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BOARD

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# Local and State Efforts to Address Cumulative Impacts, Environmental Injustice and Health Inequity

# Agenda

- ▶ Cumulative Impacts
- ▶ Environmental Injustice
- ▶ Health Inequity
- ▶ Dateline: Bernalillo County & City of Albuquerque
- ▶ Dateline: New Mexico
- ▶ 2005 NM Supreme Court Decision – Rhino Env.
- ▶ Environmental Policy Acts Adopted by other States and Localities
- ▶ Cumulative Impacts Regulations can be Simple or Complex
- ▶ Next Steps – Cumulative Impacts Committee
- ▶ Discussion/Questions

# Cumulative Impacts

- ▶ Cumulative impacts means exposures, public health, or environmental effects from the combined emissions in a geographic area. Impacts consider sensitive populations and socio-economic factors, to the extent data are available.
- ▶ Elements of a Cumulative Analysis include:
  - ▶ Sensitivity – Magnitude of response to a stimuli
  - ▶ Additivity - Summing impacts across many chemicals
  - ▶ Multiple Pathways – Exposure to chemicals by breathing, eating, touching, etc.
  - ▶ Multiple Sources – The inclusion of more than one pollution source
  - ▶ Non-chemical Stressors – Physical and biological agents that can cause an adverse impact
  - ▶ Community Vulnerability – A community's ability to recover or repair
- ▶ Examples of cumulative impacts analysis include:
  - ▶ Cumulative levels and effects analysis
  - ▶ Health Impact Assessment
  - ▶ Environmental Review

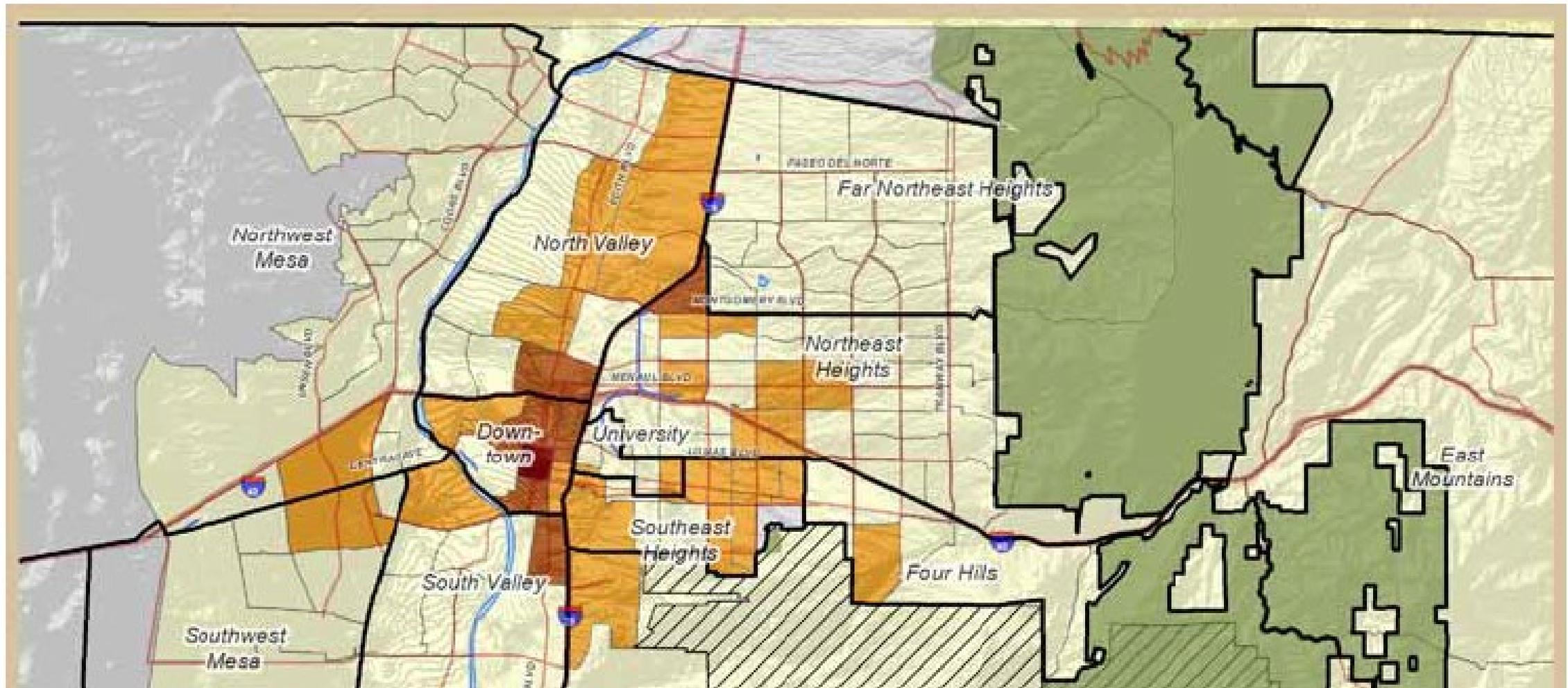
# Environmental Justice

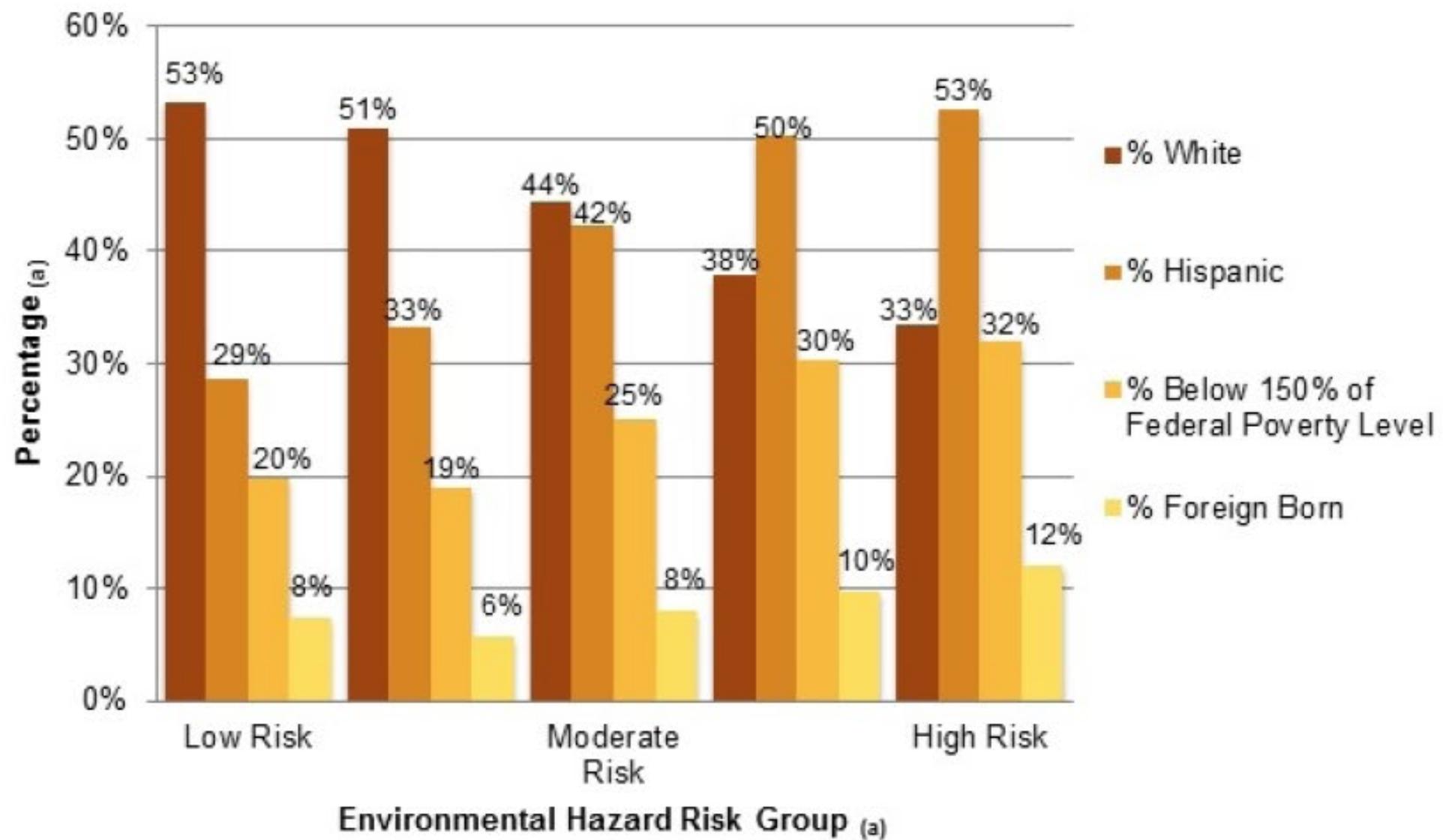
- ▶ Many studies have demonstrated that low income neighborhoods and communities of color have higher potential exposures to outdoor air pollutants and have more pollutant sources. The social, economic, and health inequities that these populations face make them more vulnerable to the effects of air pollution.
- ▶ To reduce these disproportionate impacts, it is important to increase air quality monitoring and have greater scrutiny over emission sources in these areas.

# Equality vs. Equity

- ▶ Equity requires that we address the barriers to achieve the same outcomes and recognize that some groups or people are starting from a different place.
- ▶ Health equity means achieving the conditions in which all people have the opportunity to attain their highest possible level of health without limits imposed by inequitable policies, systems and investments.
- ▶ Addressing environmental injustice from an equity perspective requires us to work to decrease disproportionate air pollution exposures and to allow opportunities for residents to meaningfully participate in environmental decisions.

**Map 12: Regions of Elevated Environmental Risk and Low Life Expectancy by Census Tract, Bernalillo County, N.M. (1970-2009)**





## Dateline: Bernalillo County & Albuquerque

- ▶ 2004 - Report of Air Quality Data and Health Study Summaries for the Mountain View Area
- ▶ 2005 - Mountain View Air Quality Task Force formation
- ▶ 2005 – OEH funded study of cancer in Mountain View, NM Tumor Registry, Dr. C. Wiggins
- ▶ 2006 – SVPEJ funded personal, Indoor, and outdoor VOC exposure study
- ▶ 2006 – Hearing on proposed concrete batch plant - located across the street from the Mtn. View Community Ctr.
- ▶ 2007 – Mountain View Sector Plan incorporating Environmental Review Checklist
- ▶ 2007 – Numerous OEH presentations to AQCB re Cumulative Impacts
- ▶ 2008 - EJ Task Force Report - Recommendations:
  - ▶ Priority 1 – Support the adoption of environmental assessment provisions in regulations, statutes, and ordinances at the state and local level
  - ▶ Priority 2 – Monitor sources to ensure modeled emissions are reflective of action emissions
  - ▶ Priority 3 – Explicitly consider Cumulative Impacts and EJ in permitting processes and regulations
- ▶ 2010 – EPA CARE grant to assess on-site air quality (PM and VOC) at auto recyclers throughout South Valley
- ▶ 2010 – OEH funded study, entitled, “Cancer Health Disparities: An Analysis of Incidence and Mortality by Race/Ethnicity and Poverty”, Dr. W. Athas
- ▶ 2012 – Joint Center for Political and Economic Studies, “Place Matters for Health in Bernalillo County: Ensuring Opportunities for Good Health for All”
- ▶ 2012 – Health Equity Partnership funding by Kellogg Foundation
- ▶ 2014 – AQCB decision to deny motion of hearing on proposed cumulative impacts regulation\*

## Dateline: New Mexico

- ▶ 2005 – NM Supreme Court Ruling on Rhino Environmental
- ▶ 2005 – Governor Richardson’s EJ Executive Order
- ▶ 2005 – NM Health Communities Act (HB 722) – Rep. Lujan
- ▶ 2007 – NM Environmental Health Act (HB 888) – Rep. Garcia
- ▶ 2009, 2013 – Consolidated Review Act (HB 520, HB 458) – Rep. Chasey
- ▶ 2010, 2011 – Health [Impact] Reporting Act (SB 71, SB 98, ) – Sen. Keller\*\*
  - ▶ Develop Health Impact Reports by Health Policy Institutes on proposed legislation
- ▶ 2014 – Health Impact Assessment Program (SB 48) – Sen. Keller\*\*
  - ▶ Establishing a HIA program and requiring certain construction or development projects obtain a certificate of health impact, providing for establishment of a HIA advisory committee, providing for rulemaking, providing for appeals, amending section of the Health Information System Act to require the NMDOH use its Health Information System to issue community health indexes for NM counties.
- ▶ 2019, 2021 – Environmental Review Act, Environmental Database Act (HB 206, HB 51) – Rep. Chasey
  - ▶ State Environmental Policy Act, including cumulative impacts consideration
- ▶ 2021 – Local Gov’t Air Quality Regulations (SB 8) – Senators Wirth, Lopez
  - ▶ Amending the Air Quality Control Act and Hazardous Waste Act to allow for promulgation of rules more stringent than Federal law, requiring a determination, after notice of hearing, that a more stringent rule will be more protective of the public health and environment, reorganizing a rulemaking provision related to ozone into the powers and duties section of the AQCA.

## 2005 – NM Supreme Court Ruling on Rhino Environmental

- ▶ In 2005, the NM Supreme Court issued a decision in *Colonias Development Council v. Rhino Environmental Services, Inc.*, that NMED had to consider EJ factors, such as the socioeconomic status of the population, the cumulative environmental impacts borne by the community and the social impact of living in an area surrounded by waste sites – during solid waste facility permitting decisions
- ▶ This decision led to several attempts to pass legislation pertaining to Cumulative Impacts, EJ, and Health Equity at the state level.
- ▶ It also led to the Solid Waste Rule defining vulnerable area and requiring a Community Impact Assessment be completed
- ▶ Components of the Community Impact Assessment include: socioeconomic and environmental justice profile; cumulative and individual impacts of the proposed facility, other existing development, and other planned development submitted to a local government within the vulnerable area; unavoidable adverse environmental impacts; and analysis of short-term, intermediate term and long term effects of the proposed facility and mitigation strategies
- ▶ Updates to the Solid Waste Rule occurred quickly in light of the Supreme Court decision. Therefore, quick policy responses to identified EJ issues can and do happen

# Environmental Policy Acts Adopted by other States and Localities

- ▶ State Environmental Quality Review or Environmental Policy Acts
  - ▶ California, Connecticut, District of Columbia, Georgia, Hawaii, Indiana, Maryland, Massachusetts, Minnesota, NJ (Exec. Order), NY, NYC, NC, SD, Tahoe Regional Planning Compact, Virginia Environmental Impact Report Procedure, Washington, Wisconsin
- ▶ Federal Council on Environmental Quality website did not include data on the number of local jurisdictions having local Environmental Quality Review or Environmental Policy Acts
  - ▶ More of my time would be necessary to collect this data and examples of policies at local level
- ▶ NEPA and several state NEPAs require cumulative impacts analysis as part of the process
- ▶ A growing number of states are passing legislation to address health inequities

A Regulation with language to account for Cumulative Impacts, Environmental Injustices or Health Inequities can be Simple, Place Based or Complex

- ▶ Place based regulations:
  - ▶ NM Solid Waste Rules require a permit applicant to provide a Community Impact Assessment addressing issues raised by the community if the facility/proposed facility is within a vulnerable area.
- ▶ The IDO specifies a Cumulative Impacts Overlay zone for communities along the BNSF railroad

# Next Steps – Cumulative Impacts Committee

- ▶ Scope
  - ▶ Draft a cumulative impacts regulation w representation of community members who are most impacted by health inequities and environmental injustices
- ▶ Membership Ideas for Discussion
  - ▶ Mayor's Health Equity Task Force
  - ▶ 5 Impacted residents, 2 Board members, UNM Epidemiologist, NMDOH representative
- ▶ Project Timeline
  - ▶ Review existing regulations from other states and municipalities and proposed regulations/legislation from NM
    - ▶ April and May
  - ▶ Present draft cumulative impacts regulation to AQCB
    - ▶ June and July

# Discussion/Questions

