

An aerial photograph of a large industrial facility, likely a refinery or chemical plant. The image shows numerous large white storage tanks, complex piping, and several smokestacks emitting thick white plumes of smoke. The facility is situated near a body of water, with a city skyline visible in the background under a clear sky. A semi-transparent white rectangular box is overlaid in the center of the image, containing the title text.

# Environmental Justice Rule



NEW JERSEY  
DEPARTMENT OF  
ENVIRONMENTAL  
PROTECTION



# The Environmental Justice Law (1/2)

The Legislature finds and declares...

- All New Jersey residents, regardless of income, race, ethnicity, color, or national origin, have a right to live, work, and recreate in a clean and healthy environment.
- Historically, New Jersey's low-income communities and communities of color have been subject to a disproportionately high number of environmental and public health stressors, including pollution from numerous industrial, commercial, and governmental facilities located in those communities.
- The legacy of siting sources of pollution in overburdened communities continues to pose a threat to the health, well-being, and economic success of the State's most vulnerable residents and that it is past time for the State to correct this historical injustice.

# The Environmental Justice Law (2/2)

The Legislature finds and declares...

- No community should bear a **disproportionate share** of the adverse environmental and public health **consequences that accompany the State's economic growth**.
- The State's overburdened communities must have a **meaningful opportunity to participate** in any decision to allow facilities which, by the nature of their activity, have the potential to increase environmental and public health stressors.
- It is in the public interest for the State, where appropriate, to **limit the future placement and expansion of such facilities in overburdened communities**.

# Step 1: Applicability Determination

(1) Located in **Overburdened Community** census block group in which:

- 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

(2) **Facility**

- major sources of air pollution (e.g., power plants, cogeneration facilities);
- incinerators or resource recovery facilities;
- large sewage treatment plants (more than 50 million gallons per day);
- transfer stations or solid waste facilities;
- recycling facilities that receive at least 100 tons of recyclable material per day;
- scrap metal facilities;
- landfills; or
- medical waste incinerators, except those attendant to hospital and universities.



Scrap Yard

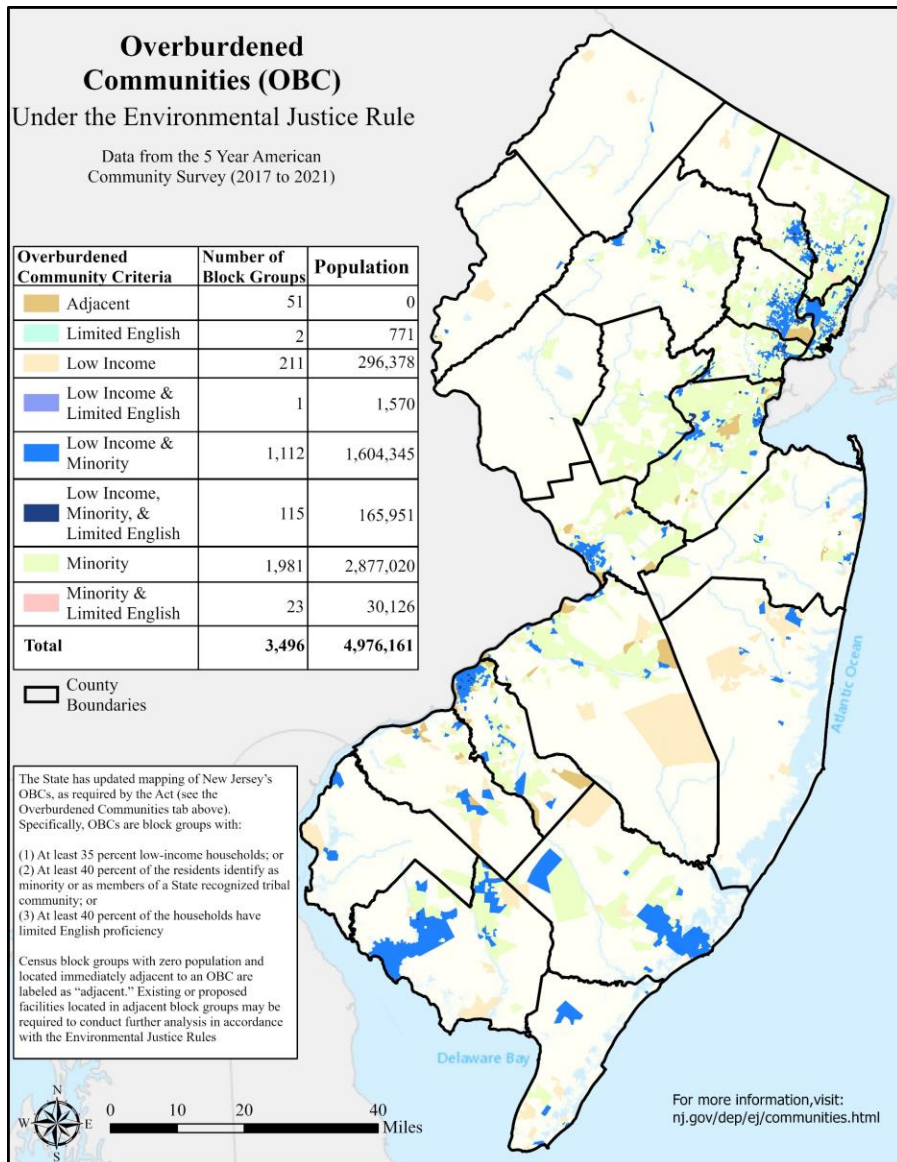
(3) **Permit:** solid waste and recycling, land use, water supply and pollution, and air pollution.

- Applies to individual permits (those permits for more substantial activities requiring deeper review) and excludes authorizations or approvals necessary to perform remediation and minor modification to major source air permits that do not increase emissions
- Applies to new facilities, expansions and Title V renewals only

Applicants seeking clarification regarding applicability of the rules to a specific activity, expansion, or otherwise, may seek an applicability determination pursuant to N.J.A.C. 7:1C-2.1(g).

**Note:** If the EJ rules are applicable, all permitting clocks are stopped until the completion of the EJ process.

# EJMAP & Overburdened Communities (OBCs)



- 5-year American Community Survey Data, 2017-2021
- The final [EJMAP](#) tool includes a revised analysis based on 2021 ACS data
- OBC data will be updated at least every two years
- Information that can be found on the [Office of Environmental Justice's website](#):
  - Excel Spreadsheet listing Overburdened Communities (OBCs) block groups with town names
  - PDF maps
  - OBC technical notes
  - OBC frequently asked questions
- EJMAP also shows relative stressor values – “living” resource that the Department will continue to update to provide updated data and ease understanding of what is covered by the rule
  - Updates will be made biannually (January/July)
  - Version current at time of application controls

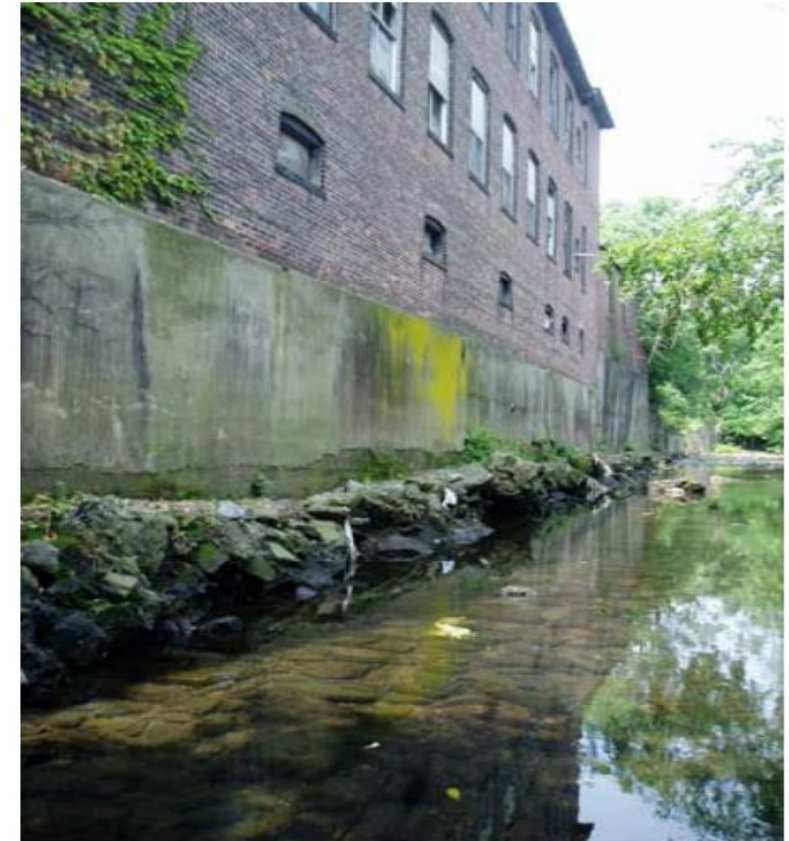
# Environmental & Public Health Stressors

“Environmental or public health stressors” means sources of environmental pollution, including, but not limited to:

1. concentrated areas of air pollution,
2. mobile sources of air pollution,
3. contaminated sites,
4. transfer stations or other solid waste facilities, recycling facilities, scrap yards, and
5. point-sources of water pollution including, but not limited to, water pollution from facilities or combined sewer overflows;

or conditions that may cause potential public health impacts, including, but not limited to:

1. asthma,
2. cancer,
3. elevated blood lead levels,
4. cardiovascular disease, and
5. developmental problems in the overburdened community.



Second River, Newark

**Note:** The Department provides baseline stressor information via [EJMAP](#).



# Environmental & Public Health Stressors

- After considering data availability, data quality, appropriate geographic scale, quantifiability, and marginal value, we are now considering 26 stressors.



# Concentrated Areas of Air Pollution

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
1	Ground-Level Ozone	Days above National Ambient Air Quality Standard (NAAQS)	<ul style="list-style-type: none"> <li>NJ monitoring data</li> <li>Points (monitors)</li> </ul>	✓	✓
2	Fine Particulate Matter (PM 2.5)	Days above National Ambient Air Quality Standard (NAAQS)	<ul style="list-style-type: none"> <li>NJ monitoring data</li> <li>Points (monitors)</li> </ul>	✓	✓
3	Cancer Risk from Diesel PM	Estimated cancer risk	<ul style="list-style-type: none"> <li>NATA data</li> <li>Census Tract</li> </ul>	✓	✓
4	Cancer Risk from Air Toxics Excluding Diesel PM	Estimated cancer risk	<ul style="list-style-type: none"> <li>NATA data</li> <li>Census Tract</li> </ul>	✓	✓
5	Non-Cancer Risk from Air Toxics	Estimated noncancer risk	<ul style="list-style-type: none"> <li>NATA</li> <li>Census Tract</li> </ul>	✓	
6	Permitted Air Sites	Number of sites per square mile	<ul style="list-style-type: none"> <li>NJ Air Permitting data</li> <li>Points (facility locations)</li> </ul>		



# Mobile Sources of Air Pollution

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
7	Traffic - Cars, Light- and Medium-Duty Trucks	Vehicle density per square mile	<ul style="list-style-type: none"> <li>• USDOT FHA</li> <li>• Highway Performance Monitoring System (HPMS)</li> </ul>	✓	✓
8	Traffic – Heavy-Duty Trucks	Vehicle density per square mile	<ul style="list-style-type: none"> <li>• USDOT FHA</li> <li>• Highway Performance Monitoring System (HPMS)</li> </ul>		
9	Railways	Rail miles per square mile	<ul style="list-style-type: none"> <li>• ArcGIS Railroad Layer</li> <li>• Line segments</li> </ul>		

# Point Sources of Water Pollution

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
10	Surface Water	Non-attainment of designated uses for the Integrated Report	<ul style="list-style-type: none"> <li>Integrated Report</li> <li>Block Group</li> </ul>		✓
11	Combined Sewer Overflows	Number of CSOs in block group	<ul style="list-style-type: none"> <li>NJPDES Permitting Database</li> <li>Points (CSO locations)</li> </ul>		
12	NJPDES Sites	Number of sites per square mile	<ul style="list-style-type: none"> <li>NJPDES Permitting Database</li> <li>Points (facility locations)</li> </ul>		

# Solid Waste & Scrap Yards

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
13	Solid Waste Facilities	Number of transfer stations, solid waste and recycling facilities, and incinerators per square mile	<ul style="list-style-type: none"> <li>NJDEP Division of Solid and Hazardous Waste Database</li> <li>Points (facility locations)</li> </ul>		✓
14	Scrap Metal Facilities	Number of sites per square mile	<ul style="list-style-type: none"> <li>NJ Environmental Management System</li> <li>Points (facility locations)</li> </ul>		✓



# Contaminated Sites

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
15	Known Contaminated Sites	Density of Weighted Known Contaminated Sites (KCSL)	<ul style="list-style-type: none"> <li>NJDEP Site Remediation Database</li> <li>Points (facility locations)</li> </ul>	✓	✓
16	Soil Contamination Deed Restrictions	Percent acres of the block group with Deed Notice restrictions	<ul style="list-style-type: none"> <li>NJDEP Site Remediation Database</li> <li>Polygons</li> </ul>		
17	Groundwater Classification Exception Areas/Current Known Extent Restrictions	Percent acres of block group with Classification Exception Area (CEA) or Currently Known Extent (CKE) notice restrictions	<ul style="list-style-type: none"> <li>NJDEP Site Remediation Database</li> <li>Polygons</li> </ul>		

# May Cause Public Health Issues (Environmental, 1/2)

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
18	Drinking Water	Number of Maximum Concentration Level (MCL), Treatment Technique (TT), and Action Level Exceedance (ALE) violations	<ul style="list-style-type: none"> <li>Public Violations Reports for MCL, TT, and ALE</li> <li>Purveyor Areas</li> </ul>		✓
19	Emergency Planning Sites	Density of TCPA, DPCC and CRTK facilities	<ul style="list-style-type: none"> <li>FACITS, NJEMS, NJDEP databases</li> <li>Points (facility locations)</li> </ul>	✓	
20	Potential Lead Exposure	Percent of pre-1950 housing	<ul style="list-style-type: none"> <li>US Census Data</li> <li>Block Group</li> </ul>	✓	✓

# May Cause Public Health Issues (Environmental, 2/2)

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
21	Lack of Recreational Open Space	Population living greater than a ten-minute walk (¼ mile) from Public Recreational Open Space	<ul style="list-style-type: none"> <li>ArcGIS Dataset</li> <li>Polygons of open space</li> </ul>		
22	Lack of Tree Canopy	Spatially weighted mean tree canopy cover	<ul style="list-style-type: none"> <li>USDA Tree Cover Data</li> <li>Raster, 100 ft. grids</li> </ul>		
23	Impervious Cover	Percent impervious surface in a block group	<ul style="list-style-type: none"> <li>ArcGIS Data Layer</li> <li>Polygons</li> </ul>		
24	Flooding (Urban Land Cover)	Percent of urban land use area flooded	<ul style="list-style-type: none"> <li>FEMA Maps/NJDEP Flood Hazard Standards</li> <li>Polygons</li> </ul>		



# May Cause Public Health Issues (Social)

	Stressor	Description	Data Source & Scale	EJScreen	CalEnviroScreen
25	Unemployment	Percent of an adult population that is unemployed	<ul style="list-style-type: none"><li>• US Census Data</li><li>• Block Group</li></ul>		✓
26	Education	Percent of an older population that has less than a high school diploma	<ul style="list-style-type: none"><li>• US Census Data</li><li>• Block Group</li></ul>	✓	✓

# Geographic Point of Comparison

## Statutory Context

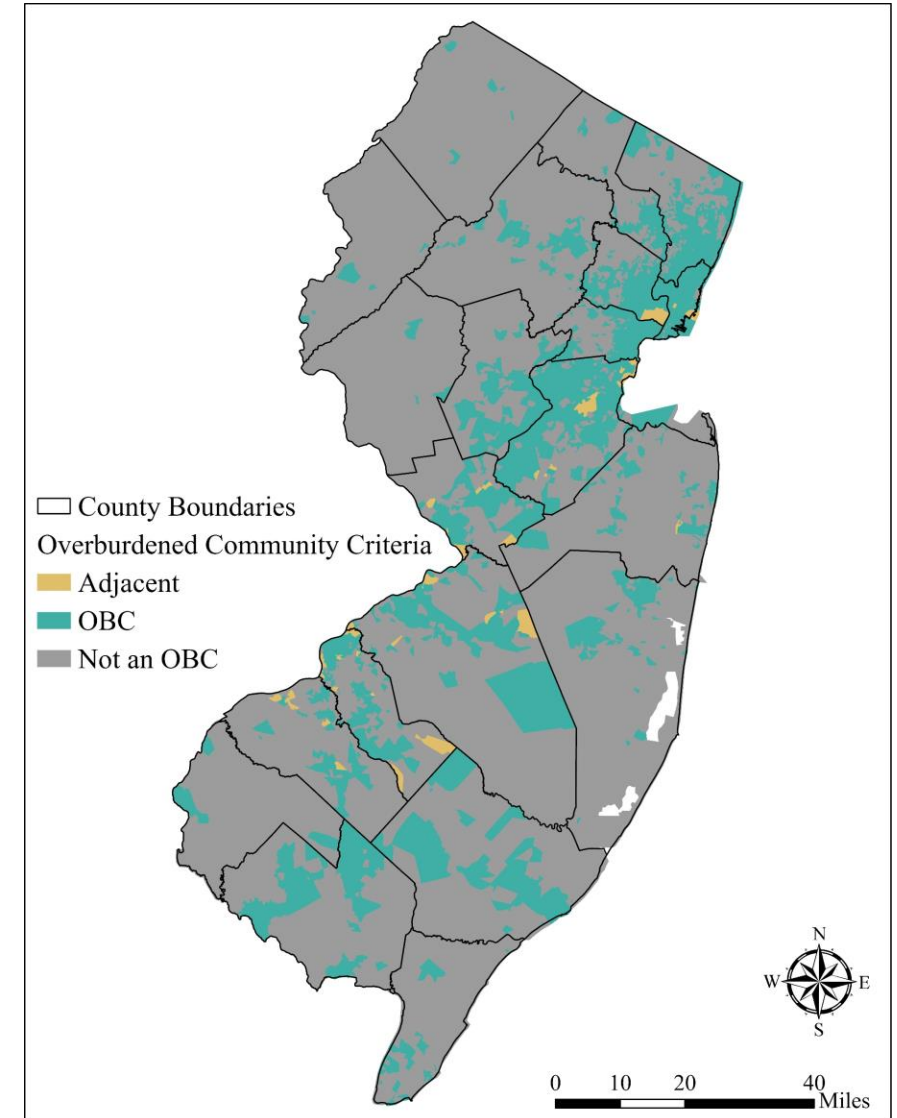
- The Department must determine whether environmental or public health stressors are “higher than” those borne by other communities within the State, county, or other geographic unit of analysis as determined by the department.

## Point of Comparison

- Lower of State or relevant County, excluding overburdened communities (most like USEPA, who uses multiple geographic areas).

## Comparison Percentile

- 50th (higher than).



# Comparative Analysis: Key Terms

## Adverse Stressor

- Stressor that is higher than the geographic point of comparison (State or County Non-OBC, 50<sup>th</sup> percentile)

## Facility Combined Stressor Total (CST)

- Total count of adverse stressors in an OBC
  - E.g., If 18 of the 26 stressors in an OBC are higher than the geographic comparison result, the total for that OBC is 18. The Combined Stressor Total for that OBC is 18.

## Adverse Cumulative Stressors

- Exist where the OBC's sum of adverse stressors (CST) is higher than the geographic point of comparison (State or County Non-OBC, 50th percentile)
  - E.g.: If an OBC's CST is 18 and its geographic point of comparison is 13, that OBC is subject to adverse cumulative stressors.



# Baseline Information

Upon receipt of a permit application subject to the requirements of this chapter, the Department would provide the applicant with the initial screening information for the overburdened community:

- Identification of the environmental and public health stressors
- Appropriate geographic point of comparison
- Any adverse environmental or public health stressors (higher than 50<sup>th</sup> percentile);
- The combined stressor total (CST) of the overburdened community; 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 the Department's EJMAP tool: <https://bit.ly/EJMAP>



# Disproportionate Impact

Goal: Avoid disproportionate impact to overburdened communities

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“Disproportionate impact” occurs under two scenarios:

1. Facility creates adverse cumulative stressors in an overburdened community as a result of its contribution; or
2. Facility contributes to an adverse environmental and public health stressor in an overburdened community that is already subject to adverse cumulative stressors.

Where cannot avoid: analyze and propose feasible measures to minimize contributions to environmental and public health stressors, or provide a net environmental benefit.





# Step 2: Environmental Justice Impact Statement & Meaningful Public Participation

## Environmental Justice Impact Statement (EJIS) Assesses

- The potential environmental and public health stressors associated with the facility;
- The environmental or public health stressors already borne by the overburdened community;
- Any adverse environmental or public health stressors that cannot be avoided if the permit is granted; and
- Measures to avoid or minimize facility contributions to stressors in the OBC.

## EJIS plus Supplemental Information

- Supplement information required when a community is already subject to adverse cumulative stressors, or where a facility will create adverse cumulative stressors.

## Meaningful Public Participation

- The applicant conducts a public hearing in the overburdened community to present EJIS.
- Public Notice in multiple forms: newspaper, property owners within 200 feet, sign at facility, online and additional community-specific methods.
- There is a minimum 60-day public comment period, and applicants must respond to all public comments in writing.



# Step 3: Department Decision

The Department considers the EJS and any supplemental information, testimony, written comments, the applicant's response to comments, and determines whether the facility can avoid a disproportionate impact.

If the facility **can avoid a disproportionate impact to the overburdened community**, the Department would impose permit conditions necessary to ensure that a disproportionate impact remains avoided.

If the facility **cannot avoid a disproportionate impact to the overburdened community**, the Department would:

- **Deny** an application for a new facility unless it demonstrates it will serve a compelling public interest **in the overburdened community**.
- Expanded facilities/Major source renewals: authorize the applicant to proceed with Department permitting subject to appropriate conditions to address facility impacts to environmental and public health stressors.

# Permit Conditions

The background image shows a large industrial complex, likely a refinery or chemical plant, under a dramatic sky with clouds. In the foreground, there are several large, white, cylindrical storage tanks. In the background, numerous tall smokestacks and distillation columns are visible, with one stack emitting a thick plume of white smoke. The overall scene is industrial and somewhat hazy.

## Permit Renewals

- Avoid impacts and where avoidance is not feasible, minimize facility contributions to stressors in the OBC.

## Permits for New and Expanded Facilities

- Beyond avoidance and minimization, we would consider additional feasible conditions that would reduce offsite stressors or provide a net environmental benefit that improves baseline environmental and public health stressors in the overburdened community.

## Localized Impact Control Technology

- Objective standards for major source components based on existing air program standards – will help address legacy sites that have lagged in technology upgrades.
- Focuses on technological feasibility rather than economic feasibility to drive pollution reduction through control technology.

# Compelling Public Interest

Narrow exception to requirement that new facility be denied where it cannot avoid disproportionate impact.

“Compelling public interest” means

- The facility primarily serves an essential environmental, health or safety need of the individuals in an overburdened community;
- The facility is necessary to serve the essential environmental, health or safety need; and
- There are no other means reasonably available to meet the established health or safety need.

Focus is on public works-type projects that are necessary to serve essential environmental, health or safety need of the individuals **in an overburdened community** such as those which directly reduce stressors (e.g., CSO projects).

Economic benefits of the proposed new facility – employment, tax revenue, etc. - shall not be considered in determining whether it serves a compelling public interest in an overburdened community.

# Guidance and Supportive Materials

The Office of Environmental Justice's [website](#) is updated to include the final copy of the rule and supportive materials.

## **Policy**

- [Environmental Justice Law](#)
- [Environmental Justice Rule](#)
- [Frequently Asked Questions](#)
- [EJ Rule Training Video](#)
  - [EJ Rule Training Presentation](#)
- [Glossary of Terms](#)

## **Environmental Justice Mapping, Assessment and Protection (EJMAP) Tool**

- [Environmental Justice Mapping, Assessment and Protection \(EJMAP\) Tool](#)
- [EJMAP Tutorial](#)
- [EJMAP Technical Guidance](#)
- [OBC Technical Notes](#)
- [OBC Frequently Asked Questions](#)

## **Applicant Resources**

- [EJ Submission Service Instructions](#)
- Environmental Justice Impact Statement (EJIS) Guidance – coming soon
- [Where are Overburdened Communities \(OBCs\)?](#)



A photograph of a train crossing a bridge. In the background, a large electrical pylon stands against a clear blue sky. The foreground is filled with tall, dry grass and some green shrubs. A semi-transparent white box is overlaid on the center of the image, containing the text "Thank you!" and "Deputy Commissioner Sean Moriarty, Esq.".

# Thank you!

Deputy Commissioner Sean Moriarty, Esq.