

NEJAC CUMULATIVE IMPACTS WORKGROUP CHARGE (Final – March 30, 2023)

I. BACKGROUND

Since its inception, the National Environmental Justice Advisory Council (NEJAC) has played a significant role in advancing the issue of cumulative impacts. This has taken many forms – public comments, letters of concern, recommendations and reports. In 2004, the NEJAC issued the report entitled *Ensuring Risk Reduction in Communities with Multiple Stressors: Environmental Justice and Cumulative Risks/Impacts*.¹ This report called upon EPA to adopt a “bias for action,” and put forward 12 recommendations regarding the development of collaborative models for addressing cumulative impacts, development of mapping and screening tools, improving science related to population vulnerability, and other issues. Recommendations have also put forward ideas for addressing cumulative impacts incorporated in environmental decision making, including social siting criteria, area-wide planning, a waste transfer station regulatory strategy, permitting, research, and innovative ideas such as use of a Total Maximum Daily Load approach for air sheds.

During the past two decades, overburdened communities, environmental justice advocates, state and local government have made meaningful progress on the cumulative impacts issue. Overburdened communities first raised concerns about addressing cumulative impacts in order to adequately account for the total burden or “lived reality” of frontline communities, which involves multiple pollution, health, social and other impacts. This led to the development and deployment of environmental justice mapping tools, establishment of programs that incorporate consideration of cumulative impacts in prioritizing the allocation of resources and program attention, statutes that require consideration of cumulative impacts in permitting, and the development of protocols for assessing cumulative impacts in permitting.

EPA has taken a number of steps to advance consideration of cumulative impacts in decision-making. In its [Cumulative Impacts Research Recommendations](#) report, [EPA’s Office of Research and Development](#) defined cumulative impacts as:

“the totality of exposures to combinations of chemical and non-chemical stressors and their effects on health, well-being, and quality of life outcomes. Cumulative impacts include contemporary exposures to multiple stressors as well as exposures throughout a person’s lifetime. They are influenced by the distribution of stressors and encompass both direct and indirect effects to people through impacts on resources and the environment. Cumulative impacts can be considered in the context of individuals, geographically defined communities, or definable population groups. Cumulative impacts characterize the potential state of vulnerability or resilience of a community.”²

In its [Cumulative Impacts Addendum to EPA’s Legal Tools to Advance Environmental Justice](#), EPA’s Office of General Counsel stated:

¹ National Environmental Justice Advisory Council, [Ensuring Risk Reduction in Communities with Multiple Stressors: Environmental Justice and Cumulative Risks/Impacts](#), December 2004

² U.S. Environmental Protection Agency Office of Research and Development, [Cumulative Impacts Research: Recommendations for the Office of Research and Development](#), Washington, DC, September 30, 2022

“EPA’s legal authority to address cumulative impacts in communities with environmental justice concerns permeates the full breadth of the Agency’s activities—including, for example, standard-setting, permitting, cleanup, emergency response, funding, planning, state program oversight, and other decision-making; and initiating administrative or judicial action in situations where there is actual or potential for imminent and substantial endangerment. Whether and how EPA utilizes its legal authorities to address cumulative impacts will depend, among other things, on the specific statutory, regulatory, policy, scientific, and factual contexts at issue, as well as the resources available to the Agency.”³

Pursuant to Executive Order 13985 on *Advancing Racial Equity and Support for Underserved Communities*,⁴ EPA made a commitment in its Equity Action Plan to “develop a comprehensive framework for considering cumulative impact in relevant EPA decisions and operationalize that framework in EPA’s programs and activities.”⁵ “For decades, EPA, state environmental regulators, and local zoning officials have made decisions that contributed to the disproportionate pollution burden on people of color and underserved communities across the country, such as decisions to site and permit new industrial facilities in ways that concentrate them within these communities.”⁶ EPA determined that such a framework was critical to the Agency’s efforts to achieving equity.

II. CHARGE

EPA requests that NEJAC provide recommendations to assist EPA to lay a sound foundation for assessing and addressing cumulative impacts by making overburdened communities, populations or groups, especially those facing extreme exposure or vulnerability, a central part of the process. This will assist the Agency in identifying and operationalizing solutions for addressing cumulative impacts, including input on the finalization and implementation of a framework for assessment and action.

A. Recent Developments in Cumulative Impacts Assessment

Meaningful progress has been made in the cumulative impacts area by environmental justice advocates and practitioners, particularly at the state, tribal, local and community levels. These advances offer important lessons for EPA to build on as it implements its authorities to address cumulative impacts. Among these lessons is clarity regarding the relationship between disproportionate and cumulative impacts. EPA requests that NEJAC review these developments with the following questions in mind. NEJAC’s recommendations may include responses to the following questions.

1. What can be learned from recent approaches for assessing and addressing cumulative impacts that should be used or promoted by EPA?
2. What can be learned from community efforts to assess and address cumulative impacts that should be used or promoted by EPA?
3. What can be learned from recent community and stakeholder engagement processes during the development of cumulative impacts analysis protocols at the state or local level that should be promoted or used by EPA?

³ U.S. Environmental Protection Agency Office of General Counsel, [EPA Legal Tools to Advance Environmental Justice: Cumulative Impacts Addendum](#), Washington, DC, January 2023

⁴ Biden, Joseph R., [Executive Order 13985](#), Advancing Racial Advancing Racial Equity and Support for Underserved Communities Throughout the Federal Government, January 20, 2021

⁵ E.O. 13985 [Equity Action Plan](#): U.S. Environmental Protection Agency, April 2022

⁶ *Ibid.*

4. What can be learned from work on indicators of cumulative impacts, including those related to climate change, that should be used or promoted by EPA?

B. Approaches for Assessing and Addressing Cumulative Impacts

EPA requests advice on key approaches for assessing and addressing cumulative impacts in a fit-for-purpose manner. NEJAC should provide advice regarding considerations important to overburdened communities with environmental justice concerns. NEJAC's recommendations may include responses to the following questions.

1. What steps, methods and practice standards are critical when assessing and addressing cumulative impacts? What integrated approaches, such as Health Impacts Assessment or Protocol for Assessing Community Excellence in Environmental Health, can be utilized to inform these steps and develop standards of practice?
2. How can EPA better utilize community knowledge, and account for their lived experience?
3. How can EPA build capacity within overburdened communities to ensure that they play a meaningful role in the process?
4. How can EPA better consider historical and structural drivers, including but not limited to redlining, for concentration of environmental burden and lack of benefits?
5. How can EPA incorporate climate justice concerns in its efforts to assess and address cumulative impacts?
6. What innovative concepts should EPA pursue to better integrate consideration of cumulative impacts in its programs?

C. Framework Finalization and Implementation

In order to inform the finalization and implementation of a framework for assessing and addressing cumulative impacts, EPA requests advice from the NEJAC regarding several overarching questions. NEJAC's recommendations may include responses to the following questions.

1. How can EPA's approach to implementing its cumulative impacts framework reflect the experiences, perceptions, concerns, and priorities of overburdened communities?
2. Are there any gaps that should be addressed in future work by the Agency?
3. How can EPA promote collaboration and co-generation of knowledge and expertise in the development and implementation of approaches to assess and address cumulative impacts?
4. How can EPA accelerate the implementation of a cumulative impacts framework to reduce the burden of pollution in communities with environmental justice concerns?