

ASSEMBLY, No. 5622

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 15, 2026

Sponsored by:
Assemblyman CHIGOZIE U. ONYEMA
District 28 (Essex and Union)

SYNOPSIS

Modifies certain DEP permit application requirements for data centers.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning data center permit applications with the
2 Department of Environmental Protection and amending
3 P.L.2020, c.92.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 2 of P.L.2020, c.92 (C.13:1D-158) is amended to
9 read as follows:

10 2. As used in **[this act]** P.L.2020, c.92 (C.13:1D-157 et seq.):

11 “Data center” means an establishment: (1) whose primary
12 services are the storage, management, and processing of digital
13 data; (2) that is used to house computer and network systems,
14 including associated components such as servers, network
15 equipment and appliances, telecommunications, and data storage
16 systems, systems for monitoring and managing infrastructure
17 performance, Internet-related equipment and services, data
18 communications connections, environmental controls, fire
19 protection systems, and security systems and services; and (3) with
20 a total annual energy demand of more than one megawatt.

21 “Department” means the Department of Environmental
22 Protection.

23 “Environmental or public health stressors” means sources of
24 environmental pollution, including, but not limited to, concentrated
25 areas of air pollution, mobile sources of air pollution, contaminated
26 sites, transfer stations or other solid waste facilities, recycling
27 facilities, scrap yards, and point-sources of water pollution
28 including, but not limited to, water pollution from facilities or
29 combined sewer overflows; or conditions that may cause potential
30 public health impacts, including, but not limited to, asthma, cancer,
31 elevated blood lead levels, cardiovascular disease, and
32 developmental problems in the overburdened community.

33 “Facility” means any: (1) major source of air pollution; (2)
34 resource recovery facility or incinerator; (3) sludge processing
35 facility, combustor, or incinerator; (4) sewage treatment plant with
36 a capacity of more than 50 million gallons per day; (5) transfer
37 station or other solid waste facility, or recycling facility intending
38 to receive at least 100 tons of recyclable material per day; (6) scrap
39 metal facility; (7) landfill, including, but not limited to, a landfill
40 that accepts ash, construction or demolition debris, or solid waste;
41 or (8) medical waste incinerator; except that “facility” shall not
42 include a facility as defined in section 3 of P.L.1989, c.34 (C.13:1E-
43 48.3) that accepts regulated medical waste for disposal, including a
44 medical waste incinerator, that is attendant to a hospital or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 university and intended to process self-generated regulated medical
2 waste.

3 “Limited English proficiency” means that a household does not
4 have an adult that speaks English “very well” according to the
5 United States Census Bureau.

6 “Low-income household” means a household that is at or below
7 twice the poverty threshold as that threshold is determined annually
8 by the United States Census Bureau.

9 “Major source” means a major source of air pollution as defined
10 by the federal “Clean Air Act,” 42 U.S.C. s.7401 et seq., or in rules
11 and regulations adopted by the department pursuant to the “Air
12 Pollution Control Act,” P.L.1954, c.212 (C.26:2C-1 et seq.) or
13 which directly emits, or has the potential to emit, one hundred tons
14 per year or more of any air pollutant, or other applicable criteria set
15 forth in the federal “Clean Air Act,” 42 U.S.C. s.7401 et seq.

16 “Overburdened community” means any census block group, as
17 determined in accordance with the most recent United States
18 Census, in which: (1) at least 35 percent of the households qualify
19 as low-income households; (2) at least 40 percent of the residents
20 identify as minority or as members of a State recognized tribal
21 community; or (3) at least 40 percent of the households have limited
22 English proficiency.

23 “Permit” means any individual permit, registration, or license
24 issued by the department to a facility or data center establishing the
25 regulatory and management requirements for a regulated activity
26 under the following State laws: R.S.12:5-1 et seq.; P.L.1975, c.232
27 (C.13:1D-29 et al.); the “Solid Waste Management Act,” P.L.1970,
28 c.39 (C.13:1E-1 et seq.); section 17 of P.L.1975, c.326 (C.13:1E-
29 26); the “Comprehensive Regulated Medical Waste Management
30 Act,” P.L.1989, c.34 (C.13:1E-48.1 et al.); P.L.1989, c.151
31 (C.13:1E-99.21a et al.); the “New Jersey Statewide Mandatory
32 Source Separation and Recycling Act,” P.L.1987, c.102 (C.13:1E-
33 99.11 et al.); the “Pesticide Control Act of 1971,” P.L.1971, c.176
34 (C.13:1F-1 et seq.); “The Wetlands Act of 1970,” P.L.1970, c.272
35 (C.13:9A-1 et seq.); the “Freshwater Wetlands Protection Act,”
36 P.L.1987, c.156 (C.13:9B-1 et al.); the “Coastal Area Facility
37 Review Act,” P.L.1973, c.185 (C.13:19-1 et seq.); the “Highlands
38 Water Protection and Planning Act,” P.L.2004, c.120 (C.13:20-1 et
39 seq.), the “Air Pollution Control Act (1954),” P.L.1954, c.212
40 (C.26:2C-1 et seq.); the “Water Supply Management Act,”
41 P.L.1981, c.262 (C.58:1A-1 et al.); P.L.1947, c.377 (C.58:4A-5 et
42 seq.); the “Water Pollution Control Act,” P.L.1977, c.74 (C.58:10A-
43 1 et seq.); P.L.1986, c.102 (C.58:10A-21 et seq.); or the “Flood
44 Hazard Area Control Act,” P.L.1962, c.19 (C.58:16A-50 et seq.);
45 except that “permit” shall not include any authorization or approval
46 necessary to perform a remediation, as defined pursuant to section
47 23 of P.L.1993, c.139 (C.58:10B-1), or any authorization or
48 approval required for a minor modification of a facility's major

1 source permit for activities or improvements that do not increase
2 emissions.

3 (cf: P.L.2020, c.92, s.2)

4

5 2. Section 4 of P.L.2020, c.92 (C.13:1D-160) is amended to
6 read as follows:

7 4. a. Beginning immediately upon the adoption of the rules and
8 regulations required pursuant to section 5 of **【this act】** P.L.2020,
9 c.92 (C.13:1D-157 et seq.), the department shall not consider
10 complete for review any application for a permit for a new facility
11 or for the expansion of an existing facility, or any application for
12 the renewal of an existing facility's major source permit, if the
13 facility is located, or proposed to be located, in whole or in part, in
14 an overburdened community, unless the permit applicant first:

15 (1) Prepares an environmental justice impact statement that
16 assesses the potential environmental and public health stressors
17 associated with the proposed new or expanded facility, or with the
18 existing major source, as applicable, including any adverse
19 environmental or public health stressors that cannot be avoided if
20 the permit is granted, and the environmental or public health
21 stressors already borne by the overburdened community as a result
22 of existing conditions located in or affecting the overburdened
23 community;

24 (2) Transmits the environmental justice impact statement
25 required to be prepared pursuant to paragraph (1) of this subsection,
26 at least 60 days in advance of the public hearing required pursuant
27 to paragraph (3) of this subsection, to the department and to the
28 governing body and the clerk of the municipality in which the
29 overburdened community is located. Upon receipt, the department
30 shall publish the environmental justice impact statement on its
31 Internet website; and

32 (3) Organizes and conducts a public hearing in the overburdened
33 community. The permit applicant shall publish a notice of the
34 public hearing in at least two newspapers circulating within the
35 overburdened community, including one local non-English
36 language newspaper, if applicable, not less than 60 days prior to the
37 public hearing. The permit applicant shall provide a copy of the
38 notice to the department, and the department shall publish the
39 notice on its Internet website and in the monthly bulletin published
40 pursuant to section 6 of P.L.1975, c.232 (C.13:1D-34). The notice
41 of the public hearing shall provide the date, time, and location of
42 the public hearing, a description of the proposed new or expanded
43 facility or existing major source, as applicable, a map indicating the
44 location of the facility, a brief summary of the environmental
45 justice impact statement, information on how an interested person
46 may review a copy of the complete environmental justice impact
47 statement, an address for the submittal of written comments to the
48 permit applicant, and any other information deemed appropriate by

1 the department. At least 60 days prior to the public hearing, the
2 permit applicant shall send a copy of the notice to the department
3 and to the governing body and the clerk of the municipality in
4 which the overburdened community is located. The applicant shall
5 invite the municipality to participate in the public hearing. At the
6 public hearing, the permit applicant shall provide clear, accurate,
7 and complete information about the proposed new or expanded
8 facility, or existing major source, as applicable, and the potential
9 environmental and public health stressors associated with the
10 facility. The permit applicant shall accept written and oral
11 comments from any interested party, and provided an opportunity
12 for meaningful public participation at the public hearing. The
13 permit applicant shall transcribe the public hearing and, no later
14 than 10 days after the public hearing, submit the transcript along
15 with any written comments received, to the department. Following
16 the public hearing, the department shall consider the testimony
17 presented and any written comments received, and evaluate the
18 issuance of, or conditions to, the permit, as necessary in order to
19 avoid or reduce the adverse environmental or public health stressors
20 affecting the overburdened community.

21 The department may require the applicant to consolidate the
22 public hearing held pursuant to this paragraph with any other public
23 hearing held or required by the department regarding the permit
24 application, provided the public hearing meets the other
25 requirements of this paragraph. The department shall consider a
26 request by a permit applicant to consolidate required public
27 hearings and, if the request is granted by the department, the
28 consolidation shall not preclude an application from being deemed
29 complete for review pursuant to subsection a. of this section.

30 b. Notwithstanding the provisions of P.L.1975, c.232
31 (C.13:1D-29 et seq.) or any other law, or rule or regulation adopted
32 pursuant thereto, to the contrary, the department shall not issue a
33 decision on an application for a permit for a new facility or for the
34 expansion of an existing facility, or on an application for the
35 renewal of an existing facility's major source permit, if such facility
36 is located, or proposed to be located, in whole or in part in an
37 overburdened community until at least 45 days after the public
38 hearing held pursuant to paragraph (3) of subsection a. of this
39 subsection. Notwithstanding the provisions of P.L.1975, c.232
40 (C.13:1D-29 et seq.) or any other law, or rule or regulation adopted
41 pursuant thereto, to the contrary, the department shall not issue a
42 decision on an application for a permit for a new data center until at
43 least 45 days after the public hearing held pursuant to paragraph (3)
44 of subsection h. of this section.

45 c. Notwithstanding the provisions of any other law, or rule or
46 regulation adopted pursuant thereto, to the contrary, the department
47 shall, after review of the environmental justice impact statement
48 prepared pursuant to paragraph (1) of subsection a. or paragraph (1)

1 of subsection h. of this section, as applicable, and any other relevant
2 information, including testimony and written comments received at
3 the public hearing, deny a permit for a new facility or data center
4 upon a finding that approval of the permit, as proposed, would,
5 together with other environmental or public health stressors
6 affecting **the** an overburdened community, or community, as
7 applicable, cause or contribute to adverse cumulative environmental
8 or public health stressors in the **overburdened** community that are
9 higher than those borne by other communities within the State,
10 county, or other geographic unit of analysis as determined by the
11 department pursuant to rule, regulation, or guidance adopted or
12 issued pursuant to section 5 of **this act** P.L.2020, c.92 (C.13:1D-
13 157 et seq.), except that where the department determines that a
14 new facility or data center will serve a compelling public interest in
15 the community where it is to be located, the department may grant a
16 permit that imposes conditions on the construction and operation of
17 the facility or data center to protect public health.

18 d. Notwithstanding the provisions of any other law, or rule or
19 regulation adopted pursuant thereto, to the contrary, the department
20 may, after review of the environmental justice impact statement
21 prepared pursuant to paragraph (1) of subsection a. of this section
22 and any other relevant information, including testimony and written
23 comments received at the public hearing, apply conditions to a
24 permit for the expansion of an existing facility, or the renewal of an
25 existing facility's major source permit, concerning the construction
26 and operation of the facility to protect public health, upon a finding
27 that approval of a permit or permit renewal, as proposed, would,
28 together with other environmental or public health stressors
29 affecting the overburdened community, cause or contribute to
30 adverse cumulative environmental or public health stressors in the
31 overburdened community that are higher than those borne by other
32 communities within the State, county, or other geographic unit of
33 analysis as determined by the department pursuant to rule,
34 regulation, or guidance adopted or issued pursuant to section 5 of
35 **this act** P.L.2020, c.92 (C.13:1D-157 et seq.).

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

46 f. Nothing in this section shall be construed to limit the right of
47 an applicant to continue facility or data center operations during the
48 process of permit renewal to the extent such right is conveyed by

1 applicable law, rule, or regulation, including the application shield
2 provisions of the rules and regulations adopted pursuant to the “Air
3 Pollution Control Act (1954),” P.L.1954, c.212 (C.26:2C-1 et seq.).

4 g. In addition to any other fee authorized by law, rule, or
5 regulation, the department shall assess each permit applicant a
6 reasonable fee in order to cover the department’s costs associated
7 with the implementation of **[this act]** P.L.2020, c.92 (C.13:1D-157
8 et seq.), including costs to provide technical assistance to permit
9 applicants and overburdened communities as needed to comply with
10 **[this act]** P.L.2020, c.92 (C.13:1D-157 et seq.).

11 h. Commencing one year after the effective date of P.L. , c.
12 (C.) (pending before the Legislature as this bill), the
13 department shall not consider complete for review any application
14 for a permit for a new data center unless the permit applicant first:

15 (1) prepares an environmental justice impact statement that
16 assesses the potential environmental and public health stressors
17 associated with the proposed new data center, as applicable,
18 including any adverse environmental or public health stressors that
19 cannot be avoided if the permit is granted, and the environmental or
20 public health stressors already borne by the community wherein the
21 data center is located as a result of existing conditions located in or
22 affecting the community;

23 (2) transmits the environmental justice impact statement required
24 to be prepared pursuant to paragraph (1) of this subsection, at least
25 60 days in advance of the public hearing required pursuant to
26 paragraph (3) of this subsection, to the department and to the
27 governing body and the clerk of the municipality where the data
28 center is located. Upon receipt, the department shall publish the
29 environmental justice impact statement on its Internet website; and

30 (3) organizes and conducts a public hearing in the community
31 where the data center is located. The permit applicant shall publish
32 a notice of the public hearing in at least two newspapers circulating
33 within the community, including one local non-English language
34 newspaper, if applicable, not less than 60 days prior to the public
35 hearing. The permit applicant shall provide a copy of the notice to
36 the department, and the department shall publish the notice on its
37 Internet website and in the monthly bulletin published pursuant to
38 section 6 of P.L.1975, c.232 (C.13:1D-34). The notice of the public
39 hearing shall provide the date, time, and location of the public
40 hearing, a description of the proposed new data center, as
41 applicable, a map indicating the location of the data center, a brief
42 summary of the environmental justice impact statement,
43 information on how an interested person may review a copy of the
44 complete environmental justice impact statement, an address for the
45 submittal of written comments to the permit applicant, and any
46 other information deemed appropriate by the department. At least
47 60 days prior to the public hearing, the permit applicant shall send a
48 copy of the notice to the department and to the governing body and

1 the clerk of the municipality in which the data center is located.
2 The applicant shall invite the municipality to participate in the
3 public hearing. At the public hearing, the permit applicant shall
4 provide clear, accurate, and complete information about the
5 proposed new data center, as applicable, and the potential
6 environmental and public health stressors associated with the data
7 center. The permit applicant shall accept written and oral
8 comments from any interested party, and provided an opportunity
9 for meaningful public participation at the public hearing. The
10 permit applicant shall transcribe the public hearing and, no later
11 than 10 days after the public hearing, submit the transcript along
12 with any written comments received, to the department. Following
13 the public hearing, the department shall consider the testimony
14 presented and any written comments received, and evaluate the
15 issuance of, or conditions to, the permit, as necessary in order to
16 avoid or reduce the adverse environmental or public health stressors
17 affecting the community. The department may require the applicant
18 to consolidate the public hearing held pursuant to this paragraph
19 with any other public hearing held or required by the department
20 regarding the permit application, provided the public hearing meets
21 the other requirements of this paragraph. The department shall
22 consider a request by a permit applicant to consolidate required
23 public hearings and, if the request is granted by the department, the
24 consolidation shall not preclude an application from being deemed
25 complete for review pursuant to subsection h. of this section.

26 (cf: P.L.2020, c.92, s.4)

27
28 3. This act shall take effect immediately.
29
30

31 STATEMENT

32
33 This bill would amend P.L.2020, c.92, commonly referred to as
34 the “Environmental Justice Law,” to require the Department of
35 Environmental Protection (DEP) to evaluate the environmental and
36 public health impacts of new data centers on local communities
37 when reviewing permit applications. Beginning one year after the
38 bill’s effective date, the DEP would not consider complete for
39 review any application for a permit for a new data center unless the
40 permit applicant meets certain conditions enumerated in the
41 “Environmental Justice Law,” including developing an
42 environmental justice impact statement and holding a public
43 hearing. Additionally, the DEP would be authorized to deny a
44 permit application for a new data center, regardless of whether or
45 not the new data center will be located in an overburdened
46 community, upon a finding that approval of the permit application
47 would, result in a disproportionate impact to the community when

- 1 compared to the impact and risk born by other communities in the
- 2 State.