

## **Draft 1- Environmental Justice Action Task Force Recommendations**

### **About the Task Force**

The Environmental Justice Action Task Force (“EJATF” or “Task Force”) was created by the Colorado [Environmental Justice Act \(HB21-1266\)](#). Governor Polis, the legislature, and Colorado’s two tribal governments can appoint up to 27 members to the Task Force. There are currently 22 Task Force members.

As required by the Environmental Justice Act, the Task Force will hold a total of six public meetings- the fourth meeting taking place on June 21, 2022. The Task Force also has five subcommittees that meet monthly. The Environmental Justice Act charges the Task Force with developing recommendations on a variety of topics, which are discussed below. The Task Force will present these recommendations to the legislature, the Governor, and the Colorado Department of Public Health & Environment (“CDPHE”). The Task Force must finalize the recommendations by November 14, 2022.

You can learn more about the Task Force and its members [on CDPHE’s environmental justice webpage](#), view all of the Task Force’s documents in its [public Google Drive folder](#), and watch recordings of Task Force meetings on [CDPHE’s YouTube channel](#).

### **About This Document**

This document summarizes ideas that EJATF members have raised during prior Task Force meetings and subcommittee meetings. The potential recommendations listed below were generally raised by only one or two Task Force members and should not be construed as representing the opinion of the full Task Force. In some cases, multiple alternative options are presented where different Task Force members have suggested different ideas.

CDPHE Environmental Justice Program (“EJP”) staff created this document by reviewing recordings and notes from each of the prior meetings. EJP staff compiled all of the ideas that are relevant to topics that the Environmental Justice Act identifies for the Task Force to address in this document. All recommendations come from Task Force members. They are not ideas or recommendations of EJP staff.

This document is meant as a starting point to facilitate public comment and future conversations. The potential recommendation topics are meant for additional discussion by the Task Force and its subcommittees which are informed by public comment. The Task Force will take public comments into consideration on the recommendation topics listed below as it works towards a final draft of its recommendations by the statutory deadline of November 14, 2022.

This document is organized to group together recommendations from each of the Task Force’s five subcommittees. A separate section is dedicated to supplemental environmental projects, which are not addressed by any one subcommittee. The relevant statutory language identifying the topics that the Task Force should consider making recommendations about is included at the start of each section.

Some recommendations overlap between subcommittees or topics. Those recommendations are highlighted in the color that corresponds to the subcommittee or topic that they intersect with:

Environmental Equity & Cumulative Impacts Analysis = Green

Data & Reducing Environmental Health Disparities = Pink

Definition of Disproportionately Impacted Community = Blue

Best Practices for Community Engagement = Turquoise

Indigenous Community Engagement = Yellow

Supplemental Environmental Projects = Orange

### **Keep in Mind While You Review**

This document includes potential recommendations about a variety of concepts. The Task Force welcomes public comment and input on these ideas. Public comments will be most helpful to the Task Force if they:

- Are submitted in writing
- Identify which specific recommendation they are addressing
- Explain whether they support or oppose the recommendation
- Consider how the recommendation will be implemented
- Identify who should implement the recommendation (i.e., an agency vs. the legislature)

### **Section 1: Environmental Equity & Cumulative Impacts Analysis**

#### **Language from the Environmental Justice (EJ) Act:**

*“Duties Of The Task Force. The Task Force Shall Consider Proposing Recommendations Concerning The Following: (A) Developing a state agency-wide environmental justice strategy and a plan to implement that strategy, which could include:*

*(I) Recommendations for creating and implementing equity analysis into all significant planning, rule-making, adjudications, orders, programmatic and policy decision-making, and investments;*

(II) A Potential requirement that agencies prepare an environmental equity analysis for any state action that has the potential to cause negative environmental or public health impacts to a disproportionately impacted community, which analysis could include a process for identifying and describing cumulative impacts to the health and environment of disproportionately impacted communities;

(III) A potential requirement that for any state action that may cause adverse environmental or public health impacts to a disproportionately impacted community, the adverse environmental or public health must be avoided, and if the effects cannot be avoided, they must be minimized and mitigated;

(IV) A potential requirement that permits must be issued and renewed only after an environmental equity analysis determines that the terms and conditions of the permit or renewal are sufficient to ensure, to a reasonable certainty, that any harm to the health and environment of disproportionately impacted communities is either: (A) avoided; or (B) minimized to the extent practicable and, to the extent any harm remains, is mitigated;”

— — —  
(d) Evaluating and proposing recommendations or revisions to the following definitions:

(ii) 'proposed state action"

Currently includes:

(A) Rule-making proceedings;

(B) Licensing proceedings, including the issuance and renewal of permits; and

(C) Adjudicatory hearings

(iii) "agency" (Note that the term “agency” includes the Air Quality Control Commission and will include the Water Quality Control Commission starting in July 2023)

## **Potential Recommendations:**

### **I. Process and Mechanics of Developing an Environmental Equity Analysis**

A. **Environmental Equity Analyses:** The legislature should fund centralized environmental equity analyses that consider cross-media cumulative impacts. Centralizing each analysis as a single analysis for an area, rather than individual agencies conducting separate analyses at the time they make specific decisions, will create efficiencies for all users and community engagement.

a. **Who Should Conduct the Analyses.** The Analyses should be conducted by:

i. Option 1: a single state agency

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- ii. Option 2: an interagency council, which should include representation from a wide range of relevant state agencies in addition to environmental regulatory agencies, such as the Department of Local Affairs and the Department of Economic Development & International Trade
  - iii. Option 3: a consultant
- b. **Audience:** Environmental equity analyses should benefit disproportionately impacted communities.
- i. State agencies using the analyses in decision making are the primary target audience.
  - ii. Local governments are also a critical audience for the equity analyses, as they may also use the equity analyses to guide their decision making and may not have the resources to conduct an equity analysis on their own.
  - iii. However, in addition to agencies, the analyses should be accessible to community members and regulated industry to ensure it is crafted to be comprehensible and easily utilized by all of these parties.
- c. **Location:**
- i. Each individual analysis should be conducted for areas that meet the definition of disproportionately impacted communities.
  - ii. Analyses should be prioritized based on existing data in Colorado EnviroScreen; there should not be a separate analysis for every area that meets the definition.
  - iii. The scale of the geographic area covered by the analysis should be:
    1. Option 1: a single disproportionately impacted community (one census block group).
    2. Option 2: a regional-grouping of contiguous or adjacent disproportionately impacted communities
    3. Option 3: a region, with agencies empowered to use their own definitions of regional boundaries when applying the analysis to their work
- d. **Cumulative Impacts:**
- i. The cumulative impacts considered in the environmental equity analysis should be cross-media (air, water, soil, radiation).
  - ii. The cumulative impacts analysis should include a full life cycle analysis of impacts from all industries operating in an area.
  - iii. The cumulative impacts analysis should include factors that intersect with environmental health, such as economic and socioeconomic burdens and benefits, as well as qualitative and trauma sensitive data on stress, mental health, and predatory practices that have led to systemic barriers.
  - iv. An analysis conducted for the Commerce City/North Denver area should include cumulative air impacts from multiple sources of pollutants in the

area, and the analysis should be accessible and understandable to community members.

e. **Components of the Environmental Equity Analysis:**

i. Each analysis should specifically consider data and information about:

1. Air quality
2. Water quality
3. Soil contamination
4. Waste management
5. Water supply
6. Ecosystem services and ecological impacts
7. Land use
8. Power generation
9. Energy costs
10. Affordability and accessibility of transportation
11. Affordability and accessibility of housing
12. Access to healthcare
13. Access to healthy food
14. Impacts to mental health
15. Just transition opportunities

ii. Each analysis should consider both benefits and burdens to disproportionately impacted communities. The benefits and burdens analysis should include:

1. Potential unintended consequences
2. Costs and benefits analysis should:
  - a. Be comprehensive and include costs associated with health and environmental impacts, potential unintended consequences, and tradeoffs among costs and benefits.
  - b. Consider costs and benefits to separate groups, including:
    - i. The public as a whole;
    - ii. Disproportionately impacted communities
    - iii. The state government
  - c. Quantify the economic cost of health impacts to the impacted community
  - d. Consider the adverse economic impacts of environmental impacts using tools such as the social cost of carbon
3. Impacts to workers and jobs in a community.
  - a. Although the equity analysis should consider workforce impacts, it should avoid using a binary narrative of “jobs vs. the environment,” and instead recognize a more nuanced and data-driven framework

- b. The analysis of impacts to workers should include impacts to worker health and occupational health risks
- c. The analysis should consider workforce development and job creation as benefits from industrial activities in a community.
  - i. This should include the number of jobs that can be created or maintained by a new or existing economic activity
  - ii. This should include whether those jobs are considered permanent or temporary
- 4. A scoring mechanism to address conflicts or competing priorities, if the analysis identifies tradeoffs or conflicts between options that can impact different media (i.e., one option might reduce air pollution but result in adverse environmental impacts to another media)
  - iii. A health impacts assessment that identifies how future agency actions could impact the health of disproportionately impacted communities, including using existing monitoring data and modeling techniques to understand exposures, and interpret potential health impacts through a toxicological analysis
  - iv. The environmental equity analysis should identify relevant mitigation options as part of the analysis
    - 1. Agencies should be legally empowered to evaluate, score, or compare mitigation options proposed for future projects
  - v. The environmental equity analysis should identify alternatives, such as siting alternatives for project-specific decisions
  - vi. The environmental equity analysis should intentionally avoid incorporating certain types of sensitive or personal data such as immigration status due to the harm using that data might cause
- f. **Community Engagement:** The community that is the subject of the environmental equity analysis should inform and be thoroughly engaged in the process of creating the analysis.
  - i. The analysis should also help inform the community, creating a feedback loop
  - ii. Local governments in the relevant area should be fully included, active participants in the process of developing the equity analysis to ensure consistency with local government land use priorities.
  - iii. **Collecting Information from the Community:** The entity conducting the equity analysis should collect information during town halls and through social media

1. Option 1: anecdotal information and stories need to be verified by data in order to inform policy decisions. There needs to be distinction between opinions and facts
  2. Option 2: anecdotal information does not need to be verified because a person's lived experience is valid in itself and should be used to inform policy decisions.
- iv. The entity conducting the equity analysis should consider opportunities to collaborate with local educational institutions in the process of developing the equity analysis.
- g. **Updates:**
    - i. The legislature should provide funding to update equity analyses periodically to reflect new data and changing conditions
    - ii. The legislature should specify how frequently updates should occur
  - h. **Timeline:** The timeline for conducting an analysis should recognize the impacts that communities are currently experiencing while also recognizing the time necessary to conduct a thorough analysis that can be successfully implemented by agencies

## **II. Use and Application of Completed Equity Analyses**

- A. **Agencies:** Once completed, the environmental equity analyses should be used by:
  - a. Option 1: all state agencies that take actions that can impact the environment
  - b. Option 2: a specific list of state agencies which will be identified by the Task Force in future conversations
  - c. Option 3: a pilot program of one or two agencies to ensure that the equity analyses can be successfully implemented
- B. **Application of the Equity Analysis.** Individual agencies should tier to the analysis when making agency specific decisions.
  - a. Agencies should undertake a public process (potentially a rulemaking) to determine when an environmental equity analysis should be considered in decision making, including for what types of decisions.
  - b. Agencies should consider how to incorporate the environmental equity analysis as early as possible in their decision making processes.
  - c. Relevant permitting agencies should develop rules that provide clear guidance about how they must consider that analysis in certain permitting decisions, with community engagement at key steps along the way
  - d. The legislature should ensure that agency staff, boards, and commissions understand and are empowered, or required to use the centralized environmental equity analysis when making decisions.

- e. Decisions that are made based on the cost-benefit analysis component of the equity analysis should not be made solely based on economic costs, and should prioritize protecting health where doing so is consistent with agency legal authority.
  - f. The definition of state action, which are the types of actions that environmental equity analyses could be applied to, should continue to include taking specific action under the Administrative Procedure Act (APA), including rulemaking, permitting, and enforcement.
    - i. The definition should potentially expand to include additional agency actions which could include:
      - 1. Utility resource planning
      - 2. Funding decisions:
        - a. Option 1: The analysis would be applied to funding decisions (i.e., grantmaking or project funding)
        - b. Option 2: The analysis would not be applied to funding decisions (i.e., grantmaking or project funding)
      - 3. Alternative proposals proposed by 3rd-party intervenors in a regulatory proceeding.
- C. **Setting Thresholds:** The legislature should direct the appropriate expert agencies to consider setting a maximum, quantified, and enforceable threshold beyond which further pollution is not permissible without mitigation due to cumulative health impacts, considering past, present, and future cumulative impacts
- a. The legislature should require agencies to deny permits for new facilities that would cause pollution levels to exceed cumulative thresholds, and for which such pollution impacts could not be avoided
  - b. This would be an actionable level that agencies would base decisions off of to ensure any additional pollution added by a new source or modifications to an existing source stay below the level identified in the cumulative impacts analysis
  - c. This could inform facility siting decisions to ensure new facilities do not add burdens to already burdened communities
  - d. This could be analogous to the Clean Water Act’s existing Total Maximum Daily Load (TMDL) requirement that limits the total pollution load for streams and rivers.
- D. **Local Governments.** Because some decisions under the equity analysis may involve land use, the legislature should provide local governments additional authorities and responsibilities to consider and implement the equity analysis.

## **Section 2: Data and Reducing Environmental Health Disparities**

### **Language from the Environmental Justice Act:**

*(VI) Recommendations for establishing measurable goals for reducing environmental health disparities for disproportionately impacted communities; (b) adoption of a plan that addresses the lack of data and lack of data sharing between state agencies about potential exposure to environmental hazards and improves research and data collection efforts related to the health and environment of disproportionately impacted communities, climate change, and the inequitable distribution of burdens and benefits of the management and use of natural resources;*

## **Potential Recommendations:**

- A. Addressing Data Gaps:** Vetting and cleaning data often leads to a delay in its utility, yet environmental justice concerns in many communities must be dealt with urgently.
- a. Data quality indicators, e.g., accuracy, completeness, consistency, validity, and reliability should be considered in decision-making.
  - b. However, data that is older or may have other limitations should still be considered, as data trends may remain stable despite other limitations in datasets
  - c. Using a tiered approach, data that has not been quality assured or quality checked can be used for screening .
    - i. Such ‘screening data’ can help begin directing agency resources, and can trigger further review or more robust monitoring.
    - ii. Data considered ‘screening data’ should be clearly communicated as such-data that does not concretely measure exposure or risk.
- B. Data Collection & Modernization:** The legislature should increase funding for data collection and modernization.
- a. Further funding to support the Air Pollution Control Division’s data transformation efforts should be provided.
  - b. Funding should expand to other CDPHE divisions including but not limited to the Water Quality Control Division and Hazardous Materials and Waste Management Division.
  - c. Where possible, data should be collected using a universal format (e.g. AQCSV) so that data from different sources can be easily aggregated
  - d. Environmental and health divisions within CDPHE should continue to enhance communication with one another on data collection methods related to both environment and health.
  - e. **The legislature should fund increased interagency data collaboration to continue improving how data is linked across state agencies to further understand cumulative impacts**
  - f. Data sets should be made transparent and accessible to the public
- C. Colorado EnviroScreen**
- a. **Colorado EnviroScreen should be used to make decisions about where state agencies prioritize and allocate grant funding**

- b. Agencies should focus on communities that have the highest Colorado EnviroScreen scores, including rural communities.
- c. The Task Force supports CDPHE’s efforts to make Colorado EnviroScreen completely transparent, and agencies should continue to engage communities around the methodology and indicators in Colorado EnviroScreen when using the tool for decisionmaking
- d. Agencies should collaborate on mapping efforts, like EnviroScreen, to centralize and consolidate data across agencies for informed decision making.

**D. Engaging Communities with Data**

- a. Measurable goals for eliminating health disparities should be informed by community including:
  - i. The granularity of data (e.g. county vs census tract);
  - ii. What data to collect- Guidelines should be developed for community-driven research to ensure research and data collected is useful.
- b. Agencies should:
  - i. Ask representatives from community organizations what datasets are most helpful for them as they advocate for environmental justice.
  - ii. Expand the use of promotoras and community liaisons to distribute existing community health resources.
  - iii. Utilize existing resources from the COVID-19 pandemic (e.g. mobile vaccination clinics/buses) to collect data on community lived experience- the Task Force recommends a new investigation program around this.
  - iv. Be fully transparent with the public when making data-based decisions, and about who is involved in making the decision.

**E. Complaint Processes:**

- a. CDPHE should collect data on the complaints it receives and continue to improve transparency around complaint resolution processes.
  - i. **Communicating with complainants:**
    - 1. CDPHE should use tools like customer relationship management (CRM) software or other processes to ensure that the agency’s process of investigating a complaint is transparent to the complainant
    - 2. At the conclusion of the complaint investigation process, CDPHE should communicate to the complainant about the agency’s response, any data-based reasons for that response, and the outcome of the complaint investigation
  - ii. **Communicating with the general public:**
    - 1. When communicating with the general public about complaints, CDPHE should:

- a. Provide information in an easy-to-find location on its website
- b. Translate the information into languages for the relevant community
- c. Avoid compromising the anonymity of the complainant through revealing any personal details
- d. Prioritize protecting the due process and privacy rights of regulated entities that may be the subject of an ongoing complaint investigation
- e. Adhere to any applicable confidentiality requirements in state and federal law that may limit the ability to release information about enforcement or compliance actions that have not been completed

2. CDPHE should communicate with the broader public about what the agency's response is to any recurring complaints, so that members of the public can understand any potential trends, without compromising the anonymity of individual complaints

- b. Increase the transparency of and access to the [Colorado Oil & Gas Health & Information Response](#) program, and expand it beyond oil and gas (e.g. consider including other sectors like transportation)
- c. The Environmental Justice Ombudsperson's public complaint system should be highly transparent. Community members should have access to a log of when complaints were made, what they were about, and the response that followed
- d. CDPHE should improve the transparency and availability of information about completed enforcement actions, potentially by making the information available in Colorado EnviroScreen

**F. Community Science:**

- a. Provide funding to increase the capacity of community scientists (sometimes called "citizen science") to bridge data gaps, with appropriate standards to:
  - i. Support community driven research. Communities should identify research questions based on their own priorities
  - i. Set clear and shared expectations and develop standardized processes for how data will be shared and used by both community and state agencies at the outset (i.e. before the data collection starts, make sure the state agency can use the data in the way that the community desires/intends).
  - ii. Ensure that data collected is of equivalent quality to data collected by agencies using standardized and/or well supported collection methods.
  - iii. Use standardized formatting (i.e., AQCSV) to ensure data can be compared to other sources of data.

- iv. Develop agreements to share data with both regulatory agencies and communities.
    - 1. The Legislature should provide funding for a data warehouse where all data collected using public funds can be stored and accessed by the public (and agencies).
  - v. Maximize the use of existing community science programs (e.g., River Watch which does water quality monitoring, or the Patient-Centered Outcomes Research Institute which centers communities in the research process).
  - b. The Legislature should provide funding to agencies and agencies should provide funding to schools and other educational programs to support efforts to engage with community scientists (set expectations, conduct technical trainings, review data, act on data, summarize & share data more broadly with public, and communicate with community members who shared data)
  - c. If funding comes from the agency, then the agency should develop guidelines for community-driven epidemiological research to ensure the meaningful inclusion of community members. For example, ensure that research questions are developed with input from community representatives- allow for participants to provide oral narratives to inform research questions (with IRB approval).
  - d. Agencies should track where research is being conducted and communicate this to one another to avoid community research fatigue
- G. **Fund Just Transition:** The legislature should fully fund the Colorado’s Just Transition Action Fund and expand the scope to cover other industries

### **Section 3: Definition of Disproportionately Impacted Community**

#### **Language from the Environmental Justice Act:**

*((d) Evaluating and proposing recommendations or revisions to the following definitions: (i) "Disproportionately Impacted Community"*

*(II) A community that is in a census block group, as determined in accordance with the most recent United states census where:*

- The proportion of households that are low income is greater than forty percent*
- The proportion of households that identify as minority is greater than forty percent, or*
- The proportion of households that are housing cost-burdened is greater than forty percent; or is*
- Any other community as identified or approved by a state agency, if: the community has*
- A history of environmental racism perpetuated through redlining, anti-indigenous, anti-immigrant, anti-hispanic, or anti-black laws; or*

*-The community is one where multiple factors, including socioeconomic stressors, disproportionate environmental burdens, vulnerability to environmental degradation, and lack of public participation, may act cumulatively to affect health and the environment and contribute to persistent disparities.*

*-"Cost-Burdened" means a household that spends more than thirty percent of its income on housing, and*

*-"Low Income" means the median household income is less than or equal to two hundred percent of the federal poverty guideline.*

## **Potential Recommendations:**

### **A. Standardized Definition:**

- a. Option 1: A single, standard definition of disproportionately impacted community should apply to all state agencies.
  - i. This definition should include a range of factors, to ensure that agencies more focused on economic regulation also consider public health (i.e., cumulative impacts), and that agencies more focused on public health also consider economic factors (e.g., energy costs).
  - ii. The same list of DI communities would be utilized by each agency.
- b. Option 2: The legislature should adopt a single definition that applies to all state agencies that includes multiple criteria that can be applied in different contexts by different agencies.
  - i. Agencies should then have the duty to conduct a public process in which they would, based on the statutory definition, identify disproportionately impacted communities that are impacted by the agency's action in that specific context in the scope of their work to implement the definition.

### **B. Wording Changes in the Definition of DI Community in C.R.S. § 24-4-109(2)(b)(II):** the Legislature should revise the definition of DI Community as indicated with the red and strikethrough text below:

- a. "Disproportionately Impacted Community" means a community that is in a census block group, as determined in accordance with **the most recent 5-year United States American Community Survey** ~~most recent United states census~~, where the proportion of **the population that lives in households that are below 200% of the federal poverty level** ~~households that are low income~~ is greater than forty percent, the proportion of **the population households** that identify as **people of color minority** is greater than forty percent, or the proportion of households that are housing cost-burdened is greater than forty percent; or is Any other community as identified or approved by a state agency, if: the community has a history of environmental racism perpetuated through redlining, anti-indigenous, anti-immigrant, anti-hispanic, or anti-black laws; or the community is one where

multiple factors, including socioeconomic stressors, disproportionate environmental burdens, vulnerability to environmental degradation **and/or climate change**, and lack of public participation, may act cumulatively to affect health and the environment and contribute to persistent disparities. As used in this subsection (2)(b)(II), "Cost-Burdened" means a household that spends more than thirty percent of its income on housing, ~~and "Low Income" means the median household income is less than or equal to two hundred percent of the federal poverty guideline."~~

- C. **Scale:** Census block groups are an appropriate scale to use in the definition because they are the most granular level of data available, and provide adequately reliable data about race, income, and housing cost burden. Accordingly, the legislature should not change this component of the definition.
- D. **History of Environmental Racism Prong of the Definition:**
  - a. Communities with a history of environmental racism and exclusionary policies should be mapped in Colorado EnviroScreen to acknowledge historic harms.
  - b. Agencies should have discretion in implementing the definition of disproportionately impacted community to verify that present day circumstances continue to warrant considering the area as a disproportionately impacted community on a case by case basis.
    - i. Agencies should ensure that changes such as gentrification do not result in a community that was historically subject to exclusionary policies (i.e., gentrification) receiving benefits if present day circumstances no longer warrant considering the community as disproportionately impacted
- E. **Colorado EnviroScreen:** The legislature should provide CDPHE with resources to update Colorado EnviroScreen to ensure it stays up to date as new census data becomes available
- F. **Dynamic Definition:** If an agency's identification of disproportionately impacted communities (based on the standardized statutory definition) is updated over time, agencies should ensure that the voices of disproportionately impacted community members are represented in the rulemaking process.

Although the Task Force has not developed recommendations on the following topics yet, it would welcome feedback on the following outstanding questions from the public:

- Should housing cost burden continue to be included as part of the definition?
- Should Colorado EnviroScreen be used to identify communities that meet the cumulative impacts prong of the definition?
  - If Colorado EnviroScreen is used, how can agencies that implement the definition ensure that there has been adequate public process around using Colorado EnviroScreen for this regulatory purpose?

## **Section 4: Best Practices for Community Engagement**

### **Language from the Environmental Justice Act:**

*The goal of outreach to and engagement of disproportionately impacted communities is to build trust and transparency, provide meaningful opportunities to influence public policy, and modify proposed state action in response to received public input to decrease environmental burdens or increase environmental benefits for each disproportionately impacted community.*

*(3) Engagement. (a) To promote the goal of state engagement of disproportionately impacted communities, an agency shall strive to create new ways to gather input from communities across the state, using multiple languages and multiple formats and transparently sharing information about adverse environmental effects from its proposed state action. The agency shall:*

*(I) Schedule variable times of day and days of the week for opportunities for public input on the proposed state action, including at least one weekend time, one evening time, and one morning time for public input;*

*(II) provide notice at least thirty days before any public input opportunity or before the start of any public comment period;*

*(III) utilize several different methods of outreach and ways to publicize the proposed state action, including disseminating information through schools, clinics, social media, social and activity clubs, local governments, tribal governments, libraries, religious organizations, civic associations, community-based environmental justice organizations, or other local services;*

*(IV) provide several methods for the public to give input, such as in-person meetings, virtual and online meetings, online comment portals or e-mail, and call-in meetings;*

*(V) consider using a variety of locations for public input on the proposed state action, including meeting locations in urban centers, in neighborhoods whose populations are predominantly black, indigenous, or people of color and have an average income below the state's average, and in rural locations in various regions of the state; and*

*(VI) create outreach materials concerning the proposed state action in layperson's terms, translated into the top two languages spoken in a community, that inform people of opportunities to provide input on the proposed state action, their rights, the possible outcomes, and the upcoming public input process.*

### **Potential Recommendations:**

#### **A. Cross-Cutting Environmental Justice Recommendations**

- a. Funds should be built into all agency budgets for outreach and engagement, and agencies should be provided with additional resources to hire dedicated personnel

to address capacity concerns. This reflects the intention to build community partnerships and harness support to create meaningful change.

- b. CDPHE should build on the existing list of pro bono air quality attorneys and produce a list of subject matter experts that might be willing to provide pro bono technical, legal, and regulatory information to disproportionately impacted communities interested in furthering their understanding of environmental justice concerns in their communities.
  - i. The legislature should authorize an intervenor fund for regulatory bodies including the AQCC and WQCC so community groups can hire these experts
- c. Each agency should develop centralized guidance on how to implement the best practices for community engagement (e.g., list of community centers to host meetings) to facilitate implementation by that agency's staff.
  - i. CDPHE's Environmental Justice Program could develop a model guidance for other agencies to use.
- d. The legislature should provide funding for agencies to provide a summary of comments and responses that is publicly accessible after testimony or comment sessions.
- e. Agencies should provide marketing or social media content (tv/radio interviews, videos, infographics) that summarize meetings and actions that will be taken in response to community involvement and feedback.
- f. Rather than making all of the enumerated factors for best practices for community engagement mandatory, the legislature should revise the statute to give agencies discretion about how best to implement the factors on a case by case basis to ensure that the engagement strategy is effectively targeted for the individual needs and realities of different communities and different types of decisions.

**B. *Timing of Meetings:***

- a. Option 1: Agencies should choose at least two instead of a minimum of three different meeting times to reduce meeting fatigue amongst community members
- b. Option 2: The Task Force supports the three timings for meetings currently listed in the Environmental Justice Act and does not recommend they change

**C. *Notice***

- a. Agencies should arrange notice in a way that works best for the community, and where possible check with the target communities about their preferences for communication methods before providing notice

**D. *Outreach Methods***

- a. An outreach plan is necessary to effectively provide 30 day notice before a hearing
- b. Agencies should consider using the following types of outreach methods not currently listed in the statute:

- i.* Radio advertisements
- ii.* Work with Community Connectors and Promotoras in each community to:
  - 1.* Ensure community preferred outreach locations are utilized (Some places the government might think are good are not trusted/respected by the community)
  - 2.* The legislature should provide funding for agencies to train or guide community members to be the ones broadcasting meetings announcements and creating opportunities for engagement via:
    - a.* Phone banking
    - b.* Handouts and fliers
    - c.* Posting on local bulletin boards
    - d.* Local organization gatherings/meetings
    - e.* Listservs

**E. *Methods for Receiving Input from Communities***

- a. The Task Force supports the methods for receiving input that are currently included in the Environmental Justice Act, which include:
  - i.* In person meetings
  - ii.* Virtual and online meetings
  - iii.* Online comment portals
  - iv.* Emails
  - v.* Call in meetings
- b. Agencies should consider providing additional methods for public input not currently listed in the Environmental Justice Act including:
  - i.* Hybrid meetings: even if a meeting is in-person ensure there is an option to attend virtually (especially because agencies now have a strong infrastructure for virtual meetings during the pandemic)
  - ii.* Partner with local organizations to gain authentic community input
    - 1.* Contract with local organizations to do focus groups in their own community on best practices for engagement
    - 2.* CDPHE’s Environmental Justice Program should maintain a list of local organizations that have volunteered to assist agencies with gathering input
  - iii.* Circle back with communities that provide input by providing explanations of how their ideas were heard and/or acted upon
  - iv.* Consider using the following methods to receive public input outside of public comment periods:
    - 1.* Open office hours
    - 2.* Phone hotline
    - 3.* One on one meetings

4. A Dropbox folder for feedback and designated staff to compile information and turn it into a presentation
5. Mail surveys or other fillable documents to people with return postage included to ensure no cost to the person is incurred.

**F. *Locations of Meetings***

- a. The Task Force supports the list of meeting locations that are currently included in the Environmental Justice Act for community town halls and other hearings to encourage agencies to host meetings in impacted communities, including hosting meetings in: urban centers, predominantly BIPOC communities, below average income communities, and rural locations
- b. Agencies should consider the following when selecting in-person meeting locations:
  - i.* Free parking
  - ii.* Choosing a safe location
  - iii.* Access to public transportation
  - iv.* Near bike paths
  - v.* Choose locations where local business can economically benefit from the meeting

**G. *Outreach Materials***

- a. When creating outreach materials, agencies should:
  - i.* Create an outreach plan
  - ii.* Use plain language
  - iii.* Make materials highly visible
  - iv.* Make materials (including meeting notice) available in the top 3 spoken languages in an area
- b. Regulated entities should share the timeline and scope of their permitting process with the public.

**H. *Participation Incentives***

- a. Agencies should make participation incentives available to compensate community members for their time providing feedback
  - i.* Consider using innovative alternatives (e.g. ride share service vouchers, bus passes)
  - ii.* Provide child care during meeting times, or adequate compensation for child care
- b. Agencies should make free rapid-COVID testing available for people who attend in person

## **Section 5: Indigenous Community Engagement**

### **Potential Recommendations:**

- A. Provide funding resources to Tribal governments.
- B. All state agencies should have a tribal liaison(s).
- C. The names of power plants named after tribes (e.g. Cherokee) should be changed.
- D. Agencies should use innovative strategies to better engage urban indigenous populations:
  - a. Surveys/polls (e.g. assessment of housing needs)
  - b. Respectfully attend and conduct outreach during pow wows

## **Section 6: Supplemental Environmental Projects (SEPs)**

### **Language from the Environmental Justice Act:**

*“(V) A potential requirement that all environmental projects developed as part of a settlement relating to violations in a disproportionately impacted community are developed in consultation with and through meaningful participation of individuals in the disproportionately impacted community and result in improvement to the health and environment of the affected disproportionately impacted community”*

### **Potential Recommendations:**

#### **A. Solicit Early Community Input through the SEP Idea Library**

- a. CDPHE should make the [SEP Idea Library](#) readily accessible and easy to find.
- b. CDPHE should conduct public meetings as the SEP Idea Library is updated to get community feedback on the updates
- c. Regulated entities should engage local health departments and community based organizations to seek input on environmental and public health priorities for SEPs

#### **B. Ensuring SEPs Benefit Impacted Communities**

- a. When a violation occurs in a disproportionately impacted community, enforcement penalty revenue should go back to the Disproportionately Impacted Community where the violation occurred, either through a SEP or by funds going into the Community Impact Cash Fund (CICF) in the case of APCD penalties, or both.
- b. SEP Request for Applications (RFA) should be selected by prioritizing projects that will take place in or benefit Disproportionately Impacted Communities (e.g. projects that affect water quality downstream in the affected community).

- c. These recommendations should guide the Environmental Justice Advisory Board (which distributes APCD penalty revenue) as well as CDPHE's SEP program.

**C. Procedural Requirements for Community SEP Selection Processes**

- a. CDPHE should:
  - i. Revisit conflict of interest requirements to avoid unintended barriers
  - ii. Clearly explain conflict of interest requirements and other procedural aspects to community members participating in SEP selection committees at the outset of the process.
  - iii. Revisit confidentiality requirements to ensure they are not unduly restrictive.
  - iv. Ensure that community members fully understand the implications of their participation, and what it means for their future participation with SEP-funded projects and interaction with SEP funding applicants during the SEP selection process.
  - v. Consider conducting trainings about community SEP processes outside the context of a specific community-SEP process to increase awareness and education

**D. Role of the Regulated Entity**

- a. Option 1: The legislature should amend the SEP process so that if the entity that is the subject of the enforcement action participates in a selection committee with community members, it would have a non-voting role.
- b. Option 2: The entity that is the subject of the enforcement action should continue to be able to participate with a voting role on the selection committee, in recognition that SEPs are voluntary actions by the regulated entity.

- E. Simplifying Applications-** CDPHE should simplify SEP applications to make them more accessible to small community groups with limited staff capacity and/or limited English proficiency.