



EDITORIAL

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PROPOSED ENVIRONMENTAL JUSTICE LEGISLATION IS SERIOUSLY FLAWED

By Dennis Hart

TRENTON - (July 30, 2020) – Today, both the New Jersey Senate and Assembly are expected to vote on environmental justice legislation S-232 and A-2212. The Chemistry Council of New Jersey (CCNJ) and its member companies fully support the concepts and implementation of environmental justice programs. Our companies are valued members of their communities and many of them have long standing Community Advisory Panels that meet on a regular basis to share information and address any community concerns and plans proposed by the company. The current environmental justice legislation, as drafted, has serious flaws that must be addressed in the legislation and cannot be resolved in the regulatory process.

Earlier in the year, on behalf of CCNJ member companies, I testified in support of environmental justice legislation, but that bill was changed in a manner to include two new provisions that could dissuade companies from investing in or expanding their existing facilities operating in our state. Since it will take the Department of Environmental Protection (NJDEP) 12-18 months to propose and adopt the regulations implementing the legislation, there is no pressing deadline that forces the bills to be voted on today. With two simple fixes this legislation could be approved in the next voting sessions and we would be proud to stand with the sponsors, Senator Troy Singleton and Assemblyman John McKeon, and Governor Murphy in supporting this groundbreaking program. Below I highlight the issues and present two simple solutions.

Issue 1

Major facilities, such as manufacturers, operate facilities with air emission control equipment pursuant to NJDEP approval of permits known as Title V permits. Without this permit the facility cannot use their emission control systems and are not allowed to operate the manufacturing plant. These Title V permits expire every five years and NJDEP issues new permit requirements during this renewal process. Typically, companies begin working on the application to renew their permits 2 years prior to the expiration of the permit. Under federal and state law, as long as the permit renewal application is deemed complete by NJDEP, the facility can continue to operate past the 5-year expiration deadline. When the new permit is issued by NJDEP the company implements the new requirements of the renewed permit. Under the proposed legislation the company cannot submit their application for a permit renewal until after all of the environmental justice study requirements have been completed to the satisfaction of the NJDEP. These complicated area-wide studies will never be reviewed and approved in time to allow for a permit renewal application to be deemed complete and the company will have no choice but to shut down production and lay off employees until the permit application process is completed. Even if the company is in compliance with all permit conditions and state and federal regulations they will be required to shut down. No other state in the country does this. ***An easy fix is to allow the permit renewal application to be submitted simultaneously as the area-wide environmental justice studies are conducted. Thereby allowing the company to continue operations while the studies are undertaken.***

Issue 2

The second major concern we have with this legislation is regarding Title V permits and facility expansions. While we have gotten some relief on renewals and facility expansion projects, S-232/A-2212 states that even if a company is in

full compliance with all of its NJDEP permit conditions and state and federal regulations, the NJDEP may impose onerous conditions for the renewal of the operating permits and the expansion of existing facilities. **This provision must be removed.** The companies we represent, have multiple facilities across the country. These facilities are constantly competing for capital and new product lines. With that capital and those product lines, typically comes more jobs. Adding an additional hurdle for these companies to overcome, will be a disincentive and will hurt New Jersey's chances to compete for any investment in New Jersey by the company. There is also a fear that a manufacturing facility could be at risk, that even if they are good corporate citizens and operate in compliance with their permits and state and federal regulations, it is possible for the state to take away their authority to operate by creating onerous restrictions. Again, no state in America requires this level of regulation. Why would a company locate here instead of Pennsylvania or Ohio or Michigan?

This week Kodak announced that they are building a new drug ingredient supply chain manufacturing plant in New York State with a \$750M federal loan. Can you imagine New York telling the company that they welcome their investment, construction jobs and high paying manufacturing jobs, then warning the company that even if they did everything the state required and complied with all of their permits the state may still revoke their permit to operate in five years? No, New York would never do that. No state would do that, and neither should New Jersey.

We are grateful for the amendments that Senator Singleton and Assemblyman McKeon have made so far. By addressing these serious issues, we feel New Jersey will have a national model for an environmental justice program that everyone can support.

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About the author: Dennis Hart is the executive director of the Chemistry Council of New Jersey. The Chemistry Council of New Jersey (CCNJ), founded in 1955, is the trade and advocacy organization representing the interests of more than 50 New Jersey manufacturers and 45 firms in the business of chemistry. Our membership consists of large and small companies that are part of New Jersey's chemical, pharmaceutical, consumer packaged goods, petroleum, flavor & fragrances and precious metals industries. The New Jersey business of chemistry employs more than 44,000 workers and contributes \$25B to New Jersey's economy. CCNJ companies are also important in our fight to mitigate and prevent the spread of COVID-19, including the manufacturing of PPE, chlorine products, sanitizers, wipes and sprays, and research and production of therapeutics and vaccines. The CCNJ is committed to a better quality of life through science.