

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 232

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED FEBRUARY 24, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator M. TERESA RUIZ

District 29 (Essex)

Co-Sponsored by:

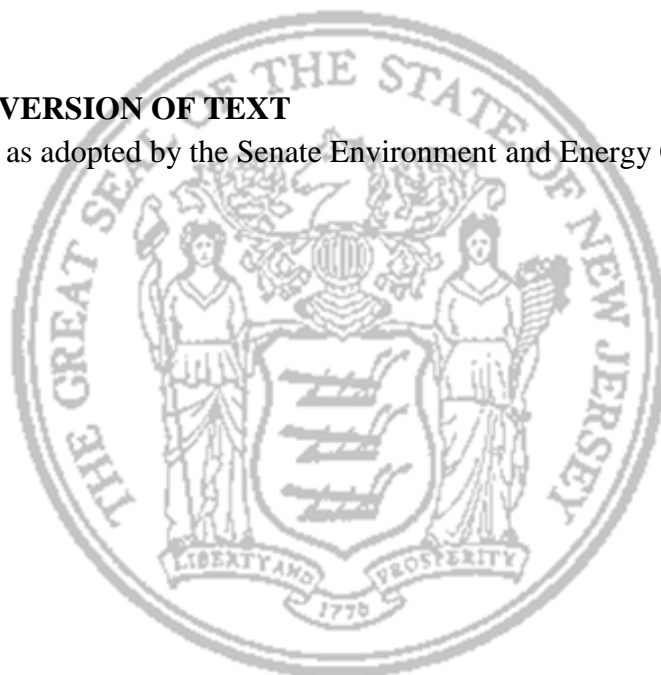
Senators Turner and Addiego

SYNOPSIS

Requires DEP to evaluate environmental and public health impacts of certain facilities on overburdened communities when reviewing certain permit applications.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Environment and Energy Committee.



(Sponsorship Updated As Of: 6/25/2020)

1 AN ACT concerning the environmental and public health impacts of
2 certain facilities on overburdened communities, and
3 supplementing Title 13 of the Revised Statutes.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. As used in this act:

9 “Department” means the Department of Environmental
10 Protection.

11 “Environmental or public health stressors” means sources of
12 environmental pollution, including, but not limited to, major
13 sources of air pollution, concentrated area and mobile sources of air
14 pollution, contaminated sites, solid waste facilities, combined sewer
15 overflows, or scrap yards; or related public health impacts,
16 including, but not limited to, elevated blood lead levels in children
17 and asthma rates in the overburdened community.

18 “Facility” means any: (1) major source of air pollution as
19 defined by the federal “Clean Air Act,” 42 U.S.C.s.7401 et seq.; (2)
20 resource recovery facility or incinerator; (3) sludge processing
21 facility, combustor, or incinerator; (4) sewage treatment plant with
22 a capacity of more than 50 million gallons per day; (5) transfer
23 station or other solid waste facility, or a recycling facility intending
24 to receive at least 100 tons of recyclable material per day; (6) scrap
25 metal facility; (7) landfill, including, but not limited to, a landfill
26 that accepts ash, construction or demolition debris, or solid waste;
27 or (8) medical waste incinerator.

28 “Limited English proficiency” means a household without an
29 adult that speaks English “very well” according to the United States
30 Census Bureau.

31 “Low-income household” means any household that is at or
32 below twice the poverty threshold as determined annually by the
33 United States Census Bureau.

34 “Overburdened community” means any census block group, as
35 determined in accordance with the most recent United States
36 Census, in which at least one half of the households qualify as low-
37 income households, and either: (1) at least 40 percent of the
38 residents of the census block group identify as Black, African
39 American, Hispanic or Latino, or as members of a State-recognized
40 tribal community; or (2) at least 40 percent of the households in the
41 census block group have limited English proficiency.

42 “Permit” means any individual permit, registration, or license
43 issued by the department establishing the regulatory and
44 management requirements for an ongoing regulated activity as
45 authorized by federal law or the following State laws: R.S.12:5-1 et
46 seq.; P.L.1975, c.232 (C.13:1D-29 et al.); the “Solid Waste
47 Management Act,” P.L.1970, c.39 (C.13:1E-1 et seq.); section 17 of
48 P.L.1975, c.326 (C.13:1E-26); the “Comprehensive Regulated

1 Medical Waste Management Act,” P.L.1989, c.34 (C.13:1E-48.1 et
2 al.); P.L.1989, c.151 (C.13:1E-99.21a et al.); the “New Jersey
3 Statewide Mandatory Source Separation and Recycling Act,”
4 P.L.1987, c.102 (C.13:1E-99.11 et al.); the “Pesticide Control Act
5 of 1971,” P.L.1971, c.176 (C.13:1F-1 et seq.); the “Industrial Site
6 Recovery Act,” P.L.1983, c.330 (C.13:1K-6 et al.); the “Toxic
7 Catastrophe Prevention Act,” P.L.1985, c.403 (C.13:1K-19 et seq.);
8 “The Wetlands Act of 1970,” P.L.1970, c.272 (C.13:9A-1 et seq.);
9 the “Freshwater Wetlands Protection Act,” P.L.1987, c.156
10 (C.13:9B-1 et al.); the “Coastal Area Facility Review Act,”
11 P.L.1973, c.185 (C.13:19-1 et seq.); the “Highlands Water
12 Protection and Planning Act,” P.L.2004, c.120 (C.13:20-1 et seq.),
13 the “Air Pollution Control Act (1954),” P.L.1954, c.212 (C.26:2C-1
14 et seq.); the “Water Supply Management Act,” P.L.1981, c.262
15 (C.58:1A-1 et al.); P.L.1947, c.377 (C.58:4A-5 et seq.); the “Water
16 Pollution Control Act,” P.L.1977, c.74 (C.58:10A-1 et seq.);
17 P.L.1986, c.102 (C.58:10A-21 et seq.); the “Safe Drinking Water
18 Act,” P.L.1977, c.224 (C.58:12A-1 et al.); the “Flood Hazard Area
19 Control Act,” P.L.1962, c.19 (C.58:16A-50 et seq.).
20

21 2. No later than 120 days after the effective date of this act, the
22 department shall publish and maintain on its Internet website a list
23 of overburdened communities in the State. The department shall
24 update the list of overburdened communities at least once every two
25 years. The department shall notify the governing body and the
26 clerk of a municipality if any part of the municipality has been
27 designated an overburdened community pursuant to this act.
28

29 3. a. Beginning 180 days after the effective date of this act,
30 the department shall not consider complete for review any
31 application for a permit for a new facility, or for the expansion of
32 an existing facility, located in whole or in part in an overburdened
33 community, unless the permit applicant first:

34 (1) Prepares an environmental justice impact statement that
35 assesses the environmental impact and associated public health
36 risks of the proposed new or expanded facility, including any
37 adverse environmental impacts that cannot be avoided if the permit
38 is granted, and the cumulative environmental or public health
39 stressors already borne by the overburdened community as a result
40 of existing conditions located in or affecting the overburdened
41 community;

42 (2) Transmits the environmental justice impact statement
43 required to be prepared pursuant to paragraph (1) of this subsection
44 at least 60 days in advance of the public hearing required pursuant
45 to paragraph (3) of this subsection to the department and to the
46 governing body and the clerk of the municipality in which the
47 overburdened community is located. The permit applicant shall
48 make the environmental justice impact statement available to the

1 public, including on its Internet website, if applicable, at least 60
2 days prior to the public hearing required pursuant to paragraph (3)
3 of this subsection; and

4 (3) Organizes and conducts a public hearing in the overburdened
5 community. The permit applicant shall publish a notice of the
6 public hearing on its Internet website, if applicable, and in at least
7 two newspapers circulating within the overburdened community not
8 less than 60 days prior to the public hearing. The notice of the
9 public hearing shall provide the date, time, and location of the
10 public hearing, a description of the proposed new or expanded
11 facility, a brief summary of the environmental justice impact
12 statement, information on how an interested person may review a
13 copy of the environmental justice impact statement, and an address
14 for the submittal of written comments to the permit applicant. At
15 least 60 days prior to the public hearing, the permit applicant shall
16 send a copy of the notice to the department and to the governing
17 body and the clerk of the municipality in which the overburdened
18 community is located. At the public hearing, the permit applicant
19 shall provide clear, accurate, and complete information about the
20 proposed new or expanded facility, and the potential environmental
21 impacts and health risks of the new or expanded facility. The
22 permit applicant shall accept written comments from any interested
23 party, and provide an opportunity for meaningful public
24 participation at the public hearing. The permit applicant shall
25 transcribe the public hearing and, no later than 10 days after the
26 public hearing, submit the transcript along with any written
27 comments received, to the department. Following the public
28 hearing, the department shall consider the environmental justice
29 impact statement, any testimony presented at the hearing, and any
30 written comments received, and evaluate any revisions or
31 conditions to the permit that may be necessary to avoid or reduce
32 the adverse impact to the environment or to the public health in the
33 overburdened community.

34 The department may consolidate the public hearing held pursuant
35 to this paragraph with any other public hearing held or required by
36 the department regarding the permit application, provided the public
37 hearing meets the other requirements of this paragraph.

38 b. Notwithstanding the provisions of any other law, or rule or
39 regulation adopted pursuant thereto, to the contrary, the department
40 shall not issue a decision on a permit application for a new or
41 expanded facility located in whole or in part in an overburdened
42 community until at least 45 days after the public hearing held
43 pursuant to paragraph (3) of subsection a. of this subsection.

44 c. Notwithstanding the provisions of any other law, or rule or
45 regulation adopted pursuant thereto, to the contrary, the department
46 may, after review of the environmental justice impact statement
47 prepared pursuant to paragraph (1) of subsection a. of this section
48 and any other relevant information, including testimony and written

1 comments received at the public hearing, deny a permit application
2 for a new or expanded facility located in whole or in part in an
3 overburdened community, upon a finding that approval of the
4 permit application would, together with the
5 cumulative environmental or public health stressors posed by
6 existing conditions located in or affecting the overburdened
7 community, result in a disproportionate impact to the overburdened
8 community when compared to the impact and risk born by other
9 communities in the State.

10 d. If a permit applicant is applying for more than one permit for
11 a proposed new or expanded facility, the permit applicant shall only
12 be required to comply with the provisions of this section once,
13 unless the department, in its discretion, determines that more than
14 one public hearing is necessary due to the complexity of the permit
15 applications necessary for the proposed new or expanded
16 facility. Nothing in this section shall be construed to limit the
17 authority of the department to hold or require additional public
18 hearings, as may be required by any other law, rule, or regulation.

19

20 4. The department shall adopt, pursuant to the “Administrative
21 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) rules and
22 regulations to implement the provisions of this act.

23

24 5. This act shall take effect immediately.