<sup>th</sup>** percentile
- Use **80<sup>th</sup> percentile** to define 4. c. “**higher** than those borne by other communities”

Geographic Analysis Unit	80th Percentile NATA Cancer Risk	# Block Groups	Population	Combined Block Groups	Combined Population
State ALL	325	28	33,122	28	33,122
County All	279	38	45,359	66	78,481
County Non Overburdened	264	15	20,218	81	98,699
State Non Overburdened	242	17	21,541	98	120,240
Not Higher		82	120,318		

Compare to State

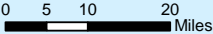
StateAllLabel	Combined Population
80th Percentile	1,508,766
75th Percentile	1,877,106
70th Percentile	2,172,207
65th Percentile	2,435,240
60th Percentile	2,622,203
55th Percentile	2,836,049
50th Percentile	3,009,537
Not higher than	1,522,342

**Legend**

NATA state all

- 80th Percentile
- 75th Percentile
- 70th Percentile
- 65th Percentile
- 60th Percentile
- 55th Percentile
- 50th Percentile
- Not higher than

50<sup>th</sup> Percentile Covers 67% of OBC Population



Compare to County

NATACountyall	Combined Population
80th Percentile	1,118,501
75th Percentile	1,379,367
70th Percentile	1,676,545
65th Percentile	1,945,725
60th Percentile	2,219,941
55th Percentile	2,453,859
50th Percentile	2,683,506
Not higher than	1,848,373

**Legend**

NATA County all

- 80th Percentile
- 75th Percentile
- 70th Percentile
- 65th Percentile
- 60th Percentile
- 55th Percentile
- 50th Percentile
- Not higher than

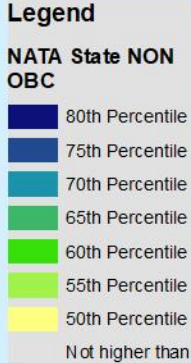
50<sup>th</sup> Percentile Covers 60% of OBC Population





Compare to State  
Non OBC

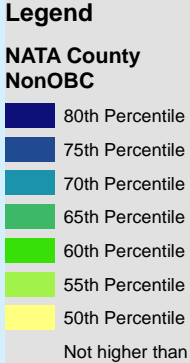
StateNonOBC	Combined Population
80th Percentile	2,714,345
75th Percentile	2,879,690
70th Percentile	3,018,201
65th Percentile	3,181,537
60th Percentile	3,304,157
55th Percentile	3,464,038
50th Percentile	3,596,813
Not higher than	935,066



50<sup>th</sup> Percentile Covers 80%  
of OBC Population

Compare to County  
Non OBC

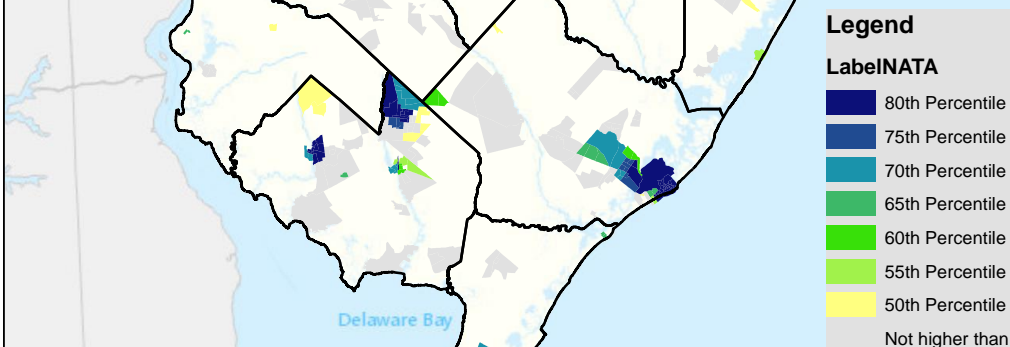
County NonOBC	Combined Population
80th Percentile	2,007,272
75th Percentile	2,201,357
70th Percentile	2,442,086
65th Percentile	2,585,785
60th Percentile	2,706,519
55th Percentile	2,815,492
50th Percentile	2,957,389
Not higher than	1,574,490



50<sup>th</sup> Percentile Covers 65%  
of OBC Population

## Lowest of State or County

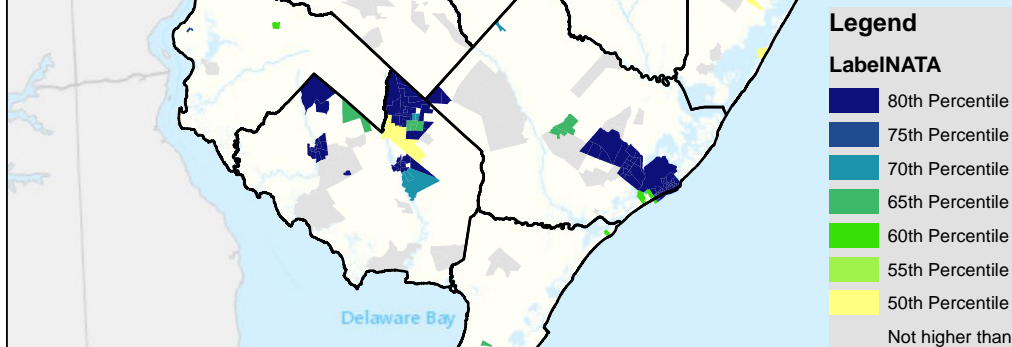
Lowest State County	Combined Population
80th Percentile	1,890,266
75th Percentile	2,287,537
70th Percentile	2,657,750
65th Percentile	2,919,668
60th Percentile	3,150,370
55th Percentile	3,327,033
50th Percentile	3,509,834
Not higher than	1,022,045



50<sup>th</sup> Percentile Covers 78%  
of OBC Population

## Lowest of State or County Non OBC

Lowest State County Non OBC	Combined Population
80th Percentile	3,060,210
75th Percentile	3,187,893
70th Percentile	3,361,644
65th Percentile	3,530,841
60th Percentile	3,623,624
55th Percentile	3,808,321
50th Percentile	3,950,633
Not higher than	581,246



50<sup>th</sup> Percentile Covers 87%  
of OBC Population

# Discussion & Questions

- Questions/clarification on current analysis?
- What other geographic units of analysis should be considered?
- Due to differences in State and County comparisons is it appropriate to combine the comparisons? For example, select the lowest of the State or County comparisons
- What additional analysis should be conducted to assess geographic unit of analysis?



# Facility & Permit Definitions

# Facilities & Permits Covered

- One of eight (8) types of facilities:
  - Major sources of air pollution (e.g., power plants, cogeneration facilities);
  - Resource recovery facilities or incinerators;
  - 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”





# Major Source of Air Pollution

Bill defines “**major source**” as “a major source of air pollution as defined by the federal “Clean Air Act,” 42 U.S.C. § 7401 et seq., or in rules and regulations adopted by the department pursuant to the “Air Pollution Control Act,” P.L.1954, c.212 (C.26:2C-1 et seq.) or which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant, or other applicable criteria set forth in the federal “Clean Air Act,” 42 U.S.C. § 7401 et seq.



# Major Source of Air Pollution

- Incorporate definitions of “major source” and “major facility” from the Air Pollution Control Act Rules and associated pollutants/thresholds

<u>Air Contaminant</u>	<u>Threshold Level (per year)</u>
Carbon Monoxide (CO)	100 tons
Particulate Matter 10 microns or less (PM <sub>10</sub> )	100 tons
Particulate Matter 2.5 microns or less (PM <sub>2.5</sub> )	100 tons
Total Suspended Particles (TSP)	100 tons
Sulfur Dioxide (SO <sub>2</sub> )	100 tons
SO <sub>2</sub> (as a PM <sub>2.5</sub> precursor)	100 tons
Nitrogen Oxides (NO <sub>x</sub> )	25 tons
NO <sub>x</sub> (as a PM <sub>2.5</sub> precursor)	100 tons
Volatile Organic Compounds (VOCs)	25 tons
Lead	10 tons
Any Hazardous Air Pollutant (HAP)	10 tons
All HAPs, collectively	25 tons
Any other air contaminant, except Carbon Dioxide	100 tons

# Major Source of Air Pollution

- What concerns, if any, are raised by this approach?



# Solid Waste Facilities

- Define group of solid waste facilities subject to the requirements of the bill as the same are defined in the Department's Solid Waste Rules, N.J.A.C. 7:26 or, where applicable, Air Pollution Control Act Rules, N.J.A.C. 7:27, with incorporation of the corresponding regulatory thresholds
- Include general definition of Solid Waste Facility (N.J.A.C. 7:26-1.4)
  - Any system, site, equipment or building which is utilized for the storage, collection, processing, transfer, transportation, separation, recycling, recovering or disposal of solid waste



# Incinerator

- Defined in both the Solid Waste and Air Pollution Control Act Rules (e.g. N.J.A.C. 7:26-1, 7:27-11.1, 7:27-16.1, 2.1, 6.1, 8.1, 19.1)
- Generally characterized to include:
  - A structure, device or equipment use for
  - The reduction, destruction or salvage or
  - Any material or substance
  - By combustion or pyrolysis
- Excludes:
  - Control technology on manufacturing equipment (“thermal or catalytic oxidizers used as control apparatus on manufacturing equipment”)
  - Incinerator used to obtain energy shall be classified as a resource recovery facility
- Definitions expressly include: solid waste, garbage, debris, human or animal remains
- Expanded to include:
  - Sludge (as defined at N.J.A.C. 7:26.1.4)
  - Medical/infectious waste (as defined at N.J.A.C. 7:27-27.1, excluding those attendance to hospitals/universities)



# Resource Recovery Facility

- Defined in both Solid Waste and Air Pollution Control Act Rules (e.g. N.J.A.C. 7:26-14A.4, N.J.A.C. 7:26-1.4, N.J.A.C. 7:26H-1.4, N.J.A.C. 7:27-10.1)
- Generally characterized to include:
  - Facility used for
  - Processing, incineration or other means of separation of solid waste or recycling
  - For reuse, energy production or material recovery



# Transfer Station or Other Solid Waste Facility

- Defined in the Solid Waste Rules (N.J.A.C. 7:26-1.4)
- Solid waste facility where:
  - Solid waste is transferred from one vehicle to another, including rail car, for offsite transportation
  - Certain liquid waste is received, stored, treated or transferred
- Excludes:
  - Solid waste facility at which only site-generated solid waste is received for onsite transfer and processing or disposal utilizing facility-owned or operated equipment and vehicles



# Recycling Facilities (over 100 tons/day)

- Defined in the Recycling Rules as “recycling centers” (N.J.A.C. 7:26-1.4)
- Includes:
  - Class B recycling facilities: waste concrete, asphalt, brick, block, asphalt-based roofing scrap and wood waste; waste materials other than metal, glass, paper, plastic containers, corrugated and other cardboard resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings, pavements and other structures; whole trees, tree trunks, tree parts, tree stumps, brush and leaves (not composted); scrap tires; and petroleum-contaminated soil
  - Class C recycling facilities: food waste; biodegradable plastic; yard trimmings, including any biodegradable paper bags in which the yard trimmings are collected; separated biomass; and lakeweed generated from the cleaning of aquatic flora from freshwater lakes
  - Class D recycling facilities: used oil (including but not limited to used lubricant oil; used coolant oil; used emulsion oil; and other used synthetic oil or used oil refined from crude oil; antifreeze; latex paints; light bulbs; oil-based finishes; batteries; mercury-containing equipment; and consumer electronics
- Excludes:
  - Class A recycling facilities: metal, glass, paper, plastic containers, and corrugated and other cardboard (statutory exemption)





# Landfill

- Defined in the Solid Waste Rules as “sanitary landfill” (N.J.A.C. 7:26-1.4)
- Solid waste facility where:
  - Solid waste is deposited on or into the land as fill
  - For the purpose of permanent disposal or storage
  - For a period of time exceeding six months
- Excludes:
  - Facilities for the disposal of hazardous waste
  - However:
    - Hazardous waste landfills, as well as all hazardous waste disposal units, are regulated under the hazardous waste regulations at NJAC 7:26G (these regulations are incorporated by reference from the federal RCRA rules).



# Sewage Treatment Plant (more than 50M gallons/day)

- Department regulations do not specifically define “sewage treatment plant”
- Possible approach: Integrate definition of “treatment works” from NJPDES Rules (N.J.A.C. 7:14A-1.2)
  - “Treatment works” means any device or system whether public or private, used in the storage, treatment, recycling, or reclamation of municipal or industrial waste of a liquid nature
  - Includes any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of pollutants, including stormwater runoff, or industrial waste in combined or separate stormwater and sanitary sewer systems
  - Regulated under NJPDES Rules, N.J.A.C. 7:14A, Water Pollution Control Act Rules,



# Sludge Processing Facility, Combustor, or Incinerator

- Sludge Processing Facility not defined in any existing Department statute or regulation
- Possible approach:
  - Adopt definition of “sludge” from Solid Waste Rules (N.J.A.C. 7:26.1.4):
    - Any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant
  - Include necessary cross-references to address existing disposal methods (landfill, incineration, sewage treatment works)
  - Consider whether creation of additional definition to address processing methods not otherwise covered by existing regulations
    - Example: Preparation for land application



# Scrap Metal Facility

- Department does not currently regulate the operation of or otherwise define “scrap metal facilities” under Solid Waste Rules
- Department presently regulates a “scrap metal shredding facility” under the Solid Waste Rules (N.J.A.C. 7:26-1.4):
  - Industrial facility that receives and stores motor vehicles, appliances, other source separated, non-putrescible ferrous and non-ferrous metals;
  - Reduces those materials through mechanical shredding, and
  - Transfers those materials for economic reuse
- Certain Scrap Metal Facilities are permitted under NJPDES



# Covered Permits

- **Air Quality, Energy & Sustainability Permits**
  - N.J.S.A. 26:2C-1 (Air Pollution Control Act)
- **Solid Waste Permits**
  - N.J.S.A. 13:1E-1, 13:1E-26 (Solid Waste Management Act)
  - N.J.S.A. 13:1E-99.11 (New Jersey Statewide Mandatory Source Separation and Recycling Act)
- **Water Resources Management Permits**
  - N.J.S.A. 58:1A-1, 58:4A-5 (Water Supply Management Act)
  - N.J.S.A. 58:10A-1, 58:10A-21 (Water Pollution Control Act)
- **Watershed & Land Management Permits**
  - N.J.S.A. 12:5-1 (Waterfront Development)
  - N.J.S.A. 13:1D-29 (Construction Permits)
  - N.J.S.A. 13:9B-1 (Freshwater Wetlands Protection Act)
  - N.J.S.A. 13:19-1 (Coastal Area Facility Review Act)
  - N.J.S.A. 13:20-1 (Highlands Water Protection and Planning Act)
  - N.J.S.A. 58:16A-50 (Flood Hazard Control Act)
  - N.J.S.A. 13:9A-1 (The Wetlands Act of 1970)
- **Other Permits**
  - N.J.S.A. 13:1F-1 (Pesticide Control Act of 1971)
  - N.J.S.A. 13:1E-48.1, 13:1E-99.21a (Comprehensive Regulated Medical Waste Management Act)



# For Discussion

- Define permits in accordance with above-referenced statutory and regulatory definitions and apply EJ-specific regulatory criteria where a permit is otherwise required for a facility.



# Air Pollution Control Permits

- **Air Pollution Control Act (N.J.S.A. 26:2C-1)**
  - Implemented through the Department's Air Pollution Control rules, N.J.A.C. 7:27
  - Governs emitting of and such activities as result of introducing of contaminants into the ambient atmosphere
  - Facilities Covered: Major Sources of Air Pollution



# Solid Waste Permits

- **Solid Waste Management Act (N.J.S.A. 13:1E-1, 13:1E-26)**
  - Implemented through the Solid Waste rules, N.J.A.C. 7:26
  - Governs, among other areas, the registration, operation, maintenance, and closure of sanitary landfills and other solid waste facilities; registration, operation, and maintenance of solid waste transporting operations and facilities
  - Facilities Covered: Solid waste facilities, including resource recovery facilities, transfer stations, landfills, incinerators
- **New Jersey Statewide Mandatory Source Separation and Recycling Act (N.J.S.A. 13:1E-99.11)**
  - Implemented through the Department's Recycling Rules, N.J.A.C. 7:26A
  - Governs the operation of recycling centers and the conduct of recyclable materials generators and transporters, and of governing municipalities and counties that have jurisdiction over recyclable materials; also governs electronic waste recycling
  - Facilities Covered: Recycling centers intending to receive more than 100 ton of material per year





# Water Resources Management Permits

- **Water Supply Management Act (N.J.S.A. 58:1A-1, 58:4A-5)**
  - Implemented through Water Supply Management Act Rules, N.J.A.C. 7:19-6.1
  - Governs water allocation process
  - Facilities Covered: Water Supply Wells
- **Water Pollution Control Act (N.J.S.A. 58:10A-1, 58:10A-21)**
  - Implemented in part by the Department's New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A
  - Governs the discharge of pollutants to the surface and ground waters of the State
  - Facilities Covered: Treatment works



# Watershed & Land Management Permits

- **Waterfront Development Act (N.J.S.A. 12:5-1), Coastal Area Facility Review Act (N.J.S.A. 13:19-1), The Wetlands Act of 1970 (N.J.S.A. 13:9A-1)**
  - Implemented together through the Department's Coastal Zone Management Rules, N.J.A.C. 7:7
  - Governs activities in the State's "coastal zone" encompassing tidal and non-tidal waters, tidal wetlands, waterfronts and inland areas
  - Generally: Hudson River south Cape May Point; North to Trenton.
  - Portions of Middlesex, Monmouth, Ocean, Burlington, Atlantic, Cape May, Gloucester, Camden, Mercer, Somerset, Union, Hudson, Essex, Passaic, Bergen, Cumberland and Salem Counties and the Meadowlands District
- **Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1)**
  - Governs activities in freshwater wetlands and "transition areas," i.e., buffers adjacent to wetlands



# Watershed & Land Management Permits

- **Highlands Water Protection and Planning Act (N.J.S.A. 13:20-1)**
  - Implemented through the Highlands Rules, N.J.A.C. 7:38
  - Department issues Highlands Preservation Area Approvals for activities constituting major Highlands development proposed in the Preservation Area
  - Preservation Area – 398,000 acres of exceptional resource value areas in Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex, Warren Counties
  - Facilities Covered: Potentially all
- **Flood Hazard Area Control Act (N.J.S.A. 58:16A-50)**
  - Implemented through the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13
  - Applies stringent standards for development in areas near streams and tidal waters
  - Facilities Covered: Potentially all



# Other Permits

- **Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1)**
  - Implemented through Pesticide Regulations, N.J.A.C. 7:30
  - Governs the manufacturing, labeling, registration, and classification of pesticides, the registration of pesticide dealers and pesticide dealer businesses, the registration of applicators of pesticides, the use of Integrated Pest Management (IPM) in schools, and the distribution, use, application, storage, handling, transportation, and disposal of pesticides
  - Facilities Covered: Unclear
- **Comprehensive Regulated Medical Waste Management Act (N.J.S.A. 13:1E-48.1, 13:1E-99.21a)**
  - Implemented in part by Solid Waste Rules, N.J.A.C. 7:26
  - Governs the handling and disposal of regulated medical waste
  - Facilities Covered: Medical Waste Incinerators



# Q&A

## **Olivia C. Glenn**

Deputy Commissioner of Environmental Justice & Equity

## **Sean D. Moriarty, Esq.**

Chief Advisor for Regulatory Affairs

