



## **Introduction and Overview**

On April 17, 2023, the Department of Environmental Protection adopted the Environmental Justice Rules, N.J.A.C. 7:1C (EJ Regulations: [njac7\\_1c.pdf](#)) to establish the specific requirements and procedures that applicants must follow when seeking permits for certain pollution generating facilities located, or proposed to be located, in overburdened communities.

This includes the preparation of an “environmental justice impact statement” or “EJIS” to identify and analyze: (1) existing environmental and public health stressors; (2) any adverse environmental and public health stressors; (3) the presence or absence of adverse cumulative stressors; (4) potential environmental and public health stressors associated with a facility; (5) whether the facility can avoid causing a disproportionate impact; (6) the measures the facility will propose to implement to avoid or address any disproportionate impact; and (7) where applicable, how the new facility serves a compelling public interest in the overburdened community.

Upon receipt of an application subject to the EJ Rules, the Department will provide to the applicant with initial screening information for the overburdened community, including identification of the environmental and public health stressors, the appropriate geographic point of comparison, any adverse environmental or public health stressors and whether the overburdened community is subject to adverse cumulative stressors. Alternatively, the applicant who wishes to submit the EJIS with its permit application could obtain the information directly from [NJ Environmental Justice Mapping, Assessment and Protection Tool \(EJMAP\) \(arcgis.com\)](#). Upon receipt of the screening information, the applicant proceeds with the development of the EJIS in accordance with N.J.A.C. 7:1C-3.

In an effort to assist applicants in the preparation of an EJIS, the Department has prepared the following guidance which outlines the information required under N.J.A.C. 7:1C-3 and provides suggestions on how an applicant can be most responsive, including, where applicable, identifying potential sources of information. The Department emphasizes that use of this guidance (including format, substance and identified data sources) is neither mandatory nor exhaustive, and should any questions or inconsistencies arise, applicants should always refer back to the EJ Rules. Moreover, notwithstanding an applicant’s adherence this guidance, the Department reserves the right to request additional information for inclusion in the EJIS under N.J.A.C. 7:1C-3.4.

In preparation of the EJIS, applicants should strive to provide as much responsive information as necessary to provide the community with a clear and accurate description of the proposed project and its associated impacts to environmental and public health stressors in the host overburdened community. In so doing, the applicant must ensure that the information provided is accessible and understandable to and facilitates meaningful engagement with members of the host overburdened community.

## **EJIS Requirements (N.J.A.C. 7:1C-3.2)**

Where the host overburdened community is not subject to adverse cumulative stressors and the applicant demonstrates that the subject facility will avoid causing a disproportionate impact, the following information will be required to be included in the EJIS:

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- I. Executive Summary of the information contained in the EJIS
- II. Detailed description of municipal and neighborhood setting of the facility, including:
  - A. Community/residential dwellings
  - B. Hospitals



- C. Nursing Homes
- D. Playgrounds/Parks
- E. Schools<sup>1</sup>
- F. Demographic
- G. Economic Zoning
- H. Physical Description
- I. Site Location Map (Site Plan or equivalent map)
- J. Water Quality (stormwater, potable etc.) Inlets/Outfall Locations

### III. Description of the facility's current and proposed operations

- A. Purpose of permit application
  - 1. How does the project serve those in OBC?
  - 2. Also suggested to include - alternative(s) to the proposal
- B. Processes to be used
  - 1. Pollution/Environmental Control Measures
  - 2. Pollution/Environmental Monitoring Instrumentation
  - 3. Hours of Operation
  - 4. Onsite Equipment
  - 5. Traffic Routes
  - 6. Number of Employees
  - 7. Other Information relevant to potential to contribute to environmental and public health stressors in OBC
- C. New or expanded facilities
  - 1. Schedule for Construction and Operation
    - Anticipated completion dates for major phases of construction
    - Pollution/Environmental Control Measures
    - Pollution/Environmental Monitoring Instrumentation
    - Hours of Operation
    - Onsite Equipment
    - Traffic Routes
    - Number of Employees
    - Other Information relevant to potential to contribute to environmental and public health stressors in OBC
- D. List of all Permits
  - 1. Federal
  - 2. State
  - 3. Local
  - 4. Others

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### IV. Evidence of Satisfaction of Any Local EJ or Cumulative Impact Analysis Requirements

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<sup>1</sup> To obtain data use the "Schools - Sites and Facilities – Layers" and "Child Care Centers - Sites and Facilities – Layers" in EJMap



- V. Initial Screening Information (N.J.A.C. 7:1C-2.3) Available from NJDEP or through EJMap
  - A. Environmental and Public Health Stressors in OBC and geographic point of comparison
  - B. Indication of adverse stressors
  - C. Combined stressor total
  - D. Cumulative stressors
- VI. Assessment of Impacts (Positive/Negative)
  - A. Conditions of Maximum Usage or Output
  - B. Correlation of impacts with various stages of site preparation, facility construction and operation, including amounts, concentrations, and pathways of any contaminants or pollution that will be associated with the facility
- VII. Public Participation Plan that meets the requirements of N.J.A.C. 7:1C-4
  - A. Format – Hearing required to be in person, with additional zoom option, and recording or transcript.
  - B. Methods of Notice – Newspaper notice, site sign, mailings to residents, other methods like social media
  - C. Hearing Location and Scheduling – within the OBC, on a weekday after 6pm
- VIII. Supplemental Information Demonstration
  - A. The applicant must show that it is not located in an OBC that is already subject to adverse cumulative stressors, and that it can avoid disproportionate impact that would occur by creating adverse cumulative stressors in the OBC (if the applicant cannot show these – then N.J.A.C. 7:1C-3.3, Supplemental Information, is applicable)
- IX. Compelling Public Interest (N.J.A.C. 7:1C-5.3)

An applicant for a new facility must show that the proposed facility will serve a compelling public interest in the OBC in this portion of the EJIS.

### **Supplemental Information (N.J.A.C. 7:1C-3.3)**

Where an applicant cannot demonstrate that the subject facility will avoid a disproportionate impact, the following supplemental information is required:

- X. Site Mapping
  - A. Topographic conditions, contour data, drainage patterns, wetlands or their associated buffers, coastal zones, or other areas regulated by the Department.
  - B. Areas of known plant or animal species on Federal and State endangered, threatened, or rare plant or animal species list<sup>2</sup>
  - C. Water classifications, designated uses, and limitations of surface water bodies
  - D. Public Scenic Attributes/Outdoor recreation and Conservation Opportunities
    - 1. Federal, State, County, or municipal parks, forests, wildlife management areas, and natural areas, any areas acquired for recreation and conservation purposes with Green Acres funding, program, or a non-profit conservation organization, any lands preserved as open space by a non-profit conservation organization or other public access features

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<sup>2</sup> To obtain this data use “All - Landscape – Layers” and “All - Historic Preservation – Layers” in EJMap



XI. Description – Contamination on Site

- A. Existing, suspected, or historical
- B. Remedial activities that have occurred

XII. Description – Ambient air quality data (N.J.A.C. 7:27)<sup>3</sup>

XIII. Description – Subsurface Hydrology, including but not limited to

- A. Depth to ground water during seasonal high and low flow
- B. Flow direction
- C. Existing uses
- D. Future supply capabilities
- E. Description of the soils including but not limited to major soil types, draining, erosion potential and sedimentation potential

XIV. Description – Localized climate and flooding impacts using site specific data for average annual and monthly precipitation, flooding and temperature, which shall use data and tools from the Department’s Climate Change website<sup>4</sup>, it can also include NOAA data.

- A. Flood Hazard Area (N.J.A.C. 7:13) – where within the Flood Hazard Area is the facility located as delineated by the Flood Hazard Control Act Rule
- B. Expected impacts of flooding from 100-year storm event and/or sea level rise
- C. Proposed resilience measures
- D. Measures to mitigate risks from flooding and inundation
  - 1. At a minimum, the description shall use data and tools from the Department’s Climate Change website (<https://www.nj.gov/dep/climatechange>), which must be referenced in the prepared document, and address: (a) Whether the facility is located within a flood hazard area, as delineated by the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13; (b) The expected impacts of flooding on the facility from the 100-year storm event and/or potential inundation due to sea level rise; (c) Proposed resilience measures; and (d) A list of measures to mitigate risks from flooding and inundation

XV. Traffic Study

- A. Transportation routes
- B. Site access capability
- C. Existing traffic flow patterns, including:
  - 1. Daily peak hour volumes
  - 2. Off peak hour volumes
  - 3. Levels of service
  - 4. Average daily round trips
- D. Facility’s current and proposed vehicle contributions for all vehicles associated with the facility’s operations

XVI. Description – Sewage and Stormwater Facilities

- A. Type of treatment
- B. Collection & treatment capacities

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<sup>3</sup> For this data use: “Ambient Air Quality Monitors - Environmental Monitoring – Layers” “Ambient-Metals - Environmental Monitoring – Layers”, “Ambient-Pesticides - Environmental Monitoring – Layer”, “Ambient-Radionuclides - Environmental Monitoring – Layers”

<sup>4</sup> <https://www.nj.gov/dep/climatechange>



- C. Average and Peak Flow Data
- D. Discharge(s) location(s)
- E. Combined Sewer Overflow (CSO) [Combined Sewer System]
- XVII. Description – Water Supply System, Water Sources, Level and type of pretreatment
  - A. Availability of Additional Supply, Capacity & Demand<sup>5</sup>
- XVIII. Description – Energy Supply System
  - A. Sources
  - B. Capacity (Use and Supply)
  - C. Feasibility of onsite or offsite renewable energy resources
- XIX. New or Expanded
  - A. Comparison of Reasonable Design Alternatives, including siting changes or process alternatives that would reduce some or all of the proposed facility's contributions to environmental and public health stressors, including:
    - 1. Differences in contributions to stressors resulting from alternatives
    - 2. Discussion of no action or no project
    - 3. Comparison of the chosen alternative and the set of alternatives considered (in matrix or other form)
    - 4. Justification of preferred alternative
  - B. Odor, Dust, and or Noise Mitigation/Management Plan If
    - 1. Facility has potential to cause odor, dust, and/or noise off-site; or
    - 2. Facility has had a confirmed odor, dust, and/or noise complaint (5 years preceding date of permit application)
  - C. Detailed Compliance History
    - 1. Existing DEP Permits
    - 2. Enforcement Actions issued to facility 5 years preceding date of permit application
  - D. Analysis – Control Measures to address facility's contribution to stressors
    - 1. New Facilities – N.J.A.C. 7:1C-5
    - 2. Facility Expansions – N.J.A.C. 7:1C-6
    - 3. Renewal of Existing Major Source Permits – N.J.A.C. 7:1C-8

To be provided to DEP:

- EJIS and/or SEJIS
  - Published on Department's website and bulletin
  - Provide electronic copy to registered interested parties or representation of OBC
- Proof of Publication – Notice of Public Hearing (N.J.A.C. 7:1C-4.1(b)1i)
  - Notice of Public Hearing to be approved by DEP prior to publication (to ensure that all required content is included)
- Copy of Posting – N.J.A.C. 7:1C-4.1(b)1ii

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<sup>5</sup> For this data "All - Geology – Layers"



- Copy & Proof of Mailing Notices – N.J.A.C. 7:1C-4.1(b)1iii and iv
- Proof of Posting & Maintenance of Sign – N.J.A.C. 7:1C-4.1(b)1iv