



Memo

To: Environmental Justice Task Force Members
From: DEQ and OHA
Date: August 18, 2016, 2016
Subject: Environmental Justice in Air Toxics Permitting

Request for Environmental Justice Task Force Members

The following document describes the approaches that other regulatory programs are using to incorporate environmental justice in permitting. We are seeking input from members of the Environmental Justice Task Force by **September 26, 2016** on:

- The pros and cons of these program approaches to addressing environmental justice in an air toxics permitting program.
- Any additional approaches to addressing environmental justice in air toxics permitting that we should consider in the rulemaking process. What are we missing?
- Edits to this document that would help the advisory committee understand and consider environmental justice issues related to air toxics permitting in Oregon. The information in this document, plus your input, will be shared with the advisory committee in the fall of 2016.

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Introduction

The Cleaner Air Oregon rulemaking is a partnership between Oregon Health Authority and Oregon Department of Environmental Quality to develop a new regulatory system for managing air toxics emissions from industrial stationary sources. The new rules will be based on the potential risk to human health so DEQ and OHA can carry out their respective missions of cleaner air and a healthier Oregon. In

developing this new regulatory approach, the two agencies will begin looking at individual sources of industrial emissions across the state in relation to public health.

After receiving input on the different aspects of a risk-based air toxics permitting program from the Technical Workgroup, the Policy Forums, and the Advisory Committee, DEQ and OHA will draft proposed rules. All interested parties will have a chance to comment on the proposed rules during the public notice period in 2017.

DEQ and OHA compiled information about air toxics permitting programs in Louisville, Kentucky, New Jersey, New York, Rhode Island, South Coast Air Quality Management District, and Washington. Additionally, we researched which pollutants are regulated in Michigan's air toxics permitting program. The Technical Workgroup discussed key elements of these air toxics programs at its meetings in June and July 2016. During those discussions, participants requested that DEQ and OHA also research how other programs incorporate environmental justice in their air toxics permitting.

Understanding and evaluating approaches for incorporating environmental justice in permitting programs requires specific skill and expertise, distinctly different expertise than sought for members of the Technical Workgroup. To find this expertise, DEQ and OHA surveyed other states about their programs, then asked members of the Oregon Environmental Justice Task Force to review the information which was compiled into this paper, and evaluate it in August and September. The agencies will also make this draft paper available to the public. After considering Environmental Justice Task Force and public input, DEQ and OHA will revise the paper and share it with the Advisory Committee in early October.

A glossary of terms can be found at this link:

<http://www.oregon.gov/deq/RulesandRegulations/Advisory/8Glossary.pdf>

Environmental Justice Research

DEQ and OHA researched how other regulatory programs address environmental justice in permitting programs. DEQ and OHA are committed to the principles of environmental justice and to ensuring that the agencies' actions – including permitting, policy and planning, outreach and education, and compliance and enforcement – address the interests of Oregon communities, especially minority, low-income and other traditionally underrepresented communities, including rural communities, in accordance with state and federal law.

Purpose

This options paper addresses the key elements of environmental justice:

- How can decision-makers seek out and facilitate the involvement of those potentially affected?
- How can a permitting program encourage meaningful public participation in permitting decisions from environmental justice communities?
- How can a permitting program ensure that the concerns of all participants involved will be considered in the decision-making process?
- How can we ensure that permitting decisions result in equal protection from environmental and health hazards?

- How do other programs define environmental justice communities and use tools such as EPA’s EJSCREEN?
- How do other programs fund environmental justice work?

Background

Environmental justice is defined by the State of Oregon Environmental Justice Task Force as “equal protection from environmental and health hazards, and meaningful public participation in decisions that affect the environment in which people live, work, learn, practice spirituality and play.” Communities with Environmental Justice concerns include minority and low-income communities, tribal nations, rural communities, and other communities traditionally underrepresented in public processes. These same communities, while highly impacted by environmental contamination are also traditionally unrepresented in public processes. Standard public processes often are inadequate in meaningfully involving these highly impacted populations.

Environmental justice is a concern throughout Oregon. Oregon’s environmental justice law, established in 2008, requires state natural resource agencies – including DEQ and 13 other agencies – to follow prescribed steps to provide greater public participation and ensure involvement of people who may be affected by agency actions. This includes:

- (1) In making a determination whether and how to act, consider the effects of the action on environmental justice issues.
- (2) Hold hearings at times and in locations that are convenient for people in the communities that will be affected by the decisions stemming from the hearings.
- (3) Engage in public outreach activities in the communities that will be affected by decisions of the agency.
- (4) Create a citizen advocate position that is responsible for:
 - (a) Encouraging public participation;
 - (b) Ensuring that the agency considers environmental justice issues; and
 - (c) Informing the agency of the effect of its decisions on communities traditionally underrepresented in public processes.

Senate Bill 420, which created the law, also created an Environmental Justice Task Force. The Environmental Justice Task Force, consisting of 12 members appointed by the governor, is charged with:

- Advising the Governor on environmental justice issues
- Advising natural resource agencies on environmental justice issues, including community concerns and public participation processes
- Identifying, in cooperation with natural resource agencies, minority and low-income communities that may be affected by the agencies environmental decisions
- Meeting with communities with environmental justice concerns and making recommendations to the Governor about concerns raised by these communities, and
- Defining environmental justice issues in the Oregon.

The Portland Air Toxics Solutions environmental justice analysis demonstrated disproportionate impacts from air toxics on minority and low-income populations in the Portland area. Different minority groups are affected by different types of emission sources. In general, DEQ found that the Hispanic/Latino population experienced the highest impacts from residential wood combustion emissions, the Asian population from on-road mobile emissions, the African American/Black population from area source emissions, and the population living below the poverty level from on-road mobile emissions. Non-road mobile emissions also significantly impact minority populations, while point sources disproportionately

impact populations living below the poverty level. Although the Portland Air Toxics Solutions environmental justice analysis found only a slight disproportionate impact from industrial sources, it is possible that a study done with a detailed industrial emission inventory and modeling specifically designed for industrial facilities would have revealed additional disproportionate impacts from industry, as has been found in other areas of the US. DEQ is also concurrently working on wood smoke issues and diesel, although not as part of the same regulatory reform effort.

Description of other programs

Permitting Decisions

How are environmental justice concerns addressed in other programs' permitting decisions?

Summary: Air toxics permitting programs nationally address environmental justice concerns in a variety of ways through permitting, policy and planning, outreach and education, and compliance and enforcement. Some programs include voluntary activities related to mitigating environmental impacts. Several programs require, either for all sources or on a case-by-case basis, some sort of cumulative impact analysis which considers multiple sources in the nearby area. One program includes health status and indicators as a qualitative description of an area, but this is used only contextually in permitting decision making. Other programs prioritize inspections so a greater proportion of facilities located in disadvantaged areas are visited more frequently than other facilities to ensure full and continuing compliance, as well as providing additional resources and assistance to facilities and communities in disadvantaged areas. One program provides dedicated incentive funding to environmental justice areas, and has a plan that outlines community exposure reduction, community participation, communication and outreach, agency coordination, monitoring and compliance, source-specific programs, and nuisance. One program has performed pilot studies in specific communities with environmental justice concerns targeting one geographic area.

Topic: Permitting Decisions	
Program	Program Description
Connecticut	<ul style="list-style-type: none"> Permit provisions follow standard procedures under the New Source Review program. However, opportunities do exist for case-by-case determinations where the community and the applicant can find common ground. A “community environmental benefit agreement” is a provision of the authorizing statute that includes a facility providing financial resources to mitigate, in whole or in part, of impacts reasonably related to the facility, but is not mandatory.
Colorado	<ul style="list-style-type: none"> Compliance and Enforcement: Coordinate and conduct inspections so a greater proportion of facilities located in disadvantaged areas are visited more frequently than other facilities to ensure full and continuing compliance. Seek remedies through enforcement actions that directly benefit affected communities. Technical Assistance and Voluntary Programs: Provide additional resources and assistance to facilities and communities in disadvantaged areas.
Minnesota	<ul style="list-style-type: none"> In potential environmental justice areas there has been a lot of conversation around having an early internal meeting to discuss where additional voluntary measures by

Topic: Permitting Decisions	
Program	Program Description
	<p>the proposer could be recommended and to what extent the agency would influence these conversations with the company. This is totally facility and project dependent.</p> <ul style="list-style-type: none"> • Air permits that also require environmental review (Environmental Assessment Worksheet or Environmental Impact Statement) are required under Minnesota law to conduct a cumulative effects analysis, which is more of a multi-source but single media cumulative analysis. • For permit actions for facilities in potential environmental justice areas, the Agency may on a case-by-case basis recommend the Permittee conduct further environmental studies such as air dispersion modeling or an air emissions risk analysis (for example, a screening multi-pathway risk analysis, exposure indicators such as blood lead indicators in children, health indicators such as hospitalizations due to asthma, and more. Please refer to https://www.pca.state.mn.us/sites/default/files/aq1-42b.pdf.) This decision would depend on a number of factors including size and complexity of project, community concern, compliance history, etc. • If air dispersion modeling is required to provide information to an air permit, the company hires a consultant to conduct the analysis. • Currently there are no recommendations to have companies or facilities in potential environmental justice areas prove no adverse impact beyond the existing requirements of permitting and environmental review. • The cumulative levels and effects process includes health status and indicators as a qualitative description of an area. The health information is not used in a threshold like capacity and is used only contextually and qualitatively in permitting decision making.
New Jersey	<p>Actions could include, but are not limited to additional inspection frequency, multi-program inspections and compliance assistance as needed. New Jersey also encourages environmental stewardship by industry/companies located in environmental justice communities of concern during inspection of these facilities.</p>
New York Department of Environmental Conservation (DEC)	<p>New York has an environmental justice policy on incorporating environmental justice concerns into the permit review process and the DEC application of the State Environmental Quality Review Act. The policy also incorporates environmental justice concerns into some aspects of DEC's enforcement program, grants program and public participation provisions. After receiving a permit application, DEC conducts a preliminary screen to identify whether the proposed action is in or near a potential environmental justice area and determine whether potential adverse environmental impacts related to the proposed action are likely to affect a potential environmental justice area.</p> <p>An applicant also has to complete a full environmental assessment form with detailed information describing potential impacts to the environment and community character. The permit analyst will then make a decision whether a permit action will or will not result in a significant adverse environmental impact and consequently whether an</p>

Topic: Permitting Decisions	
Program	Program Description
	environmental impact statement will be prepared or not.
South Coast Air Quality Mgmt District (CA)	There was an environmental justice initiative in 1990 that has cascaded through all the programs. Incentive funding provides dedicated funding to environmental justice areas. The Clean Communities Plan (update to the 2000 Air Toxics Control Plan) is like a State Implementation Plan and its objective is to reduce the exposure to air toxics and air-related nuisances throughout the district, with emphasis on cumulative impacts. The elements of the 2010 Clean Communities Plan are community exposure reduction, community participation, communication and outreach, agency coordination, monitoring and compliance, source-specific programs, and nuisance. South Coast has done pilot studies in specific environmental justice areas where they target one spot. Most recently South Coast Air Quality Management District (along with others) sued the developer of a proposed rail yard close to schools and homes and won in court because of environmental justice issues.
EPA	<p>“An EPA regional’ office’s decisions on whether to issue a permit and, if so, the conditions to impose within a permit are distinct from the EPA regional office’s decisions about the outreach EPA may perform during the permitting process. EPA’s decisions on whether to issue a permit and what permit conditions to impose are governed by statute and regulation. Neither <i>EPA Actions</i> nor <i>Promising Practices</i> affects that. However, enhanced outreach to communities during the permitting process can provide an EPA regional office with information relevant to the decision to issue a permit, and what conditions to require. For example, community involvement in the permitting process might provide EPA information on vulnerable portions of the community. Based on that information, EPA might require additional monitoring or reporting to learn more about how pollution from the permitted activity impacts vulnerable sub-populations, in accordance with applicable laws and regulations.”</p> <p>Source: https://www.epa.gov/sites/production/files/2015-07/documents/ej-permitting-faqs-4.29.pdf question 15. https://www.epa.gov/sites/production/files/2015-07/documents/ej-permitting-faqs-4.29.pdf</p>
Environmental Justice Task Force Member input	Please list additional approaches you want DEQ/OHA to consider for addressing environmental justice concerns in permitting decisions:

What do you see as the pros or cons of any of these approaches? What are the arguments in favor/opposition to these approaches? What are we missing that we should consider? Please list here:

Community Engagement

How can decision-makers seek out and facilitate the involvement of those potentially affected? What methods can an agency use to make information available? How can a permitting program encourage meaningful public participation in permitting decisions from environmental justice communities?

Summary: Several programs have laws that trigger environmental justice provisions within their permitting programs. Other programs follow defined best practices. Programs have several practices in place to notify, involve, and facilitate meaningful participation from communities with environmental justice concerns. These include:

Notifying communities and making information available:

- Requiring public notification for new or renewed air quality permits for facilities located in environmental justice communities or for certain types of facilities
- Holding information meetings early in the permit process, answering questions
- Publishing permit information in a local newspaper, having permit-related material available at the local library
- Developing a plain language document that explains permit, permitting process
- Translating permit materials if needed based on language spoken in the surrounding area, having interpreters present during rulemakings and public hearings
- Asking community members how they want communication and outreach to proceed and how best to inform the community (local media sources, community events, etc.).

Facilitating meaningful public participation:

- Defining and requiring “meaningful public participation”
- Requiring an environmental justice plan pre-permit application for some facilities
- Meeting with environmental justice community representatives.

Topic: Community Engagement	
Program	Program Description
Connecticut	By statute, applicants for certain types of facilities (primarily major sources, power generation or waste disposal facilities) must perform a variety/ must satisfy the requirements to provide for “meaningful public participation” as defined by the statute, and as outlined in these Environmental Justice Public Participation Guidelines: http://www.ct.gov/deep/lib/deep/environmental_justice/EJ_Guid.pdf . Sources that are not explicitly called out in the statute do not have to undertake this process. Activities required under the Environmental Justice statute are funded by the applicant.
Louisville, Kentucky	Louisville’s program was the agency response to the environmental justice concern in Rubbertown, a chemical manufacturing complex in West Louisville. It applies across the entire county and provides additional opportunities for public involvement.
Minnesota	There is a special legislative statute in Minnesota requiring a “cumulative levels and effects analysis” in a specific area in South Minneapolis. This law was written with environmental justice as a motivator. Community knowledge is solicited in the

Topic: Community Engagement	
Program	Program Description
	<p>cumulative levels and effects process during the pre-permit application process. This type of information includes where sensitive receptors reside to inform the placement of air dispersion modeling receptors. There are recommendations at the agency to also ask community members how they want communication and outreach to proceed and how best to inform the community (local media sources, community events, etc.). Once the agency receives a permit application (prior to agency review), technical staff set up an/multiple information session/s, which are somewhat like office hours, where people can come in and look through the materials that the agency received. Company representative have also attended these and can offer information about the company/facility that isn't included in an air permitting analysis. Community members have been interested in a company's support for commuters, use of alternative energy sources, and a company's openness to community-based projects (lighting, improved grounds, rain gardens on the property, etc.)</p> <p>Note that several programs incorporate some type of cumulative impacts in their permitting programs. To read about this, please see the DEQ/OHA option paper that includes cumulative risk. (insert link and title of paper when available)</p>
New Jersey	<p>Notifications are regularly sent to environmental justice communities concerning application submissions and stack test results. Stack tests monitor emissions from a facility, and can be included in permit requirements. Reporting of air toxic emissions by each stack, rather than the sum total for the facility allows more accurate air quality modeling of off site impacts. Also, the Air Program frequently meets with environmental justice community representatives.</p> <p>New Jersey will provide community awareness training to permit writers to increase their understanding of the community stressors. This training could include a community tour and discussion with community groups and other stakeholders.</p>
New York	<p>From New York's permit policy:</p> <p>"Upon the effective date of this policy, DEC shall provide enhanced accessibility to public permit information held by the DEC, including access to DEC permit information on the DEC website and a toll-free environmental justice hotline to enable the public to access the Office of Environmental Justice during business hours."</p> <p>"Upon the effective date of this policy, use enhanced public participation and public notification mechanisms, including these which are most effective in potential environmental justice areas."</p> <p>"Where a potential environmental justice area is identified by the preliminary screen, the applicant shall submit a written public participation plan as part of its complete application. Applicants must hold public information meetings to keep the public informed about the proposed action and permit review status. Meetings should be held throughout the permit review process at locations and times convenient to the stakeholders to the project."</p>
Philadelphia	<p>The environmental justice provisions are triggered by New Source Review /Prevention of Significant Deterioration permits in environmental justice areas and new major</p>

Topic: Community Engagement	
Program	Program Description
	<p>hazardous air pollutant sources in environmental justice areas. There is also a provision that allows us to determine whether to require an environmental justice permit at our discretion. For environmental justice permits:</p> <ul style="list-style-type: none"> • We hold an informational meeting for the public during the application process, before we draft a final draft permit that is ready for public notice. • We give an overview of the permitting process. If they are willing to participate, the facility gives an overview of the project. • Then we answer questions. • Once the permit gets to the public notice stage, we have the facility publish the notice in a local newspaper (or two) in addition to the regular newspaper. • We make the application, draft permit, review memo, etc. available in a local library. • The environmental justice rule also requires a plain language document that explains everything in regular language. Outside of outreach, we don't change our process.
Puget Sound Clean Air Agency, WA	<p>With our focus groups, we now have a network of contacts with trusted relationships that make getting the word out on permits more genuine and more transparent. This can result in better participation in permitting activities, and also in knowing which issues a community is interested in. http://www.pscleanair.org/library/Documents/HI-C_Report_pscleanair_20150415.pdf</p>
South Coast Air Quality Mgmt District (CA)	<p>Elements of the 2010 Clean Communities Plan include community participation as well as communication and outreach. http://www.aqmd.gov/home/library/clean-air-plans/clean-communities-plan. The 2010 CCP is comprised of traditional source-specific control measures and measures to address cumulative toxic impacts that affect neighborhoods and communities within the South Coast Air Quality Management District (District). For the past two decades, the plan has focused on regulating individual source categories that emit a specific toxic air contaminant. Efforts that relate to environmental justice and industrial sources of air toxics also included:</p> <ul style="list-style-type: none"> • Monitoring studies and Multiple Air Toxics Exposure Studies (MATES) which helped to guide the regulatory program • Cumulative impact reduction strategies • Implementation of federal NESHAPs or more stringent regulation • Implementation of California Air Toxic Control Measures (for example, reductions of benzene emissions from gas stations or hexavalent chromium emissions from chrome plating) • Public education, outreach, and opportunities for public participation
WA Ecology	<p>In Washington State we determine if 5% or more of the population speaks Spanish within an undetermined radius of the source then we put that info in Spanish. We have interpreters present during rulemakings and public hearings. For our inspectors we use</p>

Topic: Community Engagement	
Program	Program Description
	LanguageLink which is a phone language interpreter complete with 300 languages.
EPA National Pollutant Discharge Elimination System (water permit)	<p>Environmental Justice considerations are built into the public involvement process for NPDES permit issuance and renewal. This includes at least a 30-day comment period, providing access to key documents, formal public notice and a public hearing upon request or when deemed appropriate. State-issued permits follow the same internal process:</p> <p>From EPA NPDES Permit Writers' Manual – Sept. 2010 (P. 11-14, Sec. 11.3.4):</p> <p>“In NPDES permits, the public participation process provides opportunities to address EJ concerns by providing appropriate avenues for public participation, seeking out and facilitating involvement of those potentially affected, and including public notices in more than one language where appropriate.”</p>
EPA	<p>EPA has identified many different activities to help with meaningful engagement. These include:</p> <p>“Identify upcoming priority permits for promoting greater public involvement. When identifying priority permits, focus on permits that the community has identified as a priority, to the extent such information is available.</p> <ul style="list-style-type: none"> • Locate existing data and studies that are relevant to the particular community. • Explore ways to reach out to the affected community in coordination with relevant EPA staff, including permit writers, EJ coordinators, public affairs staff, the press office, and EPA's Conflict Prevention & Resolution Center. • Evaluate the appropriate length of the public comment period. • Consider holding information meetings for the public in addition to formal public comment sessions. <p><i>Coordinating within EPA:</i></p> <ul style="list-style-type: none"> • For applicants with multiple EPA permits, inform EPA permit writers from other offices in the region that your office has received a permit application from the applicant. <p><i>Communicating with the Community:</i></p> <ul style="list-style-type: none"> • Designate EPA point(s) of contact for the community. • Explain the permitting process by making informational fact sheets available. • Use plain language when communicating with the public. • Use communication techniques the community values, such as direct mailings, posters, articles in local newspapers, and emails to list serves. • Offer translation services for communities with multi-lingual populations (including interpreters at public meetings or translations of public documents). • Make key documents on the proposed project readily accessible to the community,

Topic: Community Engagement	
Program	Program Description
	<p>using a variety of media tools (paper copies, online, etc.), when appropriate.</p> <ul style="list-style-type: none"> • Hold public meetings at times and places in the community best designed to afford the public a meaningful chance to attend. • After the permit has been issued, make a summary of EPA's comment responses available. <p><i>Communicating with the Permit Applicant:</i></p> <ul style="list-style-type: none"> • Encourage the permit applicant to provide EPA with a plain-language description of its proposed project or permit application. • Encourage the permit applicant to consult EPA guidance on environmental justice and other resources developed under Plan EJ 2014, including the (when finalized) Draft Best Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Communities at the Fence-Line.” <p>Source: https://www.federalregister.gov/articles/2012/06/26/2012-15605/epa-activities-to-promote-environmental-justice-in-the-permit-application-process</p>
Environmental Justice Task Force Member input	<p>Please list additional approaches you want DEQ/OHA to consider for seeking out and facilitate the involvement of those potentially affected here:</p>

What do you see as the pros or cons of any of these approaches? What are the arguments in favor/opposition to these approaches? What are we missing that we should consider? Please list here:

Cumulative and Disparate Impacts

How do other programs use cumulative impacts analysis, community studies, or disparate impacts analysis in their permitting programs?

Summary: Other programs use community information to address environmental justice concerns in two primary ways: to enhance communication and involvement, and to investigate cumulative impacts in depth, opening up opportunities for regulators, facilities and communities to take additional steps to decrease environmental exposures to toxic pollutants. Programs implement a range of responses to knowledge of cumulative impacts, from voluntary to regulatory actions. Community-based air toxics initiatives are still under development nationally, with significant experience in Louisville Kentucky, Minnesota and California. Some programs include disparate impacts analysis, cumulative effect analysis, or consider environmental justice issues when choosing areas for studies or planning for monitoring.

Topic: Cumulative and Disparate Impacts	
Program	Program Description
Colorado	Considers equity and justice principles and practices when planning for monitoring locations and networks, and in communicating monitoring results.
Minnesota	<p>There is currently a pilot project with 12 facilities that are stationary point sources in Minneapolis. These facilities are all located in areas of concern for environmental justice, and were chosen based partially on emissions and partially on community concerns. The goals of the project are to obtain better air emissions inventory data for modeling within the urban Twin Cities core, and to encourage the facilities to take voluntary actions outside of the permitting process that reduce their emissions and improve their surrounding communities.</p> <p>There is a special legislative statute in MN requiring a “cumulative levels and effects analysis when issuing air permits” in a specific area in South Minneapolis. This law was written with environmental justice as a motivator. The specific methodology is published here: http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3228563/. We have completed two permits using this process, and are in the midst of a third. There are additional communication efforts for permits within this area, but this requirement is geographically very limited.</p>
New York	<p>New York State has something called an Environmental Rating of air contaminants in our regulation Part 212. One of the components of determining a rating is impacts on sensitive receptors such as schools and dense neighborhoods. Another factor is looking at the pre-existing conditions in the impacted area with respect to the pollutant being regulated. “Under existing regulations, as part of its impact review, DEC must consider other sources of pollution or similar facility types in the project area in order to establish the baseline conditions against which project impacts will be assessed. DEC shall continue to consider sources of pollution or similar facility types in the respective airshed, watershed or wasteshed for the project under consideration.”</p> <p>Special studies or community initiatives are not addressed in our EJ policy; however, because of odor concerns related to a particular permit application and other activities in the EJ area, our Division of Air Resources has, in the past, conducted special air sampling and disseminated results at a community meeting. They’ve also enlisted the help of a trusted community resident to do air sampling when there were odor</p>

Topic: Cumulative and Disparate Impacts	
Program	Program Description
	complaints. The Office of Environmental Justice also disseminated refrigerator magnets with our newly formed odor hotline number for residents to report odor concerns to DEC.
EPA Region 2	<p>Environmental Justice Analysis for Clustered Sources</p> <p>“The memorandum recommends that the New York State Department of Environmental Conservation (NYSDEC) model the air quality impacts of a particular pollutant not only from the new proposed source but also cumulatively from the other existing sources when there are many existing or other proposed sources clustered in the same geographic area. This ensures that a possible violation of a health based NAAQS or PSD increment is not missed even when the new source could not cause or contribute to the violation since its impacts are less than the Significant Impact Levels.”</p> <p>Use of Cumulative Source Modeling Analyses in EJ Decision Making under the PSD Permitting Program. “Region 2 recommends that a cumulative source modeling analysis be performed during the Prevention of Significant Deterioration review process of a proposed new source in a community with potential EJ concerns even when such an analysis is not otherwise required. The Region’s EJ review protocol requires applicants to perform monitoring and/or modeling of existing conditions beyond the baseline analysis dictated under national guidelines. As a result, EPA is able to obtain information it otherwise would not have had and has been able to take additional steps to increase the protection of the impacted areas while also allowing the new source to move forward (provided it meets all other Clean Air Act requirements.)”</p>
Environmental Justice Task Force Member input	Please list additional approaches you want DEQ/OHA to consider for using cumulative impacts analysis, community studies, or disparate impacts analysis in permitting here:

What do you see as the pros or cons of any of these approaches? What are the arguments in favor/opposition to these approaches? What are we missing that we should consider? Please list here:

Modeling and Analysis

How do other programs use EPA's EJSCREEN or other tools? What are the thresholds for defining an environmental justice community?

Summary: Some state air toxics permitting programs have a process and use specific data to identify communities with existing or potential environmental justice concerns. Others do not specifically identify these areas or populations, but have protective requirements built into their programs, for example modeling and analysis to estimate and mitigate impacts on sensitive individuals, or factoring existing ambient concentrations or local air toxics emissions into calculations of risk and targeted risk reduction. Because of historic land use and socioeconomic patterns, some programs assume that any area near a permitted industrial facility will have EJ concerns.

States are increasingly using two widely available and recently updated community data sources: EPA's EJSCREEN and EPA's National Air Toxics Assessment which is also contained within the EJSCREEN data. EJSCREEN integrates many community data sources to produce an EJ Index. The EJ index is a combination of environmental and demographic information. There are eleven EJ indices in EJSCREEN reflecting environmental indicators. They are:

1. National Scale Air Toxics Assessment Air Toxics Cancer Risk
2. National Scale Air Toxics Assessment Respiratory Hazard Index
3. National Scale Air Toxics Assessment Diesel PM (DPM)
4. Particulate Matter (PM2.5)
5. Ozone
6. Lead Paint Indicator
7. Traffic Proximity and Volume
8. Proximity to Risk Management Plan Sites
9. Proximity to Treatment Storage and Disposal Facilities
10. Proximity to National Priorities List Sites
11. Proximity to Major Direct Water Dischargers

Some programs use EPA's EJSCREEN, while others have developed their own screening tools or use other sources of information. Criteria other states use to identify environmental justice communities can be based on economic factors (income, employment), housing (age, type), percentage of minority residents, language, proximity to roadways and other pollution sources, health data, and access to greenspaces and services.

Topic: Modeling and Analysis	
Program	Program Description
Colorado	We do use EJ Screen, but also use the Colorado Community Health Equity Map, available at: http://www.cohealthmaps.dphe.state.co.us/cdphe_community_health_equity_map/ -We also use a Denver Equity Atlas Map: http://www.denverregionalequityatlas.org/ There are a national equity atlas as well: http://nationalequityatlas.org/ and it appears there is one for Portland available (which you may already be aware of): http://regionalequityatlas.org/programs/regional-equity-atlas/maps-and-analysis
Minnesota	We have developed our own screening tool to identify potential environmental justice areas, or areas requiring further review. We have used state specific information and

Topic: Modeling and Analysis	
Program	Program Description
	benchmarks (e.g. described in 2.a. and a MN specific modeling tool similar to the National Air Toxics Assessment developed by EPA)
New Jersey	<p>DEP recognizes that environmental justice communities are overburdened with unique socioeconomic and environmental problems that require a community-based response tailored to a community’s specific needs and concerns. DEP is committed to developing and implementing strategies and policies that effectively educate and empower environmental justice community leaders to become involved in government decision making.</p> <p>To effectively address environmental and public health impacts, the DEP, in collaboration with other agencies, such as the New Jersey Department of Health, the Economic Development Authority and the New Jersey Department of Transportation, is committed to pro-actively addressing environmental justice issues in self-identified communities. Extensive studies and research show that, at the national level, many people of color and poor, working-class people of all races live in communities that are overburdened with environmental hazards. In New Jersey communities can choose to self-identify themselves as environmental justice communities using existing data including: Census data, Permitting, Toxic Release Inventory, and National Air Toxic Assessment Data. For those communities that meet the criteria to be developed by the Environmental Justice Taskforce, Action Plans will be developed to address environmental justice issues.</p> <p>In New Jersey, many cities and older suburbs face serious environmental challenges, including:</p> <ul style="list-style-type: none"> • inadequate land-use planning • persistent illegal dumping • numerous brownfield sites • waste management issues • lack of preserved natural areas and open space
New York	<p>In the Environmental Rating system, New York looks at sensitive receptors and background concentrations, which may be higher in environmental justice communities. They also use NATA data to help identify environmental justice communities. Permit analysts use GIS tools and U.S. Census data to identify potential environmental justice areas (minority and low-income) within New York State. Minority populations are: Hispanic, African-American or black, Asian and Pacific Islander or American Indian. Low-income populations have an annual income that is less than the poverty threshold. A low-income community means a census block group or contiguous area with multiple census block groups having a low-income population equal to or greater than 23.59 percent of the total population. Environmental Permits staff will determine if any census block groups, meeting the GIS application thresholds for a potential environmental area, are substantially within the affected area. Environmental Permits staff do not currently use EJ screen.</p>
Rhode Island	<p>Most populated areas in Rhode Island are environmental justice communities because industry is located among houses, schools, and hospitals. The state does not have separate requirements for environmental justice communities although the modeling guidance takes into account sensitive receptors.</p>

Topic: Modeling and Analysis	
Program	Program Description
WA Ecology	We use the EJ screening tool to determine the demographics where a source is located.
EPA	Using the 12 EJ indices in EJSCREEN, EPA will flag for follow up EJ focus facilities with any index over the 80th percentile. EPA will not limit information to EJSCREEN, and will take into consideration other factors when determining additional EJ focus in permitting.
Environmental Justice Task Force Member input	Please list additional approaches you want DEQ/OHA to consider for use of EJSCREEN or other tools here:

What do you see as the pros or cons of any of these approaches? What are the arguments in favor/opposition to these approaches? What are we missing that we should consider? Please list here:

Staffing and Resources

What FTE do you have for addressing environmental justice and what are the funding sources?

Summary: Among survey respondents, number and funding of dedicated staff for EJ work depends in part on program and agency organization. Some states and programs have no special funding for EJ staff, but are able to incorporate it into a fairly robust approach to communication and permitting intended to address sensitive population needs. Other programs have staff and managers dedicated to EJ work funded by legislative or general appropriations. The Colorado air and health protection agencies are combined, so they are able to utilize health expertise to collaborate and fine tune approaches to EJ work. Connecticut is notable in that they require permit applicants to fund activities required under state environmental justice laws.

Topic: Staffing and Resources	
Program	Program Description
Colorado	Currently, we do not have a specific number of dedicated FTE that focus on environmental justice in Colorado, but rather we have a CDPHE HE&EJ Collaborative that uses staff time as needed for different HE&EJ projects. We do have several new FTE in our Office of Health Equity that will hopefully be able to help work on environmental justice issues as well. We are one of only three states that house health and environment under one roof, which as you can imagine, is helpful in some ways and challenging in others. It may help to reach out to health departments in Oregon to see if there could be connections made on that level; it has been extremely helpful to identify health factors in narrowing our data focus for environmental justice issues.
Connecticut	Activities required under the Environmental Justice statute are funded by the applicant.
Minnesota	There are two FTEs focused entirely on environmental justice. Funding for their work is from a flexible multi-media funding source, which is basically part of the overall environmental fund the agency receives from the state legislature
New York	The Office of Environmental Justice has six staff. Only three are dedicated full time to environmental justice. The Office of Environmental Justice offers EJ Community Impact Grants to not-for-profit community organizations for projects that address multiple harms and risks in the community. This money comes from the Environmental Benefit Fund which is included in the state budget every year.
Philadelphia	No special funding.
Puget Sound Clean Air Agency, WA	Most of the funding comes from our most flexible funding source, our “per capita” funding. For some purposes, where the goals are aligned, we can also use funding for environmental justice projects from EPA funds where it allows. FTE’s are hard to establish as now our entire strategic plan tries to focus more on equity throughout all our activities. Here’s our strategic plan: http://www.pscleanair.org/library/Documents/pscleanair_strategic_plan_2014-2020_FINAL.pdf . We hired an Environmental Justice Manager and an Associate, and combined I think they are 1.75 FTEs. Others are always working on environmental justice focused topics, so it’s difficult to say.
Environmental Justice Task	Please list additional approaches you want DEQ/OHA to consider for funding environmental justice work in permitting here:

Topic: Staffing and Resources	
Program	Program Description
Force Member input	

What do you see as the pros or cons of any of these approaches? What are the arguments in favor/opposition to these approaches? What are we missing that we should consider? Please list here:

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