

## NEW JERSEY

### **How Does New Jersey Define Environmental Justice and Environmental Justice Communities?**

#### *Environmental Justice Definitions:*

New Jersey uses the EPA definition for environmental justice which is stated as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.”<sup>1</sup> New Jersey identifies Environmental justice communities using three criteria in a [guidance document](#) for all NJ Executive Branch agencies: presence in a community of concern or [overburdened community \(OBC\)](#) as defined by the [EJ Law](#); the presence of disproportionate environmental and public health stressors; and the absence or lack of environmental and public health benefits. The presence of stressors and absence of benefits can be explored through [EJMAP](#).

To identify environmental justice communities, Title VI has definitions to identify two types of “protected communities.” (1) Overburdened Community: Any community where 35 percent of the households qualify as low-income according to the U.S. Census, 40 percent of households are minority, or 40 percent of households have limited English proficiency.<sup>2</sup> (2) Health Disparities: A health disparity is a particular type of health difference that is closely linked with social, economic, and/or environmental disadvantage. Health disparities adversely affect groups of people who have systematically experienced greater obstacles to health based on their racial and/or ethnic group; religion; socioeconomic status; gender; age; mental health; cognitive, sensory, or physical disability; sexual orientation or gender identity; geographic location; or other characteristics historically linked to discrimination or exclusion.<sup>3</sup>

#### *Environmental Justice Mapping Tools:*

New Jersey has greenlighted both an [Environmental Public Health Tracking tool](#) and a New Jersey Department of Environmental Protection (NJDEP) Mapping tool.<sup>4</sup> As a result, NJDEP has published and maintains [EJMAP](#), an Environmental Justice Mapping, Assessment, and Protection tool.<sup>5</sup>

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<sup>1</sup> NJDEP, *Furthering the Promise: A Guidance Document for Advancing Environmental Justice Across State Government* (Sept. 2020), available at <https://www.nj.gov/dep/ej/docs/furthering-the-promise.pdf>.

<sup>2</sup> Press Release, N.J., *Gov. Murphy Announces Support for Key Environmental Justice Legislation* (June 19, 2020), available at <https://www.nj.gov/governor/news/news/562020/20200619b.shtml>.

<sup>3</sup> *Minority Health and Health Disparities Research and Education Act of 2000*, Pub. L. No. 106-525 § 101, 114 Stat. 2497, 2498 (2000), available at <https://www.congress.gov/106/plaws/publ525/PLAW-106publ525.pdf>.

<sup>4</sup> Gov. Phil Murphy, N.J. Exec. Order No. 23 (Apr. 19, 2018), available at <https://www.nj.gov/dep/gis/geoweb splash.htm> (last visited July 1, 2022).

<sup>5</sup> NJDEP, *EJMAP*, <https://experience.arcgis.com/experience/548632a2351b41b8a0443cfc3a9f4ef6> (last visited July 1, 2022).

The New Jersey Department of Environmental Protection (NJDEP) operates [NJ-GeoWeb](#), an interactive application for viewing, querying and analyzing both local and statewide areas of interest and environmental information.

## **How Does New Jersey Consider Environmental Justice in its Substantive Actions<sup>6</sup>?**

### *Environmental Justice as a Policy of the Environmental Agency or Across All Agencies:*

[Furthering the Promise: A Guidance Document for Advancing Environmental Justice Across State Government](#) lays out criteria for all Executive Branch agencies in New Jersey to advance environmental justice and integrate it into their decision-making. This guidance document was developed pursuant to Governor Phil Murphy's [Executive Order 23](#).

### *Consideration of Environmental Justice in Permitting:*

The Office of Permitting and Project Navigation coordinates all projects that are subject to National Environmental Policy Act (NEPA) and State Executive Order 215 (E.O. 215).<sup>7</sup> Under E.O. 215, all agencies of the State must prepare and submit to the NJDEP an environmental assessment (EA) or environmental impact statement (EIS) in support of major construction projects.<sup>8</sup>

New Jersey's [EJ Law](#) allows NJDEP to deny a permit for certain types of facilities if the requested activity will cause or contribute to adverse cumulative environmental or public health stressors in areas identified as overburdened communities.

### *Consideration of Environmental Justice in Enforcement:*

Since 2018, the NJ Department of Environmental Protection and the Office of the Attorney General have been collaborating on an [Environmental Justice Enforcement Initiative](#) designed to support communities that have historically suffered some of the worst environmental harms in the state. Lawsuits are filed targeting polluters in overburdened communities to recover pollution damages, stop environmental violations, and accelerate clean-up activities.

### *Consideration of Environmental Justice in Land Use:*

N/A.

### *State Environmental Policy Act "Mini-NEPA":*

New Jersey does have a Mini-NEPA law, E.O. 215 (1989) Environmental Assessment.<sup>9</sup> The goal of E.O. 215 (1989) is "to reduce or eliminate any potential adverse environmental

<sup>6</sup> Substantive is defined as governing the original rights and obligations of individuals. Cornell L. Sch., LII, *Wex Legal Encyclopedia*, [https://www.law.cornell.edu/wex/substantive\\_law](https://www.law.cornell.edu/wex/substantive_law) (last visited July 1, 2022).

<sup>7</sup> NJDEP, OPPN, *Office Mission Statement*, <https://www.nj.gov/dep/pcer/> (last visited July 1, 2022).

<sup>8</sup> Gov. Thomas H. Kean, N.J. Exec. Order No. 215 (1989), available at <https://www.nj.gov/dep/pcer/docs/eo215.pdf>.

<sup>9</sup> *Id.*

impacts of projects initiated or funded by the State" by requiring the submission of either an EA or EIS.<sup>10</sup>

An EA is less comprehensive and less extensive than an environmental impact statement. The assessment does not need to contain an analysis of proposed alternatives to a particular project, although the level of project description and accompanying material (graphs, site plants, maps, and more) will be similar to an environmental impact statement. Altogether, the EA is more brief and less analytical than the environmental impact statement.

An EIS will cover the same issues as an environmental assessment but will include greater comprehensiveness and detail, especially regarding the descriptions and analyses of the potential environmental impacts. The most significant difference is that an EIS must include a list and description of all alternatives to the proposed project.<sup>11</sup>

Additionally, N.J. Exec. Order No. 23, requires that "all executive branch departments and agencies shall consider the issue of Environmental Justice and make evaluations and assessments in accordance with that guidance, to the extent not inconsistent with law."<sup>12</sup> One example of this in action is found in the Final EIS ("FEIS") of the Glassboro-Camden Line—a proposed 18-mile passenger rail line between Glassboro, NJ and Camden, NJ.<sup>13</sup> The Glassboro-Camden Line conducted an environmental justice analysis by identifying the environmental justice communities within half a mile of the project<sup>14</sup> and analyzing the potential disproportionate adverse impacts that the project would have on the communities. The Glassboro-Camden Line FEIS determined that there would not be disproportionate impacts on the environmental justice communities and that the project would actually benefit environmental justice communities, especially those that depend on public transportation.<sup>15</sup> This kind of analysis is important for environmental justice initiatives because it takes a look at the costs and benefits that a project may have on particular overburdened communities.

*Dedicated Funding to Environmental Justice Communities:*

N/A.

*Consideration of Cumulative Impacts:*

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<sup>10</sup> *Id.*

<sup>11</sup> Ballotpedia, *State environmental policy acts: New Jersey*, [https://ballotpedia.org/State\\_environmental\\_policy\\_acts#cite\\_ref-execorder\\_29-0](https://ballotpedia.org/State_environmental_policy_acts#cite_ref-execorder_29-0) (last visited July 18, 2022).

<sup>12</sup> Gov. Phil Murphy, N.J. Exec. Order No. 23 (Apr. 19, 2018).

<sup>13</sup> Glassboro-Camden Line, [www.glassborocamdenline.com](http://www.glassborocamdenline.com) (last visited July 1, 2022).

<sup>14</sup> Glassboro-Camden Line, *Resources, Env't Impact Statement: Final EIS Document* (Feb. 2021), available at <http://www.glassborocamdenline.com/resources.html>.

<sup>15</sup> Glassboro-Camden Line, *Final Env't Impact Statement: 03. Environmental Consequences*, at p.265 (Feb. 2021), available at [http://www.glassborocamdenline.com/pdf/EISfinal/Chapter\\_03\\_Environmental\\_Consequences.pdf](http://www.glassborocamdenline.com/pdf/EISfinal/Chapter_03_Environmental_Consequences.pdf).

New Jersey has multiple considerations of cumulative impacts throughout their jurisprudence. The New Jersey [EJ Law](#) outlines a process to determine, through requiring an environmental justice impact statement, whether certain facilities will 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. To facilitate this process, NJDEP developed EJMAP, a tool that maps overburdened communities as defined by the law and environmental and public health stressors impacting those communities.

NJ's approach to cumulative impacts uses a comparative analysis of relative environmental and public health stressors to determine disproportionality rather than a cumulative health-based risk analysis.

Lastly, in 2009 the Cumulative Impacts Subcommittee of the Environmental Justice Advisory Council (EJAC), an advisory body that serves the NJDEP commissioner, submitted a report titled “Strategies for Addressing Cumulative Impacts in Environmental Justice Communities” which outlines recommendations for identifying a working definition of cumulative impacts.<sup>16</sup>

*Prohibitions on Disparate Impact Discrimination:*

N/A.

*Established Environmental Rights:*

N/A.

**How Does New Jersey Address Environmental Justice in its Procedures<sup>17</sup>?**

*Environmental Justice as Part of Environmental Agency's Mission:*

Pursuant to [Executive Order 23](#) and the guidance document developed pursuant to EO 23, [Furthering the Promise: A Guidance Document for Advancing Environmental Justice Across State Government](#): “all of the various departments, agencies, boards, and commissions comprising the Executive Branch of State government should consider Environmental Justice in implementing their diverse statutory and regulatory responsibilities.”

Environmental justice is also listed as NJ DEP's priority #3 on the “[About DEP](#)” webpage, as follows:

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<sup>16</sup> EJAC Cumulative Impacts Subcommittee, Strategies for Addressing Cumulative Impacts in Environmental Justice Communities (Mar. 2009), available at [https://www.state.nj.us/dep/ej/docs/ejac\\_impacts\\_report200903.pdf](https://www.state.nj.us/dep/ej/docs/ejac_impacts_report200903.pdf).

<sup>17</sup> Procedural is defined as rules and the methods used to ensure the rights of individuals. Cornell L. Sch., LII, *Wex Legal Encyclopedia*, [https://www.law.cornell.edu/wex/procedural\\_law](https://www.law.cornell.edu/wex/procedural_law) (last visited July 1, 2022).

“Revitalize Our Communities and Protect Public Health: Cleaner environments promote stronger communities. The DEP plays a major role in strengthening communities by reducing environmental burdens, working with partners to support new economic opportunities and improving the day-to-day life for all, especially vulnerable populations.”

Environmental Justice as Part of Other Agency’s Mission:

Pursuant to [Executive Order 23](#) and the guidance document developed pursuant to EO 23, [Furthering the Promise: A Guidance Document for Advancing Environmental Justice Across State Government](#): “all of the various departments, agencies, boards, and commissions comprising the Executive Branch of State government should consider Environmental Justice in implementing their diverse statutory and regulatory responsibilities.”

Processes and Procedures (including Title VI):

- Non-Discrimination Policy:

New Jersey has specific grievance procedures to file a complaint with NJDOT. If a person or group believes that they have been discriminated against, they may file a complaint with NJDOT within 180 of the violation.<sup>18</sup>

- Grievance Procedures:

New Jersey has specific grievance procedures to file a complaint with NJDOT. If a person or group believes that they have been discriminated against, they may file a complaint with NJDOT within 180 of the violation.<sup>19</sup>

To file a complaint with NJDOT Division of Civil Rights and Affirmative Action, you may contact them at the following address and number:

NJDOT/Division of Civil Rights/AA Title VI Coordinator  
Title VI/Nondiscrimination Unit  
1035 Parkway Avenue, P.O. Box 600  
Trenton, NJ 08625-0600  
(609) 530-3009

- Enhanced Public Participation and Information Access:

New Jersey’s EJ Law and [implementing rules](#) require applicants to conduct an enhanced public engagement process including a public hearing and extended public comment period.

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<sup>18</sup> N.J.DOT, Your Guide to Title VI Discrimination (2014), <https://nj.gov/transportation/business/civilrights/pdf/titlevibrochure.pdf> (last visited July 1, 2022).

<sup>19</sup> *Id.*

DEP has developed [Public Hearing Best Practices](#) to guide permit applicants in facilitating meaningful public engagement, accessible from the NJ [DEP's EJ Law webpage](#).

The public can access information about opportunities to participate in the enhanced public engagement process on NJ DEP's [EJ Law Public Hearing page](#) including:

- List of upcoming public hearing notices
- Transcripts and/or recordings from past public hearings
- Response to public comments
- How to sign-up for public hearing notices by county

The NJDEP Office of Environmental Justice [Get Involved webpage](#) lists resources for the public and a number of methods for interacting with the NJDEP, including public engagement opportunities and how to file complaints.

- *Language Access:*

The NJ Department of Health has identified that one-third of all New Jerseyans (28.6%) speak a language other than English at home.<sup>20</sup>

E.O. 13166 requires federal agencies to “examine the services they provide, identify any need for services to those with Limited English Proficiency (LEP) and develop and implement a system to provide those services to LEP persons can have meaningful access to them.”<sup>21</sup> NJDOT's implementation plan involves “I Speak Cards” that will help NJDOT staff determine what language a walk-in LEP person is speaking in order to contact appropriate support, contacting NJDOT linguistics assistance or an interpreter for LEP phone calls, and a system to arrange interpreter support.

The Judiciary has a Language Access Plan which was created to ensure the Judiciary's compliance with the language access requirements of Title VI of the Civil Rights Act of 1964. The Plan updates the Judiciary's existing language access standards and policies, sets out best practices to improve the language access services, and plans to establish a long-term program to ensure equal and meaningful access to the court.<sup>22</sup>

- *Consultation with Indigenous Communities and Tribal Nations:*

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<sup>20</sup> NJDOH, *Minority and Multicultural Health: Language Access*, <https://www.nj.gov/health/ommh/resources/language-access/> (last visited July 1, 2022).

<sup>21</sup> NJDOT, Title VI Limited English Proficiency Implementation Plan (Oct. 2008), available at [https://nj.gov/transportation/business/civilrights/pdf/lep\\_implementation.pdf](https://nj.gov/transportation/business/civilrights/pdf/lep_implementation.pdf).

<sup>22</sup> New Jersey Judiciary, Language Access Plan (2017), available at [https://njcourts.gov/attorneys/assets/directives/dir\\_01\\_17.pdf](https://njcourts.gov/attorneys/assets/directives/dir_01_17.pdf).

N/A.

Governmental Environmental Justice Structures, Positions, and Funding Streams;

- Environmental Justice Coordinating Agency:

NJ DEP is the coordinating agency for environmental justice across the Executive Branch, per [Executive Order 23](#).

- Environmental Justice Coordinator:

[NJ Office of Environmental Justice](#) aims to “guide the DEP’s program areas and state agencies in working to achieve environmental justice, empower residents who are often outside of the decision-making process of government, and address environmental concerns to improve the quality of life in New Jersey’s overburdened communities.”<sup>23</sup> The Environmental Justice Coordinator who oversees this guidance is Riche Smiley Outlaw.

- Environmental Justice Advisory Board:

[EJAC](#) is an advisory body that serves the Commissioner of the DEP. EJAC is “committed to the basic tenet set forth by the Environmental Justice Movement that all communities, regardless of their racial, ethnic, or economic composition, are entitled to equal protection from the consequences of environmental hazards.”<sup>24</sup> The Council provides its meeting minutes as a resource for community members.

- Funding for Environmental Justice:

NJ Dept. of Environmental Protection Grant and Loan Programs: The Environmental Justice Collaborative Problem-Solving (EJCPS) Cooperative Agreement Program provides funding to support community-based organizations in their efforts to collaborate and partner with local stakeholder groups (e.g., local businesses and industry, local government, medical service providers, and academia) as they develop and implement community-driven solutions that address environmental and/or public health issues for underserved communities.<sup>25</sup> The grants are promoted on NJ DEP website.<sup>26</sup>

**Additional New Jersey Environmental Justice Provisions?**

N/A.

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<sup>23</sup> NJDEP, Off. of Env’t Justice, *About the Off. of Env’t Justice*, <https://www.nj.gov/dep/ej/aboutus.html> (last visited July 1, 2022).

<sup>24</sup> NJDEP, Off. of Env’t Justice, *NJ Acts on Environmental Justice: EJAC*, <https://www.nj.gov/dep/ej/ej-council.html> (last visited July 1, 2022).

<sup>25</sup> NJDEP, *Grant & Loan Programs*, <https://www.nj.gov/dep/grantandloanprograms/> (last visited July 1, 2022).

<sup>26</sup> <https://www.nj.gov/dep/seeds/njcee/grants.htm>.

## **New Jersey Environmental Justice Contacts?**

New Jersey Department of Environmental Protection  
401 East State Street, 7th floor East Wing  
Mail Code: 402  
Trenton, New Jersey 08625  
Main Number: 609-633-0747  
Fax Number: 609-984-3962  
  
<https://dep.nj.gov/ej/contact/>

## **Where to Find New Jersey Environmental Justice Laws, Policies, and Tools?**

### Constitutional Provisions:

N/A.

### Executive Orders:

- List of E.O.'s: <https://www.nj.gov/dep/ej/policy.html>.
- [Executive Order 131](#) (2014 EJ EO).
- [Executive Order 23](#) (2018 EJ EO).

### Legislation and Statutes:

- N.J.S.A. 13:1D-157 et seq.
- New Jersey maintains an [EJ Law](#) website that details the implementation of the law.

### Regulations:

- [N.J.A.C. 7:1C](#).

### Policies/Guidance:

- [Environmental Justice at New Jersey State Agencies](#).
- [About the New Jersey Office of Environmental Justice](#).

### Mapping Tools:

- [EJMAP](#)
- Additional tools available on the NJ DEP Website's [Environmental Justice Resources](#) page.

### Other:



N/A.