

MODEL STATUTE REQUIRING CUMULATIVE IMPACT ANALYSIS TO RENEW PERMIT OF COVERED FACILITY IN AN ENVIRONMENTAL JUSTICE AREA

This model bill creates new permit renewal requirements for certain existing facilities operating in or near designated environmental justice areas. By analyzing how a given facility interacts with other environmental stressors in the area and consulting with affected communities, the bill ensures more thorough review of the environmental impacts of existing facilities and allows for more informed government decision-making about their continued operation.

GRANDFATHERED IN

Even as pollution control technology improves and regulatory standards become more stringent for new facilities, grandfathered approval for the operation of existing facilities is a common feature of environmental regulation. As a result, the areas where polluting facilities are already located, which are more likely to be low-income communities and communities of color, may not see the benefits of improved technology or regulatory standards. Because existing facilities are often granted permission to operate under outdated, less stringent requirements, the pollution generated by these facilities can pose a greater threat to the health and well-being of environmental justice communities



STATISTICS

As of 2023, there were 1,336 Superfund sites on the National Priorities List (NPL), including the U.S. and its territories. Superfund sites are hazardous waste sites, such as landfills and mines, where toxic waste has been dumped



70%

An estimated 70% of the country's contaminated waste sites are located near low-income housing



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NEW RENEWAL REQUIREMENTS

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EXISTING BURDEN REPORT

Before making a decision on a permit application, the agency is required to compile an existing burden report to understand the facility's contribution to cumulative impacts. The report must include:

-  information on existing levels of pollution, especially near schools, hospitals, nursing homes, where vulnerable populations gather
-  information on air pollution, traffic, noise and odor levels when available or necessary
-  agencies must publish notice of all applications on its website and solicit public comments on both the permit application and the existing burden report

In order to issue or renew a permit under this bill, the agency must find either that the continued operation of the facility will have only a de minimis impact or that it is necessary for the public interest of the area. In assessing

this, the agency can take into account whether the benefits of the permit to the impacted community will outweigh the negative environmental impacts it generates and may look to the existence of a community benefit agreement as evidence. The agency must also place reasonable conditions on the permit designed to minimize impacts, such the use of specific pollution control technologies and conditions to improve the facility's engagement with affected communities, such as regular public meetings.

