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

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

1. As used in this act:
   “Department” means the Department of Environmental Protection.
   “Environmental or public health stressors” means sources of environmental pollution, including, but not limited to, major sources of air pollution, concentrated area and mobile sources of air pollution, contaminated sites, solid waste facilities, combined sewer overflows, or scrap yards; or related public health impacts, including, but not limited to, elevated blood lead levels in children and asthma rates in the overburdened community.
   “Facility” means any: (1) major source of air pollution as defined by the federal “Clean Air Act,” 42 U.S.C.s.7401 et seq.; (2) resource recovery facility or incinerator; (3) sludge processing facility, combustor, or incinerator; (4) sewage treatment plant with a capacity of more than 50 million gallons per day; (5) transfer station or other solid waste facility, or a recycling facility intending to receive at least 100 tons of recyclable material per day; (6) scrap metal facility; (7) landfill, including, but not limited to, a landfill that accepts ash, construction or demolition debris, or solid waste; or (8) medical waste incinerator.
   “Limited English proficiency” means a household without an adult that speaks English “very well” according to the United States Census Bureau.
   “Low-income household” means any household that is at or below twice the poverty threshold as determined annually by the United States Census Bureau.
   “Overburdened community” means any census block group, as determined in accordance with the most recent United States Census, in which at least one half of the households qualify as low-income households, and either: (1) at least 40 percent of the residents of the census block group identify as Black, African American, Hispanic or Latino, or as members of a State-recognized tribal community; or (2) at least 40 percent of the households in the census block group have limited English proficiency.
   “Permit” means any individual permit, registration, or license issued by the department establishing the regulatory and management requirements for an ongoing regulated activity as authorized by federal law or the following State laws: R.S.12:5-1 et seq.; P.L.1975, c.232 (C.13:1D-29 et al.); the “Solid Waste Management Act,” P.L.1970, c.39 (C.13:1E-1 et seq.); section 17 of P.L.1975, c.326 (C.13:1E-26); the “Comprehensive Regulated
2. No later than 120 days after the effective date of this act, the department shall publish and maintain on its Internet website a list of overburdened communities in the State. The department shall update the list of overburdened communities at least once every two years. The department shall notify the governing body and the clerk of a municipality if any part of the municipality has been designated an overburdened community pursuant to this act.

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

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

(2) Transmits the environmental justice impact statement required to be prepared pursuant to paragraph (1) of this subsection at least 60 days in advance of the public hearing required pursuant to paragraph (3) of this subsection to the department and to the governing body and the clerk of the municipality in which the overburdened community is located. The permit applicant shall make the environmental justice impact statement available to the
public, including on its Internet website, if applicable, at least 60
days prior to the public hearing required pursuant to paragraph (3)
of this subsection; and

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

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

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

c. Notwithstanding the provisions of any other law, or rule or
regulation adopted pursuant thereto, to the contrary, the department
may, after review of the environmental justice impact statement
prepared pursuant to paragraph (1) of subsection a. of this section
and any other relevant information, including testimony and written
comments received at the public hearing, deny a permit application
for a new or expanded facility located in whole or in part in an
overburdened community, upon a finding that approval of the
permit application would, together with the
cumulative environmental or public health stressors posed by
existing conditions located in or affecting the overburdened
community, result in a disproportionate impact to the overburdened
community when compared to the impact and risk born by other
communities in the State.

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

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

5. This act shall take effect immediately.