



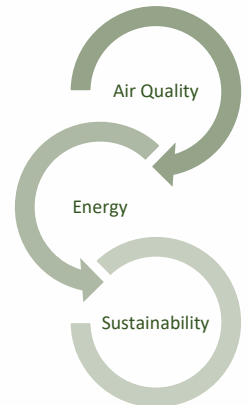
STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION



DIVISION OF AIR QUALITY
AIR QUALITY, ENERGY, AND SUSTAINABILITY

ENVIRONMENTAL JUSTICE

THE LAW, RULE, & MORE



Presented by: Danny Wong

New Jersey's Environmental Justice Law

- **Governor Murphy signed on September 18, 2020**
- **Requires NJDEP to evaluate environmental and public health impacts of certain facilities on overburdened communities when reviewing certain permit applications**
- **First state to require mandatory permit denials if an environmental justice analysis determines a new facility will have a disproportionately negative impact on overburdened communities**
- **NJDEP drafting rule to implement requirements in EJ Law**
- **<https://www.nj.gov/dep/ej/policy.html#ejlaw>**

What is an Overburdened Community?

- **“Overburdened community” means a census block group, as determined in accordance with the most recent United States Census, where at least one of the following three criteria applies:**
 - at least 35 percent of the households qualify as low-income households;
 - at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or
 - at least 40 percent of the households have limited English proficiency.
- **Information can be found on the NJDEP Environmental Justice website(<https://www.nj.gov/dep/ej/>)**
- **Municipalities were notified**

Examples of Environmental and Public Health Stressors that May Cause A Disproportionate Impact

Sources of environmental pollution, including:	Conditions that may cause potential public health impacts, like:
<ul style="list-style-type: none">• concentrated areas of air pollution• mobile sources of air pollution,• contaminated sites• transfer stations or other solid waste facilities, recycling facilities, scrap yards• point-sources of water pollution including, but not limited to, water pollution from facilities or combined sewer overflows	<ul style="list-style-type: none">• asthma• cancer• elevated blood lead levels• cardiovascular disease• developmental problems in the overburdened community

Covered sources

- 1. Major source of air pollution**
- 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 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**
- 8. Medical waste incinerator (with exceptions)**

What Individual Permits Are Covered?

Air Quality, Energy & Sustainability Permits	Solid Waste Permits	Water Resources Management Permits	Watershed & Land Management Permits	Other Permits
<ul style="list-style-type: none">• N.J.S.A. 26:2C-1 (Air Pollution Control Act)	<ul style="list-style-type: none">• 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)	<ul style="list-style-type: none">• 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)	<ul style="list-style-type: none">• 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)	<ul style="list-style-type: none">• 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)

Types of permits

New facility

Expansion of existing facility

Renewal of existing permit – for major facilities only

Overview of the EJ Law's Applicability: Three Step Analysis

Is the facility located in an overburdened community?

Is the facility one of the eight types of facilities covered by the EJ Law?

Is the facility seeking a permit type covered by the EJ Law?

- All three must be met for EJ to apply
- Only individual permits trigger EJ



Administrative order No. 2021-25

- **Commissioner LaTourette signed on September 20, 2021**
- **Until the EJ rule is adopted, AO-25 makes clear that NJDEP will use its existing authority to further the spirit, intent, and direction of the EJ law**
 - Meaningful community engagement when permits are sought in overburdened communities
 - Thorough assessment of facility impacts to environmental and public health stressors
 - The implementation of appropriate measures to avoid or minimize adverse impacts

Conditions of ao-25

- 1. Public comment periods will be no less than 60 days, and may be extended to 90 days upon request by a member of the overburdened community.**
- 2. DEP will:**
 - conduct public hearings consistent with the EJ law to maximize public participation.
 - DEP will encourage comment from interested parties about existing conditions within the overburdened community and potential environmental and public health stressors that could result in adverse impacts to the overburdened community in the event of an approval.
 - DEP will encourage the applicant to respond to the concerns raised by individuals in the overburdened community during the public comment process.
 - DEP will encourage each applicant to engage directly with individuals in the overburdened community in advance of the formal public comment process
- 3. When permits are issued, DEP may apply special conditions in accordance with its existing authority to avoid or minimize environmental or public health stressors in the overburdened community.**

Who to contact for ao-25

- **Office of Permit and Project Navigation (OPPN)**
 - <https://www.nj.gov/dep/pcer/>
 - Information to provide:
 - Name of facility
 - Full street address of facility
 - Type of application (e.g. Air Operating Permit)
 - Type of activity (e.g. Modification, renewal, initial)
 - Application date
 - EJ Trigger (e.g. major source of air pollution; resource recovery facility or incinerator)
 - Facility type (e.g. hospital, sewage plant)
 - Email address of facility contact

Process of AO-25



**Received Information
from Program(s)
Confirm OBC and
Facility Type**



**Communicate with
Facility on Complying
with the
Law/AO2021-25**

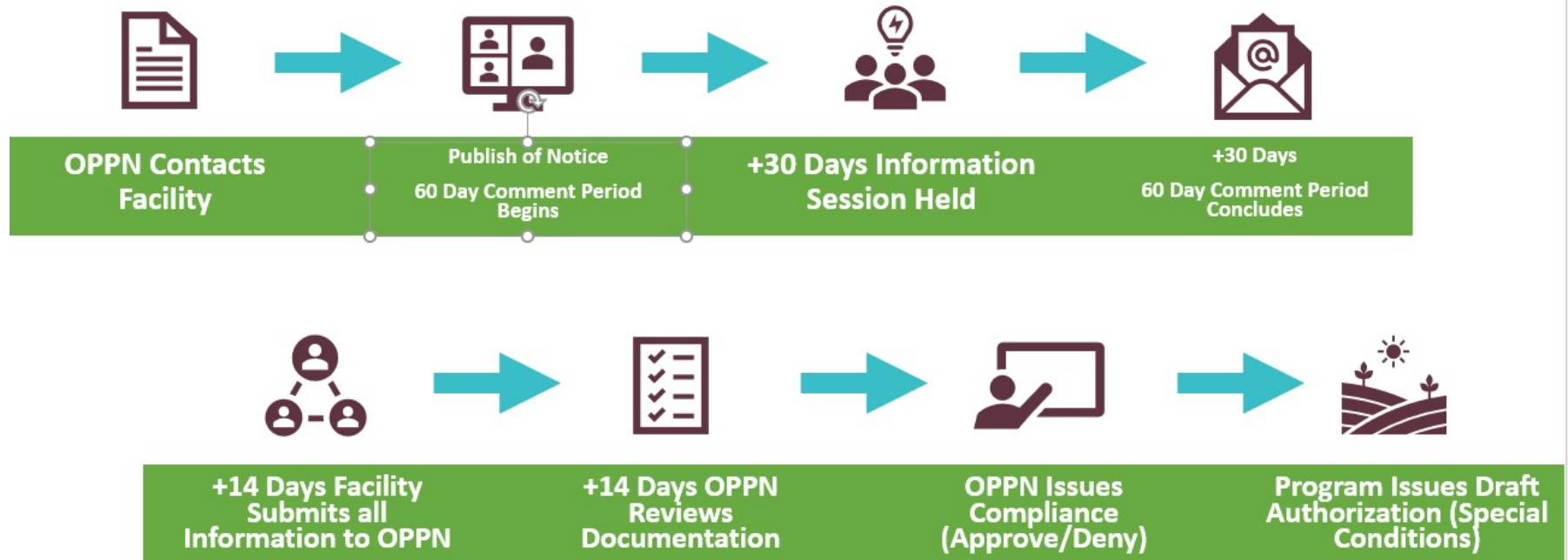


**Approve Notice
Work with Facility on
Information Session
Attend Info Session
Complete Comment
Period**



**Review Information
Work with Program
Area(s) on "Special
Conditions"
Complete AO2021-25
Compliance**

AO-25 timeline



NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION (NJDEP)

OFFICE OF PERMITTING & PROJECT NAVIGATION (OPPN)

Administrative Order 2021-25 Compliance Checklist

Completion of this form will assist the NJDEP in tracking the requirements of Administrative Order 2021-25 (AO2021-25) and determining whether the proposed project has achieved compliance.

1. Identify if the project proposal triggers AO2021-25 and the Environmental Justice Law by classifying it under any of the following categories.

- Major source of air pollution (e.g., gas fired power plant, cogeneration facility)
- Resource Recovery facility or incinerator, sludge processing facility
- Sewage treatment plant with a capacity of more than 50 million gallons per day
- Transfer station or solid waste facility
- Recycling facility that receives at least 100 tons of recyclable material per day
- Scrap metal facility
- Landfill
- Medical waste incinerator, except those attendant to hospitals and universities

Date completed: _____

2. Applicant and OPPN discuss the steps toward compliance under AO2021-25 and the Environmental Justice Law, including:
 - a. 60-day comment period
 - b. Setting up public hearing/information session
 - c. Accepting public comments
 - d. Responding to public comments

Date completed: _____

3. Notifications for public hearing/information session approved.

Date completed: _____

Ao-25 impact on air permits

- **Applies to all pending permits currently with NJDEP that trigger AO-25 (Slide 9)**
 - Until EJ Rule is adopted
- **Adds 3-6 months to air permitting timeline**

Contact information

- **Bureau of Stationary Sources**
 - <https://www.state.nj.us/dep/aqpp/>
 - (609)292-6722
- **Office of Environmental Justice**
 - <https://www.nj.gov/dep/ej/>
- **Office of Permit and Project Navigation**
 - <https://www.nj.gov/dep/pcer/>