

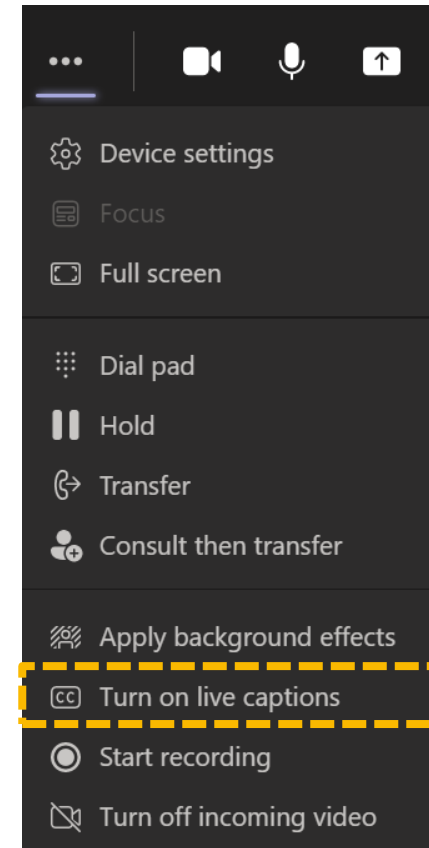
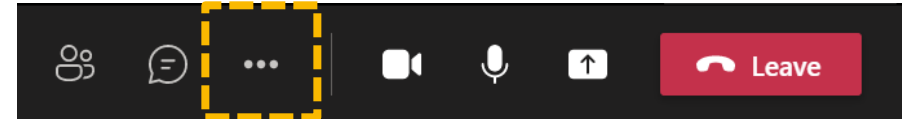
6th EJ Rulemaking Stakeholder Meeting

Review Meeting

06/24/21

Turn on Live Captions (Closed Captioning)

1. At the top right of the Teams window, locate and click on the ellipsis (three dots).
2. Multiple options will appear; locate and click on "Turn on live captions"
3. You will see live captions at the bottom of the Teams window



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.
- Given the breadth of information to be presented, we may need to limit discussion on specific topics to ensure we are able to cover everything. The Department will accept written comments on all topics discussed after those close of tonight's session.
- Please note that this meeting is being recorded and will be posted on the NJDEP website after the session concludes.

Agenda

1. Stakeholder Process Recap
2. EJ Law Overview
3. Facility Definitions
4. Permit Definitions
5. Geographic Points of Comparison
6. Environmental & Public Health Stressors
7. Environmental Justice Impact Statement
8. EJIS “Run Through”
9. Compelling Public Interest

For each topic:

- What we previously presented;
- The potential direction for rulemaking; and
- Questions/comments (as time permits)

Stakeholder Process Recap

Stakeholder Process Recap

- **10/22/20** – Initial EJ Rulemaking Public Information Session
- **01/20/21** – Geographic Points of Comparison / Facility & Permit Definitions
- **03/11/21** – Environmental & Public Health Stressors
- **04/07/21** – Compelling Public Interest / Renewal Conditions
- **05/20/21** – Environmental Justice Impact Statement
- **06/24/21** – Review Meeting

EJ Law Overview

S232/A2212 Overview

- 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; which
- 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.

S232 – The Environmental Justice Law (1/2)

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.

S232 – The Environmental Justice Law (2/2)

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.

Covered Facilities

- One of eight (8) types of facilities:
 1. Major sources of air pollution;
 2. Resource recovery facilities or incinerators;
 3. Sludge processing facilities, combustors, or incinerators;
 4. Sewage treatment plants with a capacity of more than 50 million gallons per day;
 5. Transfer stations or solid waste facilities, or recycling facilities intending to receive at least 100 tons of recyclable material per day;
 6. Scrap metal facilities;
 7. Landfills; or
 8. 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.”

Overburdened Community

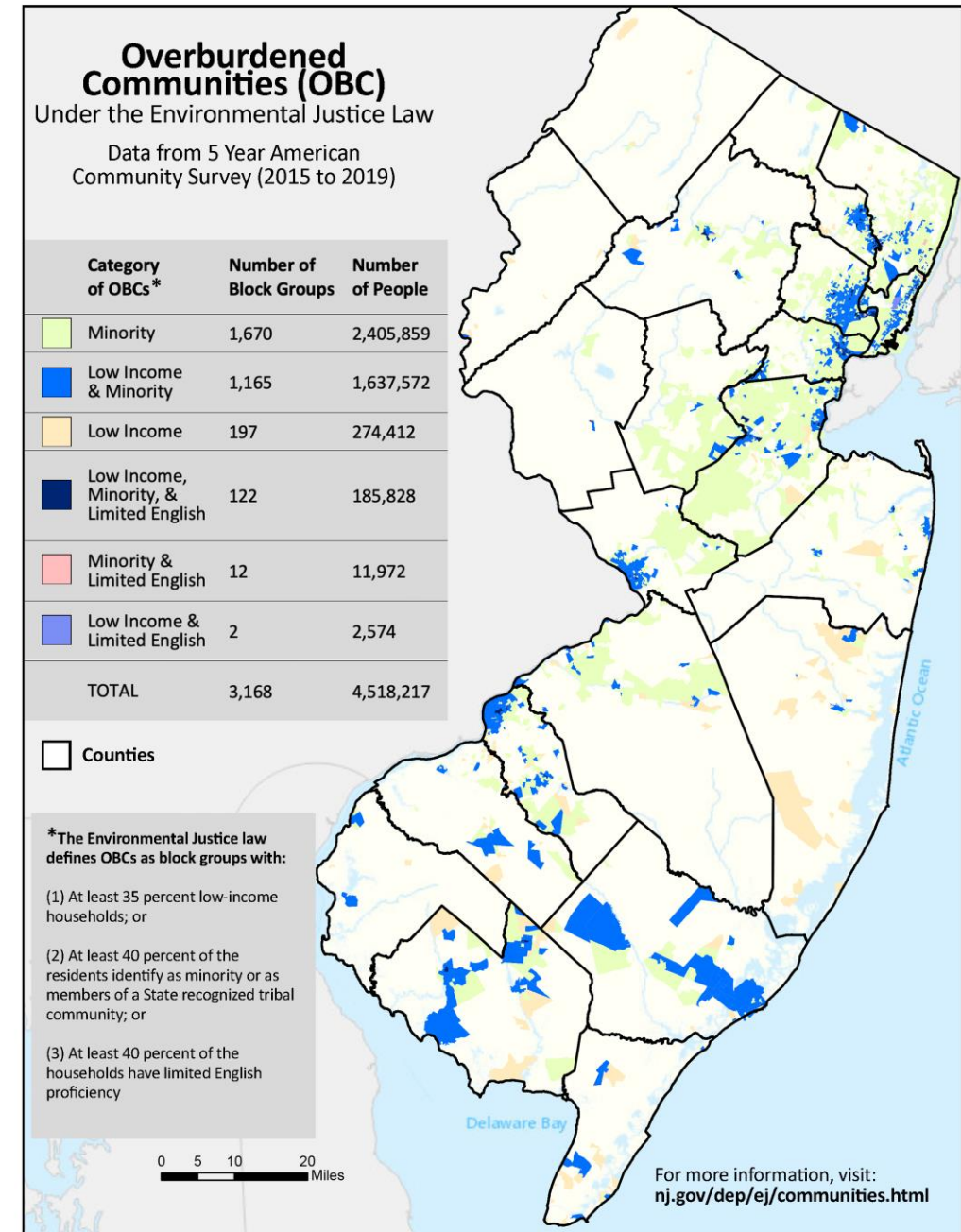
“Overburdened community” means any census block group, as determined in accordance with the most recent United States Census, in which: (1) at least 35 percent of the households qualify as low-income households; (2) at least 40 percent of the residents identify as minority or as members of a State recognized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

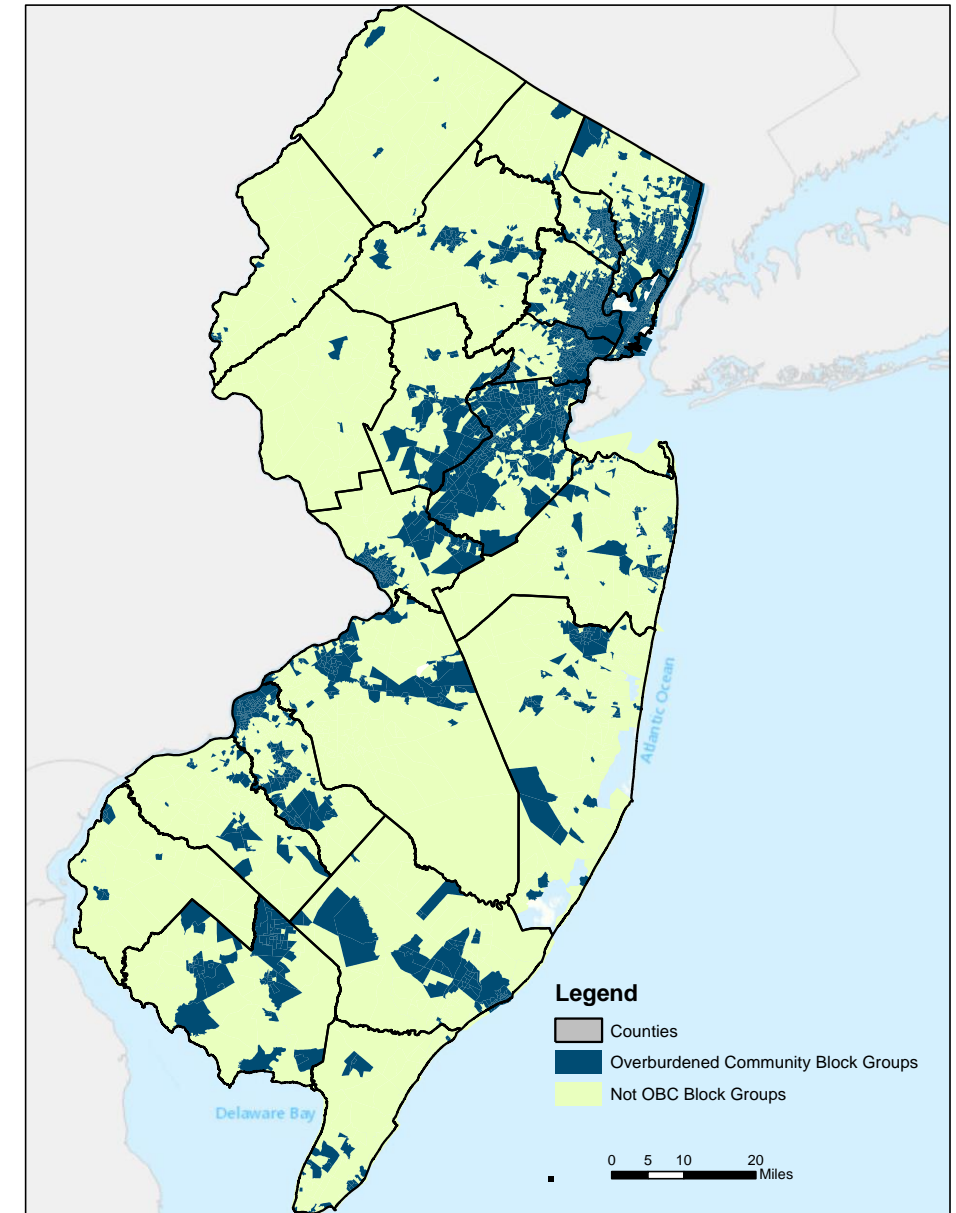
- Information can be found on the NJDEP Environmental Justice [website](#)
 - Excel Spreadsheet listing Overburdened Communities (OBCs) block groups with town names
 - PDF maps
 - GIS file and simple GIS Tool
- Municipalities were notified
- Webinar to answer questions post-release

Environmental & Public Health Stressors

- “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.

Geographic Points of Comparison

The Bill requires the Department to 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.



Potential Process: 3 Steps

- **Step 1 – Initial Screen:** Using the publicly-available data (including NJDEP's EJ mapping tool), determine whether an Overburdened Community is subject to adverse environmental and public health stressor levels that are higher than the appropriate geographic point of comparison.
- **Step 2 – Environmental Justice Impact Statement (EJIS):** Through the development of an Environmental Justice Impact Statement, including a public comment period and hearing in the Overburdened Community, an applicant assesses whether and how the proposed facility will cause or contribute to adverse stressor levels in the Overburdened Community that are higher than the appropriate geographic point of comparison (Step 1). If so, the applicant would propose measures to avoid or eliminate those impacts. If the Applicant cannot avoid causing or contributing to those “higher” stressor levels, a disproportionate impact is present.

Potential Process: 3 Steps

- **Step 3 – Departmental Review:** Where a disproportionate impact is present:
 - **(a) New Facilities: Denial, unless Demonstrated Compelling Public Interest in Overburdened Community:** The Department shall deny the permit application for a new facility unless the facility is of the type that will serve a Compelling Public Interest in the Overburdened Community where it is to be located. If so, the Department may impose binding permit conditions on the construction and operation of the facility to protect public health and improve baseline environmental and public health stressors in the Overburdened Community.
 - **(b) Facility Expansions/Title V Renewals, Permit Conditions:** The Department may impose binding permit conditions concerning the construction and operation of the facility.

Facility Definitions

Covered Facilities

- One of eight (8) types of facilities:
 1. Major sources of air pollution;
 2. Resource recovery facilities or incinerators;
 3. Sludge processing facilities, combustors, or incinerators;
 4. Sewage treatment plants with a capacity of more than 50 million gallons per day;
 5. Transfer stations or solid waste facilities, or recycling facilities intending to receive at least 100 tons of recyclable material per day;
 6. Scrap metal facilities;
 7. Landfills; or
 8. Medical waste incinerators, except those attendant to hospital and universities.
- Potential Approach: Define as set forth in underlying environmental regulations (with certain modifications) to meet statutory intent

Major Source of Air Pollution (potential direction)

- Statute defines “major source” to mean a major source of air pollution as defined by the federal “Clean Air Act,” 42 U.S.C. s.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.s.7401 et seq.
- Incorporate definitions of “major source” and “major facility” from the Air Pollution Control Act Rules and associated pollutants/thresholds

Air Contaminant	Threshold Level (per year)
Carbon Monoxide (CO)	100 tons
Particulate Matter 10 microns or less (PM ₁₀)	100 tons
Particulate Matter 2.5 microns or less (PM _{2.5})	100 tons
Total Suspended Particles (TSP)	100 tons
Sulfur Dioxide (SO ₂)	100 tons
SO ₂ (as a PM _{2.5} precursor)	100 tons
Nitrogen Oxides (NO _x)	25 tons
NO _x (as a PM _{2.5} 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

Resource Recovery Facility (potential direction)

- Define as set forth in the Solid Waste Rules:
 - “Resource recovery facility” means any place, equipment, device or plan designed and/or operated to separate or process solid or liquid waste into usable secondary materials, including fuel and energy. (N.J.A.C. 7:26-1.4)

Incinerator (potential direction)

- Define as set forth in the Solid Waste Rules at N.J.A.C. 7:26-1.4 (modified):
 - A structure, devise or equipment use for
 - The reduction, destruction or salvage or
 - Any material or substance (solid waste, garbage, debris, human or animal remains, sludge, medical waste)
 - By combustion or pyrolysis or other similar processes
- Excludes:
 - Control technology on manufacturing equipment (“thermal or catalytic oxidizers used as control apparatus on manufacturing equipment”)
 - Incinerator used to obtain energy = resource recovery facility
 - Medical waste incinerators attendant to hospitals/universities (statutory exclusion)

Sludge Processing Facility (potential direction)

- Not specifically defined in regulation.
- Develop definition of “sludge” incorporating from NJPDES Rules (N.J.A.C. 7:14A-1.2).
- Include necessary cross-references to address existing disposal methods (landfill, incineration, sewage treatment works).
- Create new definition of “sludge processing facility.”

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

- Department regulations do not specifically define “sewage treatment plant.”
- Takes into consideration definitions from NJPDES Rules (N.J.A.C. 7:14A-1.2).
- Sewage Treatment Plant with a “permitted flow,” as defined in N.J.A.C. 7:14A-1.2, of more than 50 million gallons per day
- “Sewage Treatment Plant” means any facility owned or operated by any public or private sewerage authority, municipal utilities authority, joint meeting, State agency, county, municipality, group of commissioners, commission, or other entity, into which a treatment works, as defined in N.J.A.C. 7:14A-1.2, will discharge; or which has jurisdiction to treat or convey sewage or other wastewater in the service area in which the proposed treatment works are to be located.

Transfer Station or Other Solid Waste Facility (potential direction)

- Transfer Station
 - Define as set forth in Solid Waste Rules at N.J.A.C. 7:26-1.4:
 - 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
- Solid Waste Facility
 - 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

Recycling Facilities (over 100 tons/day) (potential direction)

- Incorporate definition of “recycling or reclamation facility” as set forth in the Solid Waste Rules at N.J.A.C. 7:26-1.4 (with associated definitions):
 - “Recyclable materials” means materials which would otherwise become nonhazardous solid waste which can be separated, collected and processed and returned to the economic mainstream in the form of raw materials or products. (N.J.A.C. 7:26-1.4)
 - “Recycling or reclamation facility” means any place, equipment or plant designed and/or operated for the purpose of recycling or reclamation, as defined above, to collect, store, process or to redistribute separated waste so as to return the material to market intending to receive at least 100 tons of recyclable material per day. (N.J.A.C. 7:26-1.4 and EJ Law)
 - “Reclaim” or “reclamation” means a procedure whereby a material is treated to recover a usable product, or where a material is regenerated. Examples are recovery of lead values from spent batteries, regeneration of spent solvents and removal of impurities from spent solvents or other hazardous wastes to render them usable as fuels. (NJAC 7:26-1.4)
- Note: includes Class A recycling facilities (metal, glass, paper, plastic containers, and corrugated and other cardboard). Exempt from Solid Waste permitting but may require other covered permits.

Scrap Metal Facility (potential direction)

- Department does not currently regulate the operation of or otherwise define “scrap metal facilities” under Solid Waste Rules.
- Define scrap metal as set forth in solid waste regulations at N.J.A.C. 7:26-1.4 and create definition of “scrap metal facility”:
 - “Scrap Metal” means bits and pieces of metal parts (for example, bars, turnings, rods, sheets, wire) or metal pieces which may be combined together with bolts or soldering (for example, radiators, scrap automobiles, railroad box cars) which when worn or superfluous, can be recycled. Materials not covered by this term include residues generated from smelting and refining operations (that is, drosses, slags, and sludges), liquid wastes containing metals (that is, spent acids, spent caustics, or other liquid wastes with metals in solution), liquid metal wastes (for example, liquid mercury), or metal-containing wastes with a significant liquid component, such as spent batteries. (N.J.A.C. 7:26-1.4)
 - “Scrap Metal Facility” means any facility that receives, stores, processes, shreds or recycles scrap metal.

Landfill (potential direction)

- Define to incorporate “sanitary landfill” and “hazardous waste landfill” as set forth in Solid and Hazardous Waste Rules at N.J.A.C. 7:26-1.4 and N.J.A.C. 6:26G, respectively:
 - “Sanitary landfill” means a solid waste facility, at which 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, except that it shall not include any waste facility approved for disposal of hazardous waste. Sanitary landfills shall be further classified into one of the following classes:
 - 1. “Class I sanitary landfill” means a solid waste facility which may accept all types of nonhazardous solid waste including ID 10, 13, 13C, 23, 25, 27, 27A and 27I.
 - 2. “Class II sanitary landfill” means a solid waste facility which may accept only ID type 27 or a specific category of ID type 27 of nonhazardous solid waste; and
 - 3. “Class III sanitary landfill” means a solid waste facility that may accept only inert nonputrescible nonhazardous solid waste, ID 13, 13C, or 23. (N.J.A.C. 7:26-1.4)
 - “Hazardous waste landfill” means a solid waste facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an injection well, or a waste pile. (N.J.A.C. 7:27-8.1)

Permit Definitions

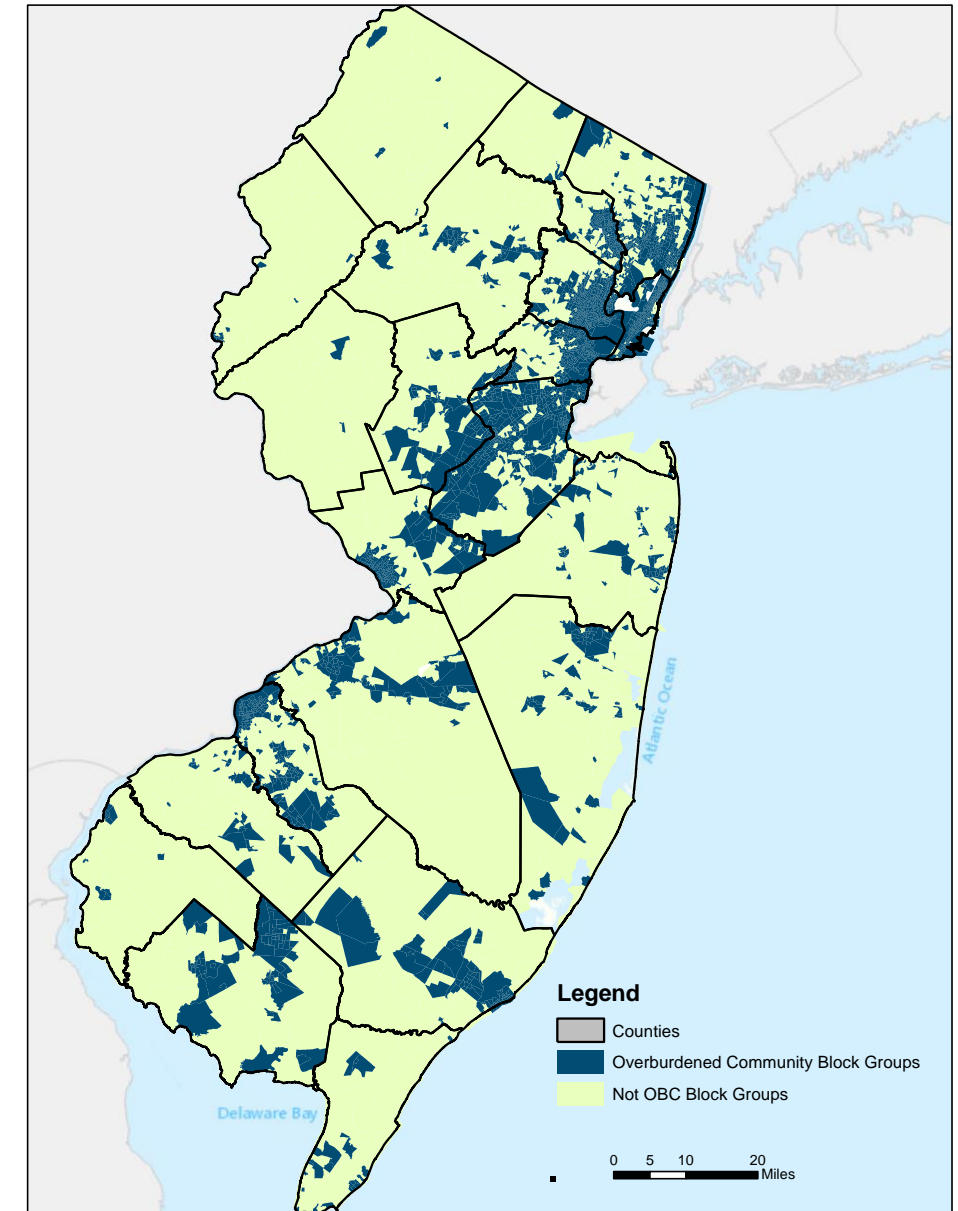
Covered Permits

- **Adopt and incorporate regulatory definitions and thresholds**
- **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)

Geographic Point of Comparison

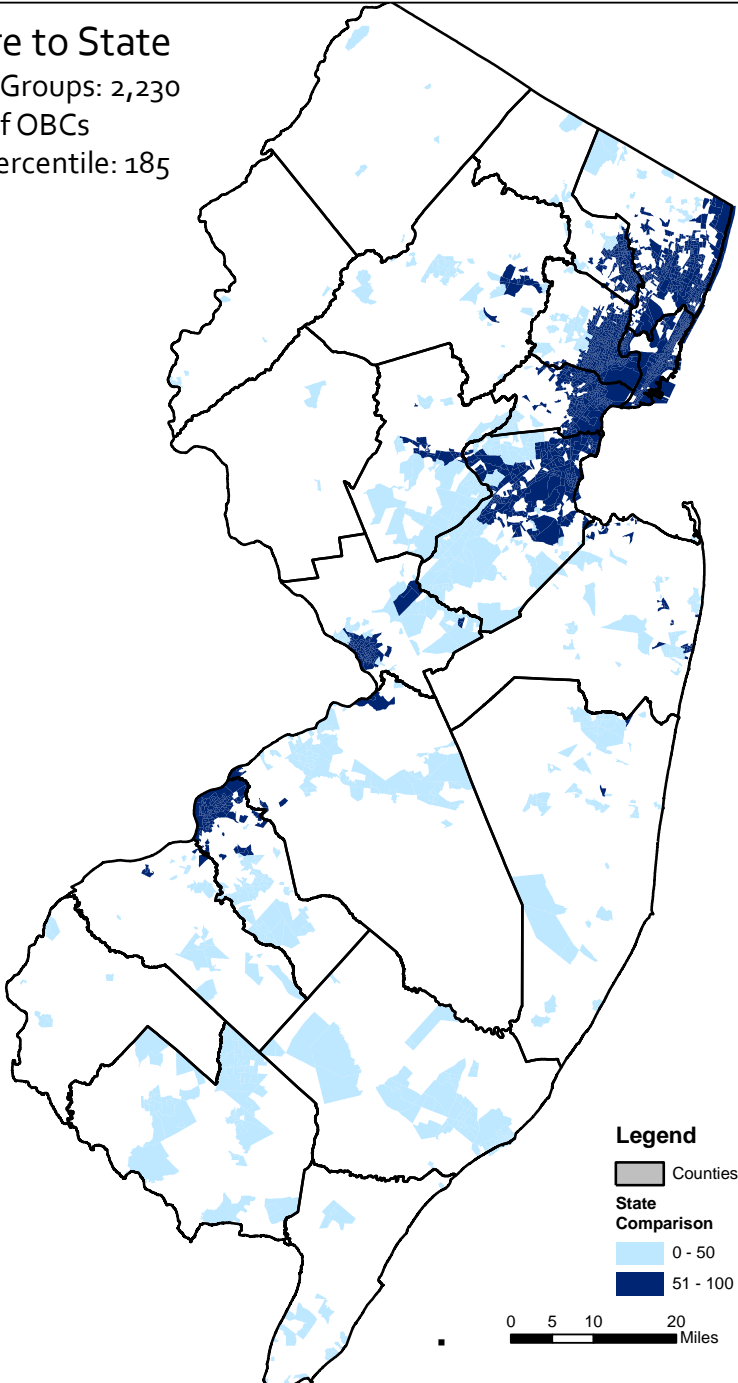
Geographic Point of Comparison

- **Statutory Context**
 - The Bill requires the Department to 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.
- **Options Considered**
 - State
 - State Non-Overburdened Areas
 - County
 - County Non-Overburdened Areas
 - Hybrid of above approaches (most like USEPA, who uses multiple geographic areas)
- **Proper Comparison Percentile**
 - 50th (higher than)
 - 80th (USEPA uses as a flag for initial screening)



Compare to State

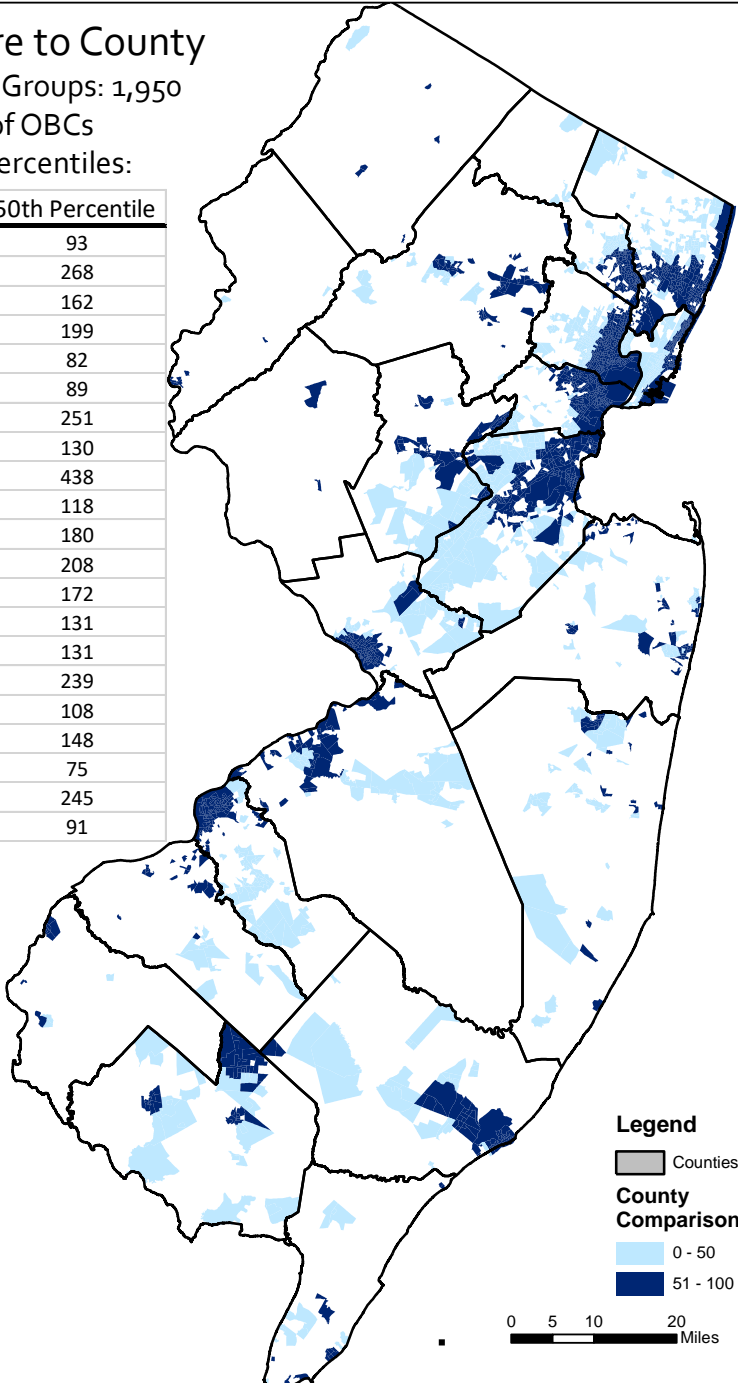
- Block Groups: 2,230
- 70% of OBCs
- 50th Percentile: 185



Compare to County

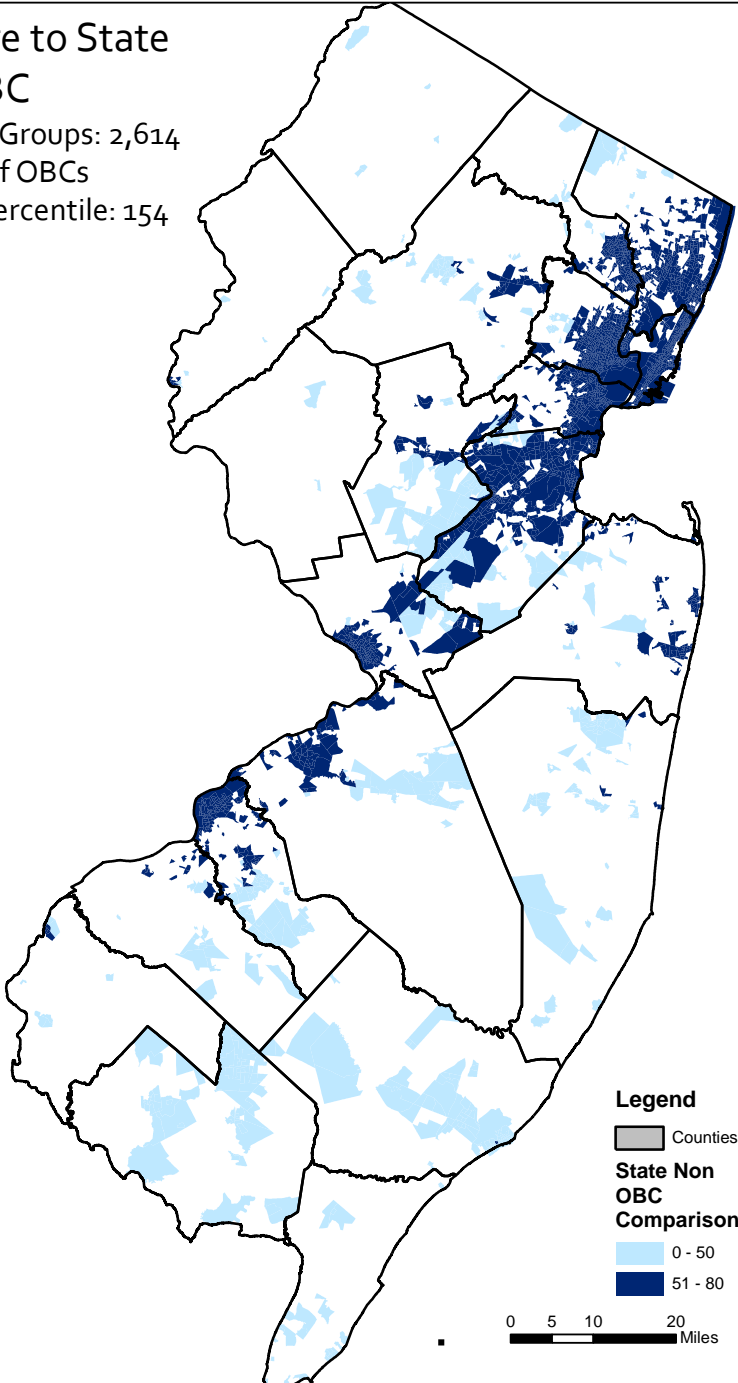
- Block Groups: 1,950
- 62% of OBCs
- 50th Percentiles:

County	50th Percentile
ATLANTIC	93
BERGEN	268
BURLINGTON	162
CAMDEN	199
CAPE MAY	82
CUMBERLAND	89
ESSEX	251
GLOUCESTER	130
HUDSON	438
HUNTERDON	118
MERCER	180
MIDDLESEX	208
MONMOUTH	172
MORRIS	131
OCEAN	131
PASSAIC	239
SALEM	108
SOMERSET	148
SUSSEX	75
UNION	245
WARREN	91



Compare to State
Non-OBC

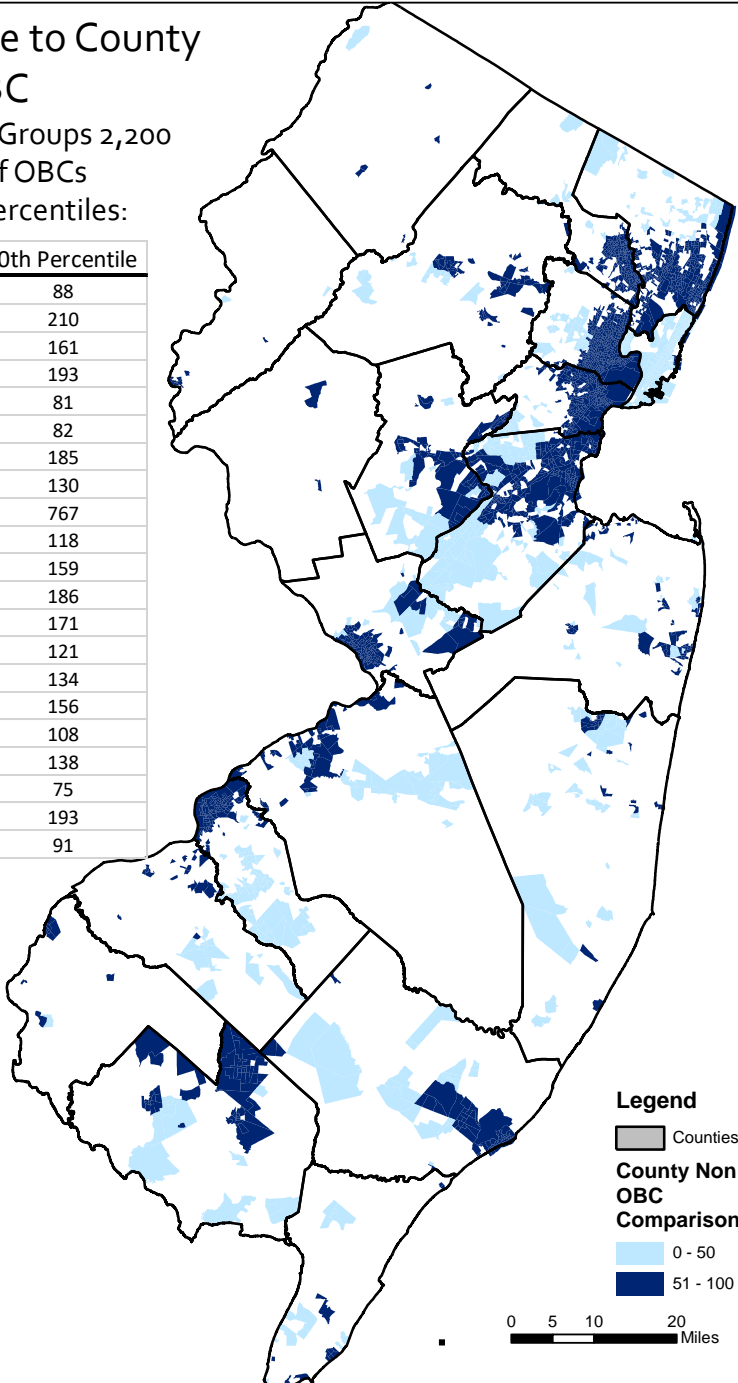
- Block Groups: 2,614
- 83% of OBCs
- 50th Percentile: 154



Compare to County
Non-OBC

- Block Groups 2,200
- 70% of OBCs
- 50th Percentiles:

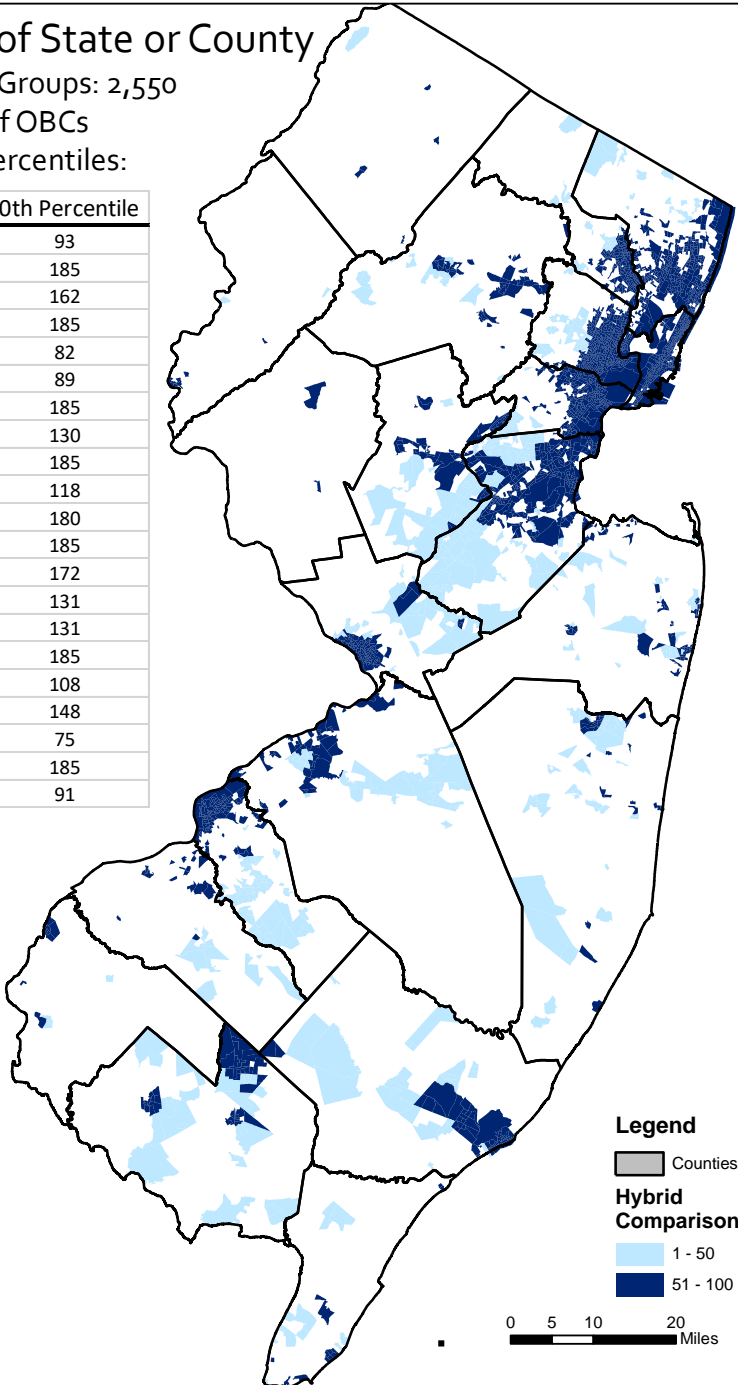
County	50th Percentile
ATLANTIC	88
BERGEN	210
BURLINGTON	161
CAMDEN	193
CAPE MAY	81
CUMBERLAND	82
ESSEX	185
GLOUCESTER	130
HUDSON	767
HUNTERDON	118
MERCER	159
MIDDLESEX	186
MONMOUTH	171
MORRIS	121
OCEAN	134
PASSAIC	156
SALEM	108
SOMERSET	138
SUSSEX	75
UNION	193
WARREN	91



Lowest of State or County

- Block Groups: 2,550
- 80% of OBCs
- 50th Percentiles:

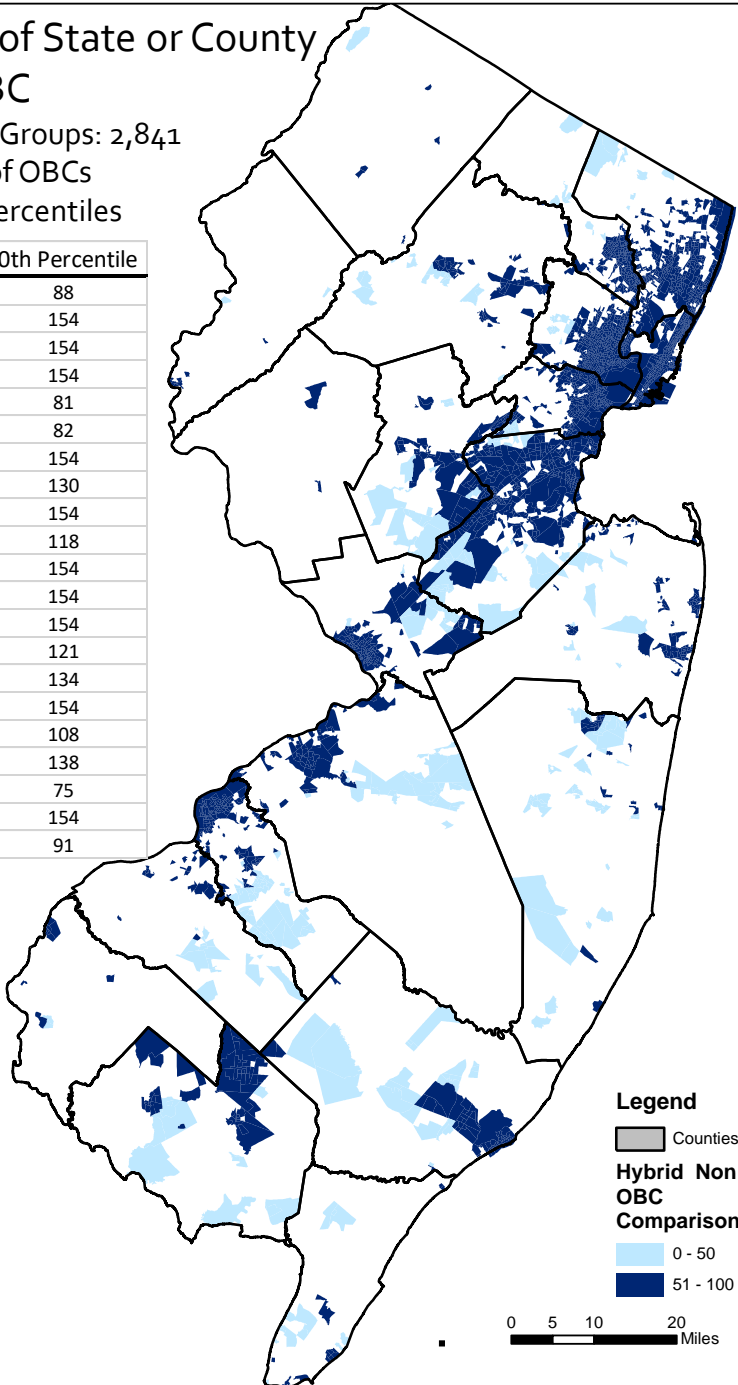
County	50th Percentile
ATLANTIC	93
BERGEN	185
BURLINGTON	162
CAMDEN	185
CAPE MAY	82
CUMBERLAND	89
ESSEX	185
GLOUCESTER	130
HUDSON	185
HUNTERDON	118
MERCER	180
MIDDLESEX	185
MONMOUTH	172
MORRIS	131
OCEAN	131
PASSAIC	185
SALEM	108
SOMERSET	148
SUSSEX	75
UNION	185
WARREN	91



Lowest of State or County
Non-OBC

- Block Groups: 2,841
- 90% of OBCs
- 50th Percentiles

County	50th Percentile
ATLANTIC	88
BERGEN	154
BURLINGTON	154
CAMDEN	154
CAPE MAY	81
CUMBERLAND	82
ESSEX	154
GLOUCESTER	130
HUDSON	154
HUNTERDON	118
MERCER	154
MIDDLESEX	154
MONMOUTH	154
MORRIS	121
OCEAN	134
PASSAIC	154
SALEM	108
SOMERSET	138
SUSSEX	75
UNION	154
WARREN	91



Environmental & Public Health Stressors

Environmental and Public Health Stressors

- “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.

Environmental & Public Health Stressors

- After considering data availability, data quality, appropriate geographic scale, quantifiability, and marginal value, we are now considering 31 stressors.



Concentrated Areas of Air Pollution (potential direction)

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
1	Ozone	Days above National Ambient Air Quality Standard (NAAQS)	<ul style="list-style-type: none"> NJ monitoring data Points (monitors) 	✓	✓
2	PM 2.5	Days above National Ambient Air Quality Standard (NAAQS)	<ul style="list-style-type: none"> NJ monitoring data Points (monitors) 	✓	✓
3	Cancer Risk from Diesel	Estimated cancer risk	<ul style="list-style-type: none"> NATA data Census Tract 	✓	✓
4	Cancer Risk Excluding Diesel	Estimated cancer risk	<ul style="list-style-type: none"> NATA data Census Tract 	✓	✓
5	NATA Non-Cancer Risk	Estimated noncancer risk	<ul style="list-style-type: none"> NATA Census Tract 	✓	
6	Permitted Air Sites	Number of sites per square mile	<ul style="list-style-type: none"> NJ Air Permitting data Points (facility locations) 		

Mobile Sources of Air Pollution (potential direction)

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
7	Traffic, Major Roadways	Vehicle density for all vehicles near road	<ul style="list-style-type: none"> • USDOT FHA • Highway Performance Monitoring System (HPMS) 	✓	✓
8	Truck Traffic	Vehicle density for single and combined trucks only near road	<ul style="list-style-type: none"> • USDOT FHA • Highway Performance Monitoring System (HPMS) 		
9	Railways	Rail miles near railroad	<ul style="list-style-type: none"> • ArcGIS Railroad Layer • Line segments 		
10	Warehouses, Goods Movement/ Storage	Number of sites per square mile	<ul style="list-style-type: none"> • NJ Labor and Workforce Development Employer Database • Points (facility locations) 		

Point Sources of Water Pollution (potential direction)

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
11	Surface Water Quality	Non-attainment of designated uses for the Integrated Report	<ul style="list-style-type: none"> Integrated Report Block Group 		✓
12	Combined Sewer Overflows	Number of CSOs in block group	<ul style="list-style-type: none"> NJPDES Permitting Database Points (CSO locations) 		
13	All NJPDES Sites	Number of sites per square mile	<ul style="list-style-type: none"> NJPDES Permitting Database Points (facility locations) 		

Solid Waste & Scrap Yards (potential direction)

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
14	Solid Waste Facilities	Number of transfer stations, solid waste and recycling facilities, and incinerators per square mile weighted by permitted tons per day of material	<ul style="list-style-type: none"> NJDEP Division of Solid and Hazardous Waste Database Points (facility locations) 		✓
15	Scrap Yards	Number of sites per square mile	<ul style="list-style-type: none"> NJ Environmental Management System Points (facility locations) 		✓

Contaminated Sites (potential direction)

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
16	Contaminated Sites	Density of Known Contaminated Sites (KCSL)	<ul style="list-style-type: none"> NJDEP Site Remediation Database Points (facility locations) 	✓	✓
17	Soil Contamination	Percent acres of the block group with Deed Notice restrictions	<ul style="list-style-type: none"> NJDEP Site Remediation Database Polygons 		
18	Groundwater Restricted Areas	Percent acres of block group with Classification Exception Area (CEA) or Currently Known Extent (CKE) notice restrictions	<ul style="list-style-type: none"> NJDEP Site Remediation Database Polygons 		

May Cause Public Health Issues (Environmental, 1/2) (potential direction)

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
19	Total Regulated Facilities under the EJ Law	Density of facilities (e.g., major air sources, solid waste facilities, sludge incinerators)	<ul style="list-style-type: none"> NJ Environmental Management System Points (facility locations) 		
20	Drinking Water Quality	Number of Maximum Concentration Level (MCL), Treatment Technique (TT), and Action Level Exceedance (ALE) violations	<ul style="list-style-type: none"> Public Violations Reports for MCL, TT, and ALE Purveyor Areas 		✓
21	Extraordinarily Hazardous Facilities	Density of facilities	<ul style="list-style-type: none"> FACITS, NJEMS, NJDEP databases Points (facility locations) 	✓	
22	Age of Housing	Percent of pre-1950 housing	<ul style="list-style-type: none"> US Census Data Block Group 	✓	✓

May Cause Public Health Issues (Environmental, 2/2) (potential direction)

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
23	Lack of Recreational Open Space	Population living greater than a ten-minute walk (¼ mile) from Public Recreational Open Space	<ul style="list-style-type: none"> ArcGIS Dataset Polygons of open space 		
24	Lack of Tree Canopy	Spatially weighted mean tree canopy cover	<ul style="list-style-type: none"> USDA Tree Cover Data Raster, 100 ft. grids 		
25	Impervious Cover	Percent impervious surface in a block group	<ul style="list-style-type: none"> ArcGIS Data Layer Polygons 		
26	Flooding	Percent of land in the 500-year flood zone	<ul style="list-style-type: none"> FEMA Maps/NJDEP Flood Hazard Standards Polygons 		

May Cause Public Health Issues (Social) (potential direction)

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
27	Poverty	Percent of population with households falling below 2x the Federal Poverty Level	<ul style="list-style-type: none"> US Census Data Block Group 	✓	✓
28	Unemployment	Percent of an adult population that is unemployed	<ul style="list-style-type: none"> US Census Data Block Group 		✓
29	Education	Percent of an older population that has less than a high school diploma	<ul style="list-style-type: none"> US Census Data Block Group 	✓	✓
30	Minority	Percent of population classified as a minority (total population – non-Hispanic, white only)	<ul style="list-style-type: none"> US Census Data Block Group 	✓	
31	Limited English Proficiency	Percent of population that has limited English proficiency	<ul style="list-style-type: none"> US Census Data Block Group 	✓	✓

Environmental Justice Impact Statement & Permitting

Environmental Justice Impact Statement

The Statute provides that an applicant must prepare:

“...an environmental justice impact statement that assesses the **potential environmental and public health stressors associated with** the proposed new or expanded facility, or with the existing major source, as applicable, including **any adverse environmental or public health stressors that cannot be avoided** if the permit is granted, and **the environmental or public health stressors already borne by the overburdened community** as a result of existing conditions located in or affecting the overburdened community”

Step 1: Initial Screen (potential direction)

Determine Combined Stressor Total (CST):

- Determine if each stressor in an OBC is higher than the most protective geographic point of comparison (State or County Non-OBC).
 - “Higher than” means greater than the 50th percentile.
- Sum the number of stressors higher than geographic comparison for an OBC for the CST.
 - E.g.: If 18 of the 31 stressors in an OBC are higher than the geographic comparison result, the total for that OBC is 18. The Combined Stressor Total for that OBC is 18.

Determine if Combined Stressor Total is higher than Geographic Point of Comparison

- Determine if OBC’s CST is higher than the most protective geographic point of comparison (State or County Non-OBC) at the 50th percentile (second level of statistical analysis)
 - E.g.: If an OBC’s CST is 18 and its geographic point of comparison is 15, that OBC is subject to “adverse cumulative environmental or public health stressors that are higher than” the geographic point of comparison.

Step 2: EJIS Process (potential direction)

Where CST is lower than geographic point of comparison:

- Applicant prepares an EJIS, conducts a public comment period, and holds a public hearing in the Overburdened Community to assess whether a facility will contribute to existing environmental and public health stressors such that it creates stressor levels that are higher than the appropriate geographic point of comparison.
 - If no: Avoids a disproportionate impact, and Applicant is authorized to move forward with environmental permitting without additional conditions.
 - If yes: Applicant must complete supplemental materials.

Where CST is or will be made higher than the geographic point of comparison:

- Applicant prepares an EJIS *plus supplemental materials*, conducts a public comment period, and holds a public hearing in the Overburdened Community to assess how the facility will contribute to existing environmental and public health stressors in the Overburdened Community. Applicant assesses contributions to stressor levels that are already higher than the geographic point of comparison and ensures that the facility will not create new stressor levels that are higher than the geographic point of comparison.

Step 2: EJIS Requirements (potential direction)

- Analysis of the environmental or public health stressors **already borne** by the Overburdened Community as a result of existing conditions located in or affecting the Overburdened Community;
- Determination of environmental or public health stressors that are **higher than** the geographic point of comparison;
- Analysis of the potential environmental and public health stressors associated with the proposed new or expanded facility or existing major source; and an
- Analysis of individual stressors and how the potential environmental and public health stressors associated with the proposed facility will **cause or contribute to** stressors in the Overburdened Community that are **higher than** those borne by other communities within the State, county, or other geographic unit of analysis.
- If an applicant seeks to demonstrate that a new facility meets a **Compelling Public Interest** – how the facility is of the type that serves a Compelling Public Interest in the Overburdened Community, including additional measures the applicant would propose to protect public health and improve baseline environmental and public health stressors in the Overburdened Community.
- Notice through multiple channels to reach individuals in the community.

Stressor	Geo. Point of Comp.	Existing Conditions in OBC	Potential Change in OBC Percentile	Unavoidable Impact in OBC
NATA Diesel Cancer Risk	A	B	Increase	Yes
Age of Housing	Y	Z	No change	N/A

Step 2: EJIS + Supplemental Materials (potential direction)

- Steps the applicant will implement at the project site to avoid causing or contributing to stressors already borne by the Overburdened Community, and
- Relevant elements/points of analysis from other existing “impact analyses” such as:
 - Executive summary (including comprehensive demographic, economic, and physical descriptions)
 - Facility description (including relevant maps)
 - Environmental Summary and Assessment
 - Health Summary and Assessment
 - Alternatives Analysis (reasonable design, siting, and operational alternatives)
 - Statement of Environmental Justice Issues (justification and conclusion)

Facility Expansions or Title V Renewals

Where a disproportionate impact exists:

“...the department may.... apply conditions to a permit for the expansion of an existing facility, or the renewal of an existing facility’s major source permit, concerning the construction and operation of the facility to protect public health”

New v. Expansion v. Renewal (potential direction)

- **New:** Newly sited facility or change in use of existing facility
- **Expansion:** Expansion of footprint or increase in stressor contributions of existing facility but continuing ongoing operations
 - Would not include changes to operations strictly to reduce stressor contributions
- **Renewal:** Continuation of existing operations without increase
 - Statutory Exemption: Minor modifications to major source permit for activities/improvements that do not increase emissions

Step 3: Departmental Review (potential direction)

Renewals:

- Propose measures to avoid facility contributions to individual stressors in the OBC that are higher than the geographic point of comparison
- Where avoidance is not feasible, minimize facility contributions to individual stressors in the OBC that are higher than the geographic point of comparison
 - Will include objective measures for minimization, i.e. BACT/SOTA

Expansions:

- Propose measures to avoid facility contributions to individual stressors in the OBC that are higher than the geographic point of comparison
- Where avoidance is not feasible, minimize facility contributions to individual stressors in the OBC that are higher than the geographic point of comparison
- Propose additional feasible conditions that will (in order):
 - Reduce like stressors from offsite sources within the overburdened community
 - Reduce of other stressors from offsite sources in the overburdened community (preference for highest to lowest stressor levels)
 - Provide a net environmental benefit that improves baseline environmental and public health stressors in the overburdened community

EJIS “Run Through”

Consider a hypothetical overburdened block group

“Run Through Ex. 1” Parameters

- Applicant seeks to **renew** an existing Title V facility in an OBC.
- Facility will not increase stressors:
 - PM 2.5
 - Truck traffic
 - Combined sewer overflows
 - Surface water quality
 - Impervious surface
- May decrease stressors through upgrades to control technology or operational modifications

“Run Through Ex. 1”

Step 1: Initial Screen

- Combined Stressor Total = 14
- Geographic Point of Comparison = 16
 - CST is lower than geographic point of comparison

Step 2: EJIS Process

- CST is lower than Geographic Point of Comparison, so:
 - Applicant prepares an EJIS, conducts a public comment period, and holds a public hearing in the Overburdened Community to assess whether a facility will contribute to existing environmental and public health stressors such that it creates stressor levels that are higher than the appropriate geographic point of comparison.
 - If no: Avoids a disproportionate impact, and Applicant is authorized to move forward with environmental permitting without additional conditions.
 - If yes: Applicant must complete supplemental materials.

"Run Through Ex. 1"

Step 2: EJIS Process (cont.)

Stressor	Geo. Point of Comp.	Existing Conditions in OBC	Potential Change in OBC Percentile	Unavoidable Impact in OBC
PM 2.5	#	#	No change	N/A
Truck Traffic	#	#	No change	N/A
Combined Sewer Overflows	#	#	No change	N/A
Surface Water Quality	#	#	No change	N/A
Impervious Surface	#	#	No change	N/A

“Run Through Ex. 2” Parameters

- Applicant seeks to **expand** an existing Solid Waste facility in an OBC.
- Facility **may increase** one or more stressors:
 - PM 2.5
 - Truck traffic
 - Combined sewer overflows
 - Surface water quality
 - Contaminated sites
 - Lack of tree canopy
 - Impervious surface

“Run Through Ex. 2”

Step 1: Initial Screen

- Combined Stressor Total = 18
- Geographic Point of Comparison = 16
 - CST is higher than geographic point of comparison

Step 2: EJIS Process

- CST is higher than geographic point of comparison, so:
 - Applicant prepares an EJIS *plus supplemental materials*, conducts a public comment period, and holds a public hearing in the Overburdened Community to assess how the facility will contribute to existing environmental and public health stressors in the Overburdened Community. Applicant assesses contributions to stressor levels that are already higher than the geographic point of comparison to ensure that the facility will not create new stressor levels that are higher than the geographic point of comparison.

“Run Through Ex. 2”

Step 2: EJIS Process (cont.)

Stressor	Geo. Point of Comp.	Existing Conditions in OBC	Potential Change in OBC Percentile	Unavoidable Impact in OBC
PM 2.5	2	3	Increase	Yes
Truck Traffic	7	10	Increase	Yes
Combined Sewer Overflows	0	1	No change	N/A
Surface Water Quality	6	4	No change	N/A
Contaminated Sites	3	5	No change	N/A
Lack of Tree Canopy	4	6	Increase	No
Impervious Surface	7	8	Increase	No

Note: All values are for illustrative purposes only and not representative of actual data.

“Run Through Ex. 2”

Step 2: EJIS Process (cont.)

- Steps the applicant will implement to avoid causing or contributing to stressors already borne by the Overburdened Community:
 - Avoid:
 - Instead of cutting down trees, could make no change, or plant additional trees
 - Instead of paving a new parking lot/driveway, could make no change, or build lot using permeable pavers, remove impervious elsewhere onsite
 - Minimize:
 - All electric fleet
 - State of the art / best available control technology
 - Offsite:
 - Like-kind – facilitate electrification elsewhere in the OBC – another facility/transit
 - Other stressors – from highest to lowest – impervious, trees, contaminated site, CSO
 - Net environmental benefit – address other stressors, i.e., water quality

Compelling Public Interest

Compelling Public Interest

Where a disproportionate impact exists:

“...the department shall ... deny a permit for a new facility ... except that where the department determines that a new facility will serve a compelling public interest **in the community** where it is to be located, the department may grant a permit that imposes conditions on the construction and operation of the facility to protect public health”

Compelling Public Interest (potential direction)

- Will be modeled from Freshwater Wetlands Protection Act Regulations, N.J.A.C. 7:7A-1:
 - “Compelling public need” means that based on specific facts, the proposed regulated activity will serve an essential health or safety need of the municipality in which the proposed regulated activity is located, that the public health and safety benefit from the proposed use and that the proposed use is required to serve existing needs of the residents of the State, and that there is no other means available to meet the established public need.

Compelling Public Interest (potential direction)

- Focus on specific types of facilities and public works-type projects that serve a Compelling Public Interest in an overburdened community.
 - Examples: appropriately-scaled food waste facilities, public water infrastructure, renewable energy facilities,
 - Considering other facilities that meet essential health and safety needs of the overburdened community or specifically reduce stressors, i.e., CSO reductions
 - Does not allow for economic benefits as justification for Compelling Public Interest
- Considers whether there is a significant degree of public interest in the overburdened community in favor of or in opposition to the facility.

Compelling Public Interest (potential direction)

- Measures to avoid facility contributions to individual stressors in the OBC that are higher than the geographic point of comparison.
- Where avoidance is not feasible:
 - Minimize facility contributions to individual stressors in the OBC that are higher than the geographic point of comparison.
- Propose additional feasible conditions that will (in order)
 - Reduce like stressors from offsite sources within the overburdened community,
 - Reduce of other stressors from offsite sources in the overburdened community (preference for highest to lowest stressor levels), or
 - Provide a net environmental benefit that improves baseline environmental and public health stressors in the overburdened community.

Q&A

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- This presentation and meeting recording will be posted on the DEP Office of Environmental Justice website (www.nj.gov/dep/ej) following the meeting.
- Please direct questions and comments related to the EJ Rulemaking Process to: ejrulemaking@dep.nj.gov