

A discussion on addressing Cumulative Impact and Environmental Justice

A menu of options being used in Minnesota, California, and Connecticut

Common elements: limited permits, limited geographic area, process in place for permits with a certain threshold under the identifying criteria

Permits addressed in plan:

(MN) Air Permits

(CA) Unclear – part of the plan is in development, but what is available includes pollution burden and involves the Air Resources Board.

(CT) Applicable Facility is defined as an electric generating facility with a capacity greater than 10 megawatts; sludge or solid waste incinerators or combustors; sewage treatment plants; certain waste facilities; some new or expanded landfills, waste incinerators; CAA major sources of air pollution.

Discussion – Previously MDE, consulting with the Governor’s Commission on Environmental Justice and Sustainable Communities, identified permits listed in Environment 1-601(a) to be the permits most likely to have a connection to EJ related issues. These are the permits that are subject to the direct judicial review provisions that became effective in 2010. Do workgroup members believe this is helpful?

Administration	Section	Permit Description
ARMA	2-404	Air Quality Permit to Construct/replace components of an existing source/modify an existing source
LMA	7-232	Permit to own, operate or maintain a controlled hazardous substance facility
LMA	9-209	Permits to install, materially alter landfill systems or incinerators
LMA	9-231 & 9-232	Permit for sewage sludge utilization
WMA/LMA	9-323	Permits to discharge pollutants to waters of the state

Geographic Area Designated by:

(MN) limited to small geographic area in Minneapolis (much like amended SB 706)

- *the site is within a half mile of a site designated by the federal government as an EPA superfund site due to residential arsenic contamination;*
- *a majority of the population are low-income persons of color and American Indians;*
- *a disproportionate percent of the children have childhood lead poisoning, asthma, or other environmentally related health problems;*
- *is located in a city that has experienced numerous air quality alert days of dangerous air quality for sensitive populations between February 2007 and February 2008; and*
- *is located near the junctions of several heavily trafficked state and county highways and two one-way streets which carry both truck and auto traffic.*

(CA) Developed a tool CalEnviroScreen which uses criteria for identifying a disadvantaged community that may include, but is not limited to:

- *Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure or environmental degradation.*
- *Areas with concentrations of people that are low income, high unemployment, low levels of home ownership, high rent burden, sensitive populations, or low levels of educational attainment.*

(CT) Defines EJ communities and distressed municipalities:

- *EJ community: a US census block for which 30% or more of the population consists of low income persons who are not institutionalized and have an income below 200% of the federal poverty level*
- *Distressed municipality: Weighted components are summed to measure the rank of the 169 towns. For each component, every town is ranked from 1 to 169, with the best town scoring 1 and worst 169. The top 25 towns with highest total scores are designated distressed municipalities. DECD's components and weight:*
 1. *Per capita income for 2012, weight 1;*
 2. *% of poverty in population for 2012, weight 1;*
 3. *Unemployment rate for 2013, weight 2;*
 4. *% change in population from 2000 to 2010, weight 1;*
 5. *% change in employment from 2003 to 2013, weight 1;*
 6. *% change in per capita income from 2000 to 2012, weight 1;*
 7. *% of house stock built before 1939 in 2012, weight 1/3;*
 8. *% population with high school degree and higher in 2012, weight 1; and*
 9. *Per Capita Adjusted Equalized Net Grand List in 2014-2015, weight 1.*

Discussion – Based on previous meetings, what data is available and useful in Maryland for these purposes? Is designating an area helpful?

Process Used in designated instances:

(MN) The permit applicant, with MPCA's review and approval, is responsible for completing five steps for a cumulative levels and effects analysis for air permits:

Determine pollutants and emission rates for the maximum possible emissions of criteria pollutants and air toxics from a project

Use computer modeling to calculate maximum air concentrations or risks using an "air dispersion model"

Determine the study area, based on a comparison of modeled air concentrations with screening levels

Include environmental health information in the cumulative levels and effects analysis

Form cumulative levels and effects report- include report in air permit application

(CA) Still in development – CalEPA, OEHHA and the Air Resources Board is in the process of determining which of five potential methods is the best way to identify disadvantaged communities:

- Top scores (combined pollution burden and population characteristics) (Method 1)
- Top scores for pollution burden only (Method 2)
- Top scores for population characteristics only (Method 3)
- Top scores using equal cutpoints for pollution burden and population characteristics (Method 4) or
- High and medium high score categories (Method 5)

(CT) Applicants seeking a permit for a new or expanded "applicable facility" that is proposed to be located in an "environmental justice community" must file and receive approval for an EJ Public Participation Plan prior to filing permit application. Meaningful participation means residents have an opportunity to participate in the process in a way that may influence the agency's decision; the applicant seeks out and facilitates public participation. The Department must approve the plan, in writing, prior to an application be filed and the applicant must consult with the chief elected official of the town to evaluate the need to enter into a community environmental benefit agreement.

Discussion: What can be applied here in Maryland to improve outcomes for communities?

Other notes:

(MN) Two facilities that have recently gone through the cumulative levels and effects analysis in South Minneapolis are Abbott Northwestern Hospital and Metro Transit Hiawatha Light Rail O and M Facility.

(CA) CalEnviroScreen is not being used for determining cumulative impacts in permitting. The CalEnviroScreen score is not an expression of health risk, and does not provide quantitative information on increases in cumulative impacts for specific sites or projects. Accordingly, the tool is not intended to be used as a health or ecological risk assessment for a specific area or site.

(NJ) Currently has an active effort to determine what methods and data would be useful for the state in addressing cumulative impacts.