

RESPONSE BY THE
WHITE HOUSE COUNCIL ON
ENVIRONMENTAL QUALITY TO
THE WHITE HOUSE
ENVIRONMENTAL JUSTICE
ADVISORY COUNCIL'S
FINAL RECOMMENDATIONS:
JUSTICE40, CLIMATE AND
ECONOMIC JUSTICE SCREENING
TOOL, AND EXECUTIVE ORDER
12898 REVISIONS THAT WERE
SUBMITTED ON MAY 21, 2021

REPORT SUBMITTED TO THE U.S. CONGRESS
PURSUANT TO THE FEDERAL ADVISORY
COMMITTEE ACT
MAY 20, 2022



THE WHITE HOUSE
WASHINGTON

Response by the
White House Council on Environmental Quality
to the White House Environmental Justice Advisory Council's
Final Recommendations: Justice40, Climate and Economic
Justice Screening Tool, and Executive Order 12898 Revisions
that were submitted on May 21, 2021

Report submitted to the U.S. Congress
pursuant to the Federal Advisory Committee Act

May 20, 2022

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EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY

WASHINGTON, D.C. 20503

May 20, 2022

Dear Vice President Harris and Speaker Pelosi,

On behalf of the White House Council on Environmental Quality (CEQ), I am pleased to submit this report, which provides responses to recommendations—and updates on work undertaken pursuant to these recommendations—that were included in the White House Environmental Justice Advisory Council (WHEJAC)'s May 21, 2021 report, [Final Recommendations: Justice40, Climate and Economic Justice Screening Tool, and Executive Order 12898 Revisions](#). In delivering this report to the United States Congress, CEQ is fulfilling the Administration's statutory obligation under the Federal Advisory Committee Act to provide a report to Congress within one year of receiving recommendations from a Federal Advisory Committee.

I would like to take this opportunity to express my deep gratitude to the WHEJAC for the extensive recommendations that it submitted to CEQ and the White House Environmental Justice Interagency Council (IAC) last May. The WHEJAC is comprised of dedicated and experienced individuals from across our country who volunteer their time to fulfill the WHEJAC's mission, which is to provide independent advice to the Chair of CEQ and the IAC on how to increase the Federal Government's efforts to address current and historic environmental injustice. WHEJAC members devoted countless hours—sacrificing nights and weekends—to provide us with these formal recommendations, and we are grateful for all of their time, effort, and expertise.

In responding to the recommendations provided by the WHEJAC, this report describes the scale and scope of efforts that the Federal Government has undertaken to deliver on the President's commitment to environmental justice. Since day one, the Biden-Harris Administration has made achieving environmental justice a top priority—launching historic initiatives, including the WHEJAC, the IAC, the Justice40 Initiative, and the Climate and Economic Justice Screening Tool (CEJST), consistent with Executive Order 14008 on *Tackling the Climate Crisis at Home and Abroad*. From top to bottom, the Federal Government has been working to embed environmental justice into agency practices, processes, policies, and procedures, and the WHEJAC's formal recommendations have been consulted as the government pursues this important work. As this report explains, the WHEJAC's advice has helped shape the Justice40 Initiative, the beta version of the CEJST, and the draft of a new executive order to update Executive Order 12898 on *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*.

In implementing the Justice40 Initiative, in particular, this report summarizes actions that agencies are taking—informed by nearly 200 recommendations from the WHEJAC—to ensure that the benefits of key programs are reaching the communities that need them most. EPA, for example, is making extraordinary investments to cut pollution from diesel school buses, which, in the WHEJAC’s words, “are some of the dirtiest vehicles that travel throughout EJ communities.” DOE is investing billions of dollars that help address the WHEJAC’s concerns about the need for renewable energy upgrades that would “lower the cost of electricity to most individuals in frontline and low-income communities.” In addition, HHS is increasing access to its Low-Income Home Energy Assistance Program, HUD is delivering solar power to multifamily housing, and FEMA is taking steps to promote renewable energy through hazard mitigation funding. The Federal government is also working to address the WHEJAC’s concerns about lack of equitable and accessible transit options for environmental justice communities, such as through DOT’s recently launched Pilot Program for Transit-Oriented Development Planning. These are just a few of the many examples of actions that agencies are taking that address the WHEJAC’s recommendations—detailed across over 150 pages in this report.

The U.S. Congress has been a key partner in the Biden-Harris Administration’s efforts to deliver tangible, on-the-ground benefits and investments that advance climate action and environmental justice for all. Thanks to the passage of both the American Rescue Plan and the President’s Bipartisan Infrastructure Law in 2021, Federal agencies are working to ensure that the benefits of billions of dollars of investments are reaching disadvantaged communities that are marginalized, underserved, and overburdened by pollution, in line with the Justice40 Initiative. As the updates in this report make clear, Federal agencies are undertaking fundamental reforms—many of which are consistent with and pursuant to the recommendations of the WHEJAC—to deliver real results for families and communities who have been denied clean air, clean water, and a healthy environment for far too long.

In submitting this report to Congress, I am encouraged by the progress we have made over the past year, clear-eyed about the scale of the work that still lies ahead, and confident that if we continue to listen to the voices and perspectives of the WHEJAC and other environmental justice leaders and communities, we will deliver a cleaner, healthier future for all.

Sincerely,



A handwritten signature in black ink that reads "Brenda Mallory".

Brenda Mallory
Chair, White House Council on Environmental Quality

Acknowledgments

CEQ would like to thank the members of the White House Environmental Justice Advisory Council (WHEJAC) for their time, efforts, and commitment to advancing environmental justice.

- Richard Moore, Los Jardines Institute (WHEJAC Co-Chair)
- Peggy Shepard, WE ACT for Environmental Justice (WHEJAC Co-Chair)
- Catherine Coleman Flowers, The Center for Rural Enterprise and Environmental Justice (WHEJAC Vice-Chair)
- Carletta Tilousi, Havasupai Tribe (WHEJAC Vice-Chair)
- LaTricea Adams, Black Millennials for Flint
- Susana Almanza, People Organized in Defense of Earth and Her Resources
- Jade Begay, NDN Collective
- Maria Belen Power, GreenRoots
- Dr. Robert Bullard, Texas Southern University
- Tom Cormons, Appalachian Voices
- Andrea Delgado, United Farm Workers Foundation (member from May 2021-January 2022)
- Jerome Foster II, One Million of Us
- Kim Havey, City of Minneapolis Division of Sustainability
- Angelo Logan, Moving Forward Network
- Maria López-Núñez, Ironbound Community Corporation
- Harold Mitchell, ReGenesis
- Dr. Rachel Morello-Frosch, UC Berkeley
- Juan Parras, Texas Environmental Justice Advocacy Services
- Michele Roberts, Environmental Justice Health Alliance for Chemical Policy Reform
- Ruth Santiago, Comité Dialogo Ambiental and El Puente, Latino Climate Action Network
- Dr. Nicky Sheats, Kean University
- Viola Waghiyi, Alaska Community Action on Toxics
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- Dr. Beverly Wright, Deep South Center for Environmental Justice
- Hli Xyooj, Advancement of Hmong Americans
- Miya Yoshitani, Asian Pacific Environmental Network

CEQ would also like to thank their partners at the U.S. Environmental Protection Agency for their dedication to standing up the first-ever White House advisory body on environmental justice.

- Karen L. Martin, WHEJAC's Designated Federal Officer, from the U.S. Environmental Protection Agency's Office of Environmental Justice
- Paula Flores-Gregg, WHEJAC Program Manager, from the U.S. Environmental Protection Agency's Office of Environmental Justice
- George Q.E. Ward, National Environmental Justice Advisory Council Program Manager, from the U.S. Environmental Protection Agency's Office of Environmental Justice

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CEQ appreciates the commitment of the heads of agencies participating in the White House Environmental Justice Interagency Council (IAC), as set forth in Executive Order 14008 on *Tackling the Climate Crisis at Home and Abroad*:

- The Secretary of Defense
- The Attorney General
- The Secretary of the Interior
- The Secretary of Agriculture
- The Secretary of Commerce
- The Secretary of Labor
- The Secretary of Health and Human Services
- The Secretary of Housing and Urban Development
- The Secretary of Transportation
- The Secretary of Energy
- The Chair of the Council of Economic Advisers
- The Administrator of the Environmental Protection Agency
- The Director of the Office of Management and Budget
- The Executive Director of the Federal Permitting Improvement Steering Council
- The Director of the Office of Science and Technology Policy
- The National Climate Advisor
- The Assistant to the President for Domestic Policy
- The Assistant to the President for Economic Policy

In addition, CEQ appreciates the following agencies, which participate in the IAC but whose Secretaries are not formally recognized in Executive Order 14008 as members of the IAC:

- General Services Administration
- U.S. Department of Homeland Security

Finally, CEQ appreciates the following agencies, which do not participate in the IAC but which nevertheless provided responses to the WHEJAC recommendations directed at their agencies:

- Appalachian Regional Commission
- Tennessee Valley Authority
- U.S. Department of Education

ACKNOWLEDGMENTS



Caption: President Joe Biden delivers remarks on the passing of the bipartisan Infrastructure Investment and Jobs Act, Tuesday, August 10, 2021, in the East Room of the White House. (Official White House Photo by Adam Schultz). Source: [White House Flickr](#).

I. Introduction

A. The Biden-Harris Administration's Commitment to Environmental Justice

On January 27, 2021, President Joseph R. Biden, Jr. signed [Executive Order 14008](#) on *Tackling the Climate Crisis at Home and Abroad*. The executive order established several new, whole-of-government initiatives, and laid the foundation for the most ambitious environmental justice agenda ever undertaken by an Administration. It affirmed the pursuit of environmental justice as a central goal of the Federal Government, and tasked the entire government with advancing environmental justice and spurring economic opportunity for disadvantaged communities “that have been historically marginalized and overburdened by pollution and underinvestment in housing, transportation, water and wastewater infrastructure, and health care.”

President Biden and Vice President Harris believe that to secure an equitable future, the Federal Government must ensure that environmental and economic justice are key considerations in how we govern. For far too long, too many communities across our country have faced environmental injustices, such as bearing the brunt of toxic pollution, enduring underinvestment in infrastructure and critical services, and suffering disproportionate impacts from climate change.

President Biden and Vice President Harris campaigned on the need to confront longstanding environmental injustices and inequities. Since their first day in office, they have made achieving environmental justice a top priority of the Biden-Harris Administration and have sought to ensure that communities not only have greater visibility and input in Federal policies and decision-making—but that the voices, perspectives, and lived experiences of environmental justice communities are heard in the White House and reflected in the priorities, policies, and investments of the Federal Government.

B. The White House Environmental Justice Advisory Council

To ensure that the insight and expertise of environmental justice leaders are heard and considered in the development of Federal policies and decision-making, President Biden created the first-ever White House Environmental Justice Advisory Council (WHEJAC) through [Executive Order 14008](#). As a Presidential Federal Advisory Committee, the WHEJAC was established to advise the Chair of the Council of Environmental Quality (CEQ), Brenda Mallory, and the White House Environmental Justice Interagency Council (IAC). The WHEJAC is charged with providing independent advice and recommendations to the Chair of CEQ and the IAC on how to increase the Federal Government's efforts to address current and historic environmental injustice. The establishment of the WHEJAC marks the first time that a Presidential advisory body has been tasked with providing recommendations on environmental justice.

The members of the WHEJAC are dedicated and accomplished individuals who volunteer their expertise to fulfill the WHEJAC's mission of providing independent advice and recommendations to the CEQ Chair and the IAC. Since the WHEJAC's establishment in [March 2021](#), they have [convened public meetings](#) on

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eight occasions, which have been conducted virtually to enhance public engagement. In 2021, these meetings occurred in March, April, May, and November. Since the beginning of 2022, the WHEJAC has held public meetings in January, February, March, and May. There are currently several workgroups that meet regularly to develop recommendations related to the WHEJAC's charges. The WHEJAC has also provided formal written recommendations to the Chair of CEQ and the IAC, including a report submitted on May 21, 2021 entitled, [Final Recommendations: Justice40, Climate and Economic Justice Screening Tool, and Executive Order 12898 Revisions](#).¹

CEQ is grateful to the members of the WHEJAC for the time and effort they have spent engaging on these critically important issues and developing these recommendations. President Biden established the WHEJAC so that the White House would hear directly from environmental justice leaders and would consider their recommendations as part of the policymaking process. Advancing environmental justice is a key priority of the Administration, and the WHEJAC's recommendations will help the Chair of CEQ and the IAC create significant, lasting, and on-the-ground changes for communities across the country.

C. Purpose of this Report

The primary purpose of this report is to provide CEQ's response to the WHEJAC's May 21, 2021 report, [Final Recommendations: Justice40, Climate and Economic Justice Screening Tool, and Executive Order 12898 Revisions](#). Under the delegated authority of President Biden,² CEQ is fulfilling a Federal Advisory Committee Act [requirement](#) that states: "Within one year after a Presidential advisory committee has submitted a public report to the President, the President or his delegate shall make a report to the Congress stating either his proposals for action or his reasons for inaction, with respect to the recommendations contained in the public report."³

This report has three sections that correspond to the three main sections of the WHEJAC's May 21, 2021 report. Section I addresses the WHEJAC's recommendations on the [Justice40 Initiative](#), which aims to provide 40 percent of the overall benefits of certain Federal investments—such as those relating to climate change and clean energy—to disadvantaged communities that are marginalized, underserved, and overburdened by pollution. Over the last year and a half, the Administration has worked every day to deliver on the President's vision for the Justice40 Initiative, and Federal agencies are advancing and implementing the Justice40 Initiative right now. The implementation of the President's Justice40 commitment has required fundamental and sweeping reforms to the ways in which the Federal Government operates. The Justice40 Initiative is coordinated by the White House Office of Management

¹ On March 8, 2022, the WHEJAC delivered their Phase One Recommendations on the Environmental Justice Scorecard. CEQ and the IAC are looking forward to receiving Phase Two of the WHEJAC's recommendations on the Environmental Justice Scorecard. In a future report, CEQ will provide a response to these recommendations, as required under the Federal Advisory Committee Act.

² CEQ has been delegated this authority by the President because under Executive Order 14008, the WHEJAC advises the Chair of CEQ.

³ 5 U.S.C. App. §6(b).

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and Budget, the White House Climate Policy Office, and CEQ—but the implementation is happening within agencies across the Federal Government. Every agency to which the WHEJAC specifically addressed Justice40 recommendations, including several agencies that are not on the IAC, provided detailed responses; these responses⁴ are organized in Section I by agency.

Section II of this report responds to the WHEJAC’s recommendations for the [Climate and Economic Justice Screening Tool](#) (CEJST). CEQ launched a beta—or draft—version of the tool on February 18, 2022 with support from the U.S. Digital Service (USDS), and in collaboration with other Federal agencies and departments. The tool was developed to help Federal agencies direct 40 percent of the overall benefits of Justice40 investments to disadvantaged communities. The CEJST was released in a beta version in order to solicit feedback from the public, Tribal Nations, and Federal agencies; the public comment period closes on May 25, 2022. As discussed in Section II, the WHEJAC’s recommendations informed the development of the beta version of the CEJST. As new versions of the CEJST are developed, CEQ will continue to review the recommendations from the WHEJAC to ensure that the CEJST utilizes all possible publicly-available, nationally-consistent datasets to identify disadvantaged communities for prioritization in Federal resource allocation decisions.

Section III of this report addresses the WHEJAC’s recommendations for revising Executive Order 12898. Each recommendation set forth in the WHEJAC’s recommendations for the updated executive order has been meticulously evaluated, and since receiving these recommendations, extensive work has been undertaken to develop recommendations for a durable, impactful, and effective approach for updating Executive Order 12898. Section III of this report is not as detailed due to the ongoing deliberative process of developing recommendations for a Presidential executive order. The details of a potential executive order cannot be shared publicly at this point. However, it is anticipated that a draft executive order updating Executive Order 12898 will be ready for the President’s consideration and review in the summer of 2022.

The Biden-Harris Administration has committed to improving transparency in government, and this report is in keeping with that important promise. Ongoing and clear communication between CEQ, the IAC, and the WHEJAC is critical to the success of our shared efforts and goals. Moreover, this report also provides an opportunity to celebrate many achievements made towards President Biden’s ambitious environmental justice agenda. Although much more work remains, the Administration has already begun delivering on the President’s historic environmental justice commitments, and the WHEJAC’s recommendations have played a critical role in advancing policies that will ensure a cleaner, healthier future for all.

⁴ CEQ only made minor, non-substantive changes to the responses it collected from each agency in an attempt to make the formatting of the varied agency responses look more uniform. For example, CEQ added the header “Response” to indicate that the text that followed was the agency’s response. CEQ also embedded some hyperlinks instead of using full URLs. Other small edits were noted in footnotes or in bracketed text. The agency responses were otherwise included verbatim in this report, and grammatical choices (i.e. capitalizations, Oxford commas, etc.) were not edited for uniformity.

II. The Justice40 Initiative

A. Overview of the Justice40 Initiative

A signature component of President Biden’s environmental justice agenda, the [Justice40 Initiative](#) aims to provide 40 percent of the overall benefits of certain Federal investments in seven key areas to disadvantaged communities that are marginalized, underserved, and overburdened by pollution. These areas are: climate change, clean energy and energy efficiency, clean transit, affordable and sustainable housing, training and workforce development, reduction and remediation of legacy pollution, and the development of critical clean water and wastewater infrastructure.

Within his first week in office, President Biden launched the Justice40 Initiative, and since then, the Biden-Harris Administration has worked tirelessly to meet the President’s Justice40 goal. The task of delivering the benefits of hundreds of Federal programs to disadvantaged communities that are marginalized, underserved, and overburdened by pollution requires fundamental and sweeping reforms to the ways in which the Federal government as a whole operates—a process that takes time and coordination. The Administration is making significant progress on the Justice40 Initiative, and programs across the whole government are being transformed to ensure that disadvantaged communities receive the benefits of new and existing Federal investments.

CEQ works in partnership with several offices in the Executive Office of the President to advance the Administration’s historic environmental justice initiatives. As required by Executive Order 14008, the Justice40 Initiative is coordinated by CEQ, the White House Office of Management and Budget (OMB), and the White House Climate Policy Office (CPO). Implementation of the Justice40 Initiative is happening within agencies across the Federal Government.

The Justice40 Initiative is not a one-time investment, nor a one-time opportunity. The Justice40 Initiative recognizes—and seeks to address—the legacy of underinvestment across many sectors of our economy in disadvantaged communities. The WHEJAC’s recommendations have already influenced the Justice40 Initiative. In July 2021, the Administration issued formal [Interim Implementation Guidance](#) to Federal agencies on how to transform eligible programs to deliver 40 percent of their overall benefits to disadvantaged communities. This direction relied heavily on recommendations provided by the WHEJAC report that was delivered to CEQ and the IAC on May 21, 2021. For example, the formal guidance identified examples of the kind of benefits that Federal agencies could consider tracking as part of their Justice40 strategies. More than 90 percent of these example benefits echo specific recommendations made by the WHEJAC in its May 2021 report. In addition, the interim guidance identified 21 covered programs to be included in the Justice40 Pilot. These 21 programs took steps to implement the Justice40 Initiative at an expedited pace, with the goal of providing lessons and best practices that could be applied across the whole-of-government. Out of the 21 programs selected to be a Justice40 Pilot, 85 percent were informed by the WHEJAC recommendations issued in May 2021.

In response to the WHEJAC’s recommendations on the Justice40 Initiative, CEQ is pleased to provide this report, which showcases the rapid and sweeping progress that the Administration has made in just over

a year. The member agencies of the IAC, along with other Federal agencies, have provided robust status updates on the implementation of their environmental justice agendas and the Justice40 Initiative.

B. Agency Partnership in Responding to the WHEJAC's Justice40 Recommendations

The Chair of CEQ, who also serves as the Chair of the IAC, shared the WHEJAC's May 21, 2021 report, [Final Recommendations: Justice40, Climate and Economic Justice Screening Tool, and Executive Order 12898 Revisions](#), with all member agencies on the IAC. Executive Order 14008 envisions a synergistic relationship between the IAC and the WHEJAC, and the two bodies, though distinct, have mutually reinforcing missions. The [mission](#) of the IAC is to develop a strategy to address current and historic environmental injustice by consulting with the WHEJAC and with local environmental justice leaders. The [mission](#) of the WHEJAC is to serve in an advisory capacity and provide recommendations to the Chair of CEQ and the IAC on how to increase the Federal Government's efforts to address current and historic environmental injustice.

The WHEJAC report from May 2021 made recommendations that were specifically directed at agencies on the IAC, as well as several agencies that are not formally members of the IAC and/or do not participate in the IAC. Every agency to which the WHEJAC specifically addressed Justice40 recommendations, including several agencies that are not on the IAC, provided detailed responses; these responses⁵ are organized in Section I by agency. Section I.C of this report lists all the responses to the WHEJAC report from each of the IAC member agencies, and Section I.D lists those from the non-IAC agencies.

Many of the WHEJAC's recommendations were directed at multiple agencies. The responses are organized by agency, and not by recommendation. As a result, responses to one recommendation may be found in different agency sections. In some instances, a recommendation was directed at an agency that does not have legal or policy authority over the topic; where that was the case, an agency might defer to another agency's authority to respond.

To compile this response, CEQ provided each agency specifically mentioned in the report with (i) the relevant agency-specific recommendations from the WHEJAC report, and (ii) general recommendations that the WHEJAC made to all Federal agencies. This included:

- **Agency-specific recommendations:** Recommendations for Identifying Programs and Policies to Include in Justice40, pages 16-52

⁵ CEQ only made minor, non-substantive changes to the responses it collected from each agency in an attempt to make the formatting of the varied agency responses look more uniform. For example, CEQ added the header "Response" to indicate that the text that followed was the agency's response. CEQ also embedded some hyperlinks instead of using full URLs. Other small edits were noted in footnotes or in bracketed text. The agency responses were otherwise included verbatim in this report, and grammatical choices (i.e. capitalizations, Oxford commas, etc.) were not edited for uniformity.

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- **General recommendations:**
 - Recommendations for All Federal Agencies, pages 52-57
 - Recommendations for the Definition of Investment Benefits, page 57
 - Guiding Principles: Program Criteria to Maximize Federal Investment Benefits and Avoid Harm in EJ Communities, page 57

Excerpts from the agency-specific WHEJAC recommendations on the Justice40 Initiative have been included, along with the relevant agency responses. Many agencies also provided responses to the general recommendations. To reduce redundancy, these general recommendations are not excerpted into each agency response; rather, they are included below. All of the WHEJAC recommendations have been included verbatim from its May 2021 report.

WHEJAC Recommendations for All Federal Agencies

- “Carry out the nation-to-nation consultative duties of the U.S. to federally recognized Tribes in the identification, planning, and implementation of infrastructure investments and projects, consistent with the January 21, 2021, Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships and Best Practices on Consultation.”
- “Review the letter from over 580 federally recognized [Tribal] governments on infrastructure legislation from April 13, 2021. Though about legislation, it covers important information and positions from Tribal leaders relevant to Justice 40: The Indian Country Infrastructure Letter covers comprehensive infrastructure programs in the federal government needing reform, including programs in infrastructure tied to healthcare, water, telecommunications and broadband, energy, housing, transportation, law enforcement, public safety, and justice, lands and natural resources, climate, education, Indian child welfare, agriculture and rural development, tax parity and equity, economic and workforce development, and Tribal governance and funding stability. The letter offers recommendations:
 - funds must be provided directly to Tribal recipients and not as pass-through funding to states or another entity;
 - indirect costs must be an eligible use of funds and Tribal recipients must be given the maximum flexibility possible in their use of federal funds;
 - funds must not be limited to shovel-ready projects;
 - all funds for Tribal recipients should be available until expended;
 - funds must not be subject to competitive grants and match requirements;
 - explicitly require the Indian canons of construction be applied to provisions of this bill.”
- “Review other significant inter-Tribal and government reports related to Tribal infrastructure that identified key programs, priorities, and needs. They include The Report on the Unmet Infrastructure Needs of Tribal Communities and Alaska Native Villages in Process of Relocating to Higher Ground as a Result of Climate Change; The U.S. Government Accountability Office Report Climate Change: A Climate Migration Pilot Program Could Enhance the Nation’s Resilience and Reduce Federal Fiscal Exposure and the Affiliated Tribes of Northwest Indians Policy Briefing: Tribal Perspectives on Proposed Policies in the Congressional Action Plan on the Climate Crisis, which has several sections on infrastructure.”
- “Federally-recognized Tribes have inherent sovereignty, and exercise sovereignty in the U.S. context with states and the federal government. The federal government has an obligation to

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have a government-to-government or nation-to-nation relationship with Tribes. The federal government also has a trust responsibility to Tribes, obligations tied to treaties (treaty rights) and statutes, and obligations to ensure equity and environmental justice. Tribal consultation, including how it is referenced in the January 21, 2021 Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships, is a cornerstone of a genuine nation-to-nation relationship. Consultation has an important connection to free, prior, and informed consent. Infrastructure investments and projects, including their identification, planning, and implementation, must occur through Tribal consultative processes when such investments and projects relate to federally-recognized Tribes. Infrastructure investments and projects may relate to federally-recognized Tribes when they involve activities and technologies that Tribal governments have the potential lead, administer, operate, and own the assets too. They also relate to Tribes when the investments or projects may occur outside of Tribal government jurisdictions, but where the expected impacts—including benefits and risks—will have economic, social, environmental, cultural, and political (jurisdictional) ramifications and implications for Tribes. Permitting processes are key areas where Tribes must be involved as decision-makers, planners, and leaders. Regarding projects affecting public lands and other relevant lands, Tribal co-management must be an available option.”

- “Tribes must have comparable and fair opportunities to benefit from infrastructure investments and projects that are delegated to states. There must be parity in federal investments to Tribes and states. There should be consideration of a Tribal set aside, as is used in other federal programs.”
- “Under the Biden/Harris administration, consultative activities have already taken place through the Department of Interior and other agencies. These consultative activities have or are likely to yield critical information about how the federal government is planning to invest in infrastructure relating to Tribes.”
- “There is a growing literature on best practices for Tribal consultation that aims to improve the quality of nation-to-nation relationships, literature produced by both university researchers and major non-governmental organizations, such as the National Congress of American Indians, and inter-Tribal organizations, such as Midwest Tribal Energy Resources Association. A major best practice that reflects a nation-to-nation relationship is that Tribes should be part of the earliest discussions about infrastructure development and design, which means as early as any other governing entity, such as states, are involved in such discussions.”
- “There are currently underfunded programs for federally-recognized Tribes tied to energy infrastructure, and Tribal consultation is crucial as connected to recommendations for how to build on and improve these programs, and whether there are lessons learned that can be carried over to other agencies and to new or forthcoming investments and projects. Major examples are the Department of Energy’s Office of Indian Energy Policy and Programs, Department of Interior Indian Affairs Department of Energy and Mineral Development, USDA’s Rural Energy Programs (which Tribes qualify for), USDA’s High Energy Cost Grants Program, the Tribal Energy Guarantee Program (Energy Policy Act), among others that may be in existence. Grid modernization is a major area of need given that 14.2% of households in Tribes lack basic electric services. Regarding other areas of infrastructure, here is a further listing of programs: Division of Sanitation Facilities Construction (Indian Health Service); Clean Water State Revolving Fund; Water and Waste Disposal Grant Program (EPA); Tribal Climate Resilience Program

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(Bureau of Indian Affairs); Safety of Dams Program (Bureau of Indian Affairs) (including, dam maintenance programs that Tribes can use); Irrigation Program (BIA); Indian Water Settlements Funding (Bureau of Reclamation); Indian Housing Block Grant Program; Roads Maintenance (BIA); Tribal Transit Program (Federal Transit Administration); healthcare infrastructure aspects of Indian Health Services and other agency programs tied to Tribal health; infrastructure needs tied to Bureau of Indian Education, Indian Community Development Block Grant Program, USDA Community Facilities Programs, Tribal law enforcement, emergency management, and broadband and wireless; Native Community Development Financial Institutions; Tribal Colleges and Universities.”

- “In 2009, a group of U.S. senators wrote a letter claiming a \$50 billion unmet need for infrastructure on reservations. The Tribal consultative process should gain updated information on the size of the need in today’s terms.”
- “Permitting processes and infrastructure planning must be strategically organized so that the implementation of infrastructure investments and projects can proceed successfully in Tribal nations. Given the unmet infrastructure needs, certain infrastructure projects should be implemented in a certain order or together. Tribal consultation should pave the way for a coordinated, strategic implementation of infrastructure investments given the challenges to infrastructure developed posed by the unmet infrastructure needs in Tribal nations. See for example, Principles to Advance Energy Justice for Native Americans.”
- “Tribal Historic Preservation Offices must have sufficient funding and support for increases in on and off-reservation infrastructure projects that must be reviewed.”
- “Cultural impacts of infrastructure are critical to consider, whether for projects operated by Tribes or for projects that will affect Tribes. Tribal ecological knowledge has an important role in the design of projects and the assessment of risks.”
- “Tribes should have access to resources for feasibility studies, and such funding for feasibility studies must be flexible for Tribes.”
- “Funding for infrastructure projects, such as grants, should be multi-year, providing support for Tribes to build long term capacity, stability, consistency, and a strong foundation.”
- “Federal agencies must consider the self-determination of non-federally recognized Indigenous peoples and grassroots organizations, community organizations, and entrepreneurship in infrastructure development.”
- “Indigenous peoples who are not recognized as sovereigns by the U.S. federal government have the right to self-determination as collective societies with their own cultures, heritage, and economic and political organizational systems, which can include the ownership and administration of infrastructure. State- and un-recognized Tribes, working without affirmation of their self-government, have strategically used incorporation as 501c3 nonprofits as a way to build capacities to provide services for their members. They have used private conservation tools as well to protect their lands. Native Hawaiians have organized through institutions such as the Office of Hawaiian Affairs (OHA), a self-governing corporate body established in the 1978 state constitution of Hawaii. Federal infrastructure investments must ensure that programs and policies work with and advance the self-determination of nonfederally-recognized Indigenous peoples.”
- “Infrastructure investments must include opportunities for Indigenous peoples’ community organizations, grassroots organizations, and entrepreneurs to receive relevant infrastructure

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funds for the development of their own capacities for infrastructure projects, such as community solar, and many others. Investments and benefits in infrastructure funding and programs should not fund federally-recognized Tribal governments in ways exclude Tribal members and other Indigenous persons rights to apply for and develop relevant infrastructure programs and policies at the community and grassroots levels and as entrepreneurs.”

WHEJAC Recommendations for the Definition of Investment Benefits:

- “Direct Investments in Geography: Investments in defined frontline geographies (by census tract or other designations based on EJ criteria such as Minneapolis Green Zones).”
- “Direct Investments in People: Investments that benefits to Black, Indigenous, Latinx, Asian, Pacific Islander, GLBTQ, People of Color, and Immigrants to improve health and economic opportunities.”
- “Indirect and direct Investment in Community: Investment which support local communities, community-based organizations, community ownership, cooperatives, small-business, community job training and local ownership tracks, etc.”
- “External Direct Investment benefits: Investments that are outside EJ communities but provide essential services to EJ such as water, energy, and sanitation.”
- “All Investments: Must do no harm to EJ Communities.”

WHEJAC Guiding Principles: Program Criteria to Maximize Federal Investment Benefits and Avoid Harm in EJ Communities:

- “100% of investments must do no harm to Environmental Justice communities. We want 100% Justice; it would be unreasonable to have any climate investment working against historically harmed communities. To that end we acknowledge the Justice40 to be the floor not the ceiling, 40% should not be seen as a cap but as a starting point.”
- “Just recovery to support community-driven recovery and mid- to long-term rebuilding and implementation projects with improvements that further equitable mechanisms for adaptation, recovery, and rebuilding.”
- “For investments to be considered truly beneficial, process and implementation are key. All investments should incorporate a community driven, community-controlled approach so that communities most directly impacted benefit as intended. Investments that do not have community accountability should not be considered part of the Justice40. Community accountability in development and implementation is an important “justice” making element that must be included.”

Agencies received a full copy of the WHEJAC May 2021 report, which included the WHEJAC’s list of “Examples of the types of projects that may benefit a community” and “Examples of the types of projects that will not benefit a community” (i.e., see pages 58-59). This list was informative, but this report does not include specific responses to these examples.

The WHEJAC also made several recommendations to the “White House, Cabinet Secretaries, and the Broader Executive Branch” (i.e., see pages 50-52 of the WHEJAC report), and also included the White House in recommendations directed at other agencies (i.e., interspersed across pages 25-37 of the WHEJAC report). Most of these recommendations are addressed in the agency responses in the

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following section. The few WHEJAC recommendations to “White House, Cabinet Secretaries, and the Broader Executive Branch” that are not specifically addressed in this report are being reviewed by the White House.

Not all of the WHEJAC’s recommendations can be acted upon by Federal agencies or the White House because some recommendations require legislative or budgetary authority from Congress. Agencies have noted in their respective responses where this is the case. Additionally, the WHEJAC made several recommendations for “legislation needed” (i.e., see pages 19, 26-27, 39, 42, and 48 of the WHEJAC’s report). As these legislative recommendations fall within the purview of Congress, and not the White House, CEQ is hereby noting for Congress the availability of these recommendations from the WHEJAC.

The responses in this report highlight how the Federal Government is advancing environmental justice, including under the Justice40 Initiative. The next section provides the responses to the WHEJAC recommendations by agencies that are formal members of the IAC, followed by those not.

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Caption: Vice President Kamala Harris delivers remarks at the 40th Annual Black History Month Virtual Celebration, hosted by Congressman Steny Hoyer of Maryland, Saturday, Feb. 27, 2021, in the South Court Auditorium of the Eisenhower Executive Office Building at the White House. (Official White House Photo by Lawrence Jackson). Source: [White House Flickr](#).

C. IAC Member Responses to the WHEJAC Final Recommendations from May 2021

1. U.S. Environmental Protection Agency (EPA)

Introduction

The U.S. Environmental Protection Agency (EPA or Agency) would like to thank the WHEJAC for these recommendations. We appreciate the time, energy, and expertise the WHEJAC has provided to the Agency.

EPA supports the Biden-Harris Administration's commitment to increasing efforts to deliver environmental justice to underserved and overburdened communities across the Nation. Administrator Regan has made it clear that delivering environmental and public health benefits for communities with environmental justice (EJ) concerns is a priority for EPA. With the Justice40 framework and funding from the Bipartisan Infrastructure Law (BIL) and the America Rescue Plan (ARP), we can and will do more to deliver on our mission—cleaner air, land and water for everyone in the United States, regardless of race and income. EPA is committed to not just meeting but exceeding the President's Justice40 mandate.

In 2021, Administrator Regan [issued agency-wide guidance](#) directing all offices and regions to prioritize the advancement of environmental justice. The agency has followed through by [taking action to protect overburdened communities](#), [strengthening the role of enforcement](#), and [directing \\$100 million from the American Rescue Plan](#) toward environmental justice priorities including air monitoring, expanded community grants, and children's health efforts. Administrator Regan also embarked on a first-of-its-kind "Journey to Justice" tour in Mississippi, Louisiana, and Texas to spotlight longstanding environmental justice concerns and hear firsthand from residents dealing with the severe impacts of pollution in these areas.

For the first time, EPA's final [Strategic Plan](#) includes a new strategic goal focused solely on addressing climate change and an unprecedented goal to advance environmental justice and external civil rights compliance. This Strategic Plan deepens EPA's commitment to protecting human health and the environment for all people, with an emphasis on historically overburdened and underserved communities. EPA is also implementing the President's Justice40 initiative, which aims to ensure at least forty percent of the benefits of key federal programs are directed to underserved communities, and launched six pilot programs in support of the effort. Justice40 is not a single grant or funding stream but rather a powerful framework to inform and guide where EPA funding and the benefits of those funding streams flow throughout the United States.

[EPA's requests](#) in the President's Fiscal Year 2023 [budget](#) would invest more than \$1.45 billion across the Agency's programs that would help create good-paying jobs, clean up pollution, and secure environmental justice for all communities. To elevate environmental justice as a top Agency priority, EPA has proposed a new national environmental justice and external civil rights program office to coordinate and maximize the benefits of the Agency's programs and activities for underserved communities.

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To provide comprehensive answers to the WHEJAC recommendations, we have grouped them and combined responses where appropriate. EPA is committed to continually learning and constantly improving to make sustainable and durable changes. We hope the information shared below is helpful. We are available as always to discuss these responses and our efforts.

WHEJAC Recommendation: “School buses and sanitation trucks are some of the dirtiest vehicles that travel throughout EJ communities spewing diesel exhaust and fine particulates which contribute to poor air quality.”

The Office of Air and Radiation Response:

- Under President Biden’s leadership, EPA is making historic investments in clean transportation that will have lasting impacts on protecting clean air for children for generations, especially for overburdened and underserved communities. In March 2022, EPA announced the winners of two school bus rebate opportunities:
 - The \$7 million in funding from the 2021 American Rescue Plan (ARP) Electric School Bus Rebates is directed toward school districts in underserved communities to replace old diesel buses with new, zero-emission electric models. The funds are reserved exclusively for school districts in underserved communities, Tribal schools, and private fleets serving those schools.
 - The \$10 million in 2021 Diesel Emissions Reduction Act (DERA) School Bus rebates will assist with 444 school bus replacements across the country.
- The two rebate awards total approximately \$17 million in combined funding for schools and bus fleet owners to replace older, high-polluting diesel school buses. Replacing these buses will improve air quality in and around schools and communities, reduce greenhouse gas pollution, and better protect children’s health overall.
- In 2022, EPA plans to announce a new Clean School Bus rebate program under the Bipartisan Infrastructure Law that provides an unprecedented \$5 billion over five years to replace existing school buses with low- or zero-emission school buses. The law allows EPA to prioritize applications that propose to replace buses in high-need local educational agencies, low-income and rural areas, and Tribal schools. This will transform how millions of children get to school and help build a better America.
- With regard to sanitation trucks, EPA acknowledges that reducing emissions from sanitation fleets can provide much needed air quality improvements in communities with disproportionate air pollution burdens. Projects to repower or replace these vehicles are eligible under EPA’s long-standing DERA grant program. EPA has funded approximately 2,000 sanitation trucks through the DERA program between 2008 and 2021. Congress recently appropriated \$92 million to EPA for the DERA grant program in fiscal year 2022, the largest amount outside of the Recovery Act ever for the program. EPA will continue to advertise to stakeholders the eligibility of this important project type. EPA’s DERA program also prioritizes funding for projects that engage communities to inform project plans and ensure continued efforts to improve air quality after the completion of DERA projects.

WHEJAC Recommendation: “Establish a program requiring the reduction of permitted emissions of hazardous air pollution to prevent the exceedance of EPA’s cancer and non-cancer risk guidelines.”

THE JUSTICE40 INITIATIVE: EPA RESPONSE

Response from Office of Air and Radiation:

- Section 112 of the Clean Air Act (CAA) requires EPA to establish, among other things, standards for emissions of hazardous air pollutants (HAPs) for specific source categories of major sources, which are facilities that emit or have the potential to emit above specified levels of HAPs. These National Emissions Standards for Hazardous Air Pollutants (NESHAP) are commonly referred to as “maximum achievable control technology” or “MACT,” and these standards require the maximum degree of reduction of HAPs at the time the standard is established.
- EPA has made substantial progress in reducing air toxics emissions. EPA has finalized the NESHAP, or MACT standards, to reduce toxic emissions from about 115 categories of industrial sources. These rules result in nearly two million fewer tons of air toxics released every year. EPA has also completed the initial periodic technology review and the required one-time residual risk review for about 102 of the 115 source categories subject to MACT standards. Through these reviews, EPA has achieved additional reductions of HAPs and has ensured that, in all cases, the standards provide an ample margin of safety to protect public health.
- EPA has also completed all of the area source NESHAP, which are the required emissions standards for smaller sources of HAP emissions. Gas stations and dry cleaners are examples of area sources for air pollution. Individual area source facilities often have low air emissions. But there are a large number of facilities, including many in heavily populated cities. In some urban areas, toxic emissions from area sources can be much greater than those from major sources. EPA also has conducted several statutory-required technology reviews of the area source NESHAP and continues to conduct reviews of these area source standards. These reviews can result in additional HAP reductions if we identify cost-effective developments in practices, processes, or controls that reduce HAP emissions.
- Many motor vehicle, nonroad equipment, and fuel emission control programs of the past have reduced air toxics and will continue to provide significant emission reductions in the future. Mobile source toxic air emissions dropped by about 70 percent—close to 2 million tons of HAPs—between 1990 and 2014. With more fleet turnover, including more electric vehicles on the road, we expect these reductions to increase to 80 percent by the year 2030. In addition, EPA projects that mobile-source diesel particulate matter will decrease by roughly 90 percent from 2005 to 2030 as mobile source rules targeting diesel engines continue to take effect. Also, benzene emissions from mobile sources continue to decrease, as monitoring data confirms.
- How much these emissions reductions improve public health will depend on several things, including which chemicals were reduced and where the reductions occurred relative to where people live and work. EPA released [Air Tox Screen](#) in 2017, which quantifies emissions and risks from HAPs.
- While [air quality continues to improve nationwide](#), more needs to be done to meet the Clean Air Act's requirements to reduce the potential exposure and risk from these chemicals. EPA will continue to develop air toxics regulations as well as cost-effective pollution prevention and other control options, both regulatory and non-regulatory, to address indoor and urban pollutant sources that significantly contribute to risk, under our authorities provides in the Clean Air Act.

WHEJAC Recommendation: “Fund environmental monitoring located inside communities exposed to pollution, along with funds for compliance enforcement.”

THE JUSTICE40 INITIATIVE: EPA RESPONSE

Response from the Office of Air and Radiation:

- Air Monitoring: Under the American Rescue Plan (ARP), Congress provided EPA with a one-time supplemental appropriation of \$100 million to address health outcome disparities from pollution and the COVID-19 pandemic. Of that \$100 million, \$50 million has been dedicated to environmental justice (EJ) initiatives that identify and address disproportionate environmental or public health harms in underserved communities, and \$50 million is being used to enhance air quality monitoring under the Clean Air Act.
- On December 13, 2021, EPA announced the availability of \$20 million in American Rescue Plan (ARP) funding through competitive grants to enhance ambient air quality monitoring in and near underserved communities across the United States.
- Prior to the announcement, in the summer of 2021, EPA conducted insight and feedback sessions with interested stakeholders to discuss ideas on what the Agency should consider in drafting the solicitation. In September 2021 EPA hosted a general grants training for community organizations, Tribes, and air agencies in preparation for the grant competition. The presentation was recorded and posted on EPA's ARP website. After the grant announcement, on January 11th, 2022, EPA hosted an informational webinar about the funding. The presentation was recorded and posted on EPA's ARP website. Based on requests from eligible entities, EPA extended the initial application deadline and closed the grant competition on March 25, 2022. EPA received over 200 applications from across the country. EPA will now begin the review and selection process with awards expected to be made no later than Fall 2022.
- The Agency is also using ARP funds to (1) enable continuous monitoring of fine particle pollution and replace other aging monitoring equipment across the existing network for pollutants regulated by the National Ambient Air Quality Standards under the Clean Air Act (\$22.5M) and (2) enhance EPA's regional capacity to support communities in need of short-term monitoring and air quality information through sensor loan programs and mobile monitoring platforms (\$5M).

WHEJAC Recommendation: "Develop guidance for the EPA to use targeted enforcement and resources priorities directed at legacy environmental justice "hot-spots" with the goal of reducing combined risks to human health or the environment from multiple agents or stressors."

Response from the Office of Enforcement and Compliance Assurance:

- Targeting Inspections and Strengthening Enforcement: The Office of Enforcement and Compliance Assurance (OECA) is focused on increasing compliance monitoring activities in communities with EJ concerns. OECA has set a national goal to conduct 45% of all on-site inspections nationally in fiscal year 2022 (FY 2022) at facilities located in or affecting vulnerable or overburdened communities. This is an estimated increase of almost 20% over our historical average, and the goal will increase to 50% for FY 2023 and FY 2024, and to 55% in FY 2025 and FY 2026. Our progress on this goal is part of the Justice40 Initiative. When we identify noncompliance in overburdened and vulnerable communities, EPA takes action to hold entities accountable.
- Compliance Monitoring and Cleanup Oversight: Using funds made available through ARP, OECA will monitor for hazardous air pollutants and drinking water contaminants, including metals, in specific communities identified with potentially elevated inhalation risks, drinking water

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contaminant risks, or based on other tips and complaints received by EPA and our state partners. This effort will provide communities and EPA with valuable information to understand risks associated with exposure to specific chemicals in air and drinking water and will provide EPA with necessary information to pursue enforcement actions to address violations. OECA is also using ARP funds to provide technical assistance to small drinking water systems in underserved communities to help address the underlying causes of noncompliance.

- The Agency is taking steps to enhance oversight of cleanup agreements between EPA and responsible parties. At toxic waste sites near vulnerable communities, EPA is increasing its oversight of the cleanup work to ensure it is timely executed and that the work meets all the requirements of the enforcement instrument. OECA has also revised its model cleanup settlement agreements to better address community concerns about impacts of cleanup work and to provide more information about the progress of cleanup to communities. In August 2021, OECA updated its model remedial design / remedial action cleanup settlement documents to provide for regular evaluation of the remedy implemented at contaminated sites, and to ensure that cleanup activities do not result in unintended adverse impacts (e.g., noise, odor, traffic) to neighboring communities. The revised model language also provides for increased monitoring of impacts to communities, public availability of cleanup data and cleanup schedules, and increased monitoring and review of institutional controls to ensure that these mechanisms are having their intended effect.

WHEJAC Recommendation: “Fund and ensure that each state adequately monitors environmental pollution, including emissions, criteria pollutants, and toxics, in frontline and fence-line communities. This should include generating hyperlocal measurements in frontline communities where they are lacking to provide accurate and publicly available data.”

Response from the Office of Air and Radiation:

- Working with our state, local and Tribal partners, EPA routinely monitors for air pollutants and reports the data to the public, <https://www.epa.gov/outdoor-air-quality-data>. EPA provides grants to state, Tribal, and local air agencies through authorizations under the Clean Air Act to support a number of activities including the operation and maintenance of a wide variety of ambient air quality monitoring systems across the United States. EPA posts information from air pollution monitors, including in the Air Quality System and an interactive map of air quality monitors with the latest data as well as trend information. Data from these monitors also inform the AirNow Air Quality Index (AQI), widely accessed by the public in their local communities.
- On December 13, 2021, EPA announced \$20 million in funding through a grant competition for eligible entities to conduct ambient air monitoring of pollutants of greatest concern in communities with environmental and health outcome disparities stemming from pollution and the COVID-19 pandemic. This is the largest investment in community-based monitoring systems in EPA history. EPA will award funds to support community and local efforts to monitor their own air quality and to promote air quality monitoring partnerships between communities and Tribal, state, and local governments. Approximately \$2 million dollars of this amount will be awarded to Tribal governments under a Tribal government set-aside, and approximately \$2 million will be awarded to eligible community-based organizations under a community-based organization set-aside.

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- EPA received over 200 applications from across the country. EPA is now beginning the review and selection process, with awards expected to be made no later than November 2022.
- The remaining \$30 million will support state, Tribal or local air agencies for enhanced monitoring of fine particles and five other air pollutants regulated by the National Ambient Air Quality Standards under the Clean Air Act; cover administrative costs; and invest in mobile monitoring labs or air sensor loan programs to improve EPA's ability to support communities in need of short-term monitoring and air quality information.

WHEJAC Recommendation:

- “Justice40 investments AND any federal investments in infrastructure should prioritize the establishment of and/or modernization of water infrastructure in rural America and in environmental justice communities to ensure low-income and community of color households, including those in unincorporated communities, have access to reliable, clean and safe drinking water that protects public health.”
- “Continues to treat full lead service line (LSL) replacement as a last resort. LSL replacement should be an integral part of a long-term solution, including periodic benchmarks for all water systems to achieve regardless of water testing results.”
- “Continues to allow water systems to conduct partial replacements where the property owner is unwilling or unable to pay the cost for the portion not owned by the water system. Partial replacement significantly increases short-term lead in water levels and fails to provide the long-term lead exposure reductions provided by full replacement.”
- “Backslides on the rate of mandatory LSL replacement. When a water system’s lead levels are so high that full LSL replacement is mandated, EPA proposes an annual replacement rate of 3% instead of the current 7%, effectively giving a system with high levels of lead in water 33 years rather than the current 15 years to replace all of its LSLs. While more systems are likely to have to conduct mandatory full LSL replacement because of the stricter sampling requirements, most will not.”⁶
- “Incentivize States with mandatory lead testing policies/laws in public schools and childcare facilities through non-competitive grant funding.”
- “Incentivize cities and municipalities that prioritize community of color contractors for lead service line replacement.”

Response from the Office of Water:

- With the over \$50 billion EPA received from [Bipartisan Infrastructure Law](#) (BIL) funding for water related projects, the Agency, states, Tribes, and localities have a once-in-a-lifetime opportunity to strengthen and rebuild America’s water infrastructure. This funding provides a historic investment to replace pipes, upgrade water facilities, and ensure that America’s water systems and resources are resilient for the future. A key priority of BIL is to ensure that disadvantaged communities benefit equitably from this historic investment in water infrastructure. Working collaboratively, EPA and SRF programs can make progress towards Justice40, which aims to

⁶ The WHEJAC recommendation included “Source: [Environmental Defense Fund](#).”

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ensure that federal agencies deliver at least 40% of benefits from certain investments to disadvantaged communities.

- The U.S. Environmental Protection Agency (EPA) is committed to using every tool available—statutory authority under the [Safe Drinking Water Act](#), technical assistance, funding for lead service line removal, and more—to protect all Americans from lead in drinking water. The agency will collaboratively work with local, state, and federal partners to make rapid progress on President Biden’s vision to remove 100% of lead service lines, with a focus on prioritizing communities that are disproportionately impacted by lead contamination. On December 16, 2021, EPA announced next steps to strengthen the regulatory framework on lead in drinking water. Following the agency’s review of the Lead and Copper Rule Revisions (LCRR) under Executive Order 13990, EPA has concluded that there are significant opportunities to improve the rule to support the overarching goal of proactively removing lead service lines and more equitably protecting public health. The LCRR will go into effect to support near term development of actions to reduce lead in drinking water.
- At the same time, EPA will develop a proposed National Primary Drinking Water Regulation: Lead and Copper Rule Improvements (LCRI) to address key issues and opportunities identified in our review. EPA intends to finalize the [LCRI prior to October 16, 2024](#). Focus Areas for the Proposed Rulemaking:
 - Replacing all Lead Service Lines—replacing all lead service lines is an important public health goal. EPA expects to propose requirements that, along with other actions, would replace lead service lines as quickly as feasible. EPA’s proposal will fully consider the agency’s statutory authority and required analyses, including an economic analysis.
 - Prioritizing Historically Underserved Communities—EPA will evaluate options to prioritize the removal of lead service lines in communities disproportionately impacted by lead in drinking water. The goal of these potential lead service line replacement regulatory improvements—coupled with non-regulatory actions—is to more equitably protect public health.
 - Compliance Tap Sampling—EPA intends to assess data to consider opportunities to strengthen compliance tap sampling requirements. Robust tap sampling methods are essential to identifying locations with elevated lead, whether the source of the lead is a lead service line or leaded plumbing materials within a residence.
 - Action and Trigger Levels—For the proposed rule, the agency plans to explore options to reduce the complexity and confusion associated with these levels with a focus on reducing health risks in more communities. The agency will also evaluate whether the trigger level requirements of the LCRR are still necessary with a proactive lead service line replacement strategy and more protective action level.
- EPA concluded that there are additional actions outside of the SDWA regulatory framework for the Lead and Copper Rule that can further reduce lead in drinking water. They include:
 - Federal Collaboration to Address School and Child-Care Lead in Drinking Water—EPA will explore collaborations with other federal agencies to remediate lead in drinking water in schools and child-care facilities, with a particular focus on communities at risk of multiple forms of lead exposure.
 - Targeted Technical Assistance to Communities with High Drinking Water Lead Levels—EPA will collaborate with states and Tribes that have primary enforcement responsibility

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- for public water systems to provide oversight as well as assistance to communities experiencing high levels of lead in their drinking water.
- Improving Risk Communication Tools—EPA intends to develop guidance and templates to assist states, Tribes, and water systems in the communication of lead risk to households and communities.
 - Discourage Partial Lead Service Line Replacements and Encourage Full Replacements—EPA will provide training, guidance, and tools on developing lead service line replacement programs, including how to ensure equitable implementation of removal projects.
- Another key priority stated in the [March 2022 memo](#) is to make rapid progress on lead service line replacement. The BIL contains a historic \$15 billion in dedicated funding through the DWSRF for lead service line (LSL) identification and replacement. This funding is being provided to states with no match requirement. EPA will collaborate with state SRF programs to share models, guidance, and build state capacity to assist local communities and ensure lead service line funding is effectively and equitably deployed. DWSRF supplemental funding and base funding can be used for LSL identification and replacement. As states plan for the use of these funds, EPA recommends:
 - Working closely with local water agencies to rapidly complete LSL inventories—While inventories do not need to be complete before LSL replacement begins, EPA strongly encourages states to devote funding and technical assistance to help local water systems develop LSL inventories and undertake replacement planning. Under the Lead and Copper Rule Revisions, all water systems must have initial inventories by October 2024, but EPA urges states to employ technical assistance set-aside funds to help water systems develop inventories more quickly, wherever practicable. Preparing the inventory will allow systems to assess the magnitude of their LSLs, better identify sampling locations, and begin planning for LSL removal actions, including applying for BIL funds.
 - Supporting water agencies in planning for full, not partial, LSL replacement—Any project funded under this \$15 billion appropriation for the replacement of LSLs must replace the entire LSL, not just a portion, unless a portion has already been replaced. States should affirmatively convey this to potential SRF applicants to ensure that they propose projects that fully replace, and pay for, both public and private LSLs. This BIL requirement helps address a long-standing equity challenge—for some Americans, the cost to replace their portion of LSLs is prohibitively high. Americans unable to replace their portion of the LSL remain disproportionately exposed to lead and its harmful impacts.
 - For more information, please visit: [Bipartisan Infrastructure Law SRF Memorandum](#).
 - In addition, EPA released the [draft Strategy to Reduce Lead Exposures and Disparities in U.S. Communities \(Lead Strategy\)](#) for public comment in October 2021. The agency sought input from communities affected by lead contamination through virtual workshops nationwide. EPA's Lead Strategy will utilize the full suite of EPA authorities, expertise, and resources to reduce lead exposure. It outlines three significant ways the agency can reduce lead exposure in overburdened communities.

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- EPA updated the draft Lead Strategy to include additional actions to address lead in water due to the recently signed Bipartisan Infrastructure Law. This legislation provides a historic investment to replace lead pipes and provide additional funds for testing water in schools and childcare program. The EPA extended the public comment period until March 16, 2022.

WHEJAC Recommendation: “Expand project eligibility criteria of the Clean Water State Revolving Fund (CWSRF) to include homes, residences, schools, and childcare facilities. Eligibility criteria should include prioritizing highly impacted communities with a legacy of drinking water contamination in homes & apartment buildings. Eligibility requirements should allow access to families and renters.”

Response from the Office of Water:

- The majority of water infrastructure dollars will flow through the Clean Water and Drinking Water State Revolving Funds (SRFs). With that in mind, EPA is committed to a productive partnership with states, Tribes, and territories to maximize the impact of these funds in addressing urgent water challenges facing communities. In March 2022, the [Agency sent a memo to EPA Regional Water Division Directors and State SRF Program Managers](#) to share that throughout the five years of BIL implementation, EPA expects states to:
 - Evaluate and revise, as needed, the Drinking Water State Revolving Funds (DWSRF) disadvantaged community definition and CWSRF affordability criteria—This definition and these criteria should capture both urban and rural disadvantaged communities and include criteria that are consistent with the appropriate statute. For example, a state definition of “disadvantaged” under the SDWA entirely based on population and without reference to affordability is problematic.
 - Evaluate the SRFs’ priority point system for project ranking commensurate with need—Priority points may need to be redistributed to ensure disadvantaged communities are receiving funding. For example, states should evaluate the weight associated with points given for different ranking criteria to determine whether they act as a barrier to, or encourage, funding for disadvantaged communities.
 - Technical assistance funding—EPA recommends states use the full DWSRF 2% small system technical assistance set-aside and the newly available CWSRF 2% technical assistance funds to enhance or build programs that proactively identify, reach out to, and provide assistance to rural, small, and Tribal publicly owned treatment works and drinking water systems, particularly in disadvantaged communities. The programs should be designed to help disadvantaged communities identify needs, develop projects, apply for funding, design and implement projects, build capacity, and create training and career pathways.
 - Engage residents and community stakeholders in disadvantaged communities—SRFs have successfully funded many projects in small and disadvantaged communities in the past. To continue and deepen this success, it may be necessary to develop relationships with new constituencies to reach disadvantaged communities with technical assistance and funding. EPA encourages states to reach beyond traditional stakeholder organizations and engage neighborhood and other organizations connected to the community to help identify needs, comment on Intended Use Plans (IUPs), and communicate priorities.

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WHEJAC Recommendation:

- “Develop a robust and (public) transparent national database and GIS map(s) to centralize and locate lead testing data for schools, cities/municipalities, and states.”
- “Develop a grant program for cities and municipalities and states to create robust and (public) transparent databases and GIS maps to centralize and locate lead testing data for schools, residential, agricultural, and commercial areas.”

Response from the Office of Water:

- Lead poses serious health risks to both children and adults, though children are especially vulnerable. Low-income and other historically underserved communities typically experience high levels of lead in their drinking water because they are disproportionately served by lead services lines. EPA appreciates the importance that data transparency plays in bringing accountability to infrastructure quality, compliance, and associated funding decisions. EPA is committed to making data as transparent in as fine a spatial resolution as possible to provide communities and regulatory partners greater insight into where EPA activities touch down on the ground in communities.
- In addition to the information shared above, EPA announced \$20 million in available [Water Infrastructure Improvements for the Nation](#) (WIIN) Act grant funding to assist communities and schools with removing sources of lead in drinking water in February 2022. This grant funding, and additional funding through the Bipartisan Infrastructure Law, will help make rapid progress on the goal of addressing lead and removing lead pipes across the country. This grant funding will help reduce exposure to lead in drinking water and should be used to support underserved communities that are most at risk for exposure.
- The grant competition anticipates making available \$10 million for projects to conduct lead service line replacements or implement corrosion control improvements and \$10 million for projects that remove sources of lead in drinking water (e.g., fixtures, fountains, outlets, and plumbing materials) in schools or childcare facilities.
- EPA will award this funding in alignment with the goals of the Biden-Harris Administration’s Justice40 Initiative, which seeks to deliver at least 40 percent of the benefits of certain federal investments to underserved communities. The agency encourages applications that support equity by prioritizing underserved communities, those with lead reduction projects at drinking water systems with at least one lead action level exceedance within the last three years, as well as those with schools with at least 50% of the children receiving free and reduced lunch, in Head Start facilities, and/or in areas with additional environmental health burdens (e.g., areas with older buildings likely to have lead-based paint).
- For more information about this grant and EPA’s WIIN grant programs, please visit [this link](#).
- In addition to this announcement of funding availability, EPA is working with states, Tribes, and territories to award over \$50 million in fiscal year 2021 funding through EPA’s two other drinking water grant programs:
 - Voluntary School and Child Care Lead Testing and Reduction Grant Program under SDWA 1469(d) Grants are awarded non-competitively to states, territories, and Tribes. For the purposes of this grant program, the term “state” is used to describe the fifty states and Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa and the

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Commonwealth of the Northern Mariana Islands. The grantee must utilize [EPA's 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities](#) guidance or applicable state regulations or guidance regarding reducing lead in drinking water in schools and child care facilities that are not less stringent when implementing the program to test for lead in drinking water in schools and child care facilities.

- [Small, Underserved and Disadvantaged Communities \(SUDC\) Grant under SDWA 1459A](#)
The *Water Infrastructure Improvements for the Nation (WIIN) Act* establishes the **Small, Underserved, and Disadvantaged Communities** grant to award funding to states, territories, and Tribes to assist public water systems to improve their drinking water and meet the Safe Drinking Water Act (SDWA) requirements. The grant program is designed to help public water systems in underserved communities meet and comply with SDWA requirements. Grants are awarded noncompetitively to states, territories, and Tribes and prioritize assistance to underserved, small and disadvantaged communities that are unable to finance activities needed to comply with SDWA, as well as respond to a drinking water contaminant. Additionally, the grant funding provides assistance to communities to manage drinking water concerns through household water quality testing, including testing for unregulated drinking water contaminants.
- Additionally, EPA dedicated more than \$20 million in infrastructure funding for projects that will improve access to safe drinking water for American Indian and Alaska Native populations.
- EPA also released the [draft Strategy to Reduce Lead Exposures and Disparities in U.S. Communities \(Lead Strategy\)](#) for public comment in October 2021. The agency sought input from communities affected by lead contamination through virtual workshops nationwide. EPA's Lead Strategy will utilize the full suite of EPA authorities, expertise, and resources to reduce lead exposure. It outlines three significant ways the agency can reduce lead exposure in overburdened communities.
- EPA updated the draft Lead Strategy to include additional actions to address lead in water due to the recently signed Bipartisan Infrastructure Law. This legislation provides a historic investment to replace lead pipes and provide additional funds for testing water in schools and childcare program. The EPA extended the public comment period until March 16, 2022.
- In the Lead Strategy, Approach 1 is to reduce lead exposures locally with a focus on communities with environmental justice concerns:
 - Target communities with high levels of lead in drinking water: EPA will identify community water systems with high levels of lead in their drinking water. The EPA will implement solutions to reduce lead exposure in these communities, including targeting funding and technical assistance, particularly in disadvantaged communities. The Agency understands the impacts of lead service lines on communities with environmental justice concerns and will be focused on identifying and implementing solutions to identify and replace lead service lines. The EPA's strategies, which continue to be tailored through community engagement, include improving public outreach and education, encouraging proactive replacement of full lead service lines, providing technical assistance on proper sampling techniques, improving corrosion control treatment, and supporting the 3Ts (Training, Testing, and Taking Action) to reduce lead in drinking water at schools and childcare facilities.

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- Provide Drinking Water State Revolving Fund loans and drinking water grants to reduce lead in drinking water: the Bipartisan Infrastructure Law (BIL) provides \$15 billion through the Drinking Water State Revolving Loan Fund to address lead in drinking water by replacing service lines and carrying out associated activities that are directly connected to identifying, planning, designing, and replacing lead service lines. There is no state match requirement for these funds, and 49% of the money will be provided as grants or principal forgiveness loans to communities. The EPA will increase awareness about programs and funding opportunities to replace lead service lines, regardless of ownership, and reduce lead in drinking water. Funding from these programs can replace lead service lines, including lines on private property; develop lead service line inventories; install or improve corrosion control treatment; and remove lead from drinking water in schools and childcare facilities. The EPA relies on congressional appropriations to fund these drinking water grant and loan programs.
- Award funding and support implementation for the Lead Testing in School and Childcare Program Drinking Water Grant Program: EPA awards funding to states, territories, and tribal consortia to support training and technical assistance for schools and childcare programs to train staff and test drinking water for lead. The funding also supports technical assistance to schools and childcare facilities on follow-up options and possible funding sources for remediation when lead is detected. BIL is expanding grant funding to include lead remediation and compliance monitoring as eligible projects and activities.
- In the Lead Strategy, Approach 3 is to reduce lead exposures with a “whole of EPA” and “whole of government” approach, which will:
 - Provide resources to schools, childcare facilities, and states: EPA will continue to chair an interagency and stakeholder group under the Memorandum of Understanding on [Reducing Lead Levels in Drinking Water in Schools and Childcare Facilities](#), which includes EPA; several offices within the Department of Health and Human Services (HHS), including the Centers for Disease Control and Prevention, Indian Health Service, and the Administration for Children and Families’ Office of Head Start and Office of Early Childhood Development; and the Departments of Agriculture (USDA), Education, and Interior, as well as nine non-federal associations. This interagency group works together to provide schools, childcare facilities, and states with education on health concerns associated with lead in drinking water; helps develop lead testing programs using EPA’s 3Ts (Training, Testing, and Taking Action) for Reducing Lead in Drinking Water in School and Childcare Facilities; works with schools and childcare facilities to establish a sustainable and effective lead in drinking water testing program; and connects schools and childcare facilities that find lead in their drinking water with funding resources for remediation, such as USDA’s Community Facilities Grant Programs. The EPA will continue to develop tools and trainings through the 3Ts program and work with MOU partners to provide input on and review of products and to help promote final products.
 - Collaborate on lead testing for drinking water: EPA will work with HHS to implement lead testing programs in drinking water at facilities funded by that Department’s Office of Head Start and the Office of Childcare.

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WHEJAC Recommendation: “Invest in flood mitigation and climate resilience infrastructure (green and gray) in Black and other communities of color who are systemically overlooked when disaster strikes and systemically excluded from investments in stormwater management, drainage and flood protection. This investment needs to correct the cost-benefit analysis applied by FEMA that has an inherent racial bias against Black and other communities of color due to historic redlining and present-day low appraised values placed on homes and properties owned by Black and other people of color.”

Response by the Office of Water:

- Stormwater is a significant source of water pollution and can be a public health concern, especially when extreme weather events produce high volumes of stormwater that lead to flooding. As in other areas of environmental burden and the mounting impacts of climate change, EPA appreciates that communities with EJ concerns are hit first and hit worst by such environmental threats. EPA has several programs that dedicate resources to managing stormwater needs and address the complex environmental and public health challenges for communities across the country. Many communities face financial challenges trying to construct, operate, and maintain the infrastructure needed to control stormwater, flooding, and the resulting public health impacts.
- The communities highlighted in WHEJAC’s recommendations are eligible to receive assistance through the Clean Water State Revolving Fund (CWSRF) for both stormwater and climate resilient infrastructure that protects water quality. Each state implements its CWSRF program, adhering to federal requirements, and selects projects using a priority setting system. Many states establish affordability criteria to provide priority to communities and projects that may have historically been underserved due to their socioeconomic situation. The CWSRF program, a pilot program under the Justice40 Initiative, provides below-market rate, subsidized loans as well as additional subsidy in the form of loan forgiveness or grants for construction or infrastructure, assistance for planning and design, and technical assistance to communities to develop projects. EPA is committed to working with state CWSRF programs to implement BIL funding and enhance the program’s reach to disadvantaged communities. Please see the [March 2022 memo](#) to EPA Regions and States for more details.
- The Sewer Overflow and Stormwater Reuse Municipal Grant Program (OSG) provides grants to communities through the states to invest in stormwater and climate resiliency projects in financially distressed communities. OSG funds are set to invest millions in overflow and stormwater infrastructure with at least 25 percent of the fund reserved for financially distressed communities or rural communities having a population 10,000 or less.
- The Water Infrastructure Finance Innovation Act or [WIFIA program](#) is another viable option to finance a wide variety of infrastructure investments, including stormwater management and climate resiliency projects, in these communities. EPA headquarters administers the WIFIA program to provide low-cost, long-term loans to water, wastewater, and stormwater projects across the country. The WIFIA program can offer up to 49 percent financing to large communities to fund projects costing \$20 million and more. For small communities (population of 25,000 or less), the WIFIA program can offer up to 80 percent financing for projects totaling at least \$5 million. WIFIA program staff is available to meet with communities to discuss their needs and the WIFIA application process.

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- In addition to above funding mechanisms, OW's stormwater permitting program provides resources and expertise to states and communities to support resilient stormwater infrastructure solutions. These efforts include:
 - Leading the Federal Green Infrastructure Collaborative. This group coordinates across federal agencies to promote green infrastructure and provide resources, information, and technical assistance on funding and implementation of resilient green infrastructure solutions. Recently the collaborative has compiled a robust set of resources on federal funding and approaches sequence or "stack" multiple funding sources ([link](#)).
 - Providing resources, technical assistance, and tools to promote resilient green infrastructure project planning and to engage with and support communities to make these investments.
 - Coordinating with other EPA program offices on development of green infrastructure resources/technical assistance that address vulnerabilities such as extreme heat exposure that can also address water quality/quantity and broader community development goals.
 - Developing a compendium of strategies that illustrate best practices in community engagement while mitigating concerns over displacement.
 - Promoting effective green infrastructure investments through the permitting program, such as:
 - In coordination with other EPA program offices, providing information/considerations for siting, design, and operation and maintenance of green infrastructure to reduce pollutants and protect source water.
 - Encouraging thoughtful planning that considers the full lifecycle of management and maintenance of green infrastructure. For example, this year our Green Infrastructure Webcast Series ([link](#)) is highlighting the importance of operation and maintenance planning practices that will help communities cost effectively achieve the environmental, economic, and social benefits of green infrastructure over time.
 - Developing tools/resources ([link](#)) such as the green infrastructure MS4 compendium of permit conditions and Menu of BMP stormwater fact sheets ([link](#)).
 - Highlighting opportunities to invest in historically neglected areas created through flexibilities like off-site stormwater management.
- One of the defining features of the SRFs is the broad range of eligible projects that states can fund to flexibly support priority needs. EPA encourages states to utilize the significant increase in SRF funding for infrastructure projects that make water systems more resilient to all threats—whether it is natural disasters, climate change, or threats such as bioterrorism and cyber-attacks.
- States are strongly encouraged to fund projects that:
 - Foster resilience to all threats and hazards. Consistent with Presidential Policy Directive (PPD) 21, critical infrastructure must be secure and resilient to all threats and hazards, both natural and manmade, in an increasingly electrified, digitized, and interconnected society. EPA urges states to use the historic increase in SRF funding to foster water,

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wastewater, and stormwater system resilience to all hazards, including new and emerging threats like cyberattacks.

- Support climate adaptation. EPA strongly encourages states to support water, wastewater, and stormwater infrastructure projects that apply the best available and most geographically relevant climate information, projections, and standards, such as the Federal Flood Risk Management Standard. States should consider how to incorporate climate resilience criteria into their prioritization of SRF funding under the BIL.
- Drive toward energy efficient and climate smart water systems. Water and wastewater systems are significant energy users and release potent greenhouse gases, including nitrous oxide and methane. EPA strongly encourages states to utilize BIL funding to support local water and wastewater agencies' efforts to reduce nitrous oxide and methane emissions, incorporate renewable energy generation, and complete other projects that reduce the greenhouse gas footprint of the water industry.
- Under EPA's Drinking Water System Infrastructure Resilience and Sustainability grant program, currently under development, OW is aiming to increase drinking water system resilience to natural hazards including from the impacts of climate change. OW will be making available approximately \$15 million of funding this year. Funding priority is for projects that increase drinking water system resilience to natural hazards in underserved communities.

WHEJAC Recommendation: "Assess the risk of heat-related illness associated with any and all personal protective equipment that the Agency assumes that workers will wear when conducting occupational risk assessments for pesticides."

Response from the Office of Chemical Safety and Pollution Prevention and Office of Enforcement and Compliance Assurance:

- A key responsibility under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) is to ensure that applicators are properly trained and, wherever necessary, certified to use restricted use pesticides and are using personal protective equipment when required.
- By regulation, EPA promulgated various requirements pertaining to pesticide labels. These regulations have requirements for warning statements and mandate that pesticide products have adequate use directions. Labels may include, for example, instructions requiring the wearing of protective clothing, handling instructions, and instructions setting a period before workers may re-enter fields after the application of pesticides. As part of the risk management process under Registration Review, EPA considers alternative mitigation measures beyond personal protective equipment such as application rate reductions among others to address risk concerns identified for handlers. EPA also requires only the minimum amount of protective equipment necessary for the safe application of the product in order to reduce any burden, including heat stress, from the protective equipment worn by the handlers.
- EPA has identified a scientific need for obtaining data and information related to protecting workers from potential exposure that include topics such as heat stress, protective equipment and clothing designs, and trainings.

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WHEJAC Recommendation:

- “Repeal the Trump Administration revisions to the Application Exclusion Zone (AEZ) provision within the Agricultural Worker Protection Standard.”
- “Restore the 2015 version of the AEZ adopted by the Obama Administration.”

Response from the Office of Chemical Safety and Pollution Prevention and Office of Enforcement and Compliance Assurance:

- On October 30, 2020, EPA issued a [final rule revising the Application Exclusion Zone \(AEZ\) provisions under the Agricultural Worker Protection Standard \(WPS\)](#). The 2020 Rule, originally set to go into effect on December 29, 2020, made modifications to the 2015 WPS AEZ requirements, including (1) limit the applicability and enforceability of the AEZ to within the boundaries of the agricultural establishment such that the AEZ would no longer cover bystanders on adjacent properties; (2) clarify when pesticide handlers may resume an application that was suspended because of people present in the AEZ; (3) eliminate criteria pertaining to spray quality and droplet size and establishing a simplified 25-foot AEZ for all sprayed applications made from a height of greater than 12 inches from the soil surface or planting medium (the 100-foot AEZ was retained for aerial, air blast, fumigations, mist, and fogger applications); (4) provide an immediate family exemption to the AEZ requirements, meaning immediate family members of a farm owner can remain inside structures during an application without resulting in suspension; and (5) make the AEZ requirements inapplicable in easements within the agricultural establishment. The “Do Not Contact” provision was not revised. Handlers must continue to ensure the application will not contact people and take appropriate measures to prevent contact from occurring.
- In December 2020, two petitions were filed in the U.S. District Court for the Southern District of New York and in the U.S. Second Circuit Court of Appeals challenging the 2020 Rule (now consolidated as case number 20 Civ. 10642).
- At this time, the 2020 AEZ Rule has not been implemented, as a preliminary injunction has stayed the effective date of the 2020 Rule and enjoined EPA from implementing the 2020 revisions. Therefore, until further notice, the 2015 WPS remains in effect with no changes to the AEZ provisions.
- The 2020 AEZ Rule is concurrently undergoing review per Executive Order 13990 on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis. EPA will solicit public comment through a notice of proposed rulemaking, anticipated in fall 2022.

WHEJAC Recommendation: “Direct EPA to consult with farmworkers and farmworker-serving organizations and ensure that farmworker input is integrated into agency decisions on mitigation measures relevant to pesticides.”

Response from the Office of Chemical Safety and Pollution Prevention and Office of Enforcement and Compliance Assurance:

- OCSPP frequently meets with stakeholder groups to engage with farmworkers and farmworker-serving organizations and listen to input on pesticide-related issues. EPA recently convened a new workgroup ([Farmworker and Clinician Training Workgroup](#)) under the [Pesticide Programs](#)

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[Dialogue Committee](#) (PPDC) to provide recommendations to EPA on improving farmworker protection activities, training and outreach.

- The PPDC is a federal advisory committee of pesticide stakeholders that provides policy advice, information, and recommendations to the agency. Farmworker organizations are always represented on the PPDC. Currently, EPA is reviewing recommendations made by the Farmworker and Clinician Workgroup, which includes input on the appropriateness and effectiveness of WPS activities, grants, and the overall program, and how EPA should engage with worker community-based organizations and other stakeholders.
- EPA senior leadership established quarterly stakeholder meetings in February 2021 with farmworker advocacy groups to discuss regulatory activities that impact farmworkers and received feedback from these groups on issues important to them such as pesticide exposure incident reporting, enforcement and compliance, and implementation of the WPS and Certification Standards for Pesticide Applicators.
- From June to August 2021, EPA hosted a series of listening sessions with farmworkers, environmental justice advocacy groups, states, and the regulated community to learn about their perspectives on EPA programmatic, regulatory, and policy barriers that affect the integration of environmental justice and equity into pesticide regulatory decisions. Participants shared their experiences and offered insightful options for improving pesticide worker safety activities and other aspects of the pesticide registration process, which EPA is considering as it expands its equity and EJ efforts.
- EPA also has a cooperative agreement with the Association of Farmworker Opportunity Programs (AFOP) to support the development of a suite of bilingual, low-literacy pesticide safety trainings and supplemental materials to address safety hazards in the agricultural settings. This program is continually evolving to meet the needs of the farmworkers they serve. AFOP accomplishes this through directly training farmworkers and gathering feedback on the trainings to help evaluate the efficacy of the information provided.

WHEJAC Recommendation: “Direct EPA to leverage existing policy to immediately protect pesticide applicators, farmworkers, agricultural communities and consumers from pesticide exposure and drift BEFORE the pesticide registration review process is completed and even while revocation and/or cancellation proceedings are in progress for certain pesticides.”

Response from the Office of Chemical Safety and Pollution Prevention and Office of Enforcement and Compliance Assurance:

- The Federal Insecticide Fungicide and Rodenticide Act (FIFRA) mandates the continuous review of existing pesticides. All pesticides distributed or sold in the United States must be registered by the EPA based on scientific data showing that the pesticide will not cause unreasonable risks to human health or the environment when used as directed on product labeling. In 2006, the agency began implementing the registration review program. EPA will review each registered pesticide every 15 years. Through the registration review program, the agency intends to verify that all registered pesticides continue to meet the registration standard as the ability to assess and reduce risk evolves and policies and practices change. By periodically re-evaluating pesticides as science, public policy, and pesticide-use practices change, the agency ensures that

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the public can continue to use products in the marketplace that do not present unreasonable adverse effects. For more information on the registration review program, [see here](#).

- During the pesticide registration review process, EPA assesses the risk of a pesticide on human health, including the risk to occupational handlers (people mixing, loading, and applying pesticides), post-application workers, residential handlers and bystanders from pesticide dermal and inhalation exposure based on the anticipated use patterns of a pesticide, the types of equipment and techniques that can potentially be used, and current labeling of a pesticide. When risks of concern are identified, EPA proposes risk mitigation (e.g., application rates changes, personal protective equipment, engineering controls, restricted entry intervals, etc.) to protect pesticide handlers, agricultural workers, and bystanders from exposures to a pesticide considering the benefits of the pesticide to users. After consideration of public comments on the risk assessments and proposed decision, EPA completes final risk mitigation which must be implemented by the registrants of the pesticide (i.e., placed on product labels). EPA follows a public process of notice and comment so that all stakeholders (including registrants, users, farmworkers, private citizens, etc.) can be involved on every decision. However, EPA can and will take action on a pesticide before the completion of the registration review process to protect people and the environment from exposure to a pesticide if necessary.

WHEJAC Recommendation: “Account for all cumulative exposures to organophosphate pesticides in the registration review process. Currently, EPA is conducting risk assessments for each organophosphate pesticide individually without taking into account cumulative exposures.”

Response from the Office of Chemical Safety and Pollution Prevention, Office of Enforcement and Compliance Assurance:

- Consistent with the requirements in the [Federal Food, Drug and Cosmetic Act](#) (FFDCA), EPA considers the cumulative effects of pesticides that have a common mechanism of toxicity (e.g., organophosphates) when assessing pesticide safety as part of registration review. EPA first conducts individual chemical risk assessments for each registered organophosphate (OP) pesticide and imposes mitigation to address risks identified in those assessments. After the combined dietary (food and drinking water) and residential aggregate risks for each individual OP have been mitigated consistent with the interim decision, EPA will then move forward with the cumulative risk assessment for the remaining registered uses of the OPs consistent with the requirement in the FFDCA, and mitigate any risks identified in cumulative assessment.
- EPA is currently working through registration review for each individual registered OP. The draft risk assessments and interim decisions are anticipated to be completed by 2026. EPA will move as expeditiously as possible to complete the OP cumulative assessment once the individual OP assessments and mitigations necessary are completed and then impose additional risk mitigations to address any risks identified in that cumulative risk assessment.

WHEJAC Recommendation: “Implement the 2009 guidance adopted by the Obama Administration called “2009 Revised Risk Assessment Methods for Workers, Children of Workers in Agriculture Fields, and Pesticides with No Food Uses.” Improve cost-benefit analyses by considering the availability of safer alternatives early in the process and considering social costs of use of pesticides. DEVEOP methods for

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gathering true exposure data showing the extent of farmworker exposure, rather than relying on industry-generated data.”

Response from the Office of Chemical Safety and Pollution Prevention and Office of Enforcement and Compliance Assurance:

- EPA has implemented several of the initiatives outlined in the 2009 Revised Risk Assessment Methods for Workers, Children of Workers in Agriculture Fields, and Pesticides with No Food Uses. For example:
 - EPA developed and implemented an approach for assessing spray drift and volatilization. Approaches that have been developed to address these exposures were discussed at FIFRA Scientific Advisory Panels (EPA-HQ-OPP-2009-0687) and have been subject to public comment. The most recent publicly available references to these guidance documents may be found on [regulations.gov](https://www.regulations.gov) referencing dockets EPA-HQ-OPP-2013-0676 and EPA-HQ-OPP-2014-0219. In addition to the volatilization screening analysis for conventional chemicals, quantitative bystander volatilization assessments are conducted for those chemicals whose primary exposure route is through volatilization. These assessment approaches are incorporated into the human health risk assessments and routinely considered as part of Registration Review.
 - EPA also assesses and combines residential (e.g., exposures around the home, golf courses) and drinking water exposures for chemicals without tolerances which do not fall under Federal Food, Drug, and Cosmetic Act (FFDCA), something which was not done in the early years following passage of Food Quality Protection Act (FQPA). Since there is no food exposure for these “non-food” chemicals, these two sources of exposure comprise all sources of exposure likely to occur for infants and children for these chemicals, allowing fully informed regulatory decisions.
 - Regarding hazard assessment, although FIFRA does not explicitly require EPA to incorporate the [Food Quality Protection Act](#) (FQPA) safety factor into its assessments for chemicals without tolerances, use of the same factors has become the *de facto* default because safety factors subsumed into the FQPA safety factor, such as factors for missing relevant data (called a database uncertainty factor for chemicals without tolerances) and lowest observation adverse effect level (LOAEL) to no observation adverse effect level (NOAEL) extrapolation, are now commonly utilized for all risk determinations including those for agricultural workers.
- Additionally, there have been several ongoing efforts aimed at reducing worker exposure and enhancing worker exposure assessment since this draft policy (i.e., *2009 Revised Risk Assessment Methods for Workers, Children of Workers in Agriculture Fields, and Pesticides with No Food Uses*) was released for comment. First, in 2015, EPA finalized revisions to the Agricultural Worker Protection Standard (WPS) at 40 CFR 170. Among the revisions that enhanced the WPS protections overall, EPA restricted the highest risk activities, such as pesticide handling and early-entry work, to those 18 years of age or older.
- Second, in the spring of 2021, EPA presented the analysis entitled *Consideration of Legally Working Children in Pesticide Exposure Assessment* to the [Children’s Health Protection Advisory Committee](#) (CHPAC). In the fall of 2021, EPA consulted with the CHPAC on the potential for take home exposure to families of agricultural workers. Feedback from the CHPAC on both efforts

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will be taken into consideration as the agency works through development of policies on legally working children and the potential for take home exposure to families of agricultural workers ([e.g., December 2021 CHPAC Letter on Consideration of Legally Working Children in Pesticide Exposure Assessment](#)). These efforts may also provide more information related to the possible sources and pathways that can lead to aggregate exposures for workers.

- Although EPA currently does not have the relevant data or models to perform quantitative worker aggregate or cumulative assessments, the agency is exploring the future direction for worker aggregate and cumulative assessments under FIFRA. EPA's efforts in this area are directly related to federal actions to address environmental justice.
- EPA is also constantly working to improve its analyses of the benefits of the use of pesticides and/or the impacts of potential risk mitigation to inform and support risk management. The agency is exploring how it conducts analyses of the benefits of the use of pesticides and how that is incorporated in risk management decisions. This review is evaluating ways in which the agency might better extend or characterize the impacts of the use of pesticides in relation to potential costs from their use on society.
- Finally, data requirements for registration are intended to generate information necessary to address concerns pertaining to the identity, composition, potential adverse effects, and environmental fate of each pesticide. EPA only accepts exposure data from sources that satisfy post-application exposure data requirements if the data meet the quality assurance, quality control, good laboratory practice, and other scientific needs of EPA. Industry-generated data must have adequate information to address post-application exposure data requirements and contain adequate replicates of acceptable quality data to reflect the specific use prescribed on the label and the post-application activity of concern, including formulation type, application methods and rates, type of activity, and other pertinent information.

WHEJAC Recommendation: "Invest in research on pesticide illness and injury surveillance documenting work-related pesticide poisoning incidents as well as broader pesticide exposure and its impact on pesticide applicators, farmworkers, farmworker children, farmworker women of childbearing age. Additionally, invest in the Sentinel Event Notification System for Occupational Risk (SENSOR) Pesticides Program to build, maintain and bolster occupational illness and injury surveillance capacity within state health departments."

Response from the Office of Chemical Safety and Pollution Prevention and Office of Enforcement and Compliance Assurance:

- Through SENSOR-Pesticides, the National Institute for Occupational Safety and Health (NIOSH) provides EPA with incident data reports and promptly alerts EPA to real-world pesticide exposure illnesses. SENSOR-Pesticides is most useful for the identification of emerging pesticide problems and providing descriptive incident detail about the pesticide exposure scenario that lead to the individual's injury or illness. The agency uses this data to support risk assessments and mitigation decisions.
- EPA has a standing relationship with NIOSH and will continue to explore how the two agencies can work together on areas of mutual interest.

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WHEJAC Recommendation:

- “Finalize the 2015 proposed rule revoking all food tolerances of chlorpyrifos.”
- “Ensure the food tolerance revocation of chlorpyrifos is based on the 2014 and 2016 human health risk assessments, the full administrative record and review of the comments submitted on the 2020 update to the human health risk assessment.”

Response from the Office of Chemical Safety and Pollution Prevention and Office of Enforcement and Compliance Assurance:

- In 2014, as part of the registration review process, EPA completed a revised human health risk assessment for all chlorpyrifos uses. The assessment updated the June 2011 preliminary human health risk assessment based on new information received, including public comments. EPA factored in exposures from multiple sources including from the exposures from food and water, from inhaling the pesticide and through the skin. EPA considered all populations including infants, children, and women of child-bearing age. EPA incorporated information from a 2012 assessment of spray drift exposure and as well as new restrictions put into place to limit spray drift. In the 2020 Revised Human Health Risk Assessment, EPA utilizes the same endpoint and points of departure as those used in the 2014 human health risk assessment. This was done because the agency concluded that the science addressing neurodevelopmental effects remained unresolved and further evaluation of the science during the remaining time for completion of registration review was warranted.
- While in the 2020 revised human health risk assessment the agency determined that risks from exposures to chlorpyrifos residues in food were not of concern, drinking water exposures significantly add to those risks. When considering the drinking water contribution from all currently registered uses, the Agency’s levels of concern are exceeded when combined with food and residential exposures.
- In August 2021, EPA issued a final rule revoking all tolerances for chlorpyrifos, which establish an amount of a pesticide that is allowed on food. In issuing the final rule, EPA found that it could not determine that there is a reasonable certainty of no harm from aggregate exposure, including food, drinking water, and residential exposure, to chlorpyrifos, based on currently available data and taking into consideration all currently registered uses for chlorpyrifos. The agency’s evaluation indicated that currently registered uses of chlorpyrifos result in exposures exceeding the safe levels of exposure, and thus have the potential to result in adverse effects. This rulemaking will reduce risks to our most vulnerable populations, including children, by reducing chlorpyrifos exposure via food and drinking water.
- In February 2022, as part of the Biden-Harris Administration’s commitment to protect human health, including that of children and farmworkers, the EPA took the next step to discontinue use of the pesticide chlorpyrifos on food by [denying objections to EPA’s rule revoking all chlorpyrifos tolerances](#).

WHEJAC Recommendation:

- “The California Department of Pesticide Regulation’s (DPR) Pesticide Use Report (PUR) is the largest database on pesticide use in the world and could serve as a model for national pesticide use reporting. In addition to requiring pesticide use reporting for agricultural uses (Sec. 6626)

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and making that information publicly available, PUR also requires “Pesticide Use Report for School Sites and Child Day Care Facilities” (Sec. 6224). According to the California Code of Regulations Sections 6624 and 6626, pesticide use records must include the following information: “(1) date of application; (2) name of the operator of the property treated; (3) location of property treated; (4) crop commodity, or site treated; (5) total acreage or units treated at the site; (6) pesticide, including the U.S. Environmental Protection Agency (U.S. EPA),” among other relevant information.”

- “Require full and nationwide reporting of agricultural uses of pesticides regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for agricultural uses.”
- “Require full and nationwide reporting of pesticide usage on school sites and child day care facilities.”
- “Ensure that at a minimum, disclosure of pesticide use data is publicly accessible and includes the information required by California's Pesticide Use Report (PUR).”

Response from the Office of Chemical Safety and Pollution Prevention and Office of Enforcement and Compliance Assurance:

- No action has been taken on these recommendations at this time as collecting, processing, and disseminating nationwide pesticide usage information would require a clear statutory or regulatory authority, require development of a comprehensive reporting framework with consideration of the staffing required for data collection, quality assurance, and enforcement, and would be resource intensive once established. Costs to pesticide users would also likely need to be considered.
- Current data sources on pesticide usage used by EPA, such as California’s PUR and the United States Department of Agriculture National Agricultural Statistics Service (USDA NASS), are already publicly available. EPA also relies upon commercial sources (e.g., Kynetec and Kline & Company, Inc.) for greater coverage of agricultural and nonagricultural sites. California pesticide usage reporting is a statutory requirement under the California Food Safety Act of 1989. That act provided the Department of Pesticide Regulation (DPR) with authority to require full reporting of agricultural pesticide usage with exceptions for consumer and most industrial and institutional uses, including schools and childcare facilities. The exemption for schools and most childcare facilities was eliminated by amendment of the California Healthy Schools Act in 2014.

WHEJAC Recommendation: “Require the translation of pesticide labels into Spanish and any language common to a significant portion of the pesticide applicators or agricultural workers that are not fluent in English.”

Response from the Office of Chemical Safety and Pollution Prevention and Office of Enforcement and Compliance Assurance:

- A review of current policies and regulations identified several sections of 40 CFR that address when labeling in a language other than English can be present on the label. The first one (40 CFR 156.10(a)(3)) allows the agency to require labeling in another language if it is deemed necessary to protect the public. And, it allows the registrant to propose labeling in another language.
- In 40 CFR 156.206(e), there are regulations for products subject to the WPS. The WPS requires certain statements/words in Spanish. The first is for pesticides with acute toxicity categories 1

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and 2, the signal word has to be in English and Spanish. The other is an additional statement in Spanish, which is required to direct the handler to get help reading the label if they do not understand it. Specifically, “If you do not understand the label, find someone to explain it to you in detail.”

- Finally, 40 CFR 170.232(a) requires that the handler read the product labeling or have been informed in a manner they can understand of all labeling requirements related to safe use of the pesticide (such as signal words, PPE requirements, and first aid instructions). These health and safety sections are the areas of the pesticide labeling where the agency has targeted our efforts in response to the [petition](#).
- Further guidance also is given in [Pesticide Registration Notice \(PRN\) 98-10](#). This guidance allows the registrant to add bilingual labeling on any product without notifying the agency. It further says that the translated text must be true and accurate and must appear on the container.
- The agency developed a translation guide entitled *Spanish Translation Guide for Pesticide Labeling* for companies and stakeholders to use voluntarily to develop accurate and consistent Spanish translations for the health and safety portions of their agricultural product labels. EPA expects that the translation guide will enable companies to easily translate portions of their agricultural pesticide products’ labels into Spanish. Products containing the Spanish translations may result in a better understanding of the health and safety aspects of the label for Spanish speaking farm workers. The [translation guide](#) is available on the agency’s website.

WHEJAC Recommendation: “EPA must prioritize the health of those who are on the frontlines of exposure to a range of agricultural pesticides and should not offer guidance that undermines handler protection and/or the directions provided on pesticide labels. Use of contaminated or otherwise compromised respirators is of particularly high concern for pesticide handlers, including those of reproductive age. We must protect the health and safety of all agricultural workers, including pesticide handlers. This means that if adequate personal protective equipment is not available, handlers should not be authorized to apply the pesticide product.”

Response from the Office of Chemical Safety and Pollution Prevention and Office of Enforcement and Compliance Assurance:

- There is no higher priority for EPA than protecting the health and safety of Americans, especially during the COVID-19 public health emergency. EPA has heard from states and stakeholders about personal protective equipment shortages in the agricultural sector.
- In June 2020, EPA issued [temporary guidance](#) that offered flexibility during the COVID-19 public health emergency to agricultural employers and pesticide handlers regarding respiratory protection requirements related to pesticide uses covered by the Agricultural Worker Protection Standard (WPS). The temporary guidance outlined approaches to address the unavailability of required respiratory protection and respiratory fit testing; these options were to be exhausted before considering additional options outlined in the guidance. The additional options had strict terms, and conditions to minimize potential incremental risks to workers. Effective August 19, 2021, EPA terminated the June 2020 guidance and its May 2021 [amendment](#) due to improvements in access to NIOSH-approved respirators, fit testing supplies and related services.
- EPA remains committed to protecting the health and safety of all communities, especially during the COVID-19 public health emergency. The decision to end flexibilities under the memoranda

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was done in alignment with federal agency guidance issued by the Centers for Disease Control and Prevention, the Food and Drug Administration, and the Occupational Safety and Health Administration that entities should no longer use crisis capacity strategies for respirators and should promptly resume conventional practices.

WHEJAC Recommendation: “The revised TSCA requires EPA to specially consider groups who are at greater risk of harm from chemical exposures when it evaluates, and then manages, chemical risks. The Trump Administration failed to protect fenceline communities from unreasonable risk.”

Response from the Office of Chemical Safety and Pollution Prevention and Office of Enforcement and Compliance Assurance:

- EPA acknowledges that certain pathways were not addressed in the first ten chemical risk evaluations conducted under the Lautenberg Act amendments to TSCA. In response, EPA has developed a draft screening methodology (i.e., Draft TSCA Screening Level Approach for Assessing Ambient Air and Water Exposure to Fenceline Communities, Version 1.0) to determine whether potential risks were overlooked for communities living at the fenceline of chemicals-related activity. In March 2022, the draft methodology was released for public comment and review by the EPA’s FACA Science Advisory Committee on Chemicals (SACC). EPA will review SACC and public comments throughout the spring to identify how to best use that input for application of the methodology to the first 10 chemicals as well to further develop the methodology itself.
- The final screening level analysis methodology framework will be used to conduct screening level analyses for seven of the first 10 chemicals for which EPA published risk evaluations between 2020 and 2021 to help determine if there are potential exposures and associated potential risks to fenceline communities from the air and water pathways that were previously not assessed.

WHEJAC Recommendation: “Office of Chemical Safety and Pollution Prevention (OCSPP) must Account for the greater risks that fenceline communities face, including cumulative exposures to many chemicals which makes them more susceptible to harm from individual chemicals, as it develops risk management rules for the first 10 TSCA chemicals.”

Response from the Office of Chemical Safety and Pollution Prevention and Office of Enforcement and Compliance Assurance:

- TSCA section 6(b) requires EPA to conduct a risk evaluation to determine whether a chemical substance presents unreasonable risk of injury to health or the environment including to potentially exposed or susceptible subpopulations (PESS) identified as relevant to the risk evaluation. EPA has discretion to consider environmental justice impacts when identifying the relevant PESS for a chemical substance.
- EPA’s ability to take a cumulative risk approach to risk evaluation will depend on several factors, including whether relevant data/information and scientific methods are reasonably available to do so, and whether the weight of the scientific evidence and best available science indicates that a cumulative approach is warranted.

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- Throughout 2021, EPA completed environmental justice consultations for 9 of the first 10 chemicals undergoing risk management rulemaking under TSCA. All consultation efforts included two meetings and an opportunity to provide comments at the meeting or in writing for at least 60-90 days following. Meeting materials included plain-language fact sheets on each chemical, presentations, press releases, and amplification through large national organizations and regional offices to encourage participation. Environmental justice consultations drew over 400 attendees with active commenters. Parallel to this effort, EPA also initiated formal consultation and coordination with Tribes.
- With input from these early engagement consultation efforts, EPA is developing proposed rules to address identified unreasonable risks and will take public comments on proposed risk management action before finalizing each rule. EPA is currently working to develop rulemakings under TSCA section 6(a) that ensure that regulatory approaches eliminate unreasonable risks identified in the risk evaluations while also, to the extent appropriate and possible, applying the draft screening methodology (i.e., [Draft TSCA Screening Level Approach for Assessing Ambient Air and Water Exposure to Fenceline Communities](#), Version 1.0), to ensure that the rules protect communities that are near industrial facilities and may be disproportionately exposed and adversely impacted.

WHEJAC Recommendation: “OCSPP must revise the TSCA scope documents for the 20 high-priority chemicals undergoing review so fenceline communities are identified as subpopulations that face greater risk than the general population. If it does this, EPA would have to calculate these communities’ risks separately from the risks the general population faces, and then ultimately it would have to manage the specific risk they experience from TSCA chemicals so it is no longer unreasonable.”

Response from the Office of Chemical Safety and Pollution Prevention and Office of Enforcement and Compliance Assurance:

- The screening methodology (i.e., Draft TSCA Screening Level Approach for Assessing Ambient Air and Water Exposure to Fenceline Communities, Version 1.0), to be enhanced by public and SACC comments, can be used for the 20 high-priority substances to evaluate fenceline risks within the existing scopes of the evaluations. If EPA determines through risk evaluation that a chemical substance presents unreasonable risk, including unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation, under its conditions of use, then EPA must conduct TSCA section 6(a) risk management rulemaking in order to address that unreasonable risk., Version 1.0), to be enhanced by public and SACC comments, can be used for the 20 high-priority substances to evaluate fenceline risks within the existing scopes of the evaluations. If EPA determines through risk evaluation that a chemical substance presents unreasonable risk, including unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation, under its conditions of use, then EPA must conduct TSCA section 6(a) risk management rulemaking in order to address that unreasonable risk.

WHEJAC Recommendation: “OCSPP must act aggressively to gather information about fenceline communities’ real-world exposures to all of the chemicals subject to review and risk management under TSCA, including reasonably foreseeable releases from extreme weather events.”

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Response from the Office of Chemical Safety and Pollution Prevention and Office of Enforcement and Compliance Assurance:

- EPA issued its “Draft TSCA Screening Level Approach for Assessing Ambient Air and Water Exposure to Fenceline Communities, Version 1.0,” and its application to several case study chemicals on January 21, 2022. The proposed screening level methodology uses reasonably available data, information, and models to quantify environmental releases, evaluate exposures to fenceline communities and characterize risks associated with such releases and exposures. The proposed screening level methodology uses reasonably available data, information, and models to quantify environmental releases, evaluate exposures to fenceline communities and characterize risks associated with such releases and exposures.
- EPA plans to use the screening level methodology to determine the risks to fenceline communities from the air and water pathways that were not assessed previously for seven of the first ten chemicals for which EPA published risk evaluations.
- For the next 20 chemicals undergoing risk evaluation and beyond, EPA plans to enhance this first version of the framework in response to comments from the public and the SACC. The input EPA has received thus far will inform EPA’s work to further develop the methodology in ways that enhance its ability to screen fenceline-related risks in support of risk evaluation efforts.
- Under TSCA section 6(b), EPA must conduct risk evaluations to determine whether a chemical substance presents unreasonable risk, including unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation, under the conditions of use. TSCA section 3(4) defines “conditions of use” as “the circumstances, as determined by the Administrator, under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of.” Thus, EPA must determine whether a chemical substance presents unreasonable risk to any relevant PESS, which may include fenceline communities, under any reasonably foreseen conditions of use.

WHEJAC Recommendation:

- “A bedrock principle of occupational hygiene is the “hierarchy of controls,” which the Occupational Safety and Health Administration (OSHA) and others rely on to identify options for controlling worker exposures to occupational hazards. The hierarchy prioritizes the elimination of the hazardous agent or substitution of a less hazardous agent. These are preferable to the implementation of engineering controls, which in turn are preferable to requiring personal protective equipment. For workers who are protected by OSHA, personal protective equipment is always the mitigation measure of last resort. When it comes to protecting workers from pesticides, EPA is in charge and the agency starts by considering personal protective equipment, then considers engineering controls, and never considers substitution with less toxic options or practices. To protect a predominantly community of color workforce from exposure to a range of toxic pesticides, EPA should follow the hierarchy of controls when selecting options to reduce occupational risk from pesticides for farmworkers and pesticide applicators.”
- “Collaboration between the EPA Office of Chemical Safety and Pollution Prevention (OCSPP), the Department of Labor and the Occupational Safety and Health Administration (OSHA) to provide technical assistance in integrating the hierarchy of controls when selecting options to reduce occupational risk from pesticides for farmworkers and agricultural pesticide applicators.”

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Response from the Office of Chemical Safety and Pollution Prevention:

- As part of the pesticide registration and re-evaluation process, EPA assesses the risk of a pesticide on human health, including the risk to occupational handlers (people mixing, loading, and applying pesticides) and post-application workers from pesticide exposure based on the anticipated use patterns of a pesticide, the types of equipment and techniques that can potentially be used, and current labeling of a pesticide. When risks of concern are identified, EPA proposes risk mitigation (e.g., application rates changes, personal protective equipment, engineering controls, restricted entry intervals, etc.) to protect pesticide handlers and workers from exposures to a pesticide considering the benefits of the pesticide to users. The Federal Insecticide Fungicide and Rodenticide Act (FIFRA) requires the consideration of the benefits of the use of a pesticide and the risks from exposure to the pesticide in determining the risk mitigation. The availability of chemical and non-chemical alternatives is an important consideration in the decision for a pesticide with identified risks of concern.
- EPA has not consulted with OSHA on the concept of a “hierarchy of controls” for controlling worker exposures to occupational hazards at this time. However, EPA will explore how this concept may benefit pesticide programs in the future.

Response from the Office of Enforcement and Compliance Assurance:

- In response to the recommendations directed towards the Office of Enforcement and Compliance Assurance (OECA), OECA has been and continues to support President Biden’s Executive Order 14008, to “strengthen enforcement of environmental violations with disproportionate impact on underserved communities.” Administrator Regan has also directed EPA to “strengthen enforcement of violations of cornerstone environmental statutes and civil rights laws in communities overburdened by pollution.”
- OECA’s Acting Assistant Administrator, Larry Starfield, [issued four memoranda setting forth strategies to enhance consideration of environmental justice issues in enforcement](#). Those strategies include fostering meaningful engagement with communities, increasing our presence in communities through inspections, overseeing cleanup work, and assisting crime victims. EPA has been using its enforcement authorities, including emergency authorities to address immediate health threats, and has been pursuing actions to bring facilities back into compliance to prevent future violations, remediate past harm to communities, and provide tangible benefits for the communities. In a short period of time, we have implemented these strategies; our actions have resulted in meaningful improvements in communities and have laid the groundwork to reap greater results in later years. On March 1, 2022, OECA issued a [Progress Report on Incorporating Environmental Justice into Enforcement and Compliance Assurance Work](#) detailing some of our activities to date.
- Below is a sampling of specific actions which support the WHEJAC recommendations and more comprehensive information can be found at either the [EPA’s OECA EJ website](#), which is continually updated, or [OECA’s Fiscal year 2021 EJ Accomplishments](#).
- Examples of other activities OECA has initiated supporting the recommendations:
 - EPA has taken aggressive early action in overburdened communities. EPA issued two Clean Air Act emergency orders to facilities in the [U.S. Virgin Islands](#) and [South Carolina](#). Additionally to address concerns with drinking water, EPA has issued

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emergency orders in communities such as [Cahokia Heights, Illinois](#), [Clarksburg, West Virginia](#) and [Jackson, Mississippi](#) and in Indian country, like on the Torres Martinez Desert Cahuilla Indians Reservation in California, in the [Oasis Mobile Home Park](#) where ongoing problems with their drinking water system endangered residents.

- EPA provides communities with greater access to enforcement and compliance information about facilities in their backyard
 - On March 22, 2022, EPA released [the Enforcement and Compliance History Online \(ECHO\) Notify system](#). It is a tool to increase communities' access to enforcement and compliance information and is part of our ECHO database. Users can sign up to receive automated alerts about non-compliance in communities. A [video](#) to help users get started is also available.
 - An outreach pilot utilizing the Nextdoor social media application to identify and assist victims of environmental crimes.
- EPA partnered with DOJ to improve attention and support to the victims of environmental crimes by creating the Environmental Crime Victims Assistance Program. These efforts spotlight the fact that many environmental crime victims live in communities with environmental justice concerns. Additional barriers to early identification and notification of crime victims in these communities may result in a delay of, or failure to access, the services that victims of crimes are legally entitled. OECA's Office of Criminal Enforcement, Forensics and Training has helped develop an Environmental Justice Workgroup to further integrate crime victim and environmental justice considerations into every environmental criminal investigation and prosecution. Nearly 30% of the defendants charged in FY 2021 committed environmental crimes that impacted EJ communities.

WHEJAC Recommendation: "Develop guidance for the EPA to use targeted enforcement and resources priorities directed at legacy environmental justice "hot-spots" with the goal of reducing combined risks to human health or the environment from multiple agents or stressors."

Response from the Office of Enforcement and Compliance Assurance:

- **Targeting Inspections and Strengthening Enforcement:** OECA is focused on increasing compliance monitoring activities in communities with EJ concerns. OECA has set a national goal to conduct 45% of all on-site inspections nationally in fiscal year 2022 (FY 2022) at facilities located in or affecting vulnerable or overburdened communities. This is an estimated increase of almost 20% over our historical average, and the goal will increase to 50% for FY 2023 and FY 2024, and to 55% in FY 2025 and FY 2026. Our progress on this goal is part of the J40 initiative. When we identify noncompliance in overburdened and vulnerable communities, EPA takes action to hold entities accountable.
- **Compliance Monitoring and Cleanup Oversight:** Using funds made available through the American Rescue Plan (ARP), OECA will be monitoring for hazardous air pollutants and drinking water contaminants, including metals, in specific communities identified with potentially elevated inhalation risks, drinking water contaminant risks, or based on other tips and complaints received by EPA and our state partners. This effort will provide communities and EPA with valuable information to understand risks associated with exposure to concentrations of

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specific chemicals in air and drinking water and will provide EPA with necessary information to pursue enforcement actions to address violations. OECA is also using ARP funds to provide technical assistance to small drinking water systems in underserved communities to help address the underlying causes of noncompliance.

- The Agency is taking steps to enhance oversight of cleanup agreements between EPA and responsible parties. At toxic waste sites near vulnerable communities, EPA is increasing its oversight of the cleanup work to ensure it is timely executed and that the work meets all the requirements of the enforcement instrument. OECA has also revised its model cleanup settlement agreements to better address community concerns about impacts of cleanup work and to provide more information about the progress of cleanup to communities. In August 2021, OECA updated its model remedial design / remedial action cleanup settlement documents to provide for regular evaluation of the remedy implemented at contaminated sites, and to ensure that cleanup activities do not result in unintended adverse impacts (e.g., noise, odor, traffic) to neighboring communities. The revised model language also provides for increased monitoring of impacts to communities, public availability of cleanup data and cleanup schedules, and increased monitoring and review of institutional controls to ensure that these mechanisms are having their intended effect.

WHEJAC Recommendation: “Support development of regional office action teams. Institutionalize representation of frontline and frontline communities in enforcement decision-making through development and convening of community-based Regional Environmental Justice Action Teams; Direct the Interagency Environmental Justice Enforcement Task Force to work with Action Teams to develop regional community protection and action plans; Provide dedicated funding for communities to access representation and conflict resolution resources. Hold regular public comment sessions so people do not have to travel to Washington and to ensure that regional officers are engaged with the public on enforcement concerns.”

Response from the Office of Enforcement and Compliance Assurance:

- Following the Administrator’s [Journey to Justice tour](#) in November 2021, EPA announced a series of additional actions OECA is taking to address concerns voiced by residents in overburdened communities.
 - OECA is working with the Regions to launch the Pollution Accountability Team (PAT)—which combines air pollution monitoring with boots-on-the-ground inspectors—to provide strong environmental compliance and pollution monitoring.
 - OECA is supporting the Administrator’s direction to use our authority to conduct unannounced inspections at suspected non-compliant facilities, as needed, to protect public health.
 - OECA is following up at specific facilities and communities where concerns are identified, for example:
 - EPA Region 6 issued a Notice of Violation and Opportunity to Confer to Nucor Steel Louisiana LLC in St. James Parish, requiring them to address unauthorized emissions of hydrogen sulfide and sulfuric acid mist, and exceedance of permitted limits for sulfur dioxide emissions at their Direct Reduced Iron facility.

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- EPA Region 6 issued a Notice of Potential Violation and Opportunity to Confer Letter to Sasol Chemicals USA, LLC—a facility that uses natural gas and by-products from refinery operations to produce specialty chemicals.
- EPA announced a significant increase in inspections of industrial facilities in the Mossville area to assess compliance at facilities that present potentially elevated risks to the community based on recent helicopter flyovers and mobile air monitoring of the area.

WHEJAC Recommendation:

- “Coal Combustion Residuals Rules are not being enforced. Impoundments are being capped in place, closures are being slow walked, and proper groundwater monitoring is not being followed, causing environmental disasters in disadvantaged communities. Funding should be allocated to monitor and remediate coal ash waste pollution and health monitoring for disadvantaged communities, and workers handling the coal ash must be protected.”
- “Strengthen the Coal Combustion Residuals Rule to require enforceable coal ash cleanup measures such as removal of the pollutants in groundwater. Justice 40 funding could be used to monitor and remediate coal ash waste pollution in water bodies and land and provide medical monitoring for EJ communities and the funding to ensure closure of coal-fired power plants.”

Response:

- In [January 2022](#), EPA issued several proposed Part A determinations and issued several letters which notified [coal combustion residuals](#) (CCR) facilities about their compliance obligations. The Agency addressed compliance concerns related to groundwater monitoring, corrective action, and closure requirements. EPA is also ensuring facilities comply with the current CCR regulations by working with state partners to investigate compliance concerns at coal ash facilities across the country. EPA is also working expeditiously to issue the CCR Federal Permit Final Rule and the Legacy Surface Impoundment Proposed Rule this year.
- The Agency will focus its compliance efforts at facilities that present potential harm to human health and the environment. As part of assessing facilities that warrant compliance and enforcement attention and prioritizing the use of limited Agency resources, the Agency will include facilities closing CCR units with waste in place that are potentially in contact with groundwater. Closure with coal ash in contact with groundwater has the potential to put the health and safety of nearby communities at risk.
- For more information on actions the EPA has taken to protect communities and hold facilities accountable for controlling and cleaning up the contamination created by decades of coal ash disposal, please visit [this link](#).

WHEJAC Recommendation: “Prioritize cities and states with significantly high counts of superfund sites and designate local EPA staff in satellite offices/locations to support with liaising and local oversight and accountability with cleanups.”

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Response from the Office of Land and Emergency Management:

- Superfund sites exist nationally due to hazardous waste being dumped, left out in the open, or otherwise improperly managed. These sites include former manufacturing facilities, processing plants, landfills, and mining sites. Superfund sites vary in size and location across the United States. Superfund prioritizes response actions by their potential risk to human health and the environment, regardless of location, focusing on highest risk first. For more information, please visit the [Superfund program](#).
- EPA has 10 Regional offices across the United States. The Regional offices have dedicated staff who are responsible for overseeing Superfund cleanups within that geographic region. A key member of the EPA staff working at Superfund sites is the Community Involvement Coordinator (CIC). CICs are responsible for working directly with communities affected by Superfund sites, and to advocate and strengthen early and meaningful community participation during Superfund cleanups. In most cases, Regional Superfund staff travel to their sites on a routine basis to, among other things, oversee the cleanup, and carry out community involvement activities. In some cases, Regions may choose to staff “field” or “satellite” offices to facilitate the cleanup and community involvement activities. In all cases, Regional Superfund staff strive to form productive relationships with local and state officials, and the communities they serve.
- **National Risk-Based Priority Panel**
 - In August 1995, EPA established a National Risk-Based Priority Panel of program experts to evaluate the risk at NPL sites with respect to human health and the environment. The Agency uses these evaluations to establish funding priorities for all new cleanup construction projects in the Superfund program. This national approach is intended as a way for each Region to list its priority projects and rank these projects against priority projects from other Regions, ensuring that scarce resources are allocated to the projects posing the most risk to human health and the environment. For more information, please visit the [Superfund National Risk-Based Priority Panel](#).
- **Bipartisan Infrastructure Law**
 - In 1980, Congress passed CERCLA, the Superfund law, to give EPA the authority and funds to hold polluters accountable for cleaning up the most contaminated sites across the country. When no viable responsible party is found or cannot afford the cleanup, funds appropriated by Congress are used. A tax on chemical and petroleum industries provided funds to the Superfund Trust fund for Superfund cleanups up until 1995. The Bipartisan Infrastructure Law reinstates the chemical excise taxes and invests an additional \$3.5 billion in environmental remediation at Superfund sites, making it one of the largest investments in American history to address the legacy pollution that harms the public health of communities and neighborhoods.
 - In December 2021, EPA announced that \$1 billion of the \$3.5 billion investment will go toward accelerating the cleanup of 49 backlogged Superfund sites across the country. The [backlog of previously unfunded sites that will now be receiving funding](#) are in 24 states and territories and all 10 EPA regions, including some communities who have been waiting for cleanup for more than four years. This historic investment will also accelerate cleanup at dozens of other sites across the country. Approximately 60 percent of the sites to receive funding for new cleanup projects are in historically underserved and overburdened communities.

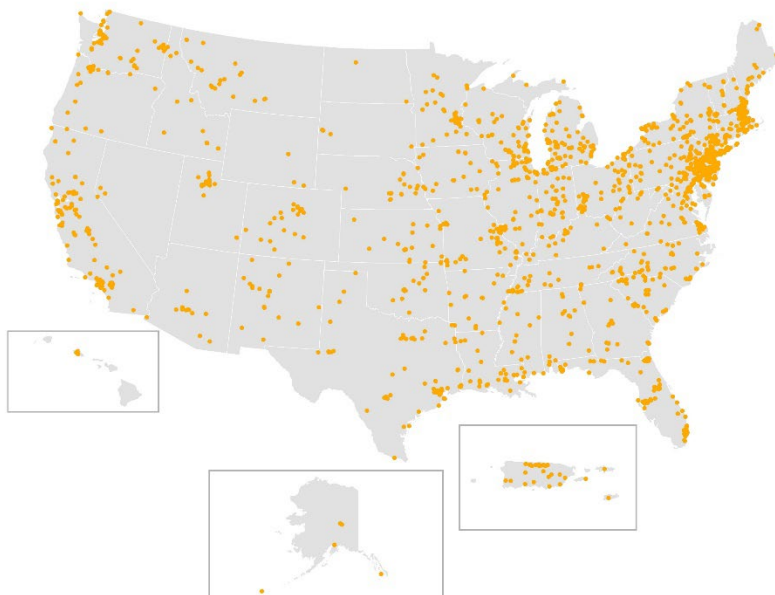
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- **Superfund Community Involvement and the Justice40 Initiative**

- The Superfund remedial program has been selected as one of the Justice40 Initiative pilot programs with the goal of maximizing benefits at sites where there is the potential for environmental justice concerns.
- The Superfund law requires EPA to carry out community involvement activities. Ensuring that communities affected by Superfund sites have the information and tools they need to participate in the decision-making process is a cornerstone of the Superfund remedial program. EPA continues to build upon its comprehensive Superfund community involvement program to understand, elevate, and address the concerns of affected community members so that we can advocate for environmental equity and design better cleanups. EPA Superfund site teams consider environmental burdens and other socio-economic challenges when developing community involvement and cleanup plans for Superfund sites. Site teams will continue to ensure underserved communities have the information and support they need to meaningfully participate in the remedial process, including holding public meetings, engaging communities in discussions about redevelopment opportunities for remediated sites, and offering independent technical assistance and job training opportunities.

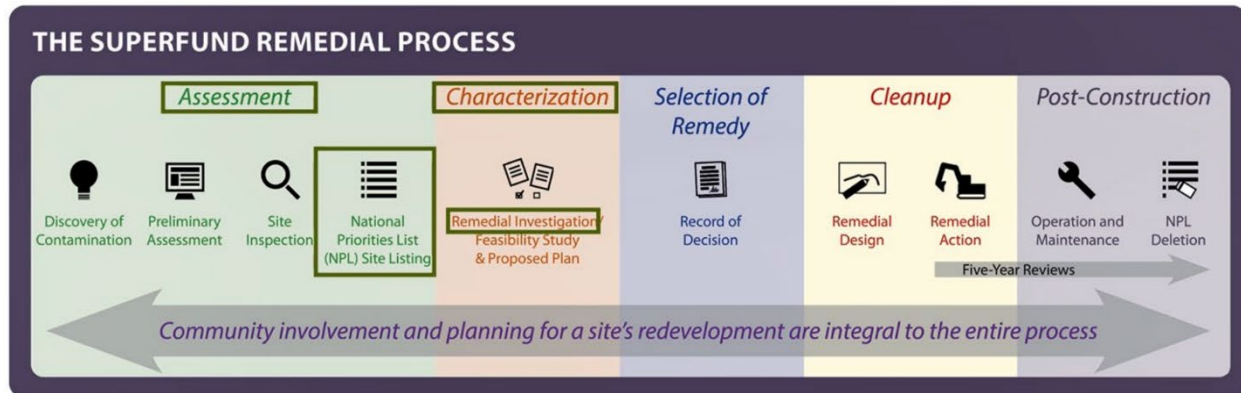
- **Map of Superfund Sites**

- Through an analysis of the U.S. census data, EPA has found that approximately 21 million people live within 1 mile of a Superfund site and approximately 73 million people live within 3 miles of a Superfund site (roughly 6% of the U.S. population). The map below provides an illustration of Superfund Sites across the country. As of March 22, 2022, there are 1,333 sites listed on the National Priorities List (NPL) including both federal and non-federal sites, 43 proposed NPL sites and 433 NPL sites that have been deleted.



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- The infographic below outlines the step-by-step process EPA uses to identify and cleanup a Superfund site.



WHEJAC Recommendation: “Establish a policy for disaster recovery dollars to fund healthy land restoration in environmental justice communities.”

Response from the Office of Emergency Management:

- EPA’s Office of Emergency Management does not receive recovery funding for land restoration. This recommendation is better directed at other federal agencies. For more information about EPA’s Office of Emergency Management, please visit [this brochure](#).

WHEJAC Recommendation: “Develop a grant program exclusively for Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs) and Asian American and Pacific Islander Serving Institutions (AAPISIs) to develop green workforce & training (environmental justice) development programming prioritizing career development opportunities in frontline communities.”

Response from the Office of Mission Support:

- EPA is committed to partnering with Minority Serving Institutions (MSIs) including HBCUs, HSIs, TCUs, and AAPISIs to the maximum extent practicable under our grant programs to further environmental protection efforts especially in underserved and disadvantaged communities. EPA is exploring the feasibility of developing a grant program exclusively for MSIs or subsets of MSIs for environmental health and protection projects. In addition, as part of a recent hiring surge associated with the Bipartisan Infrastructure Law, EPA led or participated in over two dozen recruitment or outreach events at these schools, universities, and institutions. These events focused on career opportunities at EPA and navigating the federal hiring process. To supplement this effort, in EPA’s FY 2023 President’s Budget request to Congress, the agency is requesting funding to expand our paid internship program to provide Federal work experience to more than 180 additional students, including from underrepresented and underserved populations, and provide opportunities for conversion to permanent federal service after successfully completing the program.

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WHEJAC Recommendation: “Invest in Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs) and Asian American and Pacific Islander Serving Institutions (AAPISIs) (via grant funding) to develop innovative career pathways focused on the care and increased growth of trees through urban planning and development through an environmental justice lens.”⁷

Response from the Office of Mission Support:

- EPA is committed to partnering with Minority Serving Institutions (MSIs) including HBCUs, HSIs, TCUs, and AAPISIs to the maximum extent practicable under our grant programs to further environmental protection efforts especially in underserved and disadvantaged communities.

WHEJAC Recommendation: “Conduct civil rights compliance reviews under Title VI of the Civil Rights Act of states with delegated environmental authorities. These reviews should prioritize states where there are decades of civil rights complaints by Black and other communities of color against permitted pollution in their communities, such as Louisiana’s Cancer Alley and the Houston Ship Channel.”

Response from the External Civil Rights Compliance Office:

In the past, EPA has not fully used its civil rights implementation and enforcement authority to vigorously enforce federal civil rights laws, but the agency is now taking concrete steps to do so. Federal law authorizes EPA and federal agencies generally to enact rules, regulations, or orders to achieve the laws’ objectives. Specifically, EPA’s nondiscrimination regulation prohibits recipients of EPA financial assistance from taking actions in their programs or activities that are intentionally discriminatory and/or have a discriminatory effect. Robust enforcement of civil rights law provides the strongest tool to address disparities on the basis of race, color, national origin (including LEP), and disability. To strengthen civil rights compliance and enforcement, EPA’s external civil rights program will shift from being primarily reactive, responding only to complaints, to proactively initiating compliance activities. Community representatives reaffirmed these priorities during EPA’s first ever public listening session about external civil rights compliance on October 27, 2021. With those community perspectives as a guide, and with sufficient appropriations, EPA will initiate proactive pre-award and post-award civil rights compliance activities, including affirmative compliance reviews to address the impacts of potentially discriminatory activities on overburdened communities.

- In response to an EPA Office of Inspector General (OIG) “[Improved EPA Oversight of Funding Recipients’ Title VI Programs Could Prevent Discrimination](#)” —Project No. OA&E-FY19-0357 (Sept. 28, 2020), EPA’s Office of General Counsel (OGC) committed to developing and implementing a systematic approach to ensuring compliance with Title VI, which among other things, includes conducting post-award affirmative compliance reviews. ([OGC’s Revised Responses to OIG Recommendations](#) (Sept. 20, 2021).
- Specifically, EPA OGC responded to OIG that the External Civil Rights Compliance Office (ECRCO) will conduct 1 or more compliance reviews in FY 2022 to determine compliance with Title VI of the Civil Rights Act of 1964, with the number depending on complexity and resources, and

⁷ The WHEJAC recommended included “Source: Black Millennials 4 Flint”.

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additionally develop criteria for identifying annual priority areas of focus and selecting sites for compliance reviews, along with a process for meaningfully engaging with impacted communities and other internal and external stakeholders and partners, including EPA programs and regions.

- Commensurate with EPA's commitment to OIG, EPA committed in its Agency [FY 2022-2026 Strategic Plan](#) to strengthening civil rights enforcement to address the legacy of pollution in overburdened communities with environmental justice concerns (Objective 2.3). To do so, EPA articulated that it is exercising the full extent of its authority and resources, including with respect to compliance reviews, to vigorously enforce federal civil rights laws in order to address disparities. To that end, one of the Long-Term Performance Goals under Objective 2.3 of the Strategic Plan, is to initiate 45 proactive post-award civil rights compliance reviews to address discrimination issues in environmentally overburdened and underserved communities by September 30, 2026.
- Following on these commitments, ECRCO, on Jan. 6, 2022, issued its [Process for Prioritizing and Selecting Affirmative Compliance Reviews](#), and pursuant to that process, initiated a [compliance review](#) on March 18, 2022.

In addition, EPA's external civil rights program will:

- Develop and implement clear and strong civil rights guidance and corresponding training and technical assistance to increase recipients' compliance with civil rights laws, including in the permitting context;
- Conduct timely and effective civil rights complaint investigations and resolutions, including investigations and informal resolution agreements that effectively address adverse disparate impacts;
- Enhance communication and engagement with environmentally overburdened communities to meaningfully inform EPA's civil rights work and to empower and increase their participation in critical decision-making;
- Increase transparency by affirmatively providing information to the public; and,
- Strengthen federal interagency collaboration and coordination on complaints, compliance reviews, and policy guidance to enforce federal civil rights laws.

Furthermore, as civil rights vigilance is an EPA-wide responsibility, EPA will undertake the following agency-wide actions:

- Engage all EPA program and regional offices in civil rights compliance activities to identify whether recipient programs and activities are consistent with civil rights laws;
- Communicate requirements and expectations to EPA staff through education, training, outreach, and technical assistance to enhance civil rights enforcement awareness and strengthen intra-agency collaboration; and
- Include applicable civil rights requirements in EPA non-civil rights guidance, program strategic planning, environmental policy directives, rulemakings, enforcement, and siting and permitting decisions by EPA recipients.

WHEJAC Recommendation: "Develop a Youth White House Environmental Justice Advisory Council."

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Response from the Office of Environmental Justice:

- Thank you for this recommendation. The establishment of a White House advisory body is a decision for the Executive Office of the President.

WHEJAC Recommendation: “Invest in educating the public about environmental justice and the impacts of environmental racism.”

Response from the Office of Environmental Justice:

- In 2021, EPA hosted an [Environmental Justice and Systemic Racism](#) speaker series that “explores how understanding and addressing systemic racism and the roots of disproportionate environmental and public health impacts is key to integrating EJ in the policies and programs of EPA and other environmental agencies to achieve environmental protection for all people.” There are also a number of resources to support decision-making, including trainings on [EJScreen](#) to map and support communities with EJ concerns, [state webinars](#) on the [learning center](#), [legal tools](#), best practices for [NEPA](#), and the [Analysis Technical Guide](#).
- EPA is developing additional public resources and educational material for EJ, and OEJ is responding to the NEJAC and public comments in regard to the topics and issues of most concern. This is all part of EPA’s systematic and thoughtful development of a suite of resources to train EPA staff to be effective EJ practitioners—making all such resources publicly available for the importance of transparency and to support the efforts of external partners. As part of this comprehensive effort, the following educational material is forthcoming: an EJ and Watershed course aimed at informing the public on how to use the Clean Water Act to advance community EJ priorities; an EJ and civil rights permitting FAQ document; an EJ and permitting training; an EJ Academy; and information on the roots of environmental injustices, disproportionate impacts, and meaningful engagement.

WHEJAC Recommendation:

- “Environmental education (EE) is the process used to achieve the goal of environmental justice. A curriculum that is focused on teaching students about environmental justice (EJ) would provide the history of the movement and what environmental issues frontline and EJ communities face that are different from other communities, in addition to the knowledge and skills a student learns through environmental education.”
- “Any EE curriculum focused on achieving environmental justice must meet the same standards for all EE curriculum, as outlined in the Materials Guidelines for Excellence (linked below). Environmental education can and should promote the development of the attitudes, knowledge, skills, and motivations that people need for meaningful involvement in and resolution of environmental justice issues. The focus should always be on helping students develop the critical thinking, problem-solving, decision-making skills that students need to both understand and take actions that support the ideas that environmental protection is for all, regardless of who you are and where you live.”
- “A clear distinction between helping students understand environmental justice and advocating a specific set of actions needs to be made. Environmental education does not focus on specific recommendations on how to act but teaches students that they have the knowledge and skills

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and empowers them to take actions in support of environmental protection and environmental justice goals.”

- “It is important to recognize that there are actions within the environmental justice sphere that do not involve education (e.g., advocacy, political activism, taking legal actions, lobbying) and that there are aspects of the environmental education process (e.g., teaching basic environmental science) that are not necessarily directly related to environmental justice. However, environmental knowledge, skills, and attitudes gained through environmental education should empower meaningful involvement in environmental justice decision-making.”
- “In terms of policy recommendations, the federal government can be really helpful at providing capacity building grants either for professional development, pre-service teacher preparation, and curriculum development. Ultimately, I think this can best be leveraged in conjunction with the established programs at the Department of Education, given they are large enough to achieve maximum scale—Title II (teacher pd), Title IV (curriculum and pd) for ESSA primarily and Title II (teacher prep) of HEA. I would recommend staying away from any prescriptive curriculum requirements on things like standards. In thinking about this, you might consider developing a program to support building capacity and elevating some of the promising work occurring—a federal effort could help further incentive this work in other districts or states but would be most helpful to be grounded in local assets, context, and need.”⁸
- “Identify climate justice education as an essential component of K-12 curriculum in the district. Schools for Climate Action’s website offers free resolution templates for teachers, students and allies to draft a school board resolution calling for a climate justice curriculum.”
- “Ensure that climate justice education is transdisciplinary with touchpoints in literature, social studies, history, mathematics, and science.”⁹
- “From the National Environmental Justice Advisory Council (NEJAC) Youth Perspectives on Climate Change Report to increase accessibility to climate change curricula and educational resources:”
 - Create a youth climate change educational hub with curricular materials, presentations, and interactive workshop plans on EPA website
 - Strengthen accessibility of these resources to those not in college or in the college pipeline
 - Validate alternative ways of understanding climate change
 - Integrate climate change curricula into the broader context of other social justice movements.¹⁰
- “Develop a Youth Environmental Justice Education Grant for K-12 Schools in majority community of color school districts. This can target creating a funding mechanism and collaboration between the Office of Children’s Health Protection in the Program Implementation Coordination Division Schools Coordinators (to manage the program evaluation and monitoring for the program) along with the Office of Environmental Justice, and Office of Ground Water

⁸ The WHEJAC recommendation also included a section on “Examples where this has been successfully implemented,” which was provided and presented to the agency.

⁹ The WHEJAC recommendation also included a quote sourced from the EPA.

¹⁰ The WHEJAC recommendation included several NEJAC “Examples of these recommendations in action” which was provided and presented to the agency.

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Drinking Water. Funding should be available for remediation of drinking water sources at schools, testing, etc., parameters should include special consideration for schools and child care facilities serving environmental justice communities by accounting for factors such as (but not limited to): race/ethnicity of the student population, public funding allocation to schools, test-score and performance of students.”

- “Develop a Career Technology Education (CTE) grant program to support middle schools and high schools (6-12) to design and implement environmental justice high school to career pathways curriculum prioritizing schools serving majority (75%+ community of color student populations).”

Response from the Office of Environmental Education:

- Environmental education increases public awareness and knowledge about environmental issues or problems. In doing so, it provides the public with the necessary skills to make informed decisions and take responsible action. Below are EPA environmental education programs/initiatives mandated by the National Environmental Education Act:
 - [The National Environmental Education Advisory Council](#)
 - [National Environmental Education Training Program](#)
 - [Presidential Innovation Award for Environmental Educators \(PIAEE\)](#)
 - [President's Environmental Youth Award \(PEYA\)](#)
 - [Environmental Education grants and how to apply](#)
 - [Lesson plans, videos, project ideas, student awards and more](#)
 - [Support healthy and productive learning environments](#)
 - <https://www.neefusa.org/education/eeweek>
- In addition, environmental education curriculum, lesson plans and student activity documents are developed in both EPA Program and Regional Offices. These products are reviewed by the Office of Environmental Education through the Agency’s Product Review Process. Any and all environmental education curriculum and/or environmental justice curriculum, lesson plans and student activities developed by EPA must be evaluated using the Guidelines for Excellence in Environmental Education per the Agency’s materials review process. As required by these Guidelines, no education materials should advocate a particular position and/or actions.
- However, environmental education curriculum can and should promote the development of the attitudes, knowledge, skills, and motivations that people need for meaningful involvement in and resolution of environmental justice issues. The focus should always be on helping students develop the critical thinking, problem-solving, decision-making skills that students need to both understand and take actions that support the ideas that environmental protection is for all, regardless of who you are and where you live.
- Please note that the federal government does not have the authority to mandate any specific curriculum in any topic area, including environmental justice. Every state in the U.S. has a different educational curriculum that is primarily based on the accessibility, autonomy, and diversity of the state. Each school district has its own process for developing curriculum. State departments of education coordinate activities among local school districts and between the federal government and local schools, as well as provide technical assistance to school districts.

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- Through the National Environmental Education and Training Program, EPA has supported identifying quality teacher resources in education about the environment, climate education and environmental justice. For more information, visit the National American Association for Environmental Education Professional Development [website](#).
- Through the Environmental Education Grant Program, grantee may develop curriculum for their projects. Grantees who choose to develop their own curriculum for their projects, must use the appropriate Guidelines for Excellence in developing and implementing their project. Since 1992, EPA has distributed between \$2 and \$3.5 million in grant funding per year under this program, supporting more than 3,800 grants and making the grant program one of the most utilized in the agency. For 2022, environmental justice is one of the educational priorities and addressing climate change is one of the environmental priorities and applicants were encouraged to reach out to underserved and disadvantaged communities.
- The Guidelines for Excellence in Environmental Education Series serve as the standards for which all environmental materials, programming, teacher preparation, and nonformal educator certification, etc. are evaluated. The purpose of the Guidelines is to ensure quality and excellence for the development of balanced, scientifically accurate, and comprehensive environmental education programs and materials.
- Through the National Environmental Education and Training Program, each iteration of the program is required to support of the revision of current or the development of new Guidelines for Excellence. The recently published Guidelines for Excellence are focused on Community Engagement. The current Training Program is developing Guidelines on Climate Change and Environmental Justice which will be published in Winter 2022.

WHEJAC Recommendation: “Establish a sustainable communication office for communities that have been so egregiously neglected by government and impacted by racist public policy, environmental pollution and climate change. This office will be established to utilize a “whole of government” approach to address the enormous challenges that exist for improving the quality of life of these communities. “The Black Belt” of rural Alabama is an example of an area that needs a “whole of government approach to address the challenges that exist in this area. “The Black Belt” of rural Alabama has several environmental justice communities in need of federal investments to improve air and water quality and basic health services, especially the City of Uniontown. The city needs fundamental infrastructure such as a hospital, local ambulance service, a fire department, equipment for local police, and storm shelters to protect residents from tornados which are prevalent in the area. The community also needs a community youth center to create a safe, clean space for community engagement and education. Importantly, any federal investments to the area must involve transparency and public participation. For example, residents of Uniontown have not been given basic information about the U.S. Department of Agriculture’s grant to improve wastewater infrastructure, and as a result there is a lack of trust and accountability.”

Response:

- EPA agrees that a whole-of-government approach is needed for rural communities, and especially those that have been overburdened and underserved, such as those in the Black Belt of rural Alabama. EPA’s Office of Environmental Justice and the Office of Policy are supporting the interagency [Rural Partners Network](#) with leadership from the Administrator’s Agriculture

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Advisor and a network of advisors. With the infusion of resources from BIL and the FY 2022-2023 budget, alongside EPA's commitment to not just meet but exceed the President's Justice40 mandate, we intend to have at least one liaison in each of EPA's ten regional offices with expertise in EJ and rural community engagement to serve as a navigator for community organizations. These liaisons will work with US Department of Agriculture (USDA) local navigators and an array of other federal agencies.

- Additionally, EPA's Office of Community Revitalization (OCR) supports locally-led, community-driven efforts to expand economic opportunity, protect human health and the environment, and create and enhance the places that people love. OCR often works with EPA regions and programs and other federal agencies. Through technical assistance, publications, research, tools, and grants, EPA is helping America's communities turn their visions of the future into reality. OCR's [toolkits](#) are publicly available resources that any community can use to address the challenges they face by planning and implementing smart growth principles.
- Currently, OCR is focused on engaging Community-Based Organizations (CBOs) on a similar footing as other partners. CBOs should receive funding for their contributions, enabling them to contribute their expertise, knowledge, and time in a way that replenishes and builds their capacity to contribute to the work at hand, and future efforts.
- To bring EPA's community work in line with this best practice, OCR has been asked—and has committed to—model this best practice and help to make it a norm for the agency. This focus aligns with the FY 2022-2026 EPA Strategic Plan: Objective 2.1: Promote Environmental Justice and Civil Rights at the Federal, Tribal, State, and Local Levels; and Objective 2.2: Embed Environmental Justice and Civil Rights into EPA's Programs, Policies, and Activities.
- In one ongoing example of this work, OCR partnered with the Office of Environmental Justice to utilize \$500,000 in American Rescue Plan (ARP) funding to support communities affected by environmental and public health hazards with independent, non-advocacy, technical, and other assistance. Successful projects will enable communities to meaningfully participate in important rulemaking, permitting, or other processes relevant to their concerns. For the ARP projects, OCR has committed to ensuring that approximately 50% of funding is used to fund the contributions of community-based organizations. The desired result is that, through these ARP projects, OCR (and ultimately EPA) will model and incentivize more equitable partnerships between CBOs and traditional partners.

WHEJAC Recommendation: "Support funding for frontline and EJ communities to organize, convene and develop climate action plans that address climate resilience, communication and prioritize potential climate impacts. Each community has differing levels of potential impacts and issues associated with blackouts, flooding, extreme heat, evacuation, right of return to homes by climate refugees and ensuring that climate gentrification potential is addressed through education of relevant government officials."

Response:

- In October 2021, EPA released its [Climate Adaptation Action Plan](#), which describes steps EPA will take to address the impacts of climate change on communities across the Nation, as part of President Joe Biden's whole-of-government approach to confronting the climate crisis. EPA also launched a new [Climate Adaptation web page](#) that will act as a hub for climate adaptation

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resources from across EPA. In addition, in [EPA's 2022-2026 Strategic plan](#), EPA has committed to assisting communities to take action to anticipate, prepare for, adapt to and recover from the impacts of climate change. This assistance will focus on communities that are underserved or disproportionately at risk from the impacts of climate change.

- Pursuant to President Biden's [Executive Order 14008](#), EPA's approach to tackling the climate crisis is an important step in mitigating the effects of climate change and increasing resilience. The 2021 Climate Adaptation Action Plan lays out several priorities for the agency to implement in the coming months and years, including:
 - Integrating climate adaptation and consideration of climate impacts into EPA programs, policies, rulemaking processes, and enforcement activities;
 - Consulting and partnering with Tribes; state, local, and territorial governments, and other federal agencies; community groups; scientists and adaptation experts; businesses; and other stakeholders to increase the resilience of the nation, with a particular focus on advancing environmental justice; and
 - Implementing measures to protect the agency's workforce, facilities, critical infrastructure, supply chains, and procurement processes from the risks posed by climate change.
- Program and Regional offices are developing Climate Adaptation Implementation Plans that will detail how EPA will accomplish Strategic Plan and Climate Adaptation Action Plan commitments. These plans will be shared in the coming months.
- The Biden-Harris Administration has set the most ambitious climate change mitigation and adaptation goals in U.S. history, and EPA will play a central role in delivering on those commitments. EPA has already taken action to reduce climate pollution and will continue to implement the agenda in the months to come. At the same time, EPA will use its authorities and resources to help communities prepare for the serious climate impacts that are already underway.
- Climate disruption often hits overburdened communities and people the hardest. As EPA implements this action plan, it will consider the disproportionate impacts of climate change on those who are already vulnerable, including low-income communities and communities of color, children, the elderly, Tribes, and Indigenous people. EPA will engage with underserved and vulnerable communities to ensure that our adaptation plans follow the principles of environmental justice and equity.
- Anticipating and recovering from the impacts of climate change will require all levels of government to work together. EPA's climate adaptation strategies will be informed by the best available science and will deliver co-benefits for mitigation of GHG and other pollution, public health, economic growth and job creation, national security, and environmental justice—all of which will be central to building a more resilient future.
- In addition to these plans, the [Bipartisan Infrastructure Law](#) includes bold, historic, and transformational investments to strengthen our nation's resilience to climate change and extreme weather events, including upgrading water and power infrastructure, rebuilding America's roads and bridges, and more.
- The White House Council on Environmental Quality (CEQ) and Office of Management and Budget sought public input on all agency climate adaptation plans. Members of the public were asked to submit comments via the docket at <https://www.regulations.gov/> (Docket ID: CEQ—

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2021—0003) until November 6, 2021. CEQ also held a virtual convening in Fall 2021 with national organizations who have expertise in climate adaptation and resilience or have expressed interest in agency plans. For more information, please visit on the [Climate Adaptation Action Plan](#).

WHEJAC Recommendation: “Invest in urban agriculture to provide sustainable, healthy and affordable food choices.”

Response:

- Supporting urban agriculture through community gardening, small-scale green infrastructure demonstrations, and other food access measures has been a staple of the environmental justice (EJ) grants program for years. Local urban agriculture projects funded through the EJ grants program have ranged from \$30,000 to \$200,000 and typically include dedicated training to community residents, youth, and/or potential green job seekers on a host of community gardening and food access issues (e.g., planting techniques, soil health, and composting). In 2021, 20 of the 99 EJ Small Grants selected for award proposed projects addressing food access and/or urban agriculture for local underserved communities. Each of these projects is for up to \$75,000 for a one-year project. Please see this link for more information on the [2021 EJ Small Grant projects](#). For a specific example of a recently completed EJ grants urban agriculture project about a sustainable self-sufficiency development for veterans and community project led by Arkansas Interfaith Power & Light, please visit [this link](#).
- EPA’s Brownfields and Land Revitalization Program provides grants and technical assistance to empower states, tribes, communities, and other stakeholders to work together to prevent, assess, safely clean up, and sustainably reuse brownfields. EPA encourages brownfields grant and technical assistance recipients to engage with members of their community on site cleanup and reuse planning so brownfields can be transformed into community assets that benefit existing residents. To assist communities that decide to pursue urban agriculture as their site reuse, EPA encourages seeking safe sites and assessing locations before growing. EPA developed recent visual ‘[Know Before You Grow](#)’ guide and has [other information and guidance](#) on understanding brownfield site risks for garden and growing activities.

WHEJAC Recommendation: “Invest in Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs) and Asian American and Pacific Islander Serving Institutions (AAPISIs) agricultural programming to address food equity issues (e.g. fresh fruits and vegetables) in frontline communities with a history of elevated lead exposure and food deserts/swamps.”

Response:

- EPA is committed to partnering with Minority Serving Institutions (MSIs) including HBCUs, HSIs, TCUs, and AAPISIs to the maximum extent practicable under our grant programs to further environmental protection efforts especially in underserved and disadvantaged communities. EPA is also committed to a strong partnership with the agriculture community to assist in fulfilling our mission of protecting human health and the environment. For more information, please visit [EPA's National Agriculture Center](#). EPA’s [Agriculture Advisor's Office](#)

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enables two-way communication between EPA and agriculture stakeholders about priority environmental issues. This page provides a place where farmers can hear directly about the Administrator's regulatory news impacting agriculture. This site also includes examples of environmental programs and partnerships with the agriculture sector. For more information, please visit:

- [EPA Seeks Nominations for the Farm, Ranch, and Rural Communities Federal Advisory Committee](#)
- [Read Administrator Regan's message for Ag Day 2022.](#)
- In addition, EPA's Office of Community Revitalization offers a technical assistance program called [Local Foods, Local Places](#), co-sponsored by the U.S. Department of Agriculture, which helps cities and towns across the country protect environment quality and human health by engaging with local partners to reinvest in existing neighborhoods as they develop local food systems. Local Foods, Local Places supports locally led, community-driven efforts to protect air and water quality, preserve open space and farmland, boost economic opportunities for local farmers and businesses, improve access to healthy local food, and promote childhood wellness. In selecting Local Foods, Local Places partner communities, special consideration is given to communities in the early stages of developing local food enterprises and creating economically vibrant communities.

WHEJAC Recommendation: "Require decontamination of legacy sites, and sustainable development projects at the old refinery and the petrochemical complex in Tallaboa, Penueles and Guayanilla, Puerto Rico that promote integral community development. Polluting industries such as industrial landfill operators must be prosecuted and punished. Investments to address the serious deterioration of the health of residents, and the environment, especially fishing areas are imperative. Energy independence should be promoted and encouraged through rooftop photovoltaic systems with battery energy storage systems. The community urgently needs new schools and training programs to create community-based businesses and employment opportunities to avoid dependence on the government."

Response from EPA Region 2:

- EPA Region 2 has been addressing contamination and redevelopment matters in the Peñuelas and Guayanilla municipalities of Puerto Rico in various ways, including the Resource Conservation and Recovery Act's (RCRA) Corrective Action Program; Clean Air Act (CAA) and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) enforcement actions; Brownfields Redevelopment Program; and citizen science initiatives, among others.
- **Resource Conservation and Recovery Act (RCRA) Corrective Action Program**
 - Through the RCRA Corrective Action Program, contamination issues at the five sites listed below are being addressed (for more information, please click on the site names).

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Site Name	Street Address	EPA Program
PET001-Caribe Isoprene (aka CORCO)	Rd 385 Km 5 Hh 3	RCRA Corrective Action
PET002-Oxochem (aka CORCO)	Rd 385 Km 5	RCRA Corrective Action
HAZ105-PPG Industries + PPG Canal	Rd PR #127 Km. 27.5, Magas Ward	RCRA Corrective Action
HAZ107-Union Carbide (Peñuelas Technology Park)	Rd. PR # 127 Km 17.3	RCRA Corrective Action
PET007-HERCOR (IPPE/UPE) (aka CORCO To be confirmed)	Km. 18.1, Road #127	RCRA Corrective Action
PET006 - Gulf Chemicals	Rd 127, Km 18.4 Intersection Rd 384, Km. 0.4	
PET029 Ponce Salts Industries	PR#2 km 215	N/A

- **Clean Air Act (CAA) and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Enforcement Actions**

- EPA conducted a multiphase investigation at the Tallaboa Industrial Park (TIP) and adjacent community during the period spanning from November 2013 through October 2014 following a notification from area residents in November 2013 of fugitive dust clouds migrating from the former facility into the adjoining neighborhood (Tallaboa Encarnacion), southeast of the TIP, during demolition activities conducted by HOMECA Inc. at TIP's Site. Asbestos was identified at the site in bulk and soil samples, and in two schools and other six residential/commercial structures (three residential and three commercial) within a quarter mile of the TIP, to varying degrees, in air, wipe and Microvac samples. Asbestos has also been identified at numerous locations several miles from the TIP in all directions. The Potentially Responsible Parties, HOMECA Inc. and Tallaboa Industrial Park, LLC., conducted cleaning and clearance sampling of the two schools under an EPA Order in 2014. A separate action taken against the two companies under the Clean Air Act (CAA) for violations of the CAA during removal of asbestos-containing material was ultimately settled.
- During a site visit in May 2017, EPA identified several issues, including the presence of Suspected Asbestos Containing Material (SACM), compressed gas cylinders, and unknown chemicals. Friable SACM was observed on the ground and exposed to surface water run-off that could potentially be released off-site. The storage sheds containing chemicals and gas cylinders were seriously impacted by Hurricane Maria in 2017. On July 2018, the EPA conducted a Site Removal Assessment and confirmed the release of Asbestos Containing Materials (ACM) into the environment. After several months of negotiations, EPA and TIP signed an Administrative Settlement Agreement and Order on Consent (CERCLA-02-2019-2013) to complete the site clean-up. As of today,

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approximately 320 cubic yards of ACM, 488 cubic yards of impacted soil/vegetation, 28,500 gallons of liquid and 120 cubic yards of non-contaminated material have been removed from the site under EPA's oversight of the CERCLA-02-2019-2013 order. The work under this order is on-going and it is expected to be completed in 2022.

- **EPA's Brownfields Program**

- In 2010 and 2013, as part of its Brownfields Program, EPA Region 2 selected Desarrollo Integral del Sur, Inc. (DISUR) as a Brownfields Area-Wide Planning Pilot Program and Community Wide Assessment grant recipient. DISUR focused this project on a 3,500-acre industrial corridor impacting nine neighborhoods in the rural Municipalities of Peñuelas and Guayanilla. DISUR proposed to develop a brownfields area-wide plan by facilitating a community-oriented approach to prioritize blighted industrial properties, developed brownfields site reuse plans based on environmental site conditions, cleanup and community needs, and assess existing infrastructure. As part of these efforts, DISUR developed planning documents and performed Phase I Environmental Assessments at the following properties/sites (please see table above). It is important to highlight that the former refinery area, known as CORCO, is currently operating as a storage terminal and other properties near Road PR-385 and PR-127 are not necessarily abandoned.
- EPA has allocated funds through its Brownfields Program for these efforts, and could provide additional funds, to support new planning, assessment, and clean-up efforts for this area, particularly through the new significant Bipartisan Infrastructure Law (BIL) funding for Brownfields redevelopment.

- **Participatory Science Initiatives**

- During the period of 2015-2017, EPA's Office of Research and Development (ORD) and EPA Region 2 partnered with Tallaboa-Encarnacion residents in a \$200,000 participatory science community driven research project known as "The Efficacy of Citizen Science Air Monitoring for Building Awareness of Exposures for Citizens in a US Caribbean Urban Neighborhood Impacted by Heavy Industrial Contamination". The objective of this project was to assess the efficacy of participatory science air monitors for delivering ambient air quality data to the Tallaboa-Encarnación neighborhood of Peñuelas, Puerto Rico, as a means of promoting awareness and reducing potential exposures. Participants included children, elderly residents and pregnant women who lived in the community. EPA developed a unique low-cost multi-pollutant sensor pod that was provided to the community group and the training/tools needed for its operation. The residents self-organized a community effort to conduct approximately five months of intensive air quality monitoring in residential areas of Guayanilla and Peñuelas having little historical data on spatial variability. The residents successfully completed the intensive data collections, database development and data validation procedures. A total of more than 1.2 million five-minute outdoor data values associated with three air pollutants and related meteorological parameters were obtained. Ultimately, the residents, in collaboration with the EPA, developed a summary of the key findings for presentation back to the community-at-large. The study provided communities with environmental justice concerns in Peñuelas and Guayanilla, as well as surrounding communities, an in-depth investigation of local air quality and opportunities for community scientists to gain extensive experience in use of emerging sensor

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technologies. The collaboration provided the EPA an opportunity to evaluate low-cost sensor performance under harsh environmental conditions (high relative humidity in a coastal environment).

WHEJAC Recommendation: “The Biden Administration should consult with the South-Central St. Croix community to determine how Justice 40 investments can best be made to address environmental injustice, including but not limited to groundwater, air quality, and coastal zone cleanup. The St. Croix Environmental Association requests that EPA exercise “strict enforcement of the law and to investigate violations” of the Limetree Bay Refinery since the refinery restarted operations in Dec. 2020 after being closed for nearly a decade. They also request transparency and reporting on incidents, including online, real time access to emissions data and notices of unscheduled releases to the community via text message. Sustained funding and trained personnel are needed for air and water quality monitoring using federally approved methods, including a community-based monitoring center in partnership with the Department of Natural Resources and the local university. Crucians need household surveys conducted to gather data on the odors, health impacts, and property damage caused by the refinery restart. EPA must take a “hard look at the Reactivation Policy that EPA abandoned under the Trump Administration to grandfather Limetree Bay as an operating facility.” Crucians indicate that the Limetree Bay Refinery should be recognized as a new facility and undergo new source review, adopt the best available control technology and that EPA’s ECHO database and EJSCREEN tools be updated with demographic and environmental information for St. Croix and the USVI in general. St. Croix needs capacity for community-led discussions of a just transition to wean the economy off the fossil fuel industry, including stakeholder meetings, education programs, workshops, and job retraining.”

Response:

- Between February and May 2021, there were **four serious excess emissions incidents** at the refinery (described further below). On May 13, 2021, Limetree voluntarily suspended refining operations after being asked to do so by the Governor of the USVI. On May 14, 2021, EPA issued an emergency order pursuant to Section 303 of the CAA requiring the facility to shut down for at least 60 days during which independent audits of the refinery would take place (see further discussion, below).
- On May 21, 2021, Limetree Bay announced it was suspending operations indefinitely due to the unwillingness of its investors to provide additional funds, and their uncertainty about what requirements EPA would impose based on the audits called for by the May 14 order.
- In July 2021, Limetree Bay declared bankruptcy; a sale of the facility is being managed by the bankruptcy court.
- In December 2021, the bankruptcy court declared as the winning bidders two affiliated companies: West Indies Petroleum, LLC (WIPL), a Jamaican oil distribution company; and Port Hamilton Refining and Transport (PHRT), a newly formed USVI corporation created specifically for this acquisition. WIPL and PHRT closed on the purchase in February 2022. EPA has been in communication with these companies since that time.
- **Possible Obligation to Obtain a PSD Permit:**
 - On March 22, 2022, EPA sent a letter to WIPL/PHRT advising that “there are strong indications to suggest” that they must obtain and comply with a Prevention of Significant Deterioration of Air Quality (PSD) permit prior to startup of refinery

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operations. The letter posed a number of questions, the answers to which will assist EPA in making a final determination about PSD applicability. A PSD permit would impose, among other things, emissions standards equivalent to what is consistent with application of the Best Available Control Technology (BACT). The process includes public notice and comment on any proposed permit. The NGOs that have been engaged with EPA (see Public Outreach, below) have on multiple occasions asserted their view that a PSD permit is necessary.

- **Public Outreach:**

- Since March 2021, Region 2 has conducted a robust public outreach effort regarding the Limetree refinery and related environmental issues and concerns affecting residents of St. Croix. EPA has led multiple community meetings with the St. Croix Environmental Association (SEA), St. Croix Foundation, Crucian Heritage Association for Nature and Tourism (CHANT) who are deeply troubled by the environmental impacts of the refinery. We also participated in three public “townhall” meetings open to all St. Croix residents, which drew several hundred attendees. Starting in early May 2021 we established a telephone hotline that residents could call to seek information or let us know about ongoing problems; we have fielded over 400 calls, emails and web inquiries since the hotline was established, most of those in the first several weeks. On two occasions, at her request, we provided detailed briefings for USVI Representative Stacey Plaskett. EPA has awarded St. Croix Foundation a \$300,000 EJ Collaborative Problem-Solving Grant to assist the Foundation in monitoring pollutants in air and water. We have worked with community groups on a participatory science air monitoring program, and stand ready to activate this program, to empower the community and inform EPA and local government on air quality issues in real time.
- EPA has provided all Continuous Emissions Monitoring Systems (CEMS) data to community groups and has provided the community groups with VIDPNR and EPA inspection reports from the HOVENSA days to present, upon their request, while we evaluate certain Confidential Business Information (CBI) claims asserted by the refinery owner/operator.
- EPA Region 2 has worked closely with EPA’s Office of Environmental Justice to update EIScreen 2.0 to include demographic and environmental information for St. Croix and the USVI in general. We recognize the data gaps and are working diligently to address those gaps, which should be completed in 2022.

WHEJAC Recommendation: “In addition, the EPA used to have Community-University Partnership (CUP) grants which provided funds for EJ and CBOs to partner with academic institutions to develop data and studies of interest to both partners.”

Response:

EPA Region 4’s College/Underserved Community Partnership Program (CUPP) works diligently to engage with communities in the southeast. The program partners with colleges and universities to provide communities with technical assistance and capacity building in areas of need. The college/university students provide the assistance at no cost, and receive course credit and/or volunteer hours for their time and expertise. The students lead projects that are identified by communities and are of interest to

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the students. The program focuses community assistance in the underserved and overburdened areas in the southeast. Grants are not awarded to the communities or academic institutions, as the students provide their assistance for free. For more information, please visit [CUPP](#).

WHEJAC Recommendation:

- “Improve health equity by mandating that NIH support community-academic partnerships in all relevant research centers and in grant programs.”
- “NIEHS should reinstate its Environmental Justice through Communications grant program that supported the development of Community Principal Investigators (PIs) and partnerships between academic research centers and community organizations that carried our Community-Based Participatory Research, community education on environmental health, and translation of research to policy and action. These partnerships have been evaluated to increase the quality and dissemination of research, provide communities with relevant data, support citizen science, and create trust.”

Response:

- EPA does not have the authority to mandate actions by the National Institutes of Health (NIH) and the National Institute of Environmental Health Sciences (NIEHS). However, these institutes are part of the Department of Health and Human Services (HHS), which has provided a robust response to these questions. Please see the relevant responses in HHS’s section below.

WHEJAC Recommendation: “Fund the implementation of programs and policies in the bill by Sen. Booker and Rep. Haaland—The Environmental Justice Legacy Pollution Clean-up Act.”

Response:

- Thank you for this recommendation, however this legislation has not been enacted. For information on the status of this bill, please visit [this link](#).

WHEJAC Recommendations for All Federal Agencies, [pages 52-57](#):

EPA Approach to Working with Federally Recognized Tribes and Indigenous Peoples on Environmental Justice and Equity:

- It is EPA policy to integrate environmental justice into all of our work, including our work with federally recognized tribal governments and indigenous peoples. In consultation with Tribes and through meaningful engagement with indigenous peoples, the Agency developed the [EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples¹¹](#) (Policy) in 2014. This Policy, consisting of 17 principles, is the basis for how EPA conducts our work with federally recognized Tribes, indigenous peoples, other federal and state

¹¹ EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples (2014) – to clarify and develop consistency in how the Agency addresses environmental justice issues in Indian country and throughout the United States, <https://www.epa.gov/sites/production/files/2017-10/documents/ej-indigenous-policy.pdf>

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agencies, and other stakeholders in Indian country and throughout the United States to advance environmental justice.

- This Policy builds upon EPA's [1984 Indian Policy](#), which provides the foundational principles for the Agency's work in Indian country and helps guide the overlapping responsibilities of our environmental justice work with federally recognized Tribes. The 1984 Indian Policy states the EPA's commitment to working with federally recognized Tribes on a nation-to-nation basis, and further recognizes Tribal governments as the appropriate non-federal party for making decisions and carrying out environmental program responsibilities. Federal environmental statutes are designed for EPA to authorize Tribes, states, and, at times, local governments, to develop and implement federal environmental programs. Where tribal governments have authority to implement federal programs, they should consider incorporating environmental justice and equity as appropriate while developing and implementing programs. In these instances, EPA encourages and supports tribal governments to build¹² environmental justice principles into their community engagement and decision-making processes.
- A core understanding of environmental justice is that communities and Tribes speak for themselves, and they determine what they think is or is not an environmental justice issue. A Tribe's or indigenous peoples' decision to raise, or not to raise or engage in, "environmental justice issues" does not affect or negate EPA's duty and obligation to address treaty, trust, or direct implementation responsibilities or the environmental justice concerns and issues in Indian country and in other areas of interest to Tribes and indigenous peoples. However, a tribe's or indigenous peoples' perspective on environmental justice may influence the approach that EPA takes in working and communicating with individual tribal governments and indigenous peoples.
- Until a Tribe has assumed full responsibilities for delegated environmental programs, EPA retains responsibility to directly implement these regulatory programs. The vast majority of environmental programs in Indian country are directly implemented by EPA. EPA integrates environmental justice principles into federal implementation activities both when working with tribal government representatives and when engaging with tribal community members for input. For example, EPA regulatory actions to permit regulated facilities includes seeking input from tribal members, tribal community organizations, and other stakeholders in Indian country, which may include environmental justice considerations.
- Although EPA's tribal program work is centered around tribal governments, the Agency's work with tribal and indigenous persons is not limited to working with the federally recognized Tribal governments. EPA engages and works with indigenous peoples (as defined by EPA) separately and differently from our work with federally recognized Tribes. This includes individual tribal members, state recognized tribes, Native Hawaiians and other indigenous peoples, community groups, or minority or racial groups and communities, which may be vulnerable, underserved,

¹² See Appendix I, *Guidebook for Building Tribal Environmental Program Capacity*, Section B.6 *Establishing Core Public Participation, Community Involvement, Education, and Communication Capacities*, Page 8, in the *Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia* (May 15, 2013) Appendix I *Guidebook for Building Tribal Environmental Program Capacity*, <https://www.epa.gov/sites/production/files/2017-05/documents/2013-gap-guidance-final.pdf>

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and overburdened.¹³ Our work with indigenous peoples is also a key Agency responsibility when we are directly implementing environmental programs, both on and off tribal lands.

- Fundamentally, EPA has a responsibility to provide equal protection under the law. Therefore, the Agency understands our responsibility to engage and work, in coordination and collaboration with federally recognized tribal governments, with tribal members, tribal community-based organizations and all other stakeholders in Indian country, and indigenous peoples throughout the United States, as citizens of the United States, to address their environmental and public health concerns.
- There are several key components of EPA’s work on environmental justice in Indian country and in other areas of interest to Tribes and indigenous peoples to consider:

- (1) How to ensure resources to address disproportionate impacts and environmental justice and equity issues are made available and useful to federally recognized Tribes, whether framed under treaty rights,¹⁴ trust responsibility, or environmental justice
- (2) How Tribes and indigenous peoples would like to engage with programs and initiatives focused on environmental justice and equity, and
- (3) How EPA will address environmental justice and equity in Indian country and in other areas of interest and concern to Tribes and indigenous peoples.

- It is important to note that EPA’s tribal program does not use the term “disadvantaged” in the tribal context since the term is often not well received by Tribal governments and Tribal citizens. It is also important to note that many communities with environmental justice concerns, including indigenous communities, also prefer not to be identified as disadvantaged communities, so the terms “overburdened and underserved” are frequently used instead.
- For more information, please visit the [EPA Policy on Environmental Justice for Working with Federally-Recognized Tribes and Indigenous Peoples](#). For information on EPA programs specific work with Tribes, please visit the sections for each program office in the responses shared in the Report above.
- EPA is committed to assisting federally recognized Tribes in building capacity to establish public participation, community involvement, education, and communication systems to engage with tribal members and others living on tribal lands. In March 2022, [EPA announced](#) the availability of up to \$1.6 million in [American Rescue Plan \(ARP\)](#) funding to support Tribal government efforts to establish or modify programs on environmental justice water and air quality issues. EPA anticipates awarding 16 to 20 grants nationwide in amounts of up to \$100,000 per award.
- EPA responded to the Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships and Best Practices on Consultation in 2021 by conducting tribal consultation and filing a report, which will be the basis for EPA’s consideration of revisions to the EPA Policy on

¹³ Overburdened Communities - communities or populations, including minority, low-income, tribal, and indigenous, in the United States that potentially experience disproportionate environmental harms and risks as a result of greater vulnerability to environmental hazards. (Definition in EPA Policy – see earlier footnote)

¹⁴ See EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights, https://www.epa.gov/sites/production/files/201602/documents/tribal_treaty_rights_guidance_for_discussing_tribal_treaty_rights.pdf.

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Consultation and Coordination with Indian Tribes. EPA consultation on issues that may affect treaty rights is currently guided by the [EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights](#). EPA is also taking actions to review this document and strengthen EPA identification and consideration of treaty and reserved rights early in the decision making and regulatory processes.

- EPA recognizes the strong connection many federally recognized tribes and indigenous peoples have to the environment and their past and present role in the protection and sustainability of the environment and public health. EPA's Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples clarifies how EPA works/is to work with all indigenous peoples to be responsive to and advance their priority environmental and public health concerns.
 - Examples of these principles include:
 - The EPA consults with federally recognized tribes and provides meaningful involvement opportunities for indigenous peoples throughout the United States, and others living in Indian country, and considers the potential impact of Agency actions that may affect their human health or environmental interests;
 - The EPA seeks to be responsive to the environmental justice concerns of federally recognized tribes, indigenous peoples throughout the United States, and others living in Indian country;
 - The EPA seeks to maintain relationships with indigenous peoples and communities based upon mutual understanding and respect;
 - The EPA strives for open communication and meaningful involvement with indigenous peoples and communities and also encourages an appropriate level of involvement by other federal and non-federal government agencies in matters in which EPA is involved.

WHEJAC Recommendations for the Definition of Investment Benefits, [page 57](#):

EPA's General Approach to Implementing Justice40:

- **Programs Covered and Timing**
 - In recognition of the historic opportunity to address longstanding inequities faced by disadvantaged communities that have suffered generations of disinvestment their infrastructure, EPA will advance our implementation of Justice40 by going beyond the initial pilot programs identified in [the July 2021 interim guidance](#) to include the vast majority of EPA programs that received funding through the Investing in Infrastructure and Jobs Act (IIJA).
 - Thus, EPA's phase one Justice40 implementation includes a set of programs that taken together provide the vast majority of EPA's external funding dollars. Over the next 1-2 years, EPA will phase the remaining covered programs into Justice40. When fully implemented, Justice40 will be a driving force for most of EPA's external funding programs.
- **Defining Disadvantaged Community**
 - A critical component of providing a high level of transparency and accountability to EPA's Justice40 efforts is developing a methodology for identifying the disadvantaged

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communities that have historically been underfunded and are most in need of the investments, benefits, and ultimately improvements to conditions on the ground in their communities.

- **Interim Definitions (Before Release of Final CEJST Tool)**

- EPA looks forward to the release of the updated version of the Climate and Economic Justice Screening Tool (CEJST) that will provide a consistent, government-wide definition of “disadvantaged communities” for purposes of Justice40. EPA programs that have statutorily required definitions will continue to use those.
- In the interim, EPA will rely on definitions that make the most sense on a program-by-program basis, considering data availability and the intended environmental benefits of each program.
- Covered programs that have statutorily required definitions or already have a track record of identifying communities most in need of funding can continue to use those definitions.
- Covered EPA programs that do not have a standing definition will adopt an interim definition for “disadvantaged communities,” tailored to their program, for the purposes of Justice40 and resource allocation. To help develop these interim definitions, EPA’s Office of Environmental Justice will provide a set of supplementary indexes based on the average of five demographic indicators: low life expectancy, low income, unemployment, less than high school education, and linguistic isolation. EPA is working to make the supplementary indexes publicly available as soon as possible.
- Covered programs will have flexibility to develop tailored definitions of “disadvantaged communities” that account for differences between programs, such as geographic and other place-based considerations.
- During this interim phase of Justice40 implementation, EPA is prioritizing flexibility for covered programs since they will transition to CEJST when updated. It is critical to ensure the transition for each covered program is not abrupt and does not interfere with open requests for applications. To further help with preparation for the use of CEJST, each covered program should evaluate and compare the baselines established through their interim disadvantaged community definitions with the beta version of CEJST.

- **Calculating Justice40 Benefits**

- The inequitable distribution of benefits is one of the root causes of many of the environmental justice challenges faced by communities of color, low-income communities, and indigenous communities. EPA is committed to not only meet but exceed the President’s mandate that at least 40% of the benefits of certain federal investments flow to disadvantaged communities. At EPA, we will not only contribute to the federal government’s achievement of the 40% benchmark, but we will strive to exceed that benchmark across EPA and in each of our Justice40 programs. Each covered program will report periodically on the benefits flowing to disadvantaged communities.

- **Tracking Justice40 Investments**

- EPA also understands that it is just as important to track our actual investments alongside the benefits, from our programs’ efforts. That is why EPA is also committing to transparently track, to as fine a geographic scale as possible, where EPA’s dollars are

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invested. EPA's Office of Environmental Justice has built a beta EPA Investment Tracking tool to provide a map and dashboard. We will engage with our National Environmental Justice Advisory Council (NEJAC) in the coming months to receive their input and recommendations on this beta tool in preparation for its public release.

- Each covered program will report periodically on the investment dollars flowing to disadvantaged communities through this tool.

WHEJAC Guiding Principles: Program Criteria to Maximize Federal Investment Benefits and Avoid Harm in EJ Communities, [page 57](#):

EPA Response—Evaluating Impacts in and Benefits to Communities with EJ Concerns:

- Although EPA will rely on CEJST (once updated) for resource allocation purposes under Justice40, EPA will use EJScreen and its underlying data to assess these resource decisions from an environmental justice perspective.
- Transparency and accountability are critical to meaningfully advancing equity and justice. That accountability requires connecting our actions and the results of our actions with meaningful improvements on the ground for communities. Through our efforts to implement Justice40 and commitments in our strategic plan, EPA will map and connect EPA's investments, immediate benefits from those investments, and longer-term outcomes to eliminate long-standing disparities besetting communities of color, low-income communities, and indigenous communities. EPA will continue to use EJScreen and its underlying data as our primary tool to evaluate the impact of our investments in communities with EJ concerns and how these investments affect public health and environmental outcomes. EPA's recently finalized [multiyear strategic plan](#) includes a commitment to identify at least ten indicators of disparities that are meaningful to communities with EJ concerns, such as disparities in asthma incidence. These disparity indicators will also serve as long term outcome goals that EPA will work to reduce year-over-year by improving conditions on the ground.
- It is important to note that EPA's ability to provide transparency and accountability into the equitable distribution of investments and benefits along with related outcomes in eliminating disparities will only be possible as far as data is available. Some programs may not be able to immediately track certain benefits or disaggregate benefits to the local level given the current availability of data or resources required to collect the needed data.
- EPA is committed to meaningful stakeholder engagement on implementing Justice40 and hosted bi-weekly National Environmental Justice Community Engagement Calls in August—December 2021 that featured EPA programs in the Justice40 pilot. These calls currently continue on a monthly basis and feature opportunities to continue to provide information and receive feedback on EPA's Justice40 implementation efforts on an as-needed basis. The Agency is also engaging with the National Environmental Justice Advisory Council (NEJAC), with a [recent public meeting in April 2021](#) that featured Justice40. Programs are also conducting their own engagement specific to their audiences.

2. U.S. Department of Agriculture (USDA)

Overview:

Since Day One of the Biden-Harris Administration, USDA has committed itself to building back better for historically underserved communities. That commitment spans many projects across all of USDA's mission areas and agencies. Please see USDA's [Equity webpage](#) for details, including this [summary of USDA's equity actions](#).

A few key recent announcements and resources:

- Information on the newly formed [Equity Commission](#)
- USDA's recently released [Equity Action Plan](#), which includes Justice40
- USDA Rural Development's [Mapping Tool](#) for Underserved Communities:
- [Rural Partners Network](#)

WHEJAC Recommendation: "Ensure that U.S. Department of Agriculture (USDA) Rural Utilities Service (RUS) electric programs prioritize support for clean, distributed energy, and ensure 40% of funds are directed to disadvantaged communities. The RUS program currently provides loans, loan guarantees, and grants for rural electric utilities, electric distribution, transmission, and generation facilities, as well as efficiency, conservation, and renewable energy programs; ensuring these programs prioritize clean energy deployment for disadvantaged communities is crucial to bringing equity to USDA programs."

Response: USDA agrees with the recommendation, it is already being implemented.

- The RUS Electric Program (EP) primarily provides low-cost loans to electric utilities serving rural areas. The RUS EP also administers the High Energy Cost Grant (HECG) program. These programs provide low interest loans for rural electric utilities, electric distribution, transmission, and generation facilities; grants to address high energy costs; as well as relending for energy efficiency, conservation, and renewable energy programs.
- The beneficiaries of HECG include Alaska Native Villages, island communities, and occasionally tribal communities in the continental United States. Alaska Native Villages and island communities are often considered disadvantaged communities. HECG is not only fulfilling the Justice40 goal of directing 40% of funding towards disadvantaged communities but surpassing it. Congress typically appropriates approximately \$10 million in funds for HECG annually. In 2021, the vast majority of HECG funds went to disadvantaged communities.
- The majority of the funding available through the EP is in the form of loans. The EP has consistently met and exceeded its targets for providing funding to utilities that serve persistent poverty counties. Some Rural Development programs are required to set aside 10% of funding for Persistent Poverty Counties. The Electric Program has consistently exceeded that level, as show in the chart below. Please note that FY22 is partial-year data.

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Fiscal Year	Allocation Type	Percentage
2017	Persistent Poverty - Direct FFB	13%
2018	Persistent Poverty - Direct FFB	13%
2019	Persistent Poverty - Direct FFB	44%
2020	Persistent Poverty - Direct FFB	51%
2021	Persistent Poverty - Direct FFB	25%
2022	Persistent Poverty - Direct FFB	9%

- That said, loans may not be as accessible to some disadvantaged communities because such communities often lack the financial resources to be able to take on debt. Nevertheless, the EP tries to make loans accessible to disadvantaged communities by providing outreach to new applicants and advancing the policy of “area wide” coverage which requires borrowers to serve all consumers in their service territory on non-discriminatory terms. The EP has additional tools which it uses to advance equity and service to disadvantaged communities. The Substantially Underserved Trust Area (SUTA) authority, which is part of the Rural Electrification Act, gives the RUS Administrator the ability to determine that a trust area (a category of Tribal land) is “substantially underserved.” Once such an area is deemed to be substantially underserved, the Administrator has the discretionary authority to offer lending flexibilities to the borrower interested in serving a substantially underserved trust area. The statute permits the Administrator to waive non-duplication requirements, matching requirements, credit support requirements and/or give the highest funding priority to a SUTA eligible project. To trigger SUTA, an applicant must make a request to the RUS Administrator to consider the Trust Area at issue to be substantially underserved. RUS welcomes budget authority to provide grants and below Treasury-rate-of-interest loans to disadvantaged communities.
- To further incorporate Justice40 principles, the EP is planning several actions. First, to hold a learning session with general field representatives (GFR) to better understand, from the perspective of USDA’s field staff who work closely and live in our customer communities, the challenges disadvantaged communities face to access RUS loans. Second, to hold a listening session, in Q3-Q4 2022, with stakeholders from underserved communities to learn more about the barriers they face in accessing RUS loans and programs. Third, to work with our Rural Development Innovation Center to utilize service area data to better track where RUS investments finance improved utilities service to underserved communities. And fourth, to work with the Office of General Counsel to see if it is possible for the RUS Administrator to make a blanket determination that all Trust Areas are “substantially underserved,” and prepare a memo to that effect.

WHEJAC Recommendation: “Expand the USDA Rural Energy for America Program (REAP) to taxexempt entities including nonprofits and government entities and increase program funding to

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\$100 million per year to support tribal energy and energy efficiency projects. Require 40% of funds to be directed to disadvantaged communities. The REAP program has been very successful in bringing clean energy to some rural communities, but program eligibility expansion and increased funding is needed to ensure the program is reaching the most disadvantaged communities, among them, farmworkers.”

Response: USDA agrees with the recommendation, it is already being implemented, but there are some statutory limitations.

- Rural Development has taken steps to increase the amount of funding that are directed to disadvantaged communities. RD is increasing funding to disadvantaged communities by mapping disadvantaged communities using the Distressed Communities Index (DCI), awarding priority points for projects that support administration priorities like climate impact and equity, establish key performance indicators documenting investments going to distressed communities, engaging communities through better outreach, and finding opportunities across the mission area to advance climate justice aims.
- Limitation or Barrier: Unfortunately, expanding REAP to include nonprofits and government entities would require legislative action. Farmers and ranchers can receive REAP grants, but these grants cannot support projects for use that is greater than 50% residential.
- Additionally, RD piloted its first environmental justice-centered program, the Rural Energy Pilot Program (REPP). REPP program that will offer up to \$10 million to underserved rural communities to develop community-scale renewable energy technologies and innovations to reduce climate pollution and increase resilience against impacts of climate change

WHEJAC Recommendation: “Access to basic sanitation supplies and handwashing facilities for all agricultural workers.”

Response: USDA agrees with the recommendation.

- USDA partners with farmers and ranchers and farm worker groups to ensure the safety and wellbeing of farm workers and that raw commodity and products are handled that ensures compliance with food safety regulations. The safety of agricultural workers is in the best interest of many of us who depend heavily on a resilient food supply chain, particularly as evident during the COVID-19 pandemic. Access to basic sanitation supplies and handwashing facilities are eligible activities under Farm Service Agency loans when farmers and ranchers seek access to capital to finance farm operations. USDA Rural Development provides water, wastewater, and solid waste grants, loans, and loan guarantees to increase rural and tribal communities’ (including agriculture) affordable access to clean drinking water. Technical assistance and training for agricultural workers (including safety) are also available via partnership grants with land grant extensions and technical assistance providers. Except, more needs to be done to ensure geographically isolated and underserved communities have sufficient access to water infrastructure to maintain safety and public health such as farm workers in the Colonias or tribal reservations. USDA’s Agricultural Marketing Service is verifying compliance to Food Safety Modernization Act Standard for Growing, Harvesting, Packing and Holding of Produce for Human Consumption when applicable commodities are being procured for USDA Food Distribution Programs.

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WHEJAC Recommendation: “Leverage federal funds to ensure that employers, including those that receive federal funds and/or benefit from federal government procurement, provide all agricultural workers, not just “hand laborers” with access to toilets, potable drinking water and hand washing facilities, regardless of the number of workers in the establishment.”

Response: USDA agrees with the recommendation.

- USDA is working on procurement rules to ensure farmworkers have greater workplace protections at companies who procure with USDA and is supporting the White House’s efforts to pass the Farm Workforce Modernization act. USDA’s acquisition community is also engaging in efforts to strengthen worker rights and protections.

WHEJAC Recommendation: “Justice40 investments AND any federal investments in infrastructure should prioritize the establishment of and/or modernization of water infrastructure in rural America and in environmental justice communities to ensure low-income and community of color households, including those in unincorporated communities, have access to reliable, clean and safe drinking water that protects public health.”

Response: USDA agrees with the recommendation, it is already being implemented except there are funding limitations.

- The fundamental goal of the Rural Utilities Service (RUS) Water and Environmental Program (WEP) at USDA is to fund water infrastructure in unserved rural communities. WEP’s flagship program is the Water and Waste Disposal Loan and Grant Program. Additionally, WEP assists rural water and waste disposal systems through seven construction programs that fund rural environmental justice communities such as Rural Alaska Native Villages, Tribes, Colonias, Persistent Poverty Counties, and communities that experience natural or man-made emergency events. Further, WEP has eight planning and technical assistance programs that support predevelopment activities, feasibility studies, small repairs, water infrastructure workforce training, decentralized water and wastewater development, and modernization of water infrastructure in rural environmental justice communities. List of WEP programs below.
- During the first half of Fiscal Year (FY) 2022, WEP programs have obligated \$553 million in assistance to rural environmental justice communities (a mix of rural Alaska Native villages, Tribes, Colonias, and Persistent Poverty Counties), which is approximately 75% of all year-to-date obligations. With six months remaining in FY 2022, WEP is on pace to not only fulfill but far surpass the Justice40 goal of directing 40% of funding toward rural environmental justice communities. Additionally, to better track assistance relating to Justice40 goals, at the beginning of FY 2022, WEP began collecting and monitoring information on whether funded projects would contribute to this initiative.
- Limitations or Barriers: WEP programs are consistently oversubscribed. Recent reports show a backlog of nearly \$4 billion, and the rural environmental justice communities served by the program are in dire need of more funding. Another significant obstacle is that nearly 70% of the funding provided by Congress is in the form of loans. Environmental justice communities, and rural areas in general, have a higher need of grant funding due to lower median household incomes, a lack of economies of scale, geographically large service areas, and many other unique barriers to providing safe and reliable water and waste services in rural America.

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- WEP rural environmental justice community programs:
 - Water and Waste Disposal Loans and Grants
 - Grants for Rural & Alaska Native Villages
 - Water & Waste Disposal Grants to Alleviate Health Risks on Tribal Lands and Colonias (one regulation, two separate funding programs)
 - Emergency Community Water Assistance Grants
 - Persistent Poverty Loans and Grants
 - Strategic and Economic Community Development (SECD) Loans and Grants
 - Rural Economic Area Partnership (REAP) Zones Grants
 - Supplemental Funding (loan/grant to assist in large emergency events, i.e., hurricanes)
- WEP planning and technical assistance programs:
 - Water & Waste Disposal Predevelopment Planning Grants
 - Special Evaluation Assistance for Rural Communities and Households
 - Circuit Rider Program
 - Technical Assistance and Training (TAT) Grants
 - Solid Waste Management Grants
 - Decentralized Water Systems Grant Program
 - Revolving Funds Program
 - TAT Pilot Grant Program (regional solutions)

WHEJAC Recommendation: “Reduce or eliminate matching requirements for broadband construction projects in environmental justice coal-impacted communities. It is critical to subsidize broadband construction in coal-impacted communities and existing grant programs. Programs at ARC, EDA, USDA, and NTIA are important tools for increasing access. In coal-impacted areas, the match requirements are prohibitive and limit the number of communities who can apply for funding.”

Response: USDA agrees with the recommendation.

- The Rural Utilities Service (RUS) Telecommunications Program (TP) funds broadband infrastructure in rural communities. The TP oversees five different programs that offer loans, grants, and loan/grant combinations.
- The ReConnect Program funds the construction and expansion of broadband infrastructure in rural areas where sufficient access is not available to at least 90% of the households. ReConnect offers grants that require the awardee to match 25% of the total grant award. In April and May of 2021, in collaboration with the Office of Tribal Relations, Rural Development and RUS held two tribal consultations to better understand the barriers that Tribes face in accessing USDA broadband programs. Tribal representatives stated that the matching funds requirement was a major barrier for underserved communities with limited capital resources. In its development of the third ReConnect funding window in late 2021, RUS offered a total of \$700 million in grant funds, with \$350 million set-aside exclusively for Tribes and projects serving Socially Vulnerable Communities, such as coal-impacted communities. The \$350 million grant set-aside did not require a match of funds from the awardee. RUS closed the third funding round on March 9, 2022, and is currently reviewing applications.
- Additionally, the Infrastructure Investment and Jobs Act (IIJA) provided \$2 billion in additional funding for USDA broadband programs, most of which went to the ReConnect Program (\$1.926

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billion). The IIJA includes a statutory waiver of the 25% matching funds requirement for Alaska Native Corporations, federally recognized Tribes, projects serving Colonias, and projects serving persistent poverty counties—communities that can overlap with coal-impacted communities. RUS plans to open a fourth round of ReConnect to distribute IIJA funds in FY 2022.

WHEJAC Recommendation: “Expand covered functions of the HUD Utility Allowance to include internet service. Currently, HUD’s Utility Allowance doesn’t cover internet service. However, without this service, those in public housing lack access to opportunities to find new work, workers cannot attend training programs, and children lack access to complete homework after school.”

Response: USDA has no comment.

- The HUD Utility Allowance is a HUD program. USDA has no updates to offer to this recommendation. Please see HUD’s response.

WHEJAC Recommendation: “Fund the Rural Utility Service Hardship Loan Program at \$100 billion, which is equal to the value of all electric cooperative debt and establish conditions for forgiveness for rural electric cooperatives. Such loan forgiveness should include conditions to facilitate the retirement of all coal plants currently in operation in exchange for new investment in clean energy, distributed energy resources, energy efficiency, high-speed broadband, storage, workforce development, and electric transportation with new loans at U.S. Treasury rates. These conditions would also prompt electric co-ops to forgive unpaid residential utility bills, continue service for the hardest-hit families, and deliver more affordable power to rural households. Rural electric cooperatives serve 42 million Americans, including many communities of color and low-income communities. Members of these cooperatives face far higher energy burdens than other utility customers, and many are facing shutoffs and growing debts because of the COVID-19 crisis.”

Response: USDA has no comment.

- USDA does not have the statutory authority nor the funding to implement this recommendation.

WHEJAC Recommendation: “Expand the Food and Nutrition Services program to include increased funding for lead soluble fruits and vegetables prioritizing school districts with evidence of elevated lead levels in school drinking water, soil, air, buildings (lead-based paint), and proximity to superfund sites, landfills, incinerators and/or brownfields. Free and Reduced Lunch Status of 75%> and schools designated as Title I schools are also eligible.”¹⁵

Response: USDA is interested in the recommendation but requires additional discussion.

- Funding priorities for the 2021 Farm to School grants included applications that serve a high proportion of children (at least 40 percent or more) who are eligible for free or reduced-price meals; applications from Indian Tribal Organizations and entities serving tribal communities;

¹⁵ The WHEJCA recommendation included “(Source: Black Millennials 4 Flint)”

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applications from small- to medium-sized agricultural producers or groups of small- to medium-sized agricultural producers; and projects located in or targeting Opportunity Zones.

- USDA's Farm to School program serves multiple purposes, including helping to bring more locally sourced fruits, vegetables, and other foods to students in school and fostering experiential learning and healthy eating habits in children. Each year, USDA awards Farm to School Grants to help fund projects that will increase the amount of local foods served through child nutrition programs and help educate children about food. Grantees attribute many positive outcomes to the grant, including greater community support for school meals (76%), higher student acceptance of new meal patterns (45%), and increased participation in school meals (44%). Past grantees report that the share of spending used to purchase locally sourced foods increased 7 percentage points during the grant period. Almost all previous grantees (90%) report that farm to school activities would continue after the grant funding ended. In 2021, FNS allocated \$12 million in Farm to School Grants to a record-breaking 176 grantees—serving 6,800 schools and more than 1.4 million children—to incorporate local food as well as food and agriculture education into school meals and other child nutrition programs. Grantees include schools, state agencies, nonprofits, tribal nations, agricultural producers and groups, and—for the first time ever in 2021—institutions participating in the Child and Adult Care Food Program and the Summer Food Service Program.

WHEJAC Recommendation: “Funding for a Green jobs center in Black, Latinx, Tribal and other people of color environmental justice communities. Government grants and subsidization for local food cooperatives and community gardens.”

Response: USDA agrees with the recommendation.

- The Rural Development's Rural Business-Cooperative Service, one of three agencies in USDA's Rural Development mission area, currently offers two grant programs that may be used to support job centers: The Rural Business Development Grant Program and the Rural Innovation Stronger Economy (RISE) Program. Per statute, entities in rural communities are eligible to apply. Since January 2021, USDA has awarded over \$3 million in underserved community awards through RISE and \$6.8 million in underserved communities through RBDG. The Rural Business Cooperative Service also offers assistance through the USDA-funded cooperative development centers to local food cooperatives and other cooperative entities. Funding can also be offered to these cooperatives directly for technical assistance through the Socially Disadvantaged Group Grant.
- Additionally, USDA is ramping up its services for urban farmers and urban communities that benefit from them, coordinated through the Office of Urban Agriculture and Innovative Production (OUAIP). The Farm Service Agency is setting up Urban Service Centers across the country to better provide services to urban producers and expand economic opportunities by connecting them to local and regional market opportunities. A new Urban Agriculture Toolkit will be ready this summer to facilitate connecting urban producers and community gardens to USDA resources.
- The Office of Urban Agriculture and Innovative Production (OUAIP) will announce its Urban Agriculture and Innovative Production competitive grant program is accepting proposals for FY22 on April 30. This program funds planning and implementation projects to encourage and

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promote urban farms and community gardens, including job training programs, with priority given to projects in areas lacking access to fresh and healthy food.

- The OUAIP will announce its Composting and Food Waste Reduction cooperative agreement pilot program is accepting proposals for FY22 on April 30. This program funds local government projects to test strategies for food waste reduction and composting and promote the use of compost in community gardens to reduce the use of fertilizer, improve soil quality, increase rainwater absorption, and encourage permaculture business development.
- USDA is also relaunching the People's Garden Initiative (PGI) to promote community gardens. The PGI was initially launched during Secretary Vilsack's first term with an emphasis on pollinator gardens, the relaunched PGI will be focused on food producing gardens with an educational component. The initiative will kick off the week of May 2, 2022, with the opening the People's Garden at USDA HQ, and will focus on promoting gardens in the cities selected for Urban County Committees and USDA urban service centers during the first year. The PGI is collaborating with the Office of Tribal Relations on a Sovereignty Gardens campaign aimed at tribal youth and promoting traditional indigenous gardening practices.

WHEJAC Recommendation: “Expanding grants & training program for Black organic & regenerative farmers.”¹⁶

Response: USDA agrees with the recommendation.

- In Fall 2021, the National Organic Program awarded nine Cooperative Agreements under a new [Organic Human Capital Initiative](#). The initiative addresses two USDA priority areas important to the organic agriculture industry: diversity, equity, inclusion, and access; and developing fair and competitive markets. The initiative is designed to improve the oversight capacity of the organic industry by supporting and expanding the pool of qualified inspectors and other professionals. Diversity, equity, inclusion, and access are embedded in these projects. Project teams are creating resources for and with historically underserved communities, regions with lower-than-average rates of organic agriculture (primarily the Southeast United States), and historically black colleges and universities (HBCUs).

WHEJAC Recommendation: “Modernize temporary labor camp standards and farm labor camp standards to mitigate the risks that climate change, extreme weather events and pandemics pose on migrant and seasonal farmworkers and their families.”

Response: USDA agrees with the recommendation.

- Section 1910.142 of Occupational Safety and Health Standards covers temporary labor camps under the purview of DOL; The Occupational Safety and Health Act is one of the laws addressed by USDA’s proposed new procurement rules impacting items procured under USDA contracts and subcontracts. For the Section 516 program, we have competitive Notice of Funding Availability (NOFAs) and we are planning to do a NOFA for Farm Labor Housing repairs, the first

¹⁶ The WHEJCA recommendation included “Source: Generation Green”

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of its kind. Owners of properties may use that funding for energy efficiency/climate improvements.

WHEJAC Recommendation: “Invest in USDA Section 521, 515, and Section 514 and 516 Farm Labor Housing to invest in building resiliency to extreme weather events, energy efficiency, climate control, and facilities such as water and waste disposal systems.”

Response: USDA agrees with the recommendation.

- USDA believes in the importance in investing in building resiliency and has several options towards meeting that goal. In the American Rescue Plan Act (ARPA), the Rural Housing Service received funding for Section 521 rental assistance and the creation of the new Emergency Rural Healthcare Grants. For Farm Labor Housing, Sections 514 and 516, we have competitive NOFAs and we are planning to do a NOFA for Farm Labor Housing repairs, the first of its kind. Owners of properties may use that funding for energy efficiency/climate improvements.
- These programs (Sections 521, 515, 514, and 516) do not provide investments in water and waste disposal systems. Water and waste disposal systems are funded through RUS’ Water and Environmental Program, see earlier recommendation.

WHEJAC Recommendation: “Ensure investments in Farm Labor Housing prioritize housing for U.S.—based workers and their families, without regard to legal status, and do not promote the displacement of the domestic agricultural workforce.”

Response: USDA cannot agree with this recommendation due to statutory limitations.

- Section 514 (f)(3)(A) of the Housing Act of 1949 states:

(3) the term “domestic farm labor” means any person (and the family of such person) who receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities, the handling of agricultural or aquacultural commodities in the unprocessed stage, or the processing of agricultural or aquacultural commodities, without respect to the source of employment, except that—

(A) such person shall be a **citizen of the United States**, or a person **legally admitted** for permanent residence, or a person **legally admitted** to the United States and **authorized to work** in agriculture.
- Based on this statutory requirement, USDA is obligated to verify eligibility of funding recipients or beneficiaries. Additionally, other federal agencies, such as HUD, have similar rules and requirements in place that ask for immigration status and immigration status may be a factor in eligibility for various federal programs.

3. U.S. Army Corps of Engineers (USACE)

WHEJAC Recommendation: “Require the U.S. Army Corp of Engineers to proceed with plans to dredge the Caño Martin Peña (CMP/channel). Specifically, the Biden Administration should select the Caño Martin Peña Ecosystem Restoration Project (ERP) as a construction New Start for the FY22 US Army Corps of Engineers Work Plan or include the resources in the Justice 40 investments, any upcoming Supplemental related to President Biden’s Infrastructure Plan or through direct spending.”

Response:

- The Army allocated \$163.3M from the Infrastructure Investment and Jobs Act on 19 JAN 22 for the Caño Martin Pena Ecosystem project. Details can be found under the Infrastructure Investment and Jobs Act section ([Construction Work Plan](#)).

WHEJAC Recommendation: “Pending flood control projects such as the Nigua River in Salinas, Puerto Rico and the Rio Piedras-Puerto Nuevo River in San Juan, Puerto Rico and coastal protection projects should incorporate ecosystem bio-remediation measures and robust community consultation prior to investment of funds and not allow for projects that impede sustainable flood control work or adversely impact public water supply.”

Response:

- USACE is committed to sustainability and resiliency for all of its flood risk reduction projects. The USACE incorporates non-structural alternatives and nature-based features when appropriate for providing flood risk reduction. The CEQ-issued Principles, Requirements, and Guidelines (PR&G) requires a complete non-structural alternative to be included in the final array of alternatives for a Civil Works project and the USACE is initiating a rulemaking action to codify the PR&G in regulation. USACE also considers the potential beneficial and adverse impacts from projects as it works the NEPA process which are all considered in the planning process. Community consultation occurs throughout the NEPA process by USACE as well as the non-federal sponsor. Also, as a result of the [Interim EJ Implementation Memorandum](#) issued by the ASA(CW) in March 2022, USACE is developing an outreach plan specific to engaging disadvantaged and underserved communities for the Civil Works program.

WHEJAC Recommendation: “Invest Justice 40 funds to designate the South Coast Aquifer in Puerto Rico as a sole source public water resource and decontaminate the aquifer.”

Response:

- To be clear, there are no identified “Justice40 funds” for USACE Civil Works project allocations. However, Army Civil Works is committed to ensuring USACE contributes to the Administration’s Justice40 Initiative, which is detailed in the [Interim EJ Implementation Memorandum](#) signed by the ASA(CW) in March 2022. The USACE allocates funding to specific projects within the USACE mission areas. The USACE does not designate sole source public water resources and to our knowledge, there are no designated sole source aquifers in Puerto Rico. There is also not a specific Civil Works mission area for decontamination of an aquifer. USACE is committed to

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working in partnership with other federal agencies, including USGS, to identify and address the needs of disadvantaged communities to the maximum extent practicable.

WHEJAC Recommendations for All Federal Agencies, [pages 52-57](#):

Response:

- Army Civil Works is initiating an update to the USACE Tribal Consultation Policy to specifically include comments raised in [regards to carrying out Nation-to-Nation consultative duties, and the cultural impacts of infrastructure, and that Tribal ecological knowledge has an important role in the design of projects and the assessment of risks,] among many other areas raised by tribes regarding the Civil Works program. This effort will include tribal listening sessions as well as government-to-government consultation. Army Civil Works is also a member of the Administration's working group to develop guidance for federal agencies on how to incorporate Indigenous Knowledge in decision-making.

WHEJAC Recommendations for the Definition of Investment Benefits, [page 57](#):

Response:

- Army Civil Works is committed to supporting the Justice40 Initiative for the coastal and inland flood risk management programs as well as the aquatic ecosystem restoration program. In addition, the Civil Works technical services programs, such as Planning Assistance to States (and tribes) and Floodplain Management Services, will also work to support the Justice40 Initiative. The Tribal Partnership Program is also a key component of our commitment to Justice40. Civil Works will certainly look to consider direct investments in people and communities through strategic outreach and engagement to identify their needs and then work with them to address their needs, whether through Civil Works programs alone or in combination with a whole-of-government and state/local partners effort.

WHEJAC Guiding Principles: Program Criteria to Maximize Federal Investment Benefits and Avoid Harm in EJ Communities, [page 57](#):

Response:

- See response above. In addition, the ASA(CW)'s [Interim Implementation Guidance](#) on Environmental Justice dated March 15, 2022, directed the USACE to develop an outreach and investment strategy to better achieve environmental justice for the Civil Works program.

4. U.S. Department of Commerce (DOC)

WHEJAC Recommendation: “Installing rooftop solar, community solar, energy efficiency upgrades to homes and buildings would lower the cost of electricity to most individuals in frontline and low-income communities. In addition, community resilience projects, including sustainable and regenerative agriculture, other nature-based solutions (e.g. green roofs for mitigation of extreme heat, mangroves/wetlands, porous roads for flood mitigation), clean water infrastructure (e.g. sewage management and drinking water access), and broadband installation projects would provide significant benefits to frontline and low-income communities. It is important to note that much of the demand side technology for energy management requires stable internet access. However, individuals in these communities cannot afford to put any funds down to obtain a loan and cannot afford to repay loans at commercial interest rates. Grants alone will not support the level of scale that is needed.”

Response:

- NOAA conducts habitat conservation and restoration, both directly and through grant funding to entities. The conservation and restoration work provides nature-based solutions to mitigate, adapt to, and build resilience against climate change and its impacts, including in frontline and low-income communities. **For example:**
 - In 2022, two NOAA-sponsored habitat restoration projects in Louisiana were [approved for \\$53.5 million](#) by the Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA) Program.
 - In November 2021, NOAA and the National Fish and Wildlife Foundation announced \$39.5 million to fund 49 projects under the 2021 National Coastal Resilience Fund. The projects will restore, increase, and strengthen natural infrastructure—the landscapes that help absorb the impacts of storms and floods—to ultimately protect coastal communities from storm and flooding impacts and enhance fish and wildlife habitat. The total investment, including non-federal match, is nearly \$97.8 million. Project descriptions and additional information can be found [here](#).
 - The Florida Reef Tract is North America's only coral barrier reef with extensive seagrass beds, mangrove-fringed islands, and more than 6,000 marine species. To help reverse its long term ecosystem decline, a cross-NOAA team is engaging with world-renowned scientists, academic and non-profit organizations, local restoration partners, and other federal and state agencies to implement a first-of-its-kind approach to comprehensively restore seven ecologically and culturally significant coral reef sites in the Florida Keys National Marine Sanctuary. As of September 30, 2021, restoration work is now underway at all seven sites including outplanting more than 30% of the threatened elkhorn coral and close to 70% of the threatened staghorn coral at one site. For nearby coastal communities, coral reefs and wetlands provide buffers against storm impacts and other benefits.
 - In July 2021, the Great Lakes and St. Lawrence Cities Initiative and NOAA announced a new Lake Michigan Coastal Resilience Initiative. The Lake Michigan Coastal Resilience Initiative creates a series of shovel-ready projects focused on bringing nature-based solutions to cities being impacted by coastal storms, fluctuating lake levels, erosion, and climate change. Through this initiative, NOAA will work with municipalities to increase

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capacity, design sustainable restoration and conservation projects, and safeguard coastal habitats and other assets using nature-based solutions to improve coastal resilience, combat the climate crisis, and conserve our lands, waters, and biodiversity.

- Through its administration of the [GulfCorps](#) program, NOAA in collaboration with local partner corps and nonprofit organizations, protects and restores the Gulf of Mexico lands and waters while providing short-term employment in natural resources conservation for local young adults. In 2021, the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States (RESTORE) Council provided \$11.9 million in funding for NOAA to continue the GulfCorps program for four more years leading to about 250 jobs for young adults to gain skills and restore more than 6,400 acres of habitat across the Gulf of Mexico coast.

WHEJAC Recommendation: “To scale up rooftop and community solar, energy efficiency upgrades, and resilience projects in frontline and low-income communities, a green bank should be created to provide low-interest loans covering 100% of costs so that no upfront capital is needed. The loan would be at a low enough interest rate so that the combined energy bill and loan repayment will be less than a participant’s current energy bill. Where the cost of repayment plus electricity costs would exceed the current cost of electricity, the bank would provide grants that lower the cost so that electricity costs go down. Currently, there is proposed green bank legislation in both the House and the Senate, (often with a different name for the bank). It is critical for frontline and low-income communities that the legislation specify that a specific percentage of the bank’s funds (40%) must go to frontline and low-income communities. Low cost green bank financing would also be available for a wide range of traditional infrastructure projects in frontline and low-income communities to supplement direct infrastructure funding in these communities. Green bank financing can reach the necessary scale because loans are repaid and can be securitized, resulting in a revolving source of funds, and loans can be leveraged with private capital and green bonds. Funds will cover costs to develop onsite solar, storage and other renewable energy and energy efficiency projects. Funds also to pay for new roofs, electrical system upgrades, and other infrastructure improvements needed to make sites ready for renewable energy production. Funding decisions and allocation should be led and informed by Biden’s Interagency Climate Equity Task Force and local community leadership. Funds must be dedicated solely to investments that benefit frontline communities and restricted from use for any other purposes.”

Response:

- DOC is involved in green energy efforts but primarily in the form of offshore wind. DOC suggests rewording this issue area to reflect our offshore wind priorities and expertise. Please see DOE for response for additional information.

WHEJAC Recommendation: “The U.S. Department of Health & Human Services, the U.S. Department of Homeland Security, the US Department of Commerce, and the U.S. Department of Housing and Urban Development should develop guidance and policy for governors requiring them to certify relief assistance and funds received during major declared disasters and emergencies are spent in an equitable and nondiscriminatory way, including individual assistance, hazard mitigation, and public assistance.”

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Response:

- DOC agrees that this is an important concern and refers to the robust responses provided by HHS, HUD, DHS, and DOT.

WHEJAC Recommendation: “Increase funding for the Partnerships for Opportunity and Workforce and Economic Revitalization (POWER) and Assistance to Coal Communities (ACC) programs. POWER and ACC have provided critical support for planning activities in communities affected by the coal transition, but they remain underfunded compared to the scale of communities’ needs. This problem will worsen as mine and plant closures accelerate in the coming years.”

Response:

- Under the American Rescue Plan, EDA was allocated \$3 billion in supplemental funding to assist communities nationwide in their efforts to build back better by accelerating the economic recovery from the coronavirus pandemic and building local economies that will be resilient to future economic shocks. As a part of this funding, EDA made a \$300 million Coal Communities Commitment, to ensure support for these communities as they recover from the pandemic and create new jobs and opportunities, including through the creation or expansion of a new industry sector. This commitment will be fulfilled through \$100 million in Build Back Better Regional Challenge grants and \$200 million in Economic Adjustment Assistance grants.
- Additionally, EDA’s FY 2023 budget request includes \$80.5 million to provide assistance to coal communities which represents a \$39.0 million increase above the FY 2022 enacted level. EDA’s annual appropriation requires EDA to award at least \$7.6 million within the Appalachian Region which may also benefit coal communities in this region. EDA is committed to continuing to advocate for additional funds to assist coal communities.

WHEJAC Recommendation: “Reduce or eliminate matching requirements for broadband construction projects in environmental justice coal-impacted communities. It is critical to subsidize broadband construction in coal-impacted communities and existing grant programs. Programs at ARC, EDA, USDA, and NTIA are important tools for increasing access. In coal-impacted areas, the match requirements are prohibitive and limit the number of communities who can apply for funding.”

Response:

- EDA does not have the authority to change its grant rates absent Congressional action. As provided for by statute, EDA’s grant rate is determined by the relative distress of the community. EDA may not exceed 50 percent of the total cost of the project unless there are indicia of greater economic distress. Projects may receive an additional amount of up to 30 percent of the total project cost, if its per capita income or unemployment are above the national average. If Congress appropriates funds to EDA to respond to a Presidentially-declared national disaster, EDA has authority to fund up to 100% of the project cost. EDA supports communities through a wide variety of economic development projects, including broadband. EDA is committed to using these flexibilities to assist environmental justice coal-impacted communities when authorized.

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WHEJAC Recommendation:

- “Expand covered functions of the HUD Utility Allowance to include internet service. Currently, HUD’s Utility Allowance doesn’t cover internet service. However, without this service, those in public housing lack access to opportunities to find new work, workers cannot attend training programs, and children lack access to complete homework after school.”
- “Reduce or eliminate matching requirements for broadband construction projects in environmental justice coal-impacted communities. It is critical to subsidize broadband construction in coal-impacted communities and existing grant programs. Programs at ARC, EDA, USDA, and NTIA are important tools for increasing access. In coal-impacted areas, the match requirements are prohibitive and limit the number of communities who can apply for funding.”

Response: EDA’s grant authorities do not allow it to make grants for utility costs or internet service. Please see HUD response regarding utility allowance.

WHEJAC Recommendation: “Expand covered functions of the HUD Utility Allowance to include internet service. Currently, HUD’s Utility Allowance doesn’t cover internet service. However, without this service, those in public housing lack access to opportunities to find new work, workers cannot attend training programs, and children lack access to complete homework after school.”

Response:

- **Tribal Broadband Connectivity Program (TBCP) and Tribal Consultation:** The National Telecommunications and Information Administration (NTIA) is committed to increasing broadband Internet access across America, particularly in unserved and underserved communities. The Tribal Broadband Connectivity Program provides up to \$980 million to eligible tribal entities to expand access to and adoption of broadband service on tribal lands. In addition to infrastructure, the program funds projects that promote affordability and access to remote learning, telework, or telehealth resources. To raise awareness of the program and guide prospective applicants, NTIA facilitated 13 hours of government-to-government tribal consultations and performed extensive outreach including more than 50 regional tribal presentations, 10 webinars for prospective applicants, and engagement at the individual tribal and consortia level.
 - Please visit for further information: [Tribal Nations | BroadbandUSA \(doc.gov\)](#) and this document for a summary of NTIA’s Tribal Consultation process: [Microsoft Word - Tribal Consultation Summary Report.Final \(doc.gov\)](#)
- **Office of Minority Broadband Initiatives and the Connecting Minority Communities Pilot Program:** NTIA established the Office of Minority Broadband Initiatives (OMBI) in July 2021. OMBI seeks to expand access to broadband and associated devices and services to ensure meaningful use for Minority-Serving Institutions and their students, as well as residents and businesses in communities surrounding those institutions. The office will work with a breadth of institutions, including Historically Black Colleges and Universities (HBCUs), Tribal Colleges and Universities (TCUs), and other Minority-Serving Institutions (MSIs), including Alaska Native or Native Hawaiian Serving Institutions (ANNHs), Asian American and Native American Pacific Islander Serving Institutions (AANAPISIs), Hispanic Serving Institutions (HSIs), Native American serving Non-Tribal Institutions (NASNTIs), and Predominantly Black Institutions (PBIs). The

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Connecting Minority Communities (CMC) Pilot Program provides \$268 million for the expansion of broadband availability, connectivity, and digital inclusion at HBCUs, TCUs, HSIs, AAPIIs, and MSIs, as well as in their surrounding anchor communities.

- **Infrastructure Investment and Jobs Act Programs:** Congress included a series of broadband programs to be administered by NTIA as part of the Infrastructure Investment and Jobs Act (enacted in November 2021). See [Grants Overview | BroadbandUSA \(doc.gov\)](#) for more information. NTIA will administer the following programs, furthering the mission of closing the digital divide across the nation:
 - **Broadband Equity, Access, and Deployment (BEAD) Program:** The BEAD program allocates \$42.45 billion in funding and technical assistance to states to develop broadband plans, and to subgrantees to construct and deploy infrastructure for the provision of broadband service. The program will provide grant funding to states, territories, and the District of Columbia to promote broadband deployment to and adoption in unserved and underserved communities.
 - **Digital Equity Act:** The Digital Equity Act will stand up two programs—the State Digital Equity Capacity Grant Program and the Digital Equity Competitive Grant Program. These programs make available \$2.75 billion to build state capacity and award grants to promote the achievement of digital equity, support digital inclusion activities, support state efforts relating to the adoption of broadband by residents of those states, and make competitive grants directly to entities involved in advancing digital inclusion and digital equity.
 - **Middle Mile Deployment Program:** The Middle Mile Deployment program provides \$1 billion to encourage the expansion and extension of middle mile infrastructure to reduce the cost of connecting unserved and underserved areas to the backbone of the Internet. These grants will promote broadband connection resiliency through the creation of alternative network connection paths that can be designed to prevent single points of failure on a broadband network.
 - **Tribal Broadband Connectivity Program:** The Infrastructure Investment and Jobs Act provided \$2 billion in additional grant funding for NTIA's existing Tribal Broadband Connectivity Program.
- **Promoting federal funding opportunities to disadvantaged communities:** NTIA helps connect a variety of users from governments, industry, and community anchor institutions to federal funding opportunities that support broadband planning, digital inclusion, and deployment projects. BroadbandUSA's "[one-stop](#)" [funding site](#) is updated as new funding becomes available with information from federal agencies and the Federal Communications Commission. See: [Federal Funding | BroadbandUSA \(doc.gov\)](#)

WHEJAC Recommendations for All Federal Agencies, [pages 52-57](#):

Response:

- In April 2022, NOAA participated in tribal consultations hosted by the White House Office of Science and Technology Policy and the White House Council on Environmental Quality (CEQ) on [indigenous traditional and ecological knowledge \(ITEK\) in federal decision making](#). NOAA is a member of the ITEK interagency working group.

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- In February 2022, NOAA [conducted tribal listening sessions](#) to gather input on implementation of the Infrastructure Investment and Jobs Act, particularly three provisions of the law that authorize NOAA to provide funding to tribes.
- In January 2022, NOAA conducted tribal consultations with federally recognized Indian Tribes to help identify appropriate updates or revisions to the following existing NOAA policies and guidance documents, which facilitate NOAA's implementation of [Executive Order 13175](#): (1) Tribal Consultation Handbook titled NOAA Procedures for Government-to-Government Consultation With Federally Recognized Indian Tribes and Alaska Native Corporations (2013); (2) NOAA Administrative Order 218-8 titled Policy on Government-to-Government Consultation with Federally Recognized Indian Tribes and Alaska Native Corporations (Reaffirmed in 2018); and (3) a traditional ecological knowledge (TEK) guidance currently titled NOAA Fisheries and National Ocean Service Guidance and Best Practices for Engaging and Incorporating Traditional Ecological Knowledge in Decision-Making (2019). See [Federal Register Notice](#) for more details.
- In October 2021, NOAA participated in two tribal consultations hosted by the White House Council on Environmental Quality (CEQ), in coordination with the Departments of the Interior and Commerce (through NOAA). These opportunities were provided with the intent of engaging with Tribes and Tribal leaders to better understand their needs, interests, and best ways to work together on the *America the Beautiful* initiative. While input on all aspects of the America the Beautiful initiative was welcomed, there was a set of specific questions shared in advance. More detailed information is [available here](#).
- NOAA has held tribal consultations, listening sessions, and other engagements with Tribal Nations and other indigenous communities over the last year on specific NOAA actions. For example:
 - In February 2022, NOAA [conducted tribal listening sessions](#) to gather input on implementation of the Infrastructure Investment and Jobs Act, particularly three provisions of the law that authorize NOAA to provide funding to tribes.
 - In January 2022, NOAA conducted tribal consultations with federally recognized Indian Tribes to help identify appropriate updates or revisions to the following existing NOAA policies and guidance documents, which facilitate NOAA's implementation of [Executive Order 13175](#): (1) Tribal Consultation Handbook titled NOAA Procedures for Government-to-Government Consultation With Federally Recognized Indian Tribes and Alaska Native Corporations (2013); (2) NOAA Administrative Order 218-8 titled Policy on Government-to-Government Consultation with Federally Recognized Indian Tribes and Alaska Native Corporations (Reaffirmed in 2018); and (3) a traditional ecological knowledge (TEK) guidance currently titled NOAA Fisheries and National Ocean Service Guidance and Best Practices for Engaging and Incorporating Traditional Ecological Knowledge in Decision-Making (2019). See [Federal Register Notice](#) for more details.
 - In November 2021, NOAA initiated the designation process for the [proposed Chumash Heritage National Marine Sanctuary](#) off the central coast of California. The site was nominated by the Northern Chumash Tribal Council on behalf of a broad community consortium. Since the start of the process NOAA has continued to engage multiple tribes in the area, including formal government-to-government consultation with the Santa Ynez Band of Chumash Nation.

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WHEJAC Recommendations for the Definition of Investment Benefits, [page 57](#):

Response:

- In 2021, NOAA hosted a [series of Climate and Equity Roundtables](#) across the country to gather feedback from community partners to inform how NOAA provides climate services, engages with underserved and vulnerable communities, and strengthens internal processes to respond to expressed needs. These events were designed to frame discussions around impacts experienced in local communities related to a changing climate. After the roundtables, NOAA approved funding to support 1-3 year eight pilot projects that were co-developed by the roundtable participants, which will start being implemented later this year (FY22).

WHEJAC Guiding Principles: Program Criteria to Maximize Federal Investment Benefits and Avoid Harm in EJ Communities, [page 57](#):

Response:

- NOAA's Regional Integrated Sciences and Assessments Program (RISA) developed new language in the FY21 NOFO prioritizing collaborations between frontline communities and researchers that considers both processes of historical marginalization and power inequalities, in order to build community capacity to adapt to climate change. As a result, the program has seen significant changes, which include new partnerships with communities and community based organizations, Minority Serving Institutions, and Tribes, as well as processes for establishing beneficial and respectful working relationships.
 - In one example, the Carolinas RISA, known as the Carolinas Collaborative on Climate, Health, and Equity (C3HE) is aiming to build and enhance local partnerships in underserved communities across the Carolinas, particularly communities historically underrepresented in climate adaptation and resilience planning, to identify, test, and refine equitable solutions for climate resilience. The team will work to address structures of power & social position in health equity outcomes, not only researching the societal context that enables or blocks adaptation and equity in order to formulate more just approaches. The team has also incorporated a Community Advisory Board with a JEDI subcommittee into their management strategy to ensure their own work is informed by community voices and held accountable at all stages.
- NOAA's National Integrated Heat Health Information System (NIHHIS)'s Extreme Heat Risk Initiative, supports decision making in neighborhoods grappling with inequitably distributed impacts of extreme heat. Five projects funded in FY21, bring together scientists, local governments and community-based organizations to apply urban climate science to community heat action planning. These plans will focus on the most effective and equitable heat management strategies—as defined by both community stakeholders and a quantitative analysis.
 - For example, the project “Urban Climate Science for Decision-Making & Evaluation of Heat-Health Interventions for Austin, Texas” brings together the University of Texas at Austin, the City of Austin, community groups including Go Austin and Vamos Austin, and East Austin residents to create dynamic heat maps that depict how people experience the heat alongside actual temperature measurements and then use the maps to

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develop strategies to cool down temperature hot spots. The project team will incorporate resident input from the very beginning, engaging in discussions about temperature hot spots in their communities and receiving feedback on temperature maps.

- NOAA's Regional Integrated Sciences and Assessments Program (RISA) builds trusted relationships between decision makers and researchers to build capacity to adapt to climate change. 11 regionally-focused and interdisciplinary research and engagement teams accomplish this through applied and co-developed research and partnerships with communities. As an example of this work, the Alaska RISA known as the Alaska Center for Climate Assessment and Policy (ACCAP) developed a Declaration of Principles for Partnership Research between the Organized Village of Kake, Kake Tribal Corporation, the City of Kake and ACCAP to establish etiquette, values data protocols and sovereignty, project protocols, projects outcomes, and follow up procedures. This shared set of principles guides a variety of co-developed and co-produced research topics related to climate impacts and resilience.

5. U.S. Department of Defense (DoD)

WHEJAC Recommendation: “Decontamination of Vieques and Culebra. Invest Justice 40 funds to allocate \$10 million to purchase closed detonation chambers in the efforts to rid Vieques of unexploded ordnance. Community groups are calling for “genuine community participation in the process of decontamination, so that the cleanup will be thorough and effective” and the budget to carry out a complete cleanup.”

Response:

- The Department is dedicated to the President's initiatives as outlined in EO 14008 and committed to advancing Environmental Justice initiatives across all applicable programs.
- The Department does not have any dedicated, “Justice40” funds. All munitions response activities, including those at Vieques are addressed using Defense Environmental Restoration Program (DERP) funds. Use of these funds are guided by applicable statute and regulations, specifically the DERP (10 U.S. Code 2700 et. seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act (42 USC 9601 et. seq.).
- In regard to specific actions at Vieques, the Navy has installed a new “closed detonation chamber,” and obtained required safety approvals. The system will begin operations next month. The Navy has also budgeted DERP funds to complete the cleanup at Vieques.
- In addition, the Navy continues a robust community participation and outreach program that has been in place at Vieques since the mid-2000s.

WHEJAC Recommendations for All Federal Agencies, [pages 52-57](#):

Response:

- The Department of Defense (DoD) continues to improve policies and practices designed to enhance effective, robust, and meaningful consultation with federally recognized tribes on a government-to-government basis on all activities that may have the potential to significantly affect protected tribal resources, tribal rights, or Indian lands. The DoD consults Indian tribes on land-disturbing activities, training, over-flights, the management of properties of traditional religious and cultural importance, the protection of sacred sites from vandalism and other damages, access to sacred sites and treaty-reserved resources, tribal reserved treaty rights, access to subsistence resources, land use decisions, and military construction projects.
- DoD is focused on a variety of priorities in its 2022 implementation of the DoD Plan of Action on Tribal Consulting, including:
 - Regional virtual tribal consultations on DoD’s update of its tribal consultation policy, DoD Instruction 4710.02: DoD Interactions with Federally Recognized Tribes;
 - Hosting the virtual Biennial Meeting of tribal and federal partners in the DoD’s Native American Lands Environmental Mitigation Program;
 - A listening session with an Alaska Native village on a historic military bombardment event;
 - Interagency partnership and financial support of an indexed Tribal Treaty Rights Database;

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- Delivering the OSD-sponsored American Indian Cultural Communications and Consultation Course at the request of the Minnesota National Guard at Camp Ripley;
 - Continued participation in interagency Work Groups, including the White House Council on Native American Affairs Climate Change, Tribal Homelands and Treaties Committee, the interagency Working Group on Indigenous Ecological Knowledge, and the White House Council Environmental Justice Interagency Council; and
 - Researching and reviewing opportunities to establish a DoD Tribal Advisory Committee.
- Under the DoD Native American Lands Environmental Mitigation Program (NALEMP), DoD addresses environmental effects of Department actions on Indian lands and on other locations where the Department, an Indian tribe, and the current land owner agree that such mitigation is appropriate. These environmental effects are typically associated with hazardous materials, munitions debris, underground fuel storage tanks, unsafe buildings, lead-based paint and asbestos, and abandoned equipment. Most Indian lands are located in rural and remote areas with low population densities; thus, they might not qualify as high priority sites under the Department's more limited environmental restoration programs. The NALEMP seeks to bridge the gap between tribal needs and these traditional risk-based environmental restoration programs and incorporate tribal priorities to address potential impacts to Indian lands. The goal of the NALEMP is to complete mitigation of sites by restoring health and human safety, protecting natural resources, protecting cultural resources, and returning tribal lands to optimal use.
- Under the NALEMP, the Department supports government-to-government relationships with tribes through a Memorandum of Agreement and then enters into two-year Cooperative Agreements (CAs) with the tribal governments. Funding provided through CAs enables tribal governments to lead NALEMP projects, incorporate "traditional ecological knowledge" into design for cleanup, and build tribal capacity regarding environmental services and technical remediation skills. Tribal governments conduct the cleanup with technical assistance and mentorship from the DoD and the U.S. Army Corps of Engineers.
- To date, ninety-four sites in the lower 48 states and Alaska have been fully mitigated. Ninety percent of the 1,100+ potential tribal impacts reported to the Department have been assessed and 292 have been found eligible for NALEMP or are under review. In FY 2021, the Department executed a total of 15 NALEMP CAs, of which 10 CAs were with Alaska Native tribes and five with Indian tribes in the lower 48. By the end of FY2022, the Department will execute an additional 13 CAs, of which 10 CAs will be with Alaska Native tribes and three Indian tribes in the lower 48 states.
- The DoD is committed to respecting Tribal sovereignty, Tribal Treaty rights, the government-to-government relationship, and requirements to comply with EO 13175 and all applicable laws, regulations, and policies related to Tribal consultation.

6. U.S. Department of Energy (DOE)

WHEJAC Recommendation: “Establish a grant program that incentivizes community solar projects in cities and rural communities with discounted subscriptions for low income households whose monthly cost burden for conventional electricity is 12.5% percent or greater, first prioritizing households with the greatest energy burden.”

Response:

- Just announced in April 2022, the U.S. Department of Energy (DOE) National Community Solar Partnership (NCSP) will partner with U.S. Department of Health and Human Services (HHS) to develop and pilot a digital platform that will manage the enrollment, use, and monitoring of community solar system subscriptions for Low-Income Home Energy Assistance Program (LIHEAP) recipients. LIHEAP is an HHS program that assists eligible low-income households with home energy costs. The partnership will support the NCSP target to enable community solar systems to power the equivalent of 5 million households and create \$1 billion in energy bill savings by 2025. More [here](#).

WHEJAC Recommendation: “Installing rooftop solar, community solar, energy efficiency upgrades to homes and buildings would lower the cost of electricity to most individuals in frontline and low-income communities. In addition, community resilience projects, including sustainable and regenerative agriculture, other nature-based solutions (e.g. green roofs for mitigation of extreme heat, mangroves/wetlands, porous roads for flood mitigation), clean water infrastructure (e.g. sewage management and drinking water access), and broadband installation projects would provide significant benefits to frontline and low-income communities. It is important to note that much of the demand side technology for energy management requires stable internet access. However, individuals in these communities cannot afford to put any funds down to obtain a loan and cannot afford to repay loans at commercial interest rates. Grants alone will not support the level of scale that is needed.”

Response: The Bipartisan Infrastructure Law will:

- Invest an additional \$3.5 billion in the Weatherization Assistance Program (over the annual appropriations of around \$200 million) to increase energy efficiency, increase health and safety, and reduce energy costs for low-income households by hundreds of dollars every year.
- Invest \$500 million to provide cleaner schools for our children and teachers by providing energy efficiency and renewable energy improvements at public school facilities, along with a \$5 billion EPA effort to replace thousands of polluting diesel school buses with electric buses. Together, these investments will reduce energy costs in our schools and improve teacher and student health by improving indoor air quality.
- Invest \$550 million in the Energy Efficiency and Conservation Block Grant Program (EECBG) and \$500 million in the State Energy Program to provide grants to communities, cities, states, U.S. territories, and Indian tribes to develop and implement clean energy programs and projects that will create jobs.

WHEJAC Recommendation: “To scale up rooftop and community solar, energy efficiency upgrades, and resilience projects in frontline and low-income communities, a green bank should be created to provide

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low-interest loans covering 100% of costs so that no upfront capital is needed. The loan would be at a low enough interest rate so that the combined energy bill and loan repayment will be less than a participant's current energy bill. Where the cost of repayment plus electricity costs would exceed the current cost of electricity, the bank would provide grants that lower the cost so that electricity costs go down. Currently, there is proposed green bank legislation in both the House and the Senate, (often with a different name for the bank). It is critical for frontline and low-income communities that the legislation specify that a specific percentage of the bank's funds (40%) must go to frontline and low-income communities. Low cost green bank financing would also be available for a wide range of traditional infrastructure projects in frontline and low-income communities to supplement direct infrastructure funding in these communities. Green bank financing can reach the necessary scale because loans are repaid and can be securitized, resulting in a revolving source of funds, and loans can be leveraged with private capital and green bonds. Funds will cover costs to develop onsite solar, storage and other renewable energy and energy efficiency projects. Funds also to pay for new roofs, electrical system upgrades, and other infrastructure improvements needed to make sites ready for renewable energy production. Funding decisions and allocation should be led and informed by Biden's Interagency Climate Equity Task Force and local community leadership. Funds must be dedicated solely to investments that benefit frontline communities and restricted from use for any other purposes."

Response:

- In January 2022, the Department of Energy announced the Weatherization Assistance Program's Enhancement and Innovation funding opportunity. Financial assistance is available to state, local, tribal and non-profit organizations. A total of \$18.6 million is available from the FY 2021 appropriation with a maximum award amount of \$2 million. Through partnerships and leveraging of the DOE WAP and other funding sources, these awards will enable deep energy retrofits of low-income housing in four topic areas:
 - Developing new place-based methods for targeting and delivering deep energy retrofits to benefit communities disproportionately impacted by high energy burden;
 - Increasing the number of homes eligible for energy efficiency retrofits by making homes weatherization and electrification ready, while also ensuring healthy indoor environments;
 - Growing community partnerships and leveraging additional funds to maximize the installation of renewable and new technologies; and,
 - Supporting workforce development and creating pathways to careers in the home performance, energy efficiency, and renewable energy sectors by hiring and retaining individuals underrepresented in these industries
- DOE's April 2022 Equity Action Plan includes improving access and equity in DOE's Weatherization Assistance Program. Low-income households sometimes face delays in getting weatherization assistance when buildings in need of significant non-energy related home repairs are not deemed cost-effective when evaluated for potential energy saving. DOE plans to take actions that will reduce these delays through a newly proposed Weatherization Readiness fund that will ensure DOE funding is available to all grantees and low-income households, as well as a competitive grant program that will provide financial assistance to make homes weatherization ready.

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WHEJAC Recommendation: “Identify key barriers to solar access at U.S. Department of Housing and Urban Development, including reviewing utility allowances. DOE and HUD should collaborate to identify barriers to solar in HUD housing and ensure sufficient financing programs for low income households.”

Response:

- As noted in HUD’s response, DOE is working closely with HUD’s Office of Multifamily Housing to address a key barrier identified by affordable housing providers to installing solar in HUD-assisted multifamily housing. Please see HUD’s response for more detail.

WHEJAC Recommendation: “Establish a joint DOE and HUD study on home repair and structural barriers to solar installations by 2022 and deploy at least 3 gigawatt of local solar on HUD assisted housing by 2025, with at least 1.2 gigawatt in disadvantaged communities.”

Response:

- In order to meet the needs of consumers, it is important that the solar community understand the motivations and factors at play through the technology adoption process so that we can ensure that the full benefits of solar are being realized.
- In January 2022, the U.S. Department of Energy (DOE) released the [Solar Power in Your Community guidebook](#), which will assist local government officials and stakeholders in boosting solar deployment and overcoming common barriers in today’s market. The report provides best practices, case studies, and links to additional resources. The intent is to provide local governments and their stakeholders a one-stop-shop for information about solar deployment. This marks the third edition of the guidebook, which DOE originally published in 2011.
- The guidebook highlights case studies from a wide range of communities that have successfully implemented solar programs, including:
 - **Bronzeville Microgrid Project**—Commonwealth Edison (ComEd) built a solar microgrid in this Chicago South Side community that provides backup power to 10 critical facilities. The solar installations were built on public housing, composed of 16 high-rise buildings.
 - **The Solarize Philly campaign**—Led by the Philadelphia Energy Authority, Solarize Philly developed a new group buy structure that enables low and moderate-income residents to participate.
 - **GreenPower Training Program**—In 2016, Madison, WI, started a new program to train underemployed and unemployed residents from underrepresented communities in basic solar installation. Participants have gone on to gain electrical apprenticeships and become certified journeymen, and some have been hired by the city.
 - **Santa Rita Union School District’s Solar-Plus-Storage Systems**—The Santa Rita Union School District in California installed solar-plus-storage systems on each school building to provide power in the event of disasters and grid outages. Each system can provide up to seven hours of power at each building, minimizing disruptions to the school day and lowering electricity costs.
 - **Edina’s Community Solar Garden**—This Minnesota community hosts a 618-kW community solar garden on the roof of the Edina Public Works Building, serving 68 households.

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- **Santa Fe County Housing Authority Solar**—This New Mexico housing authority developed a program to increase access to solar for local multi-family affordable housing residents at a time when community solar was not authorized in the state. Individual solar systems were provided to individual apartments, financed through energy performance contracting at no cost to tenants.
- **Floating Solar in Sayreville**—Lacking available land, this community in New Jersey used a floating photovoltaic system to offset 100% of its water treatment facility electricity use.
- Previously, DOE’s Solar Energy Technology Office has funded 3 rounds of the Solar Energy Evolution and Diffusion Studies. Examples of relevant studies that have been funded are listed below.
 - **2020 Clean Energy States Alliance**
Project Name: Effective Knowledge Dissemination for LMI Solar: The Roles of Community Organizations and State Governments
Location: Montpelier, VT
DOE Award Amount: \$1,100,000
Awardee Cost Share: \$270,000
Principal Investigator: Warren Leon

Project Summary: This project will identify ways that state energy agencies and community organizations can efficiently and effectively work together to reduce the cost of expanding access to solar by studying knowledge dissemination and collaboration practices in these partnerships. This project will also develop case studies of successful state/community collaborations and provide technical assistance to community organizations and state energy agencies trying to work together to increase solar access.
 - **2016 National Renewable Energy Laboratory**
Location: Golden, CO
SunShot Award Amount: \$1,350,000
Awardee Cost Share: N/A

Project Summary: This project focuses on identifying novel, data-driven, and evidence-based strategies that could dramatically scale up solar adoption rates in low- and moderate-income (LMI) communities. The goal is to develop pathways for reaching parity in solar penetration rates across socioeconomic groups. This project serves a core need for developing objective tools and datasets for policymakers and identifying the barriers that have previously limited deployment. The primary focus of this project is to rate the technical solar potential of buildings in LMI communities across the country, develop predictive models to understand previous LMI deployment, and then work with a national nonprofit solar installation group to determine how communication about solar energy usage occurs within LMI communities.

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- **2016 Yale University**

Location: New Haven, CT

SunShot Award Amount: \$1,350,000

Awardee Cost Share: N/A

Project Summary: This project is testing new messaging, financing, and shared solar approaches for enhancing the diffusion of solar energy in low- and moderate-income (LMI) populations. The project also quantifies the benefits to the electricity grid from programs that expedite and increase deployment of solar energy in areas where solar provides additional value to the grid. In addition, pilot projects within three states test the models developed under this work in the field with the intent to use lessons learned from messaging studies to encourage more LMI populations to go solar, particularly in areas of high grid congestion.

- **2016 Clean Energy States Alliance**

Location: Montpelier, VT

SunShot Award Amount: \$1,730,000

Awardee Cost Share: \$471,000

Project Summary: This project focuses on empowering Connecticut, Minnesota, New Mexico, Oregon, Rhode Island, and the District of Columbia to develop and implement strategies for expanding the amount of solar available to low- and moderate-income (LMI) residents and communities. Each participating state is developing goals and a plan of action that matches its programmatic needs, demographic profile, solar potential, and financial resources.

WHEJAC Recommendation: “Increase funding to DOE for distributed renewable energy programs and ensure that at least 40% of incentives and program funds for clean energy support disadvantaged communities. DOE programs have been an important part of expanding clean energy access across the country, but modifications are needed to ensure the benefits reach disadvantaged communities.”

Response:

- Based on stakeholder engagement, priorities identified by the WHEJAC, and additional research, the Office of Economic Impact and Diversity identified eight policy priorities to guide DOE’s implementation of Justice40 which applies to all covered programs and investments:
 1. Decrease energy burden in disadvantaged communities (DACs).
 2. Decrease environmental exposure and burdens for DACs
 3. Increase parity in clean energy technology (e.g., solar, storage) access and adoption in DACs.
 4. Increase access to low-cost capital in DACs.
 5. Increase clean energy enterprise creation and contracting (MBE/DBE) in DACs.
 6. Increase clean energy jobs, job pipeline, and job training for individuals from DACs.
 7. Increase energy resiliency in DACs.
 8. Increase energy democracy in DACs.

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- One example is, on April 12, 2022, the U.S. Department of Energy (DOE) Solar Energy Technologies Office (SETO) announced the Renewables Advancing Community Energy Resilience (RACER) funding opportunity, which will award \$25 million in funding for projects to enable communities to utilize solar and solar-plus-storage to prevent disruptions in power caused by extreme weather and other events, and to rapidly restore electricity if it goes down. To ensure benefits reach disadvantaged communities, active community-based stakeholders are required as project partners and should play a central role. Teams are also encouraged to include representation from diverse entities, such as Historically Black Colleges and Universities (HBCU) or Minority Serving Institutions (MSI), or through linkages with Opportunity Zones. More [here](#).

WHEJAC Recommendation: “Energy conservation, efficiency, customer engagement, and demand response programs. Quick-Start Energy Efficiency programs: Widescale solar water heaters implementation, Energy audits, Appliance replacement programs, Tuning up air conditioners or replacing old air conditioners, Expanding low-income weatherization programs, Energy literacy and prosumer education programs.”

Response:

- In February 2022, Housing and Urban Development (HUD) Secretary Marcia L. Fudge joined Department of Energy (DOE) Secretary Jennifer M. Granholm and White House National Climate Advisor Gina McCarthy to announce the inaugural Better Climate Challenge, a private-public partnership led by DOE with over 80 American businesses and organizations that have signed on to ambitious carbon reduction goals. The Better Climate Challenge also encourages partners to share pathways to decarbonization among each other to multiply the impact of their innovative strategies to decarbonize.
- The Better Climate Challenge is a voluntary, market-based platform for organizations to come together and put in place ambitious, portfolio-wide, operational greenhouse gas (GHG) emissions reduction goals and showcase how they are taking necessary, measurable steps to address the impacts of climate change.
- Of the more than 80 inaugural partners who have committed to the Challenge, seven are public housing or multifamily partners serving 40,000 low-and moderate-income households across the country: Community Housing Partners, Foundation Communities, Homeowner’s Rehab, King County Housing Authority, Seattle Housing Authority, Standard Communities, and the Tenderloin Neighborhood Development Corporation.
- This challenge builds on the existing Better Building Challenge, which HUD supports with Community Compass technical assistance (TA). Unlike the Better Building Challenge’s requirement for a commitment to a 20 percent improvement in energy efficiency, the Climate Challenge will request commitments of a 50 percent portfolio-wide reduction in carbon emissions over 10 years. [More](#).

WHEJAC Recommendation: “Expand Department of Energy low-income programs by Enacting the Affordable Solar Energy for Our Communities Act (116th Congress H.R. 8165) to create new DOE low-income solar programs to ensure DOE programs are reaching the most disadvantaged communities.”

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Response:

- This piece of legislation was introduced two years ago, but no further action has been taken.

WHEJAC Recommendation: “We should invest in transportation hubs because the communities that are most impacted by the lack of access to transportation are the low-income, people of color, and elderly communities. In New York, WE ACT, along with the assistance from the 40 local community groups and Farzana Gandhi Design Studio, created the “East 125th Community Visioning Action Plan” that focused on making transit accessible and sustainable. This plan would improve mobility amongst commuters by reducing congestion and improving flow of traffic, create efficient public transit lines to connect and make it easier for riders and commuters, and implement sustainable infrastructure for noise, waste, and lighting management in prevention of extreme weather. Transit hubs catalyze housing and small business development, cultural and historic preservation, and attract investment in sustainability especially if they are in a flood zone.”

Response: Defer to DOT and their [Alternative Fuel Corridors](#) as an example.

WHEJAC Recommendation: “Support development of alternate shared transit entrepreneurship. Many communities have little to no public transit, and many low-income communities have a low percentage of car ownership. Many low-income residents and young people have no way in small towns and suburbs and under-resourced cities like Detroit or Los Angeles to get to jobs without public transit. Many new ways of van sharing and other entrepreneurial ventures are starting that can address this challenge. These startups need to be resourced with incentives and seed money.”

Response:

- On February 10, 2022, the Joint Office of Energy and Transportation, created by the Bipartisan Infrastructure Law, released the [National Electric Vehicle Infrastructure \(NEVI\) Formula Program Guidance](#).¹⁷ The Guidance Memo provides background, funding eligibilities, and program guidance for implementation of these historic investments in electric vehicle (EV) charging infrastructure that will put the United States on a path to a nationwide network of 500,000 EV chargers by 2030 and ensure a convenient, reliable, affordable, and equitable charging experience for all users. In general, among other eligible activities the guidance states NEVI Formula Program Funds may be used “To estimate future needs for EV charging stations to support the adoption and use of EVs in shared mobility solutions, such as micro-transit, transportation network companies, and medium- and heavy-duty EVs.”
- The guidance also lists the following potential benefits of the NEVI program:
 - Improve clean transportation access through the location of chargers;
 - Decrease the transportation energy cost burden by enabling reliable access to affordable charging;
 - Reduce environmental exposures to transportation emissions;
 - Increase parity in clean energy technology access and adoption;

¹⁷ Embedded hyperlink. Agency also provided link to www.driveelectric.gov for the guidance.

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- Increase access to low-cost capital to increase equitable adoption of more costly, clean energy technologies like EVs and EV chargers;
- Increase the clean energy job pipeline, job training, and enterprise creation in disadvantaged communities;
- Increase energy resilience;
- Provide charging infrastructure for transit and shared-ride vehicles;
- Increase equitable access to the electric grid; and
- Minimize gentrification-induced displacement result from new EV charging infrastructure.

WHEJAC Recommendation: “Incentivize Development of Green Worker Cooperatives. Underemployed workers of color who have been trained in construction skills and solar installation have a difficult time getting employment through labor unions (construction trades) which are often biased against people of color and tend to be tightly controlled by white ethnic groups for multi generations. One effective response to this challenge is for workers to own and develop their own worker businesses or associations where they incorporate and bid on jobs and become certified as MWBEs.”

Response:

- In April 2022, the U.S. Department of Energy (DOE) released its first-ever Equity Action Plan designed to ensure that the agency eliminates barriers to access, transforms programs and policies to open even broader pathways for underrepresented groups to access DOE resources, and stands up new programs to better serve communities.
- DOE’s comprehensive examination of its methods and policies focused on procurement, financial assistance, research and development (R&D), demonstration and deployment, and stakeholder engagement. DOE’s Equity Action Plan outlines the top five priority actions to advance equity:
 - **Addressing gaps in data collection to facilitate data-informed decision-making**—The Department’s current approaches to data collection limit visibility into who is participating in its business opportunities, outreach events, and programs. To address the data gaps, DOE intends to create a data collection system for underserved communities and individuals for all DOE contract and financial assistance opportunities.
 - **Increasing opportunities for new applicants to DOE funding opportunities** —Though no specific policy, program or regulation contributes to the limited applications from BIPOC communities, rural communities, LGBTQIA+ persons and persons otherwise adversely affected by persistent poverty or inequality, DOE aims to increase the opportunities for new entrants and alleviate resource constraints (e.g., financial, IT, human resources, etc.) through a range of activities, including the creation of a central portal for DOE acquisition opportunities and streamlining and/or relaxing subcontracting requirements.
 - **Increasing participation in DOE R&D and financial assistance programs**—DOE recognizes that current practices do not do enough to support diversity in financial assistance, and that underserved communities face barriers within each aspect of the R&D process. DOE will increase opportunities for underrepresented groups by incorporating Diversity, Equity, and Inclusion requirements into all DOE financial

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- assistance processes, broadening diversity of DOE merit reviewers and reducing the administrative burdens associated with applying for financial assistance funding.
- **Expanding strategic Tribal and stakeholder engagement across DOE programs**—DOE learned that the Department has not had a comprehensive or coordinated strategy for outreach and engagement with Tribal Nations, underserved communities, MSIs, and other communities that historically have been underrepresented in the DOE programs. To build trust with diverse stakeholders and Tribal Nations, and to increase the public’s awareness of DOE opportunities and activities, DOE will explore the establishment of positions within the Department to shepherd Department-wide Tribal and stakeholder engagement to institutionalize and expand community engagement activities.
 - **Improving access and equity in DOE’s Weatherization Assistance Program**—Low-income households sometimes face delays in getting weatherization assistance when buildings in need of significant non-energy related home repairs are not deemed cost-effective when evaluated for potential energy saving. DOE plans to take actions that will reduce these delays through a newly proposed Weatherization Readiness fund that will ensure DOE funding is available to all grantees and low-income households, as well as a competitive grant program that will provide financial assistance to make homes weatherization ready.
 - DOE’s [Equity Action Plan](#) responds to the President’s Executive Order and represents nearly a year-long process of data collection through crowd-sourcing, listening sessions, and focus groups across the Department and the public. To embed equity into its foundation, the Department is also announcing three new opportunities that will build and strengthen the STEM workforce pipeline between DOE, HBCUs and MSIs:
 - The Office of Science is targeting increased investments in STEM research and workforce development at HBCUs with up to \$59 million by 2025—an increase of more than 18-fold compared to current funding levels.
 - The Office of Environmental Management will expand their funding for partnerships with Minority Serving Institutions by over nine-fold to include \$43 million to support apprenticeships for HBCU students and development programs for HBCU faculty at six of our National Labs. This effort replicates the existing, successful model of the HBCU program at Savannah River National Lab, which has established workforce contracts in environmental cleanup with South Carolina State University, Claflin University, and Denmark Technical College.
 - DOE has created a new framework to incentivize partnership with Minority-Serving Institutions for every relevant funding opportunity under the Bipartisan Infrastructure Law. This framework will encourage recipients like higher education institutions, industry, and local and state governments to incorporate HBCUs as financial partners in research, development, demonstration, and deployment of clean energy, and job creation in underserved and overburdened communities.

WHEJAC Recommendation: “Address legacy pollution by supporting development of green zones. Bring green benefits to frontline communities that need it the most. Aggregate investments in solar, energy efficiency, weatherization, open streets, green infrastructure, tree planting, bioswales, flood resilience, extreme heat impacts, targeted enforcement, mitigation of mobile sources, electrification.”

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Response:

- The DOE Communities LEAP ([Local Energy Action Program](#)) Pilot aims to facilitate sustained community-wide economic and environmental benefits primarily through DOE's clean energy deployment work. This opportunity is specifically open to low-income, energy-burdened communities that are also experiencing either direct environmental justice impacts, or direct economic impacts from a shift away from historical reliance on fossil fuels. Under the Communities LEAP Pilot, DOE will provide supportive services valued at up to \$16M for community-driven clean energy transitions.
- In March 2022, DOE announced the inaugural communities selected as part of the Communities Local Energy Action Program (Communities LEAP), a first-of-its-kind initiative designed to help energy-overburdened communities take direct control of their clean energy future. The 23 communities will receive support from DOE to create community-wide action plans that reduce local air pollution, increase energy resilience, lower utility costs and energy burdens, and provide long-term jobs and economic opportunities. DOE's pilot Communities LEAP reflects the Biden-Harris Administration's priorities to assist community-led transitions to a clean energy economy, and to build a healthier, more equitable, and sustainable future.
- The 23 selected communities will work with DOE and its network of technical assistance providers, government and non-governmental partners, community-based organizations, utilities as well as environmental justice, economic development, and equitable investment organizations to develop roadmaps for clean energy economic development pathways. The inaugural Communities LEAP localities will pursue strategies for planning and investment in:
 - Energy efficient buildings and beneficial electrification
 - Clean energy development
 - Clean transportation and enhanced mobility
 - Carbon management
 - Critical minerals recovery
 - Resilient microgrids and energy storage
 - Manufacturing and industry opportunities
- The selected communities are and you can learn more about them [here](#):
 - Alachua County, Florida
 - Bakersfield, California
 - Birmingham (North Birmingham), Alabama
 - Columbia, South Carolina
 - Columbia Inter-Tribal Fish Commission, Oregon, Washington, Idaho
 - Duluth, Minnesota
 - Hennepin County, Minnesota
 - Highland Park, Michigan
 - Iowa Tribe of Kansas and Nebraska
 - Jackson County, Illinois
 - Kern County, California
 - Lawrence, Massachusetts
 - Louisville, Kentucky
 - Mingo & Logan Counties, West Virginia
 - Minneapolis, Minnesota

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- New Orleans, Louisiana
- Pembroke Township and Hopkins Park, Illinois
- Pittsburgh (Hill District), Pennsylvania
- Questa, New Mexico
- Richmond, California
- San José, California
- Seattle (Beacon Hill), Washington
- Stockton, California

WHEJAC Recommendation: “Create a federal low-income water and sewer bill assistance program. This program will assist low-income customers with paying their water and sewer bills. This will be structured as grants to state and Tribal entities to provide direct assistance to low-income water and sewer customers, similar in concept to the established Low-Income Home Energy Assistance Program (LIHEAP). This would bring parity to water, as the federal government already recognizes heat and home energy as essential to well-being.”

Response:

- Defer to HHS which has the new [Low Income Household Water Assistance Program](#) (LIHWAP) provides funds to assist low-income households with water and wastewater bills. LIHWAP grants are available to States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Territories, and Federally and state-recognized Indian Tribes and tribal organizations that received fiscal year 2021 Low Income Household Energy Assistance Program (LIHEAP) grants.

WHEJAC Recommendation:

- “Support the retrofit of lead water pipe infrastructure.”
- “Ensure that environmental justice communities are tested for lead water pipe infrastructure and replace those pipes where necessary to protect the most vulnerable (children and pregnant women) from lead exposure.”
- “Ensure Every Home Has a Wastewater System and Indoor Plumbing.”
- “Many homes throughout the south, Appalachia and rural areas are forced to use septic tanks even though they pay municipal taxes for water and sewer. Many do not have indoor plumbing as well. A wastewater treatment system receives, stores, treats, and disposes wastewater not only from a septic tank, but accompanying pipes, drains, percolation areas, and fitting, which ensure that the water is treated and discharged correctly. Wastewater systems are a way to reduce waste from our environment, save money, and ensure removing chemically treated water in a safe, environmentally friendly way. Furthermore, toxins are removed during the treatment process which produces clean and safe water. About 3% of the earth's water is drinkable and through this renewable resource it helps provide crystal clear, and safe reusable water. The main challenges we may encounter with wastewater systems are the cost and energy consumption. It is estimated that the United States must invest \$271 billion towards wastewater systems and their upgrades.”
- “Develop mapping tools and GIS of where these homes are so they can be identified and retrofitted.”

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Response:

- Defer to EPA—DOE does not address lead pipes.

WHEJAC Recommendation: “Support funding for frontline and EJ communities to organize, convene and develop climate action plans that address climate resilience, communication and prioritize potential climate impacts. Each community has differing levels of potential impacts and issues associated with blackouts, flooding, extreme heat, evacuation, right of return to homes by climate refugees and ensuring that climate gentrification potential is addressed through education of relevant government officials.”

Response:

- Please see previous information about DOE’s LEAP ([Local Energy Action Program](#)) Pilot referenced above.

7. U.S. Department of Interior (DOI)

WHEJAC Recommendation: “Invest in the USGS Pesticide National Synthesis Project which estimates annual agricultural use for a range of pesticides.”

Response from the Pesticide National Synthesis Project:

- During FY 2021, the USGS Office of Diversity and Equal Opportunity (DEO) initiated a Title VI Program, to include Environmental Justice (EJ), Limited English Proficiency, and Federal Financial Assistance. This recommendation has been assigned to the EJ Program and distributed to the relevant points of contact from the Water Mission Area (WMA). The EJ Program will work with the WMA to track and report on any further actions taken or not taken going forward.
- USGS is currently developing a plan for continued development of pesticide use nationally based on crop type. This synthesis requires data from other Federal agencies such as the USDA Agricultural Census, which is published every five years, the National Agricultural Statistics Service annual data set of selected crops, and the USDA remotely sensed cropland data layer, which is available annually. This planning effort is allowing the USGS to take advantage of new data-driven techniques and methods for data synthesis and analysis to refine the timeline for estimate delivery. Once planning is complete the new synthesis project will also produce estimates for years not completed during the rescoping effort. In the interim, USGS continues to contract with vendors to collect annual pesticide purchase data in anticipation of continued development of pesticide use estimates. The USGS has not taken direct action in response to this recommendation until this re-scoping effort is complete to ensure future pesticide use estimates meet the needs of USGS priority activities moving forward.

WHEJAC Recommendation: “Update the survey to ensure it contains the most recent data. (The latest data available is from 2017).”

Response from the Pesticide National Synthesis Project:

- During FY 2021, the USGS Office of Diversity and Equal Opportunity (DEO) initiated a Title VI Program, to include Environmental Justice (EJ), Limited English Proficiency, and Federal Financial Assistance. This recommendation has been assigned to the EJ Program and distributed to the relevant points of contact from the Water Mission Area (WMA). The EJ Program will work with the WMA to track and report on any further actions taken or not taken going forward.
- In addition to the planning effort noted in response to DOI recommendation above for the future scope of the pesticide synthesis project, once planning is complete USGS will produce estimates for years not completed during the rescoping effort using updated techniques and methods. In the interim, USGS continues to contract with vendors to collect annual pesticide purchase data in anticipation of continued development of pesticide use estimates. The USGS has not taken direct action in response to this recommendation until this re-scoping effort is complete to ensure future pesticide use estimates meet the needs of USGS priority activities moving forward.

WHEJAC Recommendation: “Integrate data from the Pesticide National Synthesis Project into EJSCREEN.”

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Response from the Pesticide National Synthesis Project:

- During FY 2021, the USGS Office of Diversity and Equal Opportunity (DEO) initiated a Title VI Program, to include Environmental Justice (EJ), Limited English Proficiency, and Federal Financial Assistance. This recommendation has been assigned to the EJ Program and distributed to the relevant points of contact from the Water Mission Area (WMA). The EJ Program will work with the WMA to track and report on any further actions taken or not taken going forward.
- USGS has not considered integrating data from the Pesticide National Synthesis Project into EJSscreen to date; however, USGS will make the data publicly available once updated and will plan to have discussions with EPA about potential inclusion and what is required to make that happen. There may be limitations to full inclusion based on costs and technical resources.

WHEJAC Recommendation: “Ensure that OSMRE assesses the new wave of post-1977 abandoned mine lands and assesses the scale of the problem in each state. In bankruptcy, coal companies are abandoning their permits and associated reclamation responsibilities, but even coal companies that have not filed for bankruptcy are functionally abandoning permits such that there has been little to no coal production or reclamation activity occurring on the permit for months or years. Reforms to the bonding system and to reclamation plans are needed to ensure adequate bond amounts to cover reclamation and water treatment obligations, regulators must act to ensure that reclamation is occurring contemporaneously with mining rather than delayed, and OSMRE must be equipped with the tools and staff it needs to actively engage in coal bankruptcies and ensure that reclamation standards are upheld even on abandoned permits and in order to improve agency data collection and databases to better track violations and outstanding coal company liabilities.”

Response from the Office of Surface Mining Reclamation and Enforcement:

- The Office of Surface Mining Reclamation and Enforcement's (OSMRE) mission is to carry out the requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) in cooperation with States and Tribes. One of OSMRE's primary objectives is to ensure that coal mines are operated in a manner that protects citizens and the environment during mining and that the land is restored to beneficial use following mining. Where a State or Tribe has been granted the primary responsibility for regulating coal mining and reclamation operations, OSMRE's role is primarily one of oversight--to ensure that those programs fully comply with SMCRA.
- Two primary objectives of OSMRE's oversight of State and Tribal programs are to identify potential problems and their root cause and to assist States and Tribes in resolving any problems or other issues that are identified. Every year, OSMRE publishes an [annual report](#) of its oversight evaluation of each State or Tribal program, which includes an evaluation of successful reclamation on lands affected by surface coal mining operations by measuring program performance on land form/approximate original contour, land capability, hydrologic reclamation, and contemporaneous reclamation.
- Regarding bankruptcies, in the event a permittee declares bankruptcy, OSMRE coordinates closely with the U.S. Department of Justice and, where applicable, the State or Tribe to ensure full compliance with all SMCRA obligations, including full reclamation of coal mining operations. It is OSMRE's longstanding position that bankruptcy does not discharge any environmental

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obligations under SMCRA, and OSMRE has several enforcement tools that it can use to ensure permittees, operators, owners, controllers, and agents comply with those obligations.

- OSMRE will continue to review and identify opportunities to take additional steps as needed in addressing these issues.

WHEJAC Recommendation: “Pending flood control projects such as the Nigua River in Salinas, Puerto Rico and the Rio Piedras-Puerto Nuevo River in San Juan, Puerto Rico and coastal protection projects should incorporate ecosystem bio-remediation measures and robust community consultation prior to investment of funds and not allow for projects that impede sustainable flood control work or adversely impact public water supply.”

Response:

- During FY 2021, the USGS Office of Diversity and Equal Opportunity (DEO) initiated a Title VI Program, to include Environmental Justice (EJ), Limited English Proficiency, and Federal Financial Assistance. This recommendation has been assigned to the EJ Program and distributed to the relevant points of contact from the Water Mission Area (WMA). The EJ Program will work with the WMA to track and report on any further actions taken or not taken going forward.
- The Section 205 of the 1948 Flood Control Act authorizes the Army Corps of Engineers to study, design, and construct small flood control projects in partnership with non-Federal government agencies, such as cities, counties, special authorities, or units of state government. As such, the USGS is not the lead agency for these actions but can work to provide data and information that may be relevant to our federal partners.
- The USGS Caribbean-Florida Water Science Center (CFWSC) has taken no action in response to this recommendation in providing data for use in flood control project undertaken by the U.S. Department of Defense or Army Corps of Engineers. However, the USGS has maintained a long-term, dense stream gaging network in Puerto Rico. The historical and ongoing data collected as part of this network could inform aspects of this issue, and efforts to advance climate mitigation and resiliency regarding water resources in Puerto Rico more broadly.
- The CFWSC has performed and is performing hydrologic monitoring on the Rio Piedras-Puerto Nuevo River system that might inform an ecological analysis. Much of this work is funded by the U.S. Army Corps of Engineers. For example, the CFWSC supplies critical information on water flows and rainfall for USACE flood control work within the Rio Piedras-Puerto Nuevo watershed. For more information on the Rio Puerto Nuevo Flood Damage Reduction Project, visit this [page](#).
- While there is currently no USGS hydrologic monitoring on the Nigua River, initiating hydrologic monitoring, in cooperation with stakeholders, could also inform this analysis. Initiating this work would require additional funding.

WHEJAC Recommendation: “Invest Justice 40 funds to designate the South Coast Aquifer in Puerto Rico as a sole source public water resource and decontaminate the aquifer.”

Response:

- During FY 2021, the USGS Office of Diversity and Equal Opportunity (DEO) initiated a Title VI Program, to include Environmental Justice (EJ), Limited English Proficiency, and Federal Financial Assistance. This recommendation has been assigned to the EJ Program and distributed to the

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relevant points of contact from the Water Mission Area (WMA). The EJ Program will work with the WMA to track and report on any further actions taken or not taken going forward.

- The Environmental Protection Agency (EPA) is the Federal agency responsible for designation of sole source aquifers. The USGS WMA can work with the EPA to identify data needs in order to address this recommendation. The USGS Caribbean-Florida Water Science Center (CFWSC) has taken action with Hurricane Maria supplemental funds that will benefit and inform any action arising from this WHEJAC recommendation, although this effort was not undertaken in response to the recommendation. Specifically, salinity monitoring of the South Coast Aquifer near Salinas, Puerto Rico is planned within the next year—the supplemental funds allow resources to install and maintain a salinity monitoring well in a part of the aquifer at risk of salinization as a result of storm surge overwash during hurricanes, over-use of the aquifer, drought, and sea level rise. This sentinel monitoring will guide local water management to take prompt action and mitigate salinization of the aquifer. Salinization can be considered a form of “contamination” of the aquifer as it directly impacts the usability of aquifer water for public, agricultural, or industrial use. Salinization also relates directly to the WHEJAC issue area of advancing climate mitigation and resiliency regarding water resource management in Puerto Rico. The South Coast Aquifer is in an area particularly prone to droughts, and drought frequency and intensity are expected to be a factor in salinization of the South Coast Aquifer due to a lack of aquifer rainfall recharge to counter the tendency of saltwater to move from the sea or from deeper parts of the aquifer into freshwater parts of the aquifer.
- In the coming year, the CFWSC will also build on the salinity monitoring well installation work by incorporating future salinity sampling in well(s) to monitor the progression of aquifer salinization, allowing mitigation efforts. This future work will be funded through a Joint Funding Agreement with the Puerto Rico Department of Natural and Environmental Resources (PRDNER) as part of our larger hydrologic monitoring program. PRDNER reimbursable funds and USGS Cooperative Matching Funds via the CFWSC will fund approximately equal shares of this work.
- Additional actions in support of this recommendation (e.g., installation of additional South Coast Aquifer salinity monitoring wells to better monitor and collect information, construction of a hydrologic flow model and monitoring tool to explore “what if?” scenarios and aid in decision making, etc.) would require funding that is not readily available from our Puerto Rico Commonwealth partners to pair with additional USGS Cooperative Matching Funds.
- The USGS is also a participating member of the [Caribbean Drought Learning Network](#) (CDLN), a “peer-to-peer network that links climate service providers, climate researchers and resource managers to share knowledge and strengthen collaboration and communication in drought research and management in Puerto Rico and the US Virgin Islands”. The CDLN could also serve as a resource for information on the condition of the South Coast Aquifer.
- The USGS Ecosystems Mission Area’s Environmental Health Program Infrastructure Integrated Science Team is also engaged in work that may be relevant to the issue area of advancing climate mitigation and resiliency regarding water resource management in Puerto Rico, although these actions were not taken directly in response to this recommendation. Assessment on drinking water quality issues in Puerto Rico due to population growth and human impacts on public water supply is essential for addressing contamination of source waters. These concerns have disproportionate impacts on underserved communities and exacerbate the effects of climate change.

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- To help support public health agency efforts to better understand the role of contaminant exposures through drinking water on human health outcomes, the USGS Ecosystems Mission Area's Environmental Health Program Infrastructure Integrated Science Team has focused on:
 - (1) Assessing drinking water exposure at the household level to capture contaminant changes within distribution-systems;
 - (2) Providing a more realistic representation of the environmental contaminant complexity covered by current drinking water regulations;
 - (3) Prioritizing hydrologically-vulnerable areas; and
 - (4) Focusing increasingly on underserved, under-informed (e.g., private-well dependent) communities.

WHEJAC Recommendations for All Federal Agencies, [pages 52-57](#):

Response:

- In 2021 and 2022, the Bureau of Indian Affairs (BIA) and the Department of the Interior held several Tribal consultation and listening sessions, including sessions focused on climate change impacts, the Federal Subsistence Management Program, implementation of the Bipartisan Infrastructure Law, lease agreements under the Indian Self-Determination and Education Assistance Act, sacred sites, the missing and murdered Indigenous people crisis under the Not Invisible Act, the Bureau of Indian Education Strategic Plan, the Indian Business Incubators Program, the Department's FY 2022-2026 Strategic Plan, and others.
- In 2021, the Department and 16 other federal agencies signed a Memorandum of Understanding that affirms the Federal government's commitment to enhance interagency coordination and collaboration to protect Tribal treaty rights and to consult and coordinate with Tribes on early integration of Tribal treaty rights in federal decision-making and regulatory processes.
- In 2021, the Department and eight other federal agencies signed a Memorandum of Understanding committing to increased collaboration with Tribes and Native Hawaiian organizations to ensure stewardship and access to sacred sites and the incorporation of traditional ecological knowledge into management, treatment, and protection of sacred sites.
- The BIA Tribal Climate Resilience Program (TCRP) facilitates climate preparedness and resilience for federally recognized Indian Tribes and Alaska Native villages through technical and financial assistance, access to science, and educational opportunities. In 2021, TCRP awarded \$13.8 million to tribes and tribal organizations for climate adaptation planning, ocean and coastal management planning, capacity building. The Tribally designed and delivered training and awards are expected to benefit nearly 255,000 tribal people. In addition, the adaptation planning and data development awards are estimated to benefit over 444,000 tribal people, and the ocean and coastal work funding is estimated to benefit almost 55,000 tribal people. Fifteen Alaska Native Villages and two Tribal Nations in the lower 48 received funding to support relocation, managed retreat, and protect-in-place decisions benefitting over 13,000 Indian people facing threats related to melting sea ice, degrading permafrost, extreme precipitation and flooding and other related impacts.

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- The BIA Division of Energy and Minerals Development assists Indian landowners in identifying and quantifying their renewable energy resources and ensuring that they realize maximum benefit from their development. In 2021, the BIA awarded more than \$6.5 million in Energy and Mineral Development Program grants to aid Tribal efforts to identify, study, and develop energy projects, such as solar and wind, to achieve economic self-sufficiency by developing and controlling their own energy production capabilities.
- In 2022, the BIA approved the first application for a Tribally owned Tribal Energy Development Organization (TEDO) to support the Tribe's development of renewable energy resources.
- The BIA continues to review and approve Tribal applications under the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (HEARTH Act), which offers a more efficient land-leasing process for Tribes to negotiate and enter into surface leases. In 2021, the BIA approved 12 HEARTH Act applications.
- In 2021, the Secretaries of the Interior and Department of Agriculture issued a joint Secretarial Order to ensure that their Departments manage federal lands and waters in a manner that seeks to protect the treaty, religious, subsistence, and cultural interests of federally recognized Indian Tribes including the Native Hawaiian Community. The Order promotes the use of agreements with Tribes to collaborate in the co-stewardship of federal lands and waters under the Departments' jurisdiction, including for wildlife and its habitat.

WHEJAC Recommendations for the Definition of Investment Benefits, [page 57](#):

Response:

- The Department is working to incorporate the Climate and Economic Justice Screening Tool (CEJST), in combination with other available screening tools and demographic indicators, to identify overburdened and underserved communities. This includes Disadvantaged Communities as part of implementing EO 14008 and the Justice40 Initiative; however, it also includes other communities that are important to the mission of the Department. We are also aware that any screening tool should be used in combination with local knowledge, community engagement, and program specific goals. The Department does not believe a one size fits all approach is appropriate for EJ work, and that place based approaches that allow communities to identify their needs and propose desired solutions is paramount to successfully addressing EJ and other environmental issues across the country.
- The Department is working to be inclusive and thoughtful in our approach to helping communities address legacy issues. The interim guidance on Justice40 made clear that communities can be a geographically specific group of individuals, as WHEJAC recommendations on the definition of investment benefits imply. The interim guidance also referenced an important point that a community can be a dispersed group of individuals who experience common conditions. This definition of community addresses WHEJAC Recommendation on the definition of investment benefits, and is important to how the Department is going to approach Justice40 and EJ work in general. While we rely on screening tools and indicators to help prioritize and track investments in specific locations, Justice40 asks agencies to track the benefits of those investments. Tracking and adjusting benefits so they reach the communities and people they are supposed to be helping goes beyond specific geographic boundaries, and when combined with community engagement and place-based approaches, will help make sure

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we are improving how our services and the benefits of our work get to the people that need those services the most.

- BIA supports and works with Department and tribal governments to prioritize and facilitate the Justice40 Initiative and other Environmental Justice activities and projects.

WHEJAC Guiding Principles: Program Criteria to Maximize Federal Investment Benefits and Avoid Harm in EJ Communities, [page 57](#):

Response:

- The WHEJAC has been clear over the past year that getting 40 percent of Covered Program benefits to Disadvantaged Communities will only help address the legacy issues related to the sectors covered in the Justice40 Initiative. The Department also hears the WHEJAC's concern that the issues are called legacy as they are a result of decisions made in the past, where the environmental and health burdens were realized years or even decades later. Whether the issues were known, predicted, or unanticipated makes little difference to the people experiencing these burdens now.
- While Justice40 is aimed at tracking the benefits of our investments, the Department, and Federal agencies, are working to develop new approaches to predicting and identifying direct, indirect, and cumulative effects of our actions through the National Environmental Policy Act and other analytical frameworks to avoid creating similar legacies into the future. Justice40 is only a portion, an important portion, of the Environmental Justice mission of the Department. The Department agrees that to truly have a lasting impact in communities, simultaneously addressing legacy issues while improving our ability to predict and avoid future legacy issues, is the only way to accomplish meaningful progress in this work.
- The Department has many exemplary programs that work on recovery, restoration, rebuilding, adaptation, and resiliency. These programs all coordinate with the Department's environmental justice program to develop and improve approaches to be inclusive of communities in their work, and to build long term, durable results through partnership and collaboration. Some of the Department's programs include:
 - The Office of Restoration and Damage Assessment's Natural Resource Damage Assessment and Restoration Program (NRDA). The NRDA Restoration Program works to restore natural resources injured as a result of oil spills or hazardous substance releases into the environment. In partnership with affected state, tribal and Federal trustee agencies, the NRDA Restoration Program conducts damage assessments which are the first step toward resource restoration and used to provide the basis for determining restoration needs that address the public's loss and use of natural resources. Once the damages are assessed, the NRDA Restoration Program negotiates legal settlements or takes other legal actions against the responsible parties for the spill or release. Funds from these settlements are then used to restore the injured resources at no expense to the taxpayer. Settlements often include the recovery of the costs incurred in assessing the damages. These funds may also be used to fund damage assessments in future incidents.
 - The Office of Wildland Fire ensures that nearly one billion dollars is strategically invested to reduce wildfire risk, rehabilitate burned landscapes, promote a better

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- understanding of wildfire, and support firefighters by providing the tools and training they need to work safely and effectively.
- The Office of Environmental Policy and Compliance's Environmental Response and Recovery Team (ERR Team) works with multiple Federal, state, and local agencies and partner organizations to improve nation-wide emergency preparedness. Working with OEPC's Regional Environmental Officers (REOs) that provide support from Regional Offices across the country, the ERR Team facilitates protection and recovery of the DOI's lands and resources, as well as the Nation's natural and cultural resources through both emergency and long-term responses.
- All the Department Justice40 Covered Programs are required to have a stakeholder engagement plan that addresses how they will include communities in determining, defining, and tracking the benefits of their program. Further, the Department encouraged programs to combine stakeholder engagement plans, where appropriate, to create consistent strategies across similar programs and reduce stakeholder engagement fatigue being experienced by communities across the country.
- The Department is also working to increase community capacity to access our programs through innovative partnerships with schools across the country, leading the way in partnership with other Federal agencies to train students in disadvantaged communities in grant writing and community development. This will both teach students from disadvantaged communities long lasting professional skills and set them up for success in future careers, but it will also build capacity in communities that may not be able to participate or apply for grants from Justice40 Covered Programs in the first place.
- Communities are an important partner for the Department in being successful in our Justice40 work. Their input can help us prioritize where to treat and restore ecosystem.

8. U.S. Department of Health and Human Services (HHS)

WHEJAC Recommendation:

- “Adequate home heating and cooling are a human necessity. Without proper temperature control the effects can be devastating and lead to extreme health and safety issues, and even death. We should invest in the Low-Income Home Energy Assistance Program (LIHEAP) because it helps eligible families with energy costs by providing federally funded assistance for energy bills, weatherization, and other energy crises and home repairs. With help from LIHEAP grants, there are currently over 6 million families around the U.S. who are able to pay heating and cooling bills, emergency services such as utility shutoffs, and low-cost home improvements, which make homes more energy efficient and lower utility bills. Additional funding for LIHEAP is crucial to help support low-income families with energy bills and protect the most vulnerable.”
- “Develop guidance and policy for governors requiring them to certify relief assistance and funds received during major declared disasters and emergencies are spent in an equitable and nondiscriminatory way, including individual assistance, hazard mitigation, and public assistance.”

Response:

- HHS agrees with the WHEJAC’s recommendation for the Administration for Children and Families (ACF) Office of Community Services (OCS) Low Income Home Energy Assistance Program (LIHEAP). LIHEAP is critical to helping vulnerable households meet their home energy needs, particularly as energy costs are estimated to rise significantly.
- **Grant Awards**
 - On January 25, 2022 HHS announced the release of \$100 million in LIHEAP funding from the Infrastructure Investment and Jobs Act, which included \$500 million in LIHEAP funds that will be dispersed over five federal fiscal years. This funding came on top of an \$8.2 billion investment in LIHEAP through the American Rescue Plan Act and the Fiscal Year 2022 block grant funding under the Extending Government Funding and Delivering Emergency Assistance Act released in May and November 2021 respectively. HHS is expeditiously working to release the remaining LIHEAP block grant funds (approximately \$385 million) appropriated under the FY 2022 Consolidated Appropriations Act. Grant recipients are expected to have access to over \$5 billion in LIHEAP funds through September 30, 2022.
 - This funding will be used to prioritize households that are most vulnerable to a lack of adequate home heating and cooling, including the elderly, young children, and those with disabilities. The funding will also be used to help households curb utility arrearages so that they are not disconnected from services now or when utility moratoria end. In many states, utility moratoria are already expiring. Because no one should have to choose between heating their home and putting food on the table, HHS is committed to ensuring that these historic LIHEAP resources are used effectively and efficiently to meet the home energy needs of households. In addition to implementing an intensive training and technical assistance strategy to support our grant recipients as they connect households with this critical assistance, we have been pursuing innovative new

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partnerships across the federal government to ensure that these funds reach families as quickly as possible and that LIHEAP benefits to households are maximized

- **Co-Coordination and National Outreach Efforts**

- We have been working closely with our colleagues at the U.S. Department of the Treasury to ensure that [LIHEAP](#) is coordinated with the Emergency Rental Assistance program—which can also be used to pay for residential utility bills. Receiving benefits from one program does not preclude a household from receiving benefits from the other program. Eligible households can receive both LIHEAP and ERA benefits. In fact, braiding resources from both programs is a promising strategy to ensure that eligible households receive the maximum federal assistance available to them to support their home energy needs.
- In addition to our work with the Treasury, we have been partnering with other federal offices to ensure households across the country know about the benefits of LIHEAP. It is important to know that LIHEAP assistance can come in many forms both tangible and intangible, such as benefits paid on a bill from the energy company, a repair or replacement of home energy equipment, and assistance with home insulation and other minor repairs to improve a home's energy efficiency. LIHEAP assistance can even be used to help a household negotiate with an energy company to avoid a disconnection and LIHEAP can work with vendors to determine if a LIHEAP household can be placed on a payment plan to make the household's bills more manageable.
- Understanding the resources offered by LIHEAP has been, and remains, more important than ever for people struggling with their utility bills. We continue to strongly encourage everyone who needs assistance to apply for LIHEAP now—particularly people who heat their homes with natural gas, propane, or fuel oil, as these sources of home fuel are expected to see the biggest increase in prices this winter.

- [National Energy Assistance Day](#)—February 1, 2022

- This inaugural observance was intended to raise awareness about LIHEAP and other state and local energy assistance programs. It was also a day to encourage eligible households with unmet energy needs to apply for assistance. As part of the celebration, LIHEAP issued a national Audio News Release (ANR) in both English and Spanish. In February, a separate ANR message targeted to African-American radio listeners was released. We circulated the ANR recordings to grant recipients and encouraged them to promote it across their social media platforms. We shared social media posts using hashtags [#NationalEnergyAssistanceDay](#) and [#KeepTheHeatOn](#), hosted training webinars for grant recipients and their subrecipients, and finally worked with colleagues at the White House and with the Emergency Rental Assistance program to conduct outreach to their stakeholders.

- [American Rescue Plan](#) (ARP)—first anniversary—March 11, 2022

- LIHEAP observed the enactment of ARP with the following activities:
 - Released videos highlighting the impact of ARP funding on LIHEAP households in [Washington, D.C.](#) and [Virginia](#), and the impact of ARP funding. Gene Sperling, ARP Coordinator and Senior Advisor to the President highlighted the importance of ARP funding for [LIHEAP](#) in these videos.

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- Published a [LIHEAP one-pager](#) showcasing how ARP funds are being leveraged to assist households with unmet utility needs across the country.
- Posted observance and LIHEAP related information on various social media platforms, such as [Facebook](#), [Twitter](#), and [Instagram](#) pages.
- Hosted a listening session with the White House to hear how Community Action Agencies (CAAs) are coordinating LIHEAP and the Emergency Rental Assistance Program at the local level.
- In order to reach hard-to-reach populations, LIHEAP has been circulating a [one-pager](#) to all stakeholder organizations. Earlier this year, it has created a simple [one-click web resource](#) for the public to find out where they can go and apply for LIHEAP benefits. Households who need support can also call the National Energy Assistance Referral (NEAR) hotline toll-free at 1-866-674-6327 to get connected to their local LIHEAP office. Additionally, they can search for a local application intake agency online at [www.energyhelp.us](#). We believe that targeted and intentional outreach is a key to offering services in disadvantaged communities.
- **Reporting, Tracking and Data Visualization**
 - To ensure that all critical stakeholders have timely information on the status of LIHEAP efforts, OCS has implemented, a two-stage data collection process for the first time in its history. This will begin with [quarterly reports](#), and will be followed by an annual report each year. The quarterly and annual reports will help OCS:
 - Ensure that LIHEAP is implemented effectively, efficiently, and equitably.
 - Provide reliable and complete fiscal and household data for analysis and reporting in near real-time.
 - Administer timely and effective training and technical assistance to grant recipients to improve program administration and address challenges.
 - Respond to questions from Congress, HHS, the Office of Management and Budget, the White House, and other interested parties in a timely and accurate manner.
 - More specifically, the purpose of collecting the quarterly reports is to obtain benefit data from all grant recipients as the program is implemented and executed in near real-time. This data will be used by OCS to analyze how grant recipients have chosen to implement LIHEAP and address the energy affordability needs of low-income households.
- **Enhancements to the LIHEAP Household Report Short and Long Forms**
 - The LIHEAP Household Report will be revised to include number of assisted households by demographic information. Household demographic information, along with information on income levels, will be critical for assessing the success of our efforts to conduct outreach and distribute resources equitably, while also assessing ongoing needs. OCS acknowledges that this data collection element might be new to some recipients and therefore have made some of these elements optional for FY 2023 to allow recipients time to make changes to their reporting systems. This demographic information will include:

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1. Number of Assisted Applicants by Race and Ethnicity. Grant recipients will report on assisted applicants by race and ethnicity according to standard census categories. This measure will be required starting in FY 2023.
2. Number of Assisted Household Applicants by Gender. Grant recipients will report on LIHEAP assisted applicants by gender. This measure will be required starting in FY 2023.
3. Assisted Household Members by Race and Ethnicity. This measure will quantify LIHEAP assisted household members by race and ethnicity and be optional for FY 2023 but required starting in FY 2024.
4. Number of Assisted Household Members by Gender. This measure will quantify LIHEAP assisted household members by gender and be optional for FY 2023 but required starting in FY 2024.

- **Data Visualization**

- OCS will use geographic information system (GIS) technology tools to create visualizations of quarterly data to allow LIHEAP grant recipients and members of the public to explore LIHEAP trends both in their own locality and across the country. In addition, OCS intends to use this tool to enhance the evaluation and analysis of the program. OCS will make changes to the tool as needed based on grant recipient and program needs.
- The LIHEAP Data Dashboard provides a visual and interactive method for viewers to examine trends and other metrics related to the implementation of LIHEAP.

WHEJAC Recommendation: “Establish a sustainable communication office for communities that have been so egregiously neglected by government and impacted by racist public policy, environmental pollution and climate change. This office will be established to utilize a “whole of government” approach to address the enormous challenges that exist for improving the quality of life of these communities. “The Black Belt” of rural Alabama is an example of an area that needs a “whole of government approach to address the challenges that exist in this area. “The Black Belt” of rural Alabama has several environmental justice communities in need of federal investments to improve air and water quality and basic health services, especially the City of Uniontown. The city needs fundamental infrastructure such as a hospital, local ambulance service, a fire department, equipment for local police, and storm shelters to protect residents from tornados which are prevalent in the area. The community also needs a community youth center to create a safe, clean space for community engagement and education. Importantly, any federal investments to the area must involve transparency and public participation. For example, residents of Uniontown have not been given basic information about the U.S. Department of Agriculture’s grant to improve wastewater infrastructure, and as a result there is a lack of trust and accountability.”

Response:

- While HHS’ Health Resources and Services Administration (HRSA) does not have a direct role in establishing a new communications office as outlined, HRSA has an Office of Communications to support HRSA’s mission and works collaboratively with the HHS Office of Assistant Secretary for Public Affairs. In Fiscal Year 2021 alone, HRSA provided nearly \$54 billion in funding to support our mission of improving health outcomes and achieving health equity. HRSA programs support

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equitable health care for those in need, serving people with low incomes, people with HIV/AIDS, pregnant people, children, parents, rural communities, transplant patients, other underserved communities, and the health workforce, systems, and facilities that care for them. Through HRSA's more than 90 programs and 3,000 grantees, tens of millions of Americans receive quality, affordable health care, and other services. One such program is HRSA's collaboration with the [Delta Regional Authority](#) to implement the Delta Region Community Health Systems Development—Technical Assistance Program. The purpose of this program is to enhance healthcare delivery in the Delta Region (Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri and Tennessee) through intensive technical assistance to providers in select rural communities, including critical access hospitals, small rural hospitals, rural health clinics and other healthcare organizations.

WHEJAC Recommendation: "Increase funding for the National Institute of Environmental Health Services (NIEHS) Environmental Career Worker Training Program (ECWTP). Expand this program to provide grants to support nonprofits, labor, academic institutions, etc. in establishing worker training programs, in particular for un- and underemployed individuals, that prepare people for careers in renewable solar and wind energy infrastructure, installment and maintenance; as well as green infrastructure development and maintenance for community resilience, flood mitigation, and storm surge defense."

Response:

- NIEHS anticipates providing additional funds to ECWTP grantees with the June 1, 2022 Notice of Grant Awards (NGAs). Funding amounts are not considered final until NGAs have been issued.
- Additionally, NIEHS has engaged in many activities to further support ECWTP and the training programs it provides for un- and underemployed individuals from across the U.S. ECWTP also supports Justice40 principles and is listed as a pilot program for the Justice40 Interim Guidance. The activities include:
 - Responded to multiple requests for information and questions. These responses included fulfillment of the Justice40 pilot program requirements to delineate program benefits and presenting about workforce development and job training models in response to a request from the White House.
 - Held two stakeholder engagement sessions and participated in a third:
 - A general session to share information on Justice40 and ECWTP and to solicit feedback and suggestions on the program ([October 19, 2021 meeting webpage](#) with materials);
 - A session on Evaluating the Benefits of the NIEHS ECWTP ([February 10, 2022 meeting webpage](#) with recording and materials);
 - The December 7, 2022 EPA National Environmental Justice Community Engagement Call where ECWTP was highlighted along with other HHS and Department of Energy Justice40 programs and we provided responses to questions.
 - Continued to support grantees in their efforts to train people in skills that can give them a career in environmental remediations, green jobs, construction to support infrastructure improvements and developments, and emergency or disaster response.

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WHEJAC Recommendation: “Expand Medicare/Medicaid for lifetime access for individuals from frontline communities directly impacted by environmental racism and injustice (e.g. the Flint Water Crisis).”

Response:

- The populations for whom states can expand Medicaid are defined in statute as either mandatory or optional, and populations that are covered by Medicare are also defined in statute. Your first recommendation includes criteria that would not be permitted under federal law (i.e. states can’t expand Medicaid solely to people in specific communities/with specific life circumstances other than income level and certain medical criteria), though many of the people included in the definition would be included in Medicaid expansion for a state that adopts the full Affordable Care Act (ACA) expansion option (individuals with incomes up to 138% FPL). The second option—providing postpartum Medicaid coverage to people for a full year—is a statutory option for any state.

WHEJAC Recommendation: “Extend Medicaid coverage for a year for ALL mothers and child birthing people with inclusion of body burden & risk factors associated with climate issues: extreme heat, air pollution, lead-poisoned water, and other environmentally induced health conditions.”

Response:

- The populations for whom states can expand Medicaid are defined in statute as either mandatory or optional. Your first recommendation includes criteria that would not be permitted under federal law (i.e. states can’t expand Medicaid solely to people in specific communities/with specific life circumstances other than income level and certain medical criteria), though many of the people included in the definition would be included in Medicaid expansion for a state that adopts the full ACA expansion option (individuals with incomes up to 138% FPL). The second option—providing postpartum coverage to people for a full year—is a statutory option for any state.

WHEJAC Recommendation: “Increase appropriations in the Great American Outdoors Act to prioritize frontline and communities of color as well as local schools receiving Title I funding and majority communities of color serving schools with improvements and developments of community/local parks and investment in urban tree nurseries to mitigate environmental hazards such as increased CO2 emissions and other toxic air pollutants.”¹⁸

Response:

- The appropriations for the Great American Outdoors Act are set by Congress and implemented by the Department of the Interior, specifically, the National Park Service and other operational divisions that manage national parks and federal lands. National Institute of Child Health and Human Development (NICHD) does not have a specific role in these programs but does support

¹⁸ The WHEJAC recommendation included “Source: Black Millennials 4 Flint”.

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research to demonstrate the public health benefit of physical activity, specifically in children, adolescents, and individuals with physical or intellectual disability.

- NICHD current supports numerous grant awards that expand our scientific knowledge related to the health of children and their physical environments. Two awards particularly relevant to this recommendation are “[Impact of Built, Social, and Housing Environments on Obesity in Low-Income Children](#)” and “[Parks & Pediatrics Fit Together: Translating knowledge into action for child obesity treatment in partnership with Parks and Recreation](#).”

WHEJAC Recommendation: “The Federal Health Equity for All Act will institute infrastructure and mechanisms to fund communities in creating conditions for well-being and aims to reinvent our health infrastructure to promote inclusive, community-driven, and localized interventions, with well-being and equity as core metrics. There are three approaches in the act: (1) a network of health equity innovation hubs led by community-based organizations and (2) supporting social entrepreneurs through flexible and non-programmatic funding streams to change the system from the ground up (3) funding for local government entities to implement community approved racial equity plans.”¹⁹

Response:

- The Federal Health Equity for All Act is not currently in place to our knowledge. Most of the programs that are listed as part of the proposed legislation are assigned to the Health Resources and Services Administration (HRSA).

WHEJAC Recommendation: “Implement and utilize environmental health assessment data combined with maternal health and birth outcomes in the agency’s cost-benefit analyses.”

Response:

- National Institute of Child Health and Human Development (NICHD) uses evidence-based strategies to determine funding priorities and set-aside programs. The Institute does not support or publish a cost-benefit analysis, nor do we produce the data analyses that would support specific programs. This item may be better directed to HRSA or to the Centers for Disease Control and Prevention (CDC).
- NICHD supports a robust portfolio of scientific research on [maternal health and birth outcomes](#). In addition, NICHD co-chairs the NIH Maternal Health Task Force, which leads the [IMPROVE initiative](#). This initiative advances research to identify solutions for biological, behavioral, sociocultural, and structural factors that contribute to disparities in maternal health.

WHEJAC Recommendation: “Allocate research funding to HBCUs, HSIs, TCUs and ASPISIs to research impacts of environmental racism associated with miscarriages & other characteristics of at-risk pregnancies.”

¹⁹ The WHEJCA recommendation included “Source: Act on Health Equity”

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Response:

- National Institute of Child Health and Human Development (NICHD) currently includes these institutions in funding announcements and will increase the outreach to and engagement with these communities to increase awareness of research opportunities in this area.
- NICHD is one of many federal agencies working to improve maternal health and pregnancy outcomes, with the goal of preventing and treating pregnancy-related complications to reduce maternal morbidity and mortality. Currently funded studies by Dr. Rachel Hardeman, "[Community Events and Pathways to Inequities in Birth Outcomes](#)," and Dr. Maeve Wallace, "[Pregnancy Associated Mortality](#)," focus on maternal mortality and morbidity through the lens of structural racism.

WHEJAC Recommendation: "Allocate research funding to HBCUs, HSIs, TCUs and ASPISIs to research impacts of climate on lead exposure in communities of color."

Response:

- National Institute of Child Health and Human Development (NICHD) currently includes these institutions in funding announcements and will increase the outreach to and engagement with these communities to increase awareness of research opportunities in this area.

WHEJAC Recommendation: "Develop (expand funding) grant programs for child-care based centers (including family centers/home-based daycares), traditional daycares, head start and pre-k for lead remediation and environmental safety education (Example Programming: Children's Environmental Health Network's Eco-Healthy Child Care Program)."

Response:

- National Institute of Child Health and Human Development (NICHD) supports scientific research on the impact of lead exposure on child development, as do other institutes at the NIH. NIH does not support specific programs on lead remediation and environmental safety education in child-care based centers, traditional daycares, Head Start and pre-kindergarten programs. This work would be led by operational divisions in HHS such as the Administration on Children and Families in partnership with the Environmental Protection Agency.
- Critical to controlling lead poisoning is CDC's Childhood Lead Poisoning Prevention Program's (CLPPP's) support for state and local lead poisoning prevention programs to estimate the extent of elevated blood lead levels among children and to identify potential sources of lead. In 2021, CDC's CLPPP funded 62 recipients with the most expansive funding package of the program's history. Activities will allow CDC to collect baseline screening data from a larger number of states and provide a more robust assessment of screening rates among children aged 0-3 years of age. CDC is working with CMS and the grant recipients to ensure the mandatory screening requirement for Medicaid enrolled children in this age group is being implemented. Also, in 2021, CDC officially updated the blood lead reference value (BLRV) from 5 to 3.5 micrograms per deciliter. The lowering of the BLRV will prompt more screening and testing among Medicaid providers potentially identifying more children at risk of lead exposure.
 - CDC's Flint lead exposure registry (voluntary) was authorized by the Water Infrastructure Improvements for the Nation (WIIN) Act of 2016. A four-year, \$14.4M

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non-research grant was awarded in 2017, to a consortium of investigators from Michigan State University (MSU), the Greater Flint Health Coalition, the City of Flint, and others at MSU. In 2021, \$4.5 million in funds was appropriated to continue the Flint Registry for an additional year. The registry goals are to identify eligible participants and ensure robust registry data; monitor health, child development, service utilization, and ongoing lead exposure; improve service delivery to lead-exposed individuals; and coordinate with other community and federally funded programs in Flint.

WHEJAC Recommendation: “Invest in Community & Migrant Health Centers which serve migrant and seasonal farmworkers across the U.S.”

Response:

- The Migrant Health Center Program is a component of the Health Center Program (section 330 of the Public Health Service Act (42 USC 254b)) administered by the Bureau of Primary Health Care (BPHC), in the Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS). As of Fiscal Year 2021, 175 health centers received \$401.8 million in Migrant Health Center Program funding to provide primary and preventive health care services to migratory and seasonal agricultural workers and their families. Most of the migrant health centers are private not-for-profit corporations operated by community-based organizations (CBOs), and some are operated by governmental entities such as state and local health departments.

WHEJAC Recommendation: “Invest in Community Health Centers that partner with Community Based Organizations (CBOs), labor unions and worker organizations with experience serving migrant and seasonal farmworkers, communities of color and low-income communities in rural and agricultural communities.”

Response:

- Health Resources and Services Administration (HRSA)’s Bureau of Primary Health Care (BPHC) funds health centers in medically underserved communities, providing access to affordable, comprehensive, high quality, primary health care services for people who are low-income, uninsured, or face other obstacles to getting health care, including communities of color and rural and agricultural communities.
- Nearly 29 million people or 1 in 11 nationwide, rely on a HRSA-supported health center for affordable, accessible primary health care. Approximately 1 in 5 rural residents are served by the health center program. For millions of Americans, including some of the most vulnerable individuals and families, health centers are the essential medical home where they find services that promote health, diagnose and treat disease and disability, and help them cope with environmental challenges that put them at risk.
- The Migrant Health Center Program is a component of the Health Center Program (section 330 of the Public Health Service Act (42 USC 254b)) administered by the Bureau of Primary Health Care (BPHC), in the Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS). As of Fiscal Year 2021, 175 health centers received \$401.8 million in Migrant Health Center Program funding to provide primary and preventive health care services

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to migratory and seasonal agricultural workers and their families. Most of the migrant health centers are private not-for-profit corporations operated by community-based organizations (CBOs), and some are operated by governmental entities such as state and local health departments.

- BPHC funds a National Training and Technical Assistance Partnership (NTTAP) cooperative agreement with [Farmworker Justice](#) to provide technical assistance to health centers related to farm workers' repetitive occupational exposure to hazardous environmental pesticides and chemicals. Work focuses on policy, health literacy, health care access, occupational safety, and empowerment. Additional BPHC-funded NTTAPs who specialize in migratory and seasonal agricultural worker health care resources include [Health Outreach Partners](#), [MHP Salud](#), [Migrant Clinicians Network](#), and the [National Center for Farmworker Health](#).
- HRSA also manages the [National Advisory Council on Migrant Health](#) (NACMH). NACMH advises, consults, and makes recommendations to the HHS Secretary and the HRSA Administrator, about the organization, operation, selection, and funding of migrant health centers and other entities assisted under grants and contracts under the Health Center Program. After each meeting, NACMH provides recommendations that draw on current knowledge of the needs and concerns of migratory and seasonal agricultural populations, health providers, and administrators.

WHEJAC Recommendation: “Prioritize grants to academic institutions that establish partnerships and fund-sharing agreements with CBOs and other organizations with experience serving migrant and seasonal farmworkers, communities of color and low-income communities in rural and agricultural communities.”

Response:

- Through HRSA's more than 90 programs and 3,000 grantees, tens of millions of Americans receive quality, affordable health care, and other services. In Fiscal Year 2021 alone, HRSA provided nearly \$54 billion in funding to support our mission of improving health outcomes and achieving health equity.
- Many HRSA grantees are academic institutions that provide oversight on projects that train providers that serve migrant and seasonal farmworkers, communities of color and low-income communities in rural and agricultural communities.
- Few examples include:
 - Scholarship and Loan Repayment Programs—HRSA funds schools and organizations to help students pursue degrees in the health professions. These students are encouraged to deliver health care in communities where people lack access to basic health care needs.
 - Health Profession Training Grants—HRSA supports the development of a robust primary care workforce through Health Professions Training Grants that encourage clinicians to practice in underserved areas, increase diversity, and foster inter-professional training and practice. These programs advance the education and training of a 21st century health workforce and work to address existing and projected demand for skilled health professionals in high-need areas nationwide.
 - Technical Assistance—HRSA funds a variety of technical assistance training centers and program, some in which academic institutions provide oversight including AIDS

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Education and Training Centers, Centers of Excellence and the Rural Residency Technical Assistance and Development Program.

- Community Based Organizations: HRSA funds the Community-Based Workforce to Build COVID-19 Vaccine Confidence program. This program mobilizes community outreach workers to the most vulnerable and medically underserved communities, including racial and ethnic minority groups to strengthen vaccine confidence, provide further information and education on the vaccines and improve rates of vaccination across the country.
- HRSA also manages the [National Advisory Council on Migrant Health](#) (NACMH). NACMH advises, consults, and makes recommendations to the HHS Secretary and the HRSA Administrator, about the organization, operation, selection, and funding of migrant health centers and other entities assisted under grants and contracts under the Health Center Program. After each meeting, NACMH provides recommendations that draw on current knowledge of the needs and concerns of migratory and seasonal agricultural populations, health providers, and administrators.

WHEAJC Recommendation: “Improve health equity by mandating that NIH support community-academic partnerships in all relevant research centers and in grant programs.”

Response:

- The National Institute of Environmental Health Sciences (NIEHS) acknowledges the importance of community-university partnerships. Our Center programs all require a community engagement core to promote equitable, multi-directional communication with the appropriate community. These Center Programs are:
 - [EHS Core Centers](#)
 - [Superfund Research Program](#)
 - [Oceans and Human Health](#)
 - [Environmental Health Disparities Centers](#)
- Regarding mandating community-university partnerships in relevant grant programs, our [Research to Action program](#) requires a well-established community-university partnership, as well as evidence that the research question is addressing a question/concern identified by the community. We started the Research to Action program in 2009 (read more about this program in response to recommendation below).
- Other funding opportunities strongly encourage engaging communities to ensure that research is aligned with community concerns. A primary example is the Time Sensitive (R21) funding opportunity, which seeks to provide rapid funding in events where it is essential to collect data promptly (such as in the case of disasters). Other funding opportunities include the NIH-Wide Dissemination & Implementation Research in Health, Small Business Innovative Research (SBIR)/Small Business Technology Transfer (STTR) Program on Environmental Health Literacy, and the Virtual Consortium for Translational/Transdisciplinary Environmental Research (ViCTER) program. The [Collaborative Centers in Children’s Environmental Health Research and Translation](#) (started in 2022) will serve as a national network of centers that focus on moving existing children’s environmental health research findings into practice. Affected communities will be able to gain access to research, resources, and assistance to address environmental concerns regarding children’s health. Finally, we have been using the Cohort Maintenance

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program (R24) to sustain community partnerships that were established through other grant programs but are no longer funded. These funding opportunities highlight NIEHS' support of community-university partnerships; however, we acknowledge that this is an area for continued growth.

- Additionally, extensive community-university partnerships are funded through the NIEHS Worker Training Program (WTP), which is supported through a separate appropriation from the Committee on Appropriations/Subcommittee on Interior, Environment, and Related Agencies in Congress. Grantees, all non-profit organizations or universities, implement worker health and safety training to a large variety of worker sectors, particularly those exposed to hazards through hazardous materials and emergency response. The training is implemented through partnerships with local, regional, and national worker advocacy and job training organizations that help communities protect individuals in their workplace and give people skills that are essential for jobs in environmental remediation, construction, disaster cleanup, and other fields.
- Through the [Partnerships for Environmental Public Health \(PEPH\) Network](#), we promote and advance the work of community-university partnerships regardless of the grant program. In 2009, we recognized that we supported a range of programs with a shared commitment to community engagement and research translation, yet there was little interaction or shared knowledge among the projects. The PEPH community of practice elevates awareness of the value for community engagement in research and brings together grantees from across the various NIEHS grant programs to share knowledge and learn from one another. The program continues today and allows NIEHS to convene grantee meetings and host webinars to promote interactions. Meetings and webinars developed by PEPH focus on a range of research themes or cross-cutting issues including report back of research results to study participants, continued capacity building needs, methods to build trusting partnerships, and Environmental Justice. In addition, PEPH continues to develop podcasts and write newsletters to highlight project accomplishments.

WHEJAC Recommendation: “NIEHS should reinstate its Environmental Justice through Communications grant program that supported the development of Community Principal Investigators (PIs) and partnerships between academic research centers and community organizations that carried our Community-Based Participatory Research, community education on environmental health, and translation of research to policy and action. These partnerships have been evaluated to increase the quality and dissemination of research, provide communities with relevant data, support citizen science, and create trust.”

Response:

- Thank you for the feedback on the “Environmental Justice: Partnerships for Communication” (EJ Partnerships) program. It was the first of its kind to require the collaboration of researchers, community leaders, and health care professionals. It accomplished a lot from 1994-2007 as noted in the [2009 article published](#)²⁰ in the American Journal of Public Health. Over its 13-year history, NIEHS partnered with the EPA and NIOSH to fund 54 projects.

²⁰ Embedded hyperlink

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- NIEHS established the [Research to Action \(R2A\) program](#) in 2009 to further advance and support community-engaged research approaches in environmental health disparities and environmental justice. We had developed R2A to meet recommendations from our extramural community that research should be (a) be responsive to the community's concerns and (b) that it must lead to public health action. Specifically, R2A supported the development and conduct of rigorous hypothesis-driven research that emanated from community concerns and that used community-engaged and community based participatory research methods. The program also required a public health action plan or intervention to follow on from the research findings to ensure that the research led to action-oriented efforts.
- While the R2A program shares many of the same important elements as the EJ Partnerships program and added other valuable requirements to ensure authentic community engagement; it did not have an explicit focus on capacity and trust-building among academic and community partners. One aim of the EJ Partnerships program is to facilitate the process of developing the trust needed for establishment of effective partnerships among individuals who are adversely impacted by an environmental hazard in a socioeconomically disadvantaged community, researchers in environmental health, and health care providers. Once this aim is achieved, the collaborative team should then be able to initiate a research program that incorporates all parties and seeks to reduce exposure to or health impact from an environmental contaminant.
- This difference is primarily due to the change of NIH grant mechanisms. R2A uses an R01 grant mechanism, which places emphasis on rigorous, hypothesis-driven research. The EJ Partnerships program used an R25 grant mechanism, which is an education focused mechanism.
- The extramural community has encouraged NIEHS to continue supporting the R2A program given how it has demonstrated important contributions to environmental health sciences and to the science of community-engaged research. We see it as the program to which established community partnerships can conduct rigorous hypothesis driven research that leads to public health action. NIEHS program staff are currently exploring strategies to address the needs left unmet from the EJ Partnerships program.

WHEJAC Recommendation: "In addition, the EPA used to have Community-University Partnership (CUP) grants which provided funds for EJ and CBOs to partner with academic institutions to develop data and studies of interest to both partners."

Response:

- We applaud the EPA for the [Colleges/Underserved Community Partnership Program \(CUPP\)](#). We are also aware of their [CARE program](#) that brought together community groups with academic partners to use collaborative problem-solving practices for identifying and addressing community concerns. We know that several CARE awardees have also been part of NIEHS-funded grant programs. Some have commented that their participation in CARE likely contributed to their success in applying for NIEHS funding.
- NIEHS understands the importance of building the capacity of community groups and academic researchers to work collaboratively. We have heard from our grantee community, especially through our PEPH Network, that there is a need for more funding sources to build research capacity with community organizations. Several of our Center grantees make pilot project funding available to community partners. One grantee hosted a workshop in the summer of

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2020 to provide community-based organizations with training on how to apply for pilot project funding, and another has established a community grant program.

- NIEHS staff are discussing the best approaches for meeting this expressed need in a more sustainable manner. In the meantime, here are some efforts underway that address aspects of this recommendation:
 - NIEHS participates in the program—Short Courses on Innovative Methodologies and Approaches in the Behavioral and Social Sciences, which is led by the NIH Office of Behavioral and Social Sciences. NIEHS currently supports the project, “CBPR: Extending the Use of Innovative Methodologies in the Behavioral & Social Sciences,” which was [featured recently in the PEPH Newsletter](#). The goal of the [Community-based Participatory Research Partnership Academy](#) is to increase the capacity of academic and community partners to conduct CBPR.
 - [Technical Assistance Program](#)—This newly established service is for our grantees, potential grantees, and community partners. It provides us with an opportunity to foster new relationships, provide technical knowledge, and offer feedback.
 - NIEHS staff are working on a cross-NIH program—**Community Partnerships to Advance Science for Society (ComPASS)**—that was recently approved by the Council of Councils. The focus of the program will be to support community-driven, health equity structural interventions that target structural factors.

9. U.S. Department of Housing and Urban Development (HUD)

WHEJAC Recommendation:

- “Identify key barriers to solar access at U.S. Department of Housing and Urban Development, including reviewing utility allowances. DOE and HUD should collaborate to identify barriers to solar in HUD housing and ensure sufficient financing programs for low-income households”

Response:

- Addressing key barriers. HUD’s Office of Multifamily Housing has worked closely with DOE and stakeholders to address a key barrier identified by affordable housing providers to installing solar in HUD-assisted multifamily housing: the treatment of solar credits in HUD’s utility allowance and rental assistance regulations. In one example, HUD has determined that D.C. Solar for All’s community-net-metering (CNM) credits will be excluded from household income and utility allowance calculations and therefore will not increase housing costs for residents in properties participating in HUD Multifamily rental assistance programs. HUD is also updating guidance to allow residents of affordable housing to better access cost-saving community solar subscriptions and reviewing guidance to allow Public Housing Authorities (PHAs) to more easily enter into power purchase agreements for low-cost clean energy. HUD is reviewing the recommendations related to renewable energy subsidies and their relationship to income and utility calculations.
- In general, HUD is committed to lowering barriers to solar in HUD-assisted housing and providing guidance to stakeholders on how to responsibly advance solar and renewable energy in their projects within HUD regulations.
- Ensure sufficient financing. WHEJAC also recommended that “HUD and DOE...ensure sufficient [solar] financing for low-income households.” HUD has no new resources for solar or other renewable energy programs. The President’s FY 23 Budget proposal includes \$1 billion in climate-related funding that could support additional financing for solar. These proposals include \$250 million for the multifamily Green Retrofit and Resilient Program (GRRP) which would provide grants or loans for retrofitting existing multifamily housing that could include solar and other “high impact” technologies; \$100 million for Indian Tribes to finance affordable housing with priority for projects that improve energy and water efficiency; and \$250 million for Choice Neighborhoods.
- In the absence of new funding, several existing programs can be used to finance solar. The existing multifamily Green Mortgage Insurance Premium (Green MIP) can be used to support solar in FHA-insured multifamily housing. The Green MIP provides a significant reduction in the MIP for projects that adopt a green building standard; solar can be included in these projects.
- In public housing, Energy Performance Contracts can be used to finance solar projects in public housing, and PHAs can use their Capital Fund grants for this purpose as well. In single family housing, home buyers who use the FHA Section 203(k) purchase-rehabilitation mortgage product can also include solar in their projects.

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WHEJAC Recommendation: “Establish a joint DOE and HUD study on home repair and structural barriers to solar installations by 2022 and deploy at least 3 gigawatts of local solar on HUD assisted housing by 2025, with at least 1.2 gigawatt in disadvantaged communities.”

Response:

- Study on home repair and structural barriers. HUD works with DOE on the Multifamily Solar Collaborative, a DOE-led initiative that addresses a variety of barriers that multifamily affordable housing providers face when deploying community solar for their customers. As noted above DOE commissioned a study that focused on one such barrier, utility allowance requirements and allocation of solar credits. However, a broader DOE-HUD study on “home repair and structural barriers” to solar installations has not yet been undertaken; clarification from the Committee on what kind of barriers they identified in this recommendation would be helpful.
- Deploy at least 3 gigawatts of solar. Under the Obama Administration, HUD supported the voluntary Renew300 solar initiative, which set a goal of 300 megawatts of solar/renewable energy in Federally assisted public housing. Commitments of 340 MW were made, and HUD provided technical assistance to PHAs and other HUD grantees to plan for and install solar in their facilities.
- HUD is exploring the feasibility of reviving this initiative. A new goal of 3 gigawatts by 2025 as recommended by the WHEJAC has, however, not been set, primarily due to the need for—and the lack of—significant new funding that would be needed to support this level of deployment. However, HUD joined with DOE in launching the new Better Climate Challenge (multifamily sector), which requires a voluntary commitment by participating multifamily partners of a 50% portfolio-wide reduction in carbon over 10 years; DOE and HUD anticipate that solar and renewable energy will play an important role in achieving this goal as part of their broader building electrification and decarbonization strategies.

WHEJAC Recommendation: “Increase funding to DOE for distributed renewable energy programs and ensure that at least 40% of incentives and program funds for clean energy support disadvantaged communities. DOE programs have been an important part of expanding clean energy access across the country, but modifications are needed to ensure the benefits reach disadvantaged communities.”

Response:

- HUD views this recommendation as primarily for the Department of Energy and Congressional Appropriators.

WHEJAC Recommendation: “Prioritize federal funding for rooftop/on-site/localized solar and battery energy storage systems (BESS) as proposed in the [We Want Sun Civil Society Proposal](#). The Federal Emergency Management Agency (FEMA) has allocated \$9.7 billion for electric system work in Puerto Rico. In addition, HUD will provide Community Development Block Grant Disaster Recovery (CDBG-DR) funds for the 10% cost share. Most of the FEMA funding is authorized pursuant to section 528 of the Stafford Act. Additional funding could be available under sections 404 and 406 of the Stafford Act. The 2018 Bipartisan Budget Act (Public Law 115-123), allows for the use of funds for alternative technologies, such as rooftop on-site localized solar and storage (BESS). FEMA Building Resilient

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Infrastructure and Communities (BRIC) can also be used for rooftop/on-site/localized solar and battery energy storage systems.”

Response:

- Puerto Rico has proposed an Action Plan for the use of the \$1.9 billion of CDBG-DR funds that HUD has allocated for electrical grid improvements. The Action Plan proposes to use \$500,000,000 of that funding to fulfill the FEMA cost-share requirement for its Public Assistance electrical grid infrastructure projects. FEMA has yet to identify that universe of eligible projects, which may include solar and storage infrastructure. Solar and storage infrastructure would also be eligible under the \$1.3 billion Electrical Power Reliability and Resilience Program (ER2) proposed in the Action Plan. HUD has approved the ER2 portion of Puerto Rico’s Action Plan and as FEMA begins to identify the projects that it will fund, HUD will continue to provide guidance and technical assistance to support Puerto Rico’s achievement of goals established in the grantee’s Action Plan.

WHEJAC Recommendation: “Prohibit FEMA funding for going to permanent fossil fuel generation and infrastructure; require plans and recovery dollars for energy systems to go toward energy efficiency and literacy programs, including solar water heaters, efficient appliances, clean energy, and battery storage.”

Response:

- HUD views this recommendation as primarily for FEMA and congressional appropriators.

WHEJAC Recommendation: “Require public input and hearings for investments in disaster recovery efforts to ensure impacted communities have a voice in how funds are spent.”

Response:

- Citizen participation is both encouraged and required throughout the CDBG-DR grant process. Grantees must prominently publish their proposed Action Plans (the plans describing the use of CDBG-DR funds) on their public websites and must hold public hearings and provide a reasonable opportunity for citizen comment on the Action Plans. All comments on the Action Plan or any substantial amendment, received orally or in writing, must be considered and a summary of those comments and grantee responses must be included in the plan submitted to HUD. Additionally, each grantee must follow a detailed citizen participation plan during the creation of the CDBG-DR grantee’s Action Plan and must follow consultation requirements during the Action Plan development. This includes consultation with entities such as states, Indian tribes, local governments, Federal partners, nongovernmental organizations, the private sector, and other stakeholders and affected parties in the surrounding geographic area, including organizations that advocate on behalf of members of protected classes, vulnerable populations, and underserved communities impacted by the disaster, to ensure consistency of the action plan with applicable regional redevelopment plans. Following HUD approval of the Action Plan, the plan and any changes or updates must be posted on the grantee’s disaster recovery web page. HUD has recently released a [Citizen Participation and Equitable Engagement tool kit](#) to provide its grantees with information on how to most effectively engage all impacted citizens and communities at every stage of the recovery process.

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WHEJAC Recommendation: “We should invest in transportation hubs because the communities that are most impacted by the lack of access to transportation are the low-income, people of color, and elderly communities. In New York, WE ACT, along with the assistance from the 40 local community groups and Farzana Gandhi Design Studio, created the “East 125th Community Visioning Action Plan” that focused on making transit accessible and sustainable. This plan would improve mobility amongst commuters by reducing congestion and improving flow of traffic, create efficient public transit lines to connect and make it easier for riders and commuters, and implement sustainable infrastructure for noise, waste, and lighting management in prevention of extreme weather. Transit hubs catalyze housing and small business development, cultural and historic preservation, and attract investment in sustainability especially if they are in a flood zone.”

Response:

- HUD is committed to strengthening the nexus of affordable housing, transportation and housing and community and economic development. HUD also recognizes that children in some locations rely disproportionately on public transportation, such as in Detroit or Baltimore where the school bus system was discontinued due to budgetary issues and minors are often issued a voucher for daily transit.
- HUD has joined with the Federal Transit Administration (FTA) to form an Interagency Working Group on Equitable Transit Oriented Development (e-TOD) to identify strategies for aligning HUD and DOT programs and resources to maximize the opportunities for affordable housing near transit, and also promote local economic and small business development opportunities as part of TOD or joint development projects. HUD is hopeful that this Interagency Group will yield concrete proposals and initiatives that can be jointly implemented by the two agencies. HUD is participating with FTA in an equitable TOD listening session that will hear directly from impacted communities.
- HUD also continues to maintain the Location Affordability Index, begun under the Obama Administration, that provides an index of joint housing and transportation affordability by census tract or block group for different household profiles. Low- and moderate- income (LMI) households often have no choice but to seek affordable housing in suburban or exurban locations that are associated with high transportation costs; conversely, the high cost of land near transit often yields high cost housing options that prices LMI residents (both existing and new) out of these markets. The LAI shows that “location efficient” housing near transit and amenities can be a more affordable option for LMI households than further-out locations when transportation costs are considered.
- Finally, HUD provides strong incentives for green building through several programs, including LEED Neighborhood Development for the Choice Neighborhoods program; all of which have either mandatory or optional criteria that encourage better siting and transportation access for residents.

WHEJAC Recommendation:

- “HUD should establish a voluntary community relocation program that provides replacement housing cost to residents whose homes were built with HUD funds on toxic sites, such as former waste dumps.”

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- “The relocation of residents whose homes were built on contaminated land or toxic sites with HUD funds, such as the Urban Development Action Grant (1977-1988).”

Response:

- HUD is considering this request and notes that development of a voluntary relocation program may be dependent on congressional appropriations
- HUD entered into an MOU with EPA in 2017 to help ensure that residents of HUD-assisted public and multifamily housing located on or near Superfund sites are protected from unsafe levels of contamination exposure and informed about potential exposures. HUD and EPA continue to collaborate under this MOU to increase dialogue between EPA and HUD, share information between the agencies, coordinate to help ensure EPA has access to sample HUD properties, and conduct outreach to residents.
- Additionally, as noted in the President’s FY 2023 budget request, HUD would initiate a pilot program which focuses on distressed neighborhoods that contain public and/or HUD-assisted housing and are in proximity to hazardous waste sites designated by the Environmental Protection Agency as Superfund sites. The President’s request includes up to \$10 million to fund this pilot program, called RECLAIM. The program would leverage a coordinated interagency effort with EPA (under the existing MOU) and the Department of Health and Human Services to improve these sites by concentrating Federal resources. RECLAIM grants would allow designated communities that have been impacted through the years by the presence of major contamination to prepare comprehensive Transformation Plans and utilize funds for catalytic investments to attract private and other public investment into these long-neglected communities. RECLAIM would focus on housing, people, and neighborhoods, including developing and implementing strategic economic development initiatives in the community, creating affordable housing, and assessing the needs of and providing social services for housing residents.
- HUD also furthers the equitable provision of “safe, affordable, and sustainable housing” through civil rights enforcement carried out by the Office of Fair Housing and Equal Opportunity (FHEO). FHEO’s activities specifically address issues raised in recommendations above. FHEO investigates allegations against recipients of HUD funds related to, for example, the discriminatory siting of projects near environmental and health hazards, grantee actions that disproportionately impact communities of color, and for grantee to plan and fund flood mitigation infrastructure in a nondiscriminatory manner.

WHEJAC Recommendation: “Develop HUD policy to align with its mandate to provide assisted housing to elderly, disabled and low-income households that is affordable, safe, sanitary, and outside of flood plains.”

Response:

- HUD is currently in the process of revising its regulations governing floodplain management and the protection of wetlands to implement the Federal Flood Risk Management Standard (FFRMS), in accordance with Executive Order 13690 (Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input), improve the resilience of HUD-assisted or financed projects to the effects of climate change and natural

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disasters, and provide for greater flexibility in the use of HUD assistance in floodways under certain circumstances. This rule would also revise HUD's floodplain and wetland regulations to streamline them, improve overall clarity, and modernize standards.

WHEJAC Recommendation: "HUD should establish guidance and a policy for recipients of assist[ed] housing to use their rent certificates and housing vouchers to locate housing outside flood plains. The current HUD policy ties the assisted housing voucher to housing units."

Response:

- Families with Housing Choice Vouchers are free to seek housing in any neighborhood or location that complies with HUD quality standards and rent reasonableness standards. In the case of a flood or other disaster, tenants in Public Housing or other HUD-assisted properties may receive vouchers or be relocated temporarily or permanently to nearby housing options, depending on the property and subsidy type HUD also supports mobility counseling that may take into account flooding or other siting concerns.
- HUD has also implemented program-specific policies to increase climate resilience, particularly related to flooding. For example, residential new construction, rehabilitation of substantial damage to residential structures, and rehabilitation resulting in substantial improvements to residential structures funded with CDBG-DR assistance are currently required to elevate two feet above base flood elevation. Mixed-use structures with no dwelling units and no residents below two feet above base flood elevation, must be elevated or floodproofed, in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above base flood elevation. Some activities that are defined as "critical actions" within the 500-year (or 0.2 percent annual chance) floodplain must be elevated or floodproofed to the higher of the 500-year floodplain elevation or three feet above the 100-year floodplain elevation. Similar standards exist for non-residential structures. In some cases, when CDBG-DR funds are used for non-Federal cost share required for FEMA assistance, HUD has provided flexibility for grantees to follow FEMA's elevation or floodproofing requirements in lieu of otherwise applicable HUD requirements.

WHEJAC Recommendation: "Expand project [eligibility criteria](#) of the Clean Water State Revolving Fund (CWSRF) to include homes, residences, schools, and childcare facilities. Eligibility criteria should include prioritizing highly impacted communities with a legacy of drinking water contamination in homes & apartment buildings. Eligibility requirements should allow access to families and renters."

Response:

- The Clean Water State Revolving Fund (CWSRF) is under the purview of the Environmental Protection Agency. Please see EPA's response to this question above.

WHEJAC Recommendation: "Develop guidance and policy for governors requiring them to certify relief assistance and funds received during major declared disasters and emergencies are spent in an equitable and nondiscriminatory way, including individual assistance, hazard mitigation, and public assistance."

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Response:

- Equity, fairness, and inclusivity must be at the forefront of disaster recovery. HUD is committed to advancing the use of CDBG-DR funds in order to achieve more equitable recovery outcomes and by more specifically addressing the intersections between disaster recovery, civil rights, and fair housing.
- HUD has developed a Consolidated Notice which combines and updates requirements from several different Federal Register and CPD notices that have previously governed CDBG-DR funds. HUD seeks to advance equitable recovery by recommending that grantees assess whether the planned use of CDBG-DR funds will have an unjustified discriminatory effect on OR failure to benefit racial and ethnic minorities in proportion to their communities' needs, particularly in concentrated areas of poverty. Grantees must also assess how they will address the recovery needs of impacted individuals with disabilities.
- HUD also recommends that grantees should consider the impact of their planned use of CDBG-DR funds on all protected class groups under fair housing and civil rights laws, vulnerable populations, and other historically underserved communities. Additionally, CDBG-DR grantees must explain how the use of funds will reduce barriers that individuals may face when enrolling in and accessing CDBG-DR assistance. Grantees must identify the proximity of natural and environmental hazards to affected populations in the most impacted and distressed areas, including members of protected classes, vulnerable populations, and underserved communities. Grantees must also explore how CDBG-DR activities may mitigate environmental concerns and increase resilience among these populations to protect against the effects of extreme weather events and other natural hazards.
- HUD Office of Fair Housing is using its civil rights enforcement authority to ensure equitable investments in disaster recovery and mitigation. The Office of Fair Housing investigates allegations of discrimination in grantees' administration of CDBG-DR funds and takes enforcement action where appropriate. FHEO has made a number of findings of non-compliance over the past years resulting in Voluntary Compliance Agreements ensuring more equitable distribution and administration of recovery and mitigation funds.

WHEJAC Recommendation: “Establish a sustainable communication office for communities that have been so egregiously neglected by government and impacted by racist public policy, environmental pollution and climate change. This office will be established to utilize a “whole of government” approach to address the enormous challenges that exist for improving the quality of life of these communities. “The Black Belt” of rural Alabama is an example of an area that needs a “whole of government approach to address the challenges that exist in this area. “The Black Belt” of rural Alabama has several environmental justice communities in need of federal investments to improve air and water quality and basic health services, especially the City of Uniontown. The city needs fundamental infrastructure such as a hospital, local ambulance service, a fire department, equipment for local police, and storm shelters to protect residents from tornados which are prevalent in the area. The community also needs a community youth center to create a safe, clean space for community engagement and education. Importantly, any federal investments to the area must involve transparency and public participation. For example, residents of Uniontown have not been given basic information about the U.S. Department of Agriculture’s grant to improve wastewater infrastructure, and as a result there is a lack of trust and accountability.”

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Response:

- HUD agrees that a whole-of-government approach is needed to address these concerns. HUD also refers to the robust answers that EPA and HHS have provided.

WHEJAC Recommendation: “Reduce or eliminate matching requirements for broadband construction projects in environmental justice coal-impacted communities. It is critical to subsidize broadband construction in coal-impacted communities and existing grant programs. Programs at ARC, EDA, USDA, and NTIA are important tools for increasing access. In coal-impacted areas, the match requirements are prohibitive and limit the number of communities who can apply for funding.”

Response:

- We believe this recommendation is more appropriate for response by ARC, EDA, USDA, and NTIA.

WHEJAC Recommendation: “Expand covered functions of the HUD Utility Allowance to include internet service. Currently, HUD’s Utility Allowance doesn’t cover internet service. However, without this service, those in public housing lack access to opportunities to find new work, workers cannot attend training programs, and children lack access to complete homework after school.”

Response:

- Public Housing, spurred by its ConnectHome program, a public-private partnership to bring broadband to residents, has made broadband an eligible expense with Capital Fund (installation, rewiring) and Operating Fund (monthly cost) for all PHAs. ConnectHome is also expanding at this time to additional PHAs. HUD does not have the authority to increase a PHA’s budget if it chooses to spend its funds on these new activities. However, HUD’s encouragement for wide spread adoption of broadband access policies will require additional funding.
- Additionally, the Administration’s Affordable Connectivity Program is a recently announced benefit program that provides a discount of up to \$30 per month toward internet service for eligible households and up to \$75 per month for households on qualifying Tribal lands. Residents of HUD-assisted housing will be eligible for the internet service benefit without the benefit impacting residents’ housing or utility subsidies.

WHEJAC Recommendation: “Support development of regional office action teams. Institutionalize representation of fence-line and frontline communities in enforcement decision-making through development and convening of community-based Regional Environmental Justice Action Teams; Direct the Interagency Environmental Justice Enforcement Task Force to work with Action Teams to develop regional community protection and action plans; Provide dedicated funding for communities to access representation and conflict resolution resources. Hold regular public comment sessions so people do not have to travel to Washington and to ensure that regional officers are engaged with the public on enforcement concerns.”

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Response:

- This recommendation is best answered by EPA as EPA coordinates cleanup of Superfund sites and involves local communities. However, HUD's Office of Fair Housing and Equal Opportunity has coordinated with EPA's Office of Civil Rights on outreach to state agencies and local governments in response to environmental justice concerns raised by frontline communities. FHEO is working with EPA and other agency's civil rights enforcement divisions to coordinate activities and to build capacity for this sort of interagency alignment on cross-cutting environmental justice issues.

WHEJAC Recommendation: “Reinstate HUD lead education outreach and lead abatement programs. Children of low-income families, African Americans, people living in large metropolitan areas, and people living in houses built before 1978 are most at risk of lead poisoning which is a neurotoxin and affects the brain development of children who are exposed under the age of six. HUD used to have a robust Lead Education program which ended over a decade ago despite the prevalence of lead in frontline communities where children of color are predominantly affected by poor maintenance in their homes. It has been found that removing lead paint hazards from homes of children from low-income families would provide \$3.5 billion in future benefits and protect more than 311,000 children. Investing in lead education and abatement will lead to the health and economic benefits of greater brain development and lifetime productivity.”

Response:

- HUD’s lead abatement programs (more formally, lead hazard reduction grant programs) have never ceased since the first round of grants to the Office of Lead Hazard Control and Healthy Homes (the office’s present name) in 1993, so they need not be reinstated.
- The current Administration has requested the highest funding level ever for these programs in its Fiscal Year (FY) 2023 Budget, even higher than the funding appropriated by Congress for such programs within the FY 2022 Appropriation, which was the highest to that point. This continues the long term trend of increasing funding for lead hazard reduction, which HUD has supported for economic reasons, based on its high return on investment, as indicated by the comment, as well as health benefit reasons.
- HUD also supports lead hazard reduction in Public Housing through the Capital Fund lead-paint abatement program, which provides grants for lead hazard identification and elimination for Public Housing properties.
- HUD’s lead education outreach programs have been subsumed within its lead hazard reduction programs, which, as noted above, have expanded, with supplementation by training of stakeholders among state and local governments, lead hazard evaluation and reduction contractors, and owners and managers of multiple rental housing units. When HUD operated stand-alone lead education programs, it did not find evidence that these resulted in translating increased public awareness of the health effects of lead hazards and the existence of demonstrated methods of reducing them into increases in the amount of lead hazard reduction work. Based on the absence of data supporting the realization of the intended outcomes, the stand-alone lead outreach grant program was ended, and the outreach effort kept within the lead hazard reduction programs to communities, and outreach training of stakeholders.

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WHEJAC Recommendation: “Address legacy pollution by supporting development of green zones. Bring green benefits to frontline communities that need it the most. Aggregate investments in solar, energy efficiency, weatherization, open streets, green infrastructure, tree planting, bioswales, flood resilience, extreme heat impacts, targeted enforcement, mitigation of mobile sources, electrification.”

Response:

- HUD is aware of Kansas City’s “Green Impact Zone,” created during the Recovery Act, as a possible model for green zones in other communities. We understand a green zone as proposed by the Committee to mean a comprehensive, place-based approach to reversing legacy pollution with climate resilient, green infrastructure, healthy and energy efficient buildings and renewable energy.
- At the same time, HUD believes that local communities are often in the best position to coordinate or combine federal, state and local funds in a comprehensive green, climate strategy. To that end, several HUD formula grant programs can be used by local communities to implement local green strategies. These include the Community Development Block Grant program (CDBG), HOME Investment Partnerships program, Indian Community Development Block Grant Program, the Section 108 Loan Guarantee program, as well as the CDBG-DR and CDBG-MIT program.
- HUD’s Office of Community Planning and Development has published a Climate Resilience Toolkit, and is initiating a climate communities technical assistance program that will provide support for local communities to identify climate risk and implement climate resilient activities to address that risk. This initiative will focus on how to implement activities with HUD CPD funding as well as ways to leverage HUD funding with other sources of financing for resilient activities that primarily benefit low- and moderate-income households.
- Better alignment of federal programs can also help local communities to implement comprehensive community-based green initiatives. HUD has taken steps to align programs with other Federal programs, e.g. HUD’s lead hazard control, healthy housing and home repair funds (CDBG and HOME) funds with DOE’s weatherization and HHS’ LIHEAP programs. DOE Notice WPN 22-5 (December 2021) will make it easier for low-income households to qualify for these programs.
- HUD is also aware of DOE’s recently announced Local Energy Action Program (LEAP) grants to local communities which could support many of the activities referenced in the WHEJAC’s proposal. HUD is exploring how funds could be used by local communities to support these activities.

WHEJAC Recommendation: “Create a federal low-income water and sewer bill assistance program. This program will assist low-income customers with paying their water and sewer bills. This will be structured as grants to state and Tribal entities to provide direct assistance to low-income water and sewer customers, similar in concept to the established Low-Income Home Energy Assistance Program (LIHEAP). This would bring parity to water, as the federal government already recognizes heat and home energy as essential to well-being.”

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Response:

- This program would be more appropriate for the Department of Health and Human Services (HHS) under its Low-Income Household Water Assistance Program (LIHWAP) and the American Rescue Plan, and, if it were provided such funding, for the EPA under the Safe Drinking Water Act.
- HHS' LIHWAP is administered through its Administration for Children and Families, providing grants to states, territories, and tribes to expand access to more affordable water and help low-income households pay their water and wastewater bills, avoid shutoffs, and support household water system reconnections related to non-payment.

WHEJAC Recommendation: "Support the retrofit of lead water pipe infrastructure."

Response:

- The main federal effort on testing for and replacing lead service lines will be conducted, with funding under the Infrastructure Investment and Jobs Act ("Bipartisan Infrastructure Law"), through EPA grants to states. That law requires that the EPA assistance through states be conditioned on prioritizing disadvantaged communities, low-income homeowners, and landlords or property owners, many of which are recipients of HUD assistance, that provide housing to low-income renters.
- CDBG funds can be used for replacement of publicly owned lead pipe infrastructure under the eligible activity that permits the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements.
- In addition, in its Lead Pipe and Paint Action Plan, the Administration has clarified that state, local, and Tribal governments can use American Rescue Plan Fiscal Recovery Funds for replacing lead service lines and protecting communities against lead in water. Under that Action Plan, HUD has committed to replace lead water service lines to assisted public housing and (privately-owned) project based assisted housing whenever water main lines that feed that housing are being replaced.

WHEJAC Recommendation: "Ensure that environmental justice communities are tested for lead water pipe infrastructure and replace those pipes where necessary to protect the most vulnerable (children and pregnant women) from lead exposure."

Response:

- As noted above, the testing for and replacing lead service lines will be conducted, with funding under the Infrastructure Investment and Jobs Act ("Bipartisan Infrastructure Law"), through EPA grants to states that must prioritize disadvantaged communities, low-income homeowners, and landlords or property owners that provide housing to low-income renters.

WHEJAC Recommendation: "Ensure Every Home Has a Wastewater System and Indoor Plumbing."

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Response:

- EPA is supporting projects under its Clean Water State Revolving Fund for decentralized wastewater treatment system, which treat domestic wastewater from homes (and businesses) that are not served by a centralized public sewer system.
- For low-to-moderate income families, HUD's Community Development Block Grants can fund installation of indoor plumbing, based on the grantee's prioritization of the use of the funds. HUD's Indian Community Development Block Grant (ICDBG) funding can be used by Tribes to develop wastewater treatment facilities. In addition, both ICDBG and Indian Housing Block Grant funding can be used by Tribes to fund indoor plumbing.

WHEJAC Recommendation: "Many homes throughout the south, Appalachia and rural areas are forced to use septic tanks even though they pay municipal taxes for water and sewer. Many do not have indoor plumbing as well. A wastewater treatment system receives, stores, treats, and disposes wastewater not only from a septic tank, but accompanying pipes, drains, percolation areas, and fitting, which ensure that the water is treated and discharged correctly. Wastewater systems are a way to reduce waste from our environment, save money, and ensure removing chemically treated water in a safe, environmentally friendly way. Furthermore, toxins are removed during the treatment process which produces clean and safe water. About 3% of the earth's water is drinkable and through this renewable resource it helps provide crystal clear, and safe reusable water. The main challenges we may encounter with wastewater systems are the cost and energy consumption. It is estimated that the United States must invest \$271 billion towards wastewater systems and their upgrades."

Response: See the response above to the recommendation regarding EPA's Clean Water State Revolving Fund and HUD's Community Development Block Grants programs.

WHEJAC Recommendation: "Develop mapping tools and GIS of where these homes are so they can be identified and retrofitted."

Response:

- EPA's National Geospatial Program coordinates the Agency's use of geospatial data in a variety of ways to help it carry out its mission, and, if charged and funded for developing program support mapping tools and geographic information systems in support of installing residential wastewater system and indoor plumbing, would be able to do so.
- HUD's Enterprise Geographic Information Systems Team coordinates the use of HUD's geospatial datasets and web-based mapping tools to help the Department carry out its mission, and, if charged and funded for developing program support mapping tools and geographic information systems in support of installing residential wastewater system and indoor plumbing, would be able to coordinate with EPA and use EPA's programmatic data to address this recommendation.

WHEJAC Recommendation: "Support funding for frontline and EJ communities to organize, convene and develop climate action plans that address climate resilience, communication and prioritize potential climate impacts. Each community has differing levels of potential impacts and issues associated with blackouts, flooding, extreme heat, evacuation, right of return to homes by climate refugees and

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ensuring that climate gentrification potential is addressed through education of relevant government officials.”

Response:

- HUD supports the “frontline” involvement of communities and historically underserved communities in the annual CDBG grants that can be used for community planning activities, including resilience plans as well as in the CDBG-DR planning process. HUD has created a CDBG-DR [Citizen Participation & Equitable Engagement \(CPEE\) Toolkit](#), which is a resource to aid CDBG-DR grantees in centering equity in disaster recovery programs throughout an enhanced citizen participation process. The primary goal of citizen participation is to provide residents—especially low- and moderate-income (LMI) residents of the community where CDBG-DR funded activities will take place—the opportunity to actively participate in the planning, implementation, and assessment of the programs and projects. HUD supports funding for frontline and EJ communities, such as Tribes, to organize, convene and develop climate action plans. HUD has developed a website with climate resilience resources, including data and funding, that is specific to Tribes to support their efforts to respond to climate impacts.

WHEJAC Recommendations for All Federal Agencies, [pages 52-57](#):

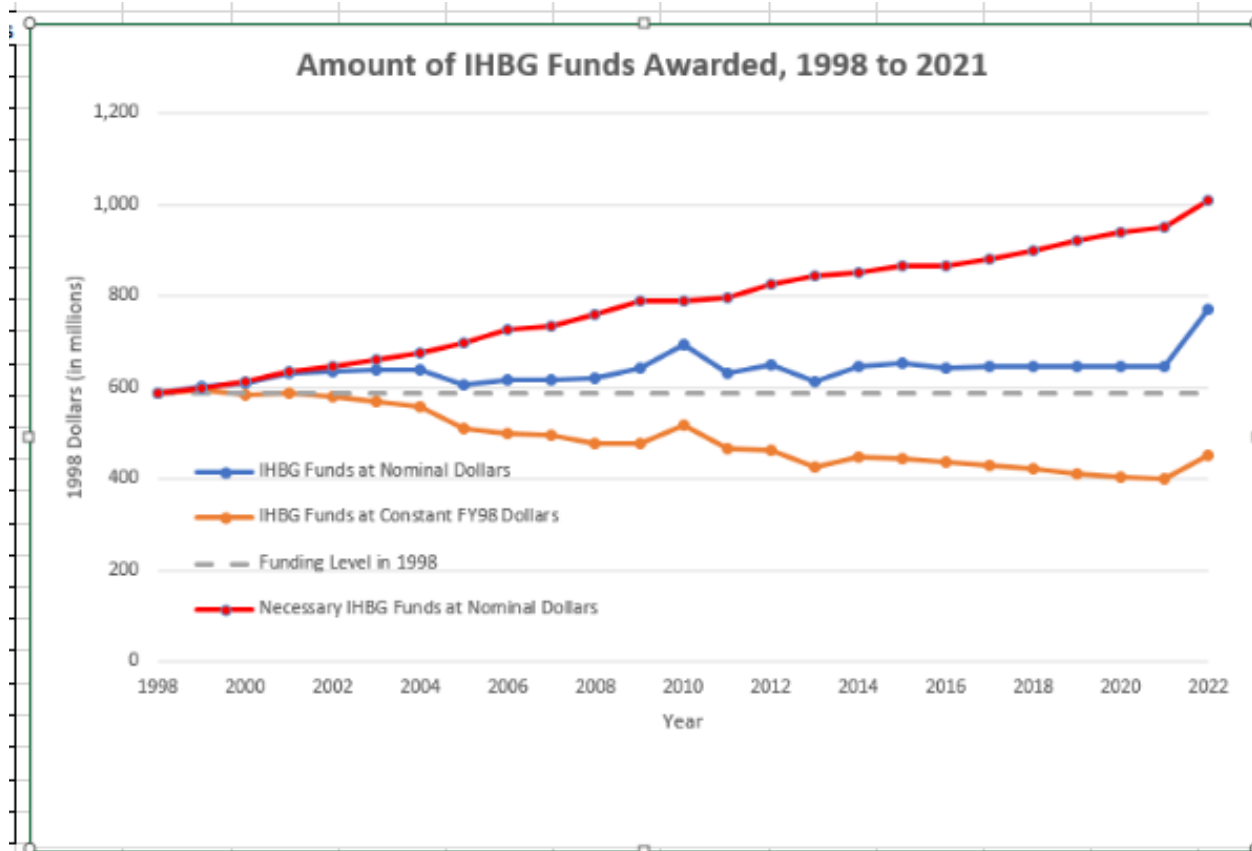
- In response to the January 26, 2021 Presidential Memorandum, HUD hosted two Tribal Consultation sessions (February 25 and March 23, 2021) to inform the actions HUD will take to implement the policies and directives of [Executive Order 13175](#). In July 2021, HUD finalized a [plan of actions](#) to fulfill the objectives of Executive Order 13175 and President Biden’s Memorandum. Additionally, HUD submitted its first Tribal Consultation Plan of Actions [Annual Report](#) to OMB in October 2021. In furtherance of Executive Order 13175, HUD is also actively working to form its very first Tribal Advisory Committee to ensure that the views of Tribal leaders are considered by the Department when policy is being formulated.
- Most of HUD’s Tribal programs are based on Tribal Self-Determination. Tribes determine how to prioritize their HUD funding. Tribes determine their projects and are responsible for planning and implementation.
- HUD Tribal grant programs are in accord with most of these recommendations. Tribes and Tribally Designated Housing Entities receive the Indian Housing Block Grant which is a formula-based grant based on need that Tribes receive annually. This funding must be spent within 10 years of funding, but can be used for indirect costs, and is not limited to shovel-ready projects. Competitive grants, such as the Indian Community Development Block Grant and the Indian Housing Block Grant-Competitive are also made available annually to Tribes. These competitive grants are more project-specific, but they need not be shovel ready, have no match requirement and are significantly flexible. Funding under all of these programs is provided directly to Tribes and Tribal organizations, and there is no pass-through entity.
- HUD has reviewed these reports and supports Tribal efforts to use HUD funding to address these needs. For instance, in HUD’s [Climate Action Plan](#), as part of HUD’s efforts to increase climate resilience, HUD has committed to increasing climate resilience by providing technical assistance support to Alaskan Native Villages that are seeking assistance for relocation, managed retreat and/or protection in place.

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- HUD does not develop, plan, or deliver infrastructure projects. HUD and ONAP provide no direct services to Indian Tribes. Instead, HUD provides block grants in “self-determination” programs for which the Tribes carry out eligible activities, including designing and completing infrastructure projects. Accordingly, there are very few if any instances where HUD would need to consult on agency decisions on infrastructure projects. The only instances that come to mind would be related to the adoption of regulations. Communication of how Tribal, as well as public, input is used in those decisions is amply documented in HUD’s rulemaking procedures. Nevertheless, HUD has clarified in its [consultation website](#) that when it consults on infrastructure projects, it will acknowledge the consultation and the key general comments received from Tribal participants through consultation, and generally advise how those key general comments were considered.
- It is widely recognized that there is a great need for more decent, affordable housing in Indian Country. In 2017, HUD published the final report of a comprehensive study to quantify and qualify the extent of that need and the impact that housing assistance programs have had on American Indian, Alaska Native, and Native Hawaiian communities. This study concluded that 68,000 new units were needed in Indian Country to replace severely inadequate units and eliminate overcrowding. Furthermore, HUD is tracking the historic level of IHBG buying power. As you can see in the chart below, when accounting for inflation, the current IHBG funding level (excluding competitive funds) is below the level it was when the Native American Housing Assistance and Self Determination Act (NAHASDA) was signed in 1996.

Year	IHBG Funds at Nominal Dollars	IHBG Funds at Constant FY98 Dollars	Funding Level in 1998	Necessary IHBG Funds at Nominal Dollars
1998	589.19	589.19	589.19	589.19
1999	603.17	594.34	589.19	597.94
2000	608.23	584.36	589.19	613.25
2001	632.05	587.01	589.19	634.40
2002	636.54	578.87	589.19	647.89
2003	638.22	568.87	589.19	661.02
2004	638.25	557.52	589.19	674.50
2005	604.11	511.39	589.19	696.02
2006	616.73	500.32	589.19	726.28
2007	617.31	494.34	589.19	735.75
2008	618.98	478.75	589.19	761.77
2009	641.39	478.59	589.19	789.62
2010	693.34	518.30	589.19	788.17
2011	631.42	466.54	589.19	797.41
2012	648.23	462.65	589.19	825.53
2013	611.69	427.33	589.19	843.39
2014	645.95	446.96	589.19	851.50
2015	655.31	446.01	589.19	865.68
2016	642.14	436.30	589.19	867.16
2017	644.99	431.19	589.19	881.34
2018	646.00	423.22	589.19	899.34
2019	646.00	412.81	589.19	922.01
2020	646.00	405.65	589.19	938.29
2021	647.00	401.54	589.19	949.36
2022	772.00	451.05	589.19	1008.44

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- HUD assesses housing needs in Indian Country periodically, and lack of infrastructure has been identified in HUD’s 2017 Housing Needs Study as a primary barrier to developing more affordable housing in Tribal communities.
- HUD leads the interagency Tribal Housing and Related Infrastructure Interagency Task Force to develop a coordinated environmental review for Tribal housing and related infrastructure. The Task Force solicited and added Tribal representatives to join the Task Force and work directly with Federal partners to identify ways to coordinate and improve environmental reviews. Currently, the Task Force is working to finalize an Implementation Plan that describes specific actions and timeframes the Task Force will develop to coordinate environmental reviews. More information is available [here](#).
- The Tribal Housing and Related Infrastructure Interagency Task Force supports this recommendation. In the Task Force’s [2015 Report to Congress](#) the Task Force recommended providing more funding for Tribal Historic Preservation Offices (THPOs), noting that THPOs are severely underfunded, causing delays in response to tribes and agencies during the Section 106 consultation process. According to the National Association of Tribal Historic Preservation Officers (NATHPO), in 2021, Tribes received an average of \$75,000 in federal funding to support THPO activities.
- HUD has developed the [Tribal Directory Assessment Tool](#) (TDAT) to identify tribes that may have an interest in the location of a HUD-assisted project, and provide tribal contact information to assist users with initiating Section 106 consultation under the National Historic Preservation Act (54 U.S.C. § 300101 et seq.). It allows users to identify Tribes that have expressed an interest in

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consultation at a county level throughout the country. TDAT is publicly available and is used by HUD grantees, as well as other agencies. It is currently being updated to help improve Federal consultation with Tribes. HUD has partnered with Federal Permitting Infrastructure Steering Council (FPISC) to upgrade TDAT with tools that will ensure accuracy and timely updates and enhance TDAT with GIS functionality.

- HUD provides block grant funding to Tribes directly. Under certain circumstances, that funding can be used for planning and administrative costs, including the costs of conducting feasibility studies before carrying out projects. Under HUD's block grant programs, Tribes are afforded the flexibility to determine whether to spend a portion of their funding on such planning costs.
- HUD does provide annual block grant funding to the Department of Hawaiian Homelands so that it can provide affordable housing assistance to low-income Native Hawaiian families. HUD also administers the Native Hawaiian Housing Loan Guarantee Program (Section 184A program) which provides mortgage capital to Native Hawaiian homebuyers residing on the Hawaiian Homelands.
- The Indian Community Development Block Grant does allow Tribal organizations which are eligible under Title I of the Indian Self- Determination and Education Assistance Act to apply on behalf of any Indian tribe, band, group, nation, or Alaska Native village eligible under that Act for grants when one or more of these entities have authorized the Tribal organization to do so through concurring resolutions.
- Tribes and Tribally Designated Housing Entities receive the Indian Housing Block Grant which is a formula-based grant based on need that Tribes receive annually and accordingly allows Tribes and TDHEs to plan housing development over multiple years.
- As mentioned above, HUD does not develop, plan, or deliver infrastructure projects. HUD consults with American Indian and Alaska Native governments, TDHEs and national Native organizations when developing legislation, regulations and policies that affect tribes. This commitment includes consultation with Alaska Native Corporations (ANCs), the entities created by the Alaska Native Claims Settlement Act of 1971 to receive land and monetary compensation in settlement of aboriginal land claims by Alaska Natives.
- However, HUD distinguishes the Federal relationship to ANCs, from the government-to-government relationship between the Federal government and each federally recognized American Indian and Alaska Native tribe, and this commitment to include ANCs does not diminish in any way that relationship and the consultation obligations towards federally recognized American Indian and Alaska Native tribes. Recognizing the distinction, HUD will include ANCs in consultations when taking departmental action that has a substantial direct effect on ANCs. HUD recognizes the unique cultural traditions and values of Alaska Native people and the distinct relationship between the ANCs and the Federal Government and wants to ensure meaningful consultation so that ANC officials are at the table and engaged when it comes to the matters that affect them.

10. U.S. Department of Labor (DOL)

WHEJAC Recommendation: “Access to basic sanitation supplies and handwashing facilities for all agricultural workers.”

Response:

- The Department of Labor’s Wage and Hour Division (WHD) enforces 29 C.F.R. § 1928.110, which is the Occupational Safety and Health Standard for Agriculture on Field Sanitation. This standard, which applies to any agricultural establishment with 11 or more employees who are engaged in hand-labor operations in the field, requires employers provide potable drinking water, toilet, and handwashing facilities to employees. Employers are also required to inform employees about the importance of good hygiene practices, to notify employees of the location of the sanitation facilities and the water, and to allow each employee reasonable opportunities during the workday to use the facilities.
- The Office of Occupational Safety and Health Administration (OSHA), which retains rulemaking authority over this standard, is currently limited in its abilities to expand occupational safety and health regulations in agricultural establishments with fewer than 11 employees due to appropriations restrictions. There have been long-standing appropriations statutes that restrict the ability of OSHA to prescribe, issue, administer, or enforce requirements in agricultural establishments that employ ten or fewer employees and do not maintain temporary labor camps.

WHEJAC Recommendation: “Leverage federal funds to ensure that employers, including those that receive federal funds and/or benefit from federal government procurement, provide all agricultural workers, not just “hand laborers” with access to toilets, potable drinking water and hand washing facilities, regardless of the number of workers in the establishment.”

Response:

- The Office of Occupational Safety and Health Administration (OSHA), which retains rulemaking authority over this standard, is currently limited in its abilities to expand occupational safety and health regulations in agricultural establishments to all agricultural workers due to appropriations restrictions. OSHA cannot expand provisions without a change to the appropriations rider set by Congress.
- As described in OSHA Enforcement Directive CSP 01-01-019, issued as STP 2-1.138 on September 21, 1987, states are free to expand the scope of their standards to farms of any size that maintain a temporary labor camp.

WHEJAC Recommendation: “Expand funding for existing training programs as well as union apprenticeship and pre-apprenticeship programs. These programs include the Adult and Dislocated Worker programs at the Department of Labor. This is a way to support workers getting paid while also up-skilling in real work environments. Expand the National Dislocated Worker Grants to ensure a focus on dislocated workers in coal communities with an additional \$5.4 billion. This is also a way to ensure the new jobs created are good paying jobs with benefits. A genuine focus on diversity, equity, and

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inclusion is crucial in order for apprenticeship programs to be open and available to all workers and should be prioritized in the recommendations of the task force.”

Response:

- The President, through the Fiscal Year 2023 Congressional Budget Justification, shows the Administration’s priority to help workers access good paying, family supporting jobs. The Budget provides increases for registered apprenticeship/pre-apprenticeship training as well as proposes expanding National Dislocated Worker Grants. This funding request includes a \$35,000,000 set-aside in the National Reserve to serve workers in the Appalachian and Lower Mississippi Delta regions. The funding request also includes \$100,000,000 for POWER+ to address changes in the energy economy and in legacy industries through strategic planning, partnership development, and reskilling and reemployment activities aligned with longer-term economic transformation efforts.

WHEJAC Recommendation: “Develop a frontlines climate corps to support youth leadership development and training of underemployed workers.”

Response:

- The Department of Labor (DOL) is both committed to climate action and the development of underemployed youth workers. DOL is a part of an Administration wide effort to develop a Civilian Climate Corps (CCC) Climate resilience and mitigation demonstration grants are proposed in the President’s FY23 budget for the department. The Employment & Training Administration (ETA) has been actively planning for what such a pilot and resulting CCC programming would entail within the statutory authority of DOL, with and without additional funding. This includes planning for the Department’s role in supporting our federal partners as they design and implement frontline programming. In addition, existing ETA programs prioritize activities that help advance the goals associated with a climate corps.

WHEJAC Recommendation: “Develop a Frontline Climate Corps of youth 16-24. First track is Job Training. Partner with Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs) and Asian American and Pacific Islander Serving Institutions (AAPISIs) to recruit candidates and set up new job training programs that prepare students to succeed in these industries. Hire people of color in leadership positions in relevant federal agencies for these programs, and work with community leaders for local outreach and recruitment to improve cultural competency and ensure equitable program design. Pre-identify roles that do not require a college education and invest in outreach and recruitment from high schools in communities of color and low-income. Where appropriate, provide federal funding for a network of trade schools and scholarships across the country for high schoolers to train for these industries without needing to pursue a college education.”

Response:

- The Department of Labor has deepened partnerships with Minority-Serving Institutions (MSIs), including Historically Black Colleges and Universities (HBCUs), Hispanic-Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs), and Asian American and Native American Pacific Islander-

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Serving Institutions (AAPISIs) through work including but not limited to [the Strengthening Community Colleges grant program](#), which offers a priority for MSIs, and requires a focus on career pathway strategies in industry sector(s) that closely align with the workforce priorities of their state and/or region. Efforts such as this advance current DEIA goals and could be leveraged to do the same for a climate corps program.

- DOL is committed to centering equity in its hiring practices so that agency and program leaders reflect the communities they seek to serve. This focus on equity is incorporated into hiring, retention, and promotion strategies. The Employment and Training Administration (ETA) has hired a DEIA Officer to lead and facilitate the development and implementation of human capital and other DEIA strategies.
- DOL promotes skills- and competency-based hiring as much as possible, through its programs and internally. The Department's occupational database resource, O*NET, contains detailed information on occupations and required education levels, which are used to inform current program development internally and across the workforce system. Recently, the DOL Chief Evaluation Office released a set of tools leveraging O*NET data, including the [Career Trajectories and Occupational Transitions Dashboard](#), which focuses on "mid-level" occupations, and can be used to support the development of programs and inform individual decisions, including in environmental occupations.
- Through formula and discretionary grant programs, as well as Job Corps and Apprenticeship, DOL presently funds and otherwise supports pathways to climate-related jobs. For example, all YouthBuild (YB) grantees offer participants training in construction, and most offer training in at least one other in-demand industry (i.e., Construction Plus). Popular C+ fields include healthcare and IT, with some grantees offering training in climate-related work (e.g., National Green Building Standard, Tree Care, Horticulture, Green Environment modules of National Center for Construction Education and Research credential). The 2021 FOA (awards anticipated May 2022) incentivized applicants to offer training in green construction techniques. YB is a pre-apprenticeship model that creates a clear pathway for participants into skilled trade apprenticeships post-service, with climate resiliency and mitigation efforts that can be further expanded in support of climate corps programming. The Department of Labor is committed to finding innovative ways to train the future workforce in climate-related work.

WHEJAC Recommendation: "The second track is Youth Climate Leadership Development. Creating a climate leadership pipeline of youth from frontline communities working in their communities on identified citizen science projects with grassroots EJ groups. Investment in frontline communities can address underserved youth and under-resourced grassroots groups on the frontlines of fighting for environmental and climate justice through the federal development of a corps targeting youth of color and low income living in environmental justice communities."

Response:

- Department of Labor programs and services focus on underserved communities per statutory and regulatory guidance, and wherever possible through program design and operation. Statutorily, Workforce Innovation and Opportunity Act (WIOA) Youth programs in each state must offer a suite of services, including leadership development opportunities, and largely target underserved and under-resourced youth. Job Corps, for example, requires students to be

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low-income upon entry into the program. Therefore, many Job Corps students come from underserved and marginalized communities, including environmental justice communities, and Job Corps could serve as an on- or off-ramp for a climate corps program, including AmeriCorps programs. Currently, Job Corps centers offer 18 training programs in the Renewable Energy and Resources industry.

WHEJAC Recommendation: “The corps can develop young leadership on issues of climate and environmental degradation while linking those youth to grassroots groups fighting for climate and environmental justice. The youth can develop a career path, compensation, education awards, and job skills while living in their own communities and being part of the solution.”

Response:

- All Department of Labor (DOL) youth programs help youth develop a career pathway, including in climate- and environmental justice-related fields. Pre-apprenticeship is an exciting career pathway that could be leveraged by young people around the country. Pre-apprenticeships prepare participants, often youth, for Registered Apprenticeships, and the Department is actively releasing guidance on the pre-apprenticeship pathway. DOL is also encouraging youth apprenticeship and pre-apprenticeship program development in existing funding opportunities, including the \$113M Apprenticeships Building America grant program. Public service apprenticeships are an area of growth and great potential, and the Department regularly works with public and private organizations to develop and launch Registered apprenticeship programs and pathways to apprenticeship through pre-apprenticeship. The Department has been working with federal agency partners to explore how conservation projects led by non-profit, local, state, and federal government could leverage apprenticeship as a direct employment strategy into key jobs during and after service in conservation fields.

WHEJAC Recommendation: “Incentivize Development of Green Worker Cooperatives. Underemployed workers of color who have been trained in construction skills and solar installation have a difficult time getting employment through labor unions (construction trades) which are often biased against people of color and tend to be tightly controlled by white ethnic groups for multi generations. One effective response to this challenge is for workers to own and develop their own worker businesses or associations where they incorporate and bid on jobs and become certified as MWBEs.”

Response:

- Supporting and diversifying high quality jobs across sectors is a priority for the Department of Labor. The Department will actively consider this model as it assesses areas for future budget requests and pilots.

WHEJAC Recommendation:

- “A bedrock principle of occupational hygiene is the “hierarchy of controls,” which the Occupational Safety and Health Administration (OSHA) and others rely on to identify options for controlling worker exposures to occupational hazards. The hierarchy prioritizes the elimination of the hazardous agent or substitution of a less hazardous agent. These are preferable to the

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implementation of engineering controls, which in turn are preferable to requiring personal protective equipment. For workers who are protected by OSHA, personal protective equipment is always the mitigation measure of last resort. When it comes to protecting workers from pesticides, EPA is in charge and the agency starts by considering personal protective equipment, then considers engineering controls, and never considers substitution with less toxic options or practices. To protect a predominantly community of color workforce from exposure to a range of toxic pesticides, EPA should follow the hierarchy of controls when selecting options to reduce occupational risk from pesticides for farmworkers and pesticide applicators.”

- “Collaboration between the EPA Office of Chemical Safety and Pollution Prevention (OCSPP), the Department of Labor and the Occupational Safety and Health Administration (OSHA) to provide technical assistance in integrating the hierarchy of controls when selecting options to reduce occupational risk from pesticides for farmworkers and agricultural pesticide applicators.”

Response:

- Environmental Protection Agency (EPA) has sole jurisdiction over the mitigation of toxic pesticides. Please refer to EPA’s response for status update. The Department of Labor’s Office of Occupational Safety and Health Administration (OSHA) continues to be committed to providing EPA with consultation as needed.

WHEJAC Recommendation: “The Mine Safety and Health Administration should strengthen regulations and enforcement procedures to protect coal miners from excessive levels of respirable silica dust, a primary culprit behind the ongoing epidemic of black lung in Appalachia. Currently, the permissible exposure limit for respirable silica dust in coal mines is 100 micrograms per cubic meter. This limit should be reduced to 50 micrograms per cubic meter to be brought into parity with regulations applicable to all non-mining industries and per the recommendation of the National Institute for Occupational Safety and Health. Additionally, the silica standard is not separately enforceable but, instead, based on a complicated calculation of silica as a percentage of total respirable dust. This indirect enforcement method should be replaced by a separately enforceable standard whereby any exceedance of 50 micrograms of silica per cubic meter causes MSHA to issue a citation and compel corrective action on the part of the operator.”

Response:

- The Department of Labor’s Office of Mine Safety and Health Administration (MSHA) is working to publish a proposed rule to reduce miners’ exposure to respirable crystalline silica. The proposal will address the control of respirable silica and the limit of permissible exposure for all miners including coal, metal and nonmetal miners. MSHA will consider the data and information gathered through working with NIOSH and mining stakeholders over the years and through a recent request for information, and it will also draw on relevant information contained in the Occupational Safety and Health Administration’s FY 2016 final rule on respirable crystalline silica.

WHEJAC Recommendation: “Modernize temporary labor camp standards and farm labor camp standards to mitigate the risks that climate change, extreme weather events and pandemics pose on migrant and seasonal farmworkers and their families.”

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Response:

- The recommendation refers to 29 C.F.R. § 1910.142, the Occupational Safety and Health Standard for General Industry on Temporary Labor Camps for agricultural operations. The Department of Labor's Wage and Hour Division enforces these standards, but the Occupational Safety and Health Administration retains rulemaking authority.
- The Department of Labor provides some assistance to farmworkers and their housing through the Workforce Innovation and Opportunity Act (WIOA). Under WIOA Section 167, the Department's Employment and Training Administration issues competitive awards for National Farmworker Jobs Program Housing grants to meet a critical need for safe and sanitary permanent and temporary housing for farmworkers and their dependents. Grant recipients provide housing services as described in [20 CFR 685.360](#) to eligible migrant and seasonal farmworkers and their dependents. Depending on a grant recipient's program plan, housing services may also include investing in building resiliency to extreme weather events, energy efficiency, climate control, and facilities such as water and waste disposal.

WHEJAC Recommendation: "Invest in USDA Section 521, 515, and Section 514 and 516 Farm Labor Housing to invest in building resiliency to extreme weather events, energy efficiency, climate control, and facilities such as water and waste disposal systems."

Response:

- The U.S. Department of Agriculture is the administrator of Section 521, 515, and Section 514 and 516 Farm Labor Housing; these sections are not under the Department of Labor's jurisdiction.

WHEJAC Recommendation: "Ensure investments in Farm Labor Housing prioritize housing for U.S.-based workers and their families, without regard to legal status, and do not promote the displacement of the domestic agricultural workforce."

Response:

- The Farm Labor Housing program is administered by the U.S. Department of Agriculture, the U.S. Department of Labor does not have jurisdiction over this program.

WHEJAC Recommendations for All Federal Agencies, [pages 52-57](#):

- The Department of Labor (DOL) is committed to its mission to foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights in collaboration and in service of federally-recognized Indian tribes. Moreover, DOL will follow the provisions outlined in the Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships set forth by the President of the United States.

WHEJAC Recommendations for the Definition of Investment Benefits, [page 57](#):

- The Department of Labor (DOL) is committed to helping underserved communities through direct and indirect investments that protect and advance workers in the United States. This is

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exemplified through DOL's Good Jobs Initiative. The initiative focuses on embedding job quality standards in federal investments and creating access to good union jobs free from discrimination and harassment for all working people including underserved communities.

WHEJAC Guiding Principles: Program Criteria to Maximize Federal Investment Benefits and Avoid Harm in EJ Communities, [page 57](#):

- The Department of Labor (DOL) is committed to identify opportunities to engage diverse views from impacted communities in the development and implementation of policy, including environmental justice communities.

11. U.S. Department of Transportation (DOT)

WHEJAC Recommendation: “We should invest in transportation hubs because the communities that are most impacted by the lack of access to transportation are the low-income, people of color, and elderly communities. In New York, FTA WE ACT, along with the assistance from the 40 local community groups and Farzana Gandhi Design Studio, created the “East 125th Community Visioning Action Plan” that focused on making transit accessible and sustainable. This plan would improve mobility amongst commuters by reducing congestion and improving flow of traffic, create efficient public transit lines to connect and make it easier for riders and commuters, and implement sustainable infrastructure for noise, waste, and lighting management in prevention of extreme weather. Transit hubs catalyze housing and small business development, cultural and historic preservation, and attract investment in sustainability especially if they are in a flood zone.”

Response:

- The Federal Highway Administration (FHWA) is promoting sustainable multimodal transportation and transportation investments that improve access to destinations and clean transit with complete streets and multimodal designs. FHWA recently published the [Active Transportation Funding and Financing Toolkit](#) and provided guidance on using nontraditional sources of funding and financing to help deliver walking and bicycling projects. FHWA is also completing a Shared Micro-mobility and Equity primer, which is a near-term research publication that provides practitioners with information on the relationship between shared micro-mobility and transportation equity. The primer will set up the development of a future micro-mobility and equity synthesis as well as additional research to advance health-promoting forms of physical activity and low-carbon options that complements other modes of travel.
- FHWA Complete Streets [Initiative](#) is in its second year. FHWA published the [report](#) “Moving to a Complete Streets Design Model: A Report to Congress on Opportunities and Challenges” that identifies recent FHWA rules, guidance, and resources that affect safety and access for the users of all surface transportation modes, as well as ongoing opportunities and challenges as FHWA moves ahead with its effort to implement a Complete Streets design model. The Initiative is investigating ways to describe a national baseline of practice and define notable practices and major gaps in practice, which will aid FHWA in focused technical assistance. For transit, the initiative focuses on transit integration to ensure transit-supportive infrastructure, such as bus lanes, pullouts, signal prioritization, curb extensions, that are a part of a Complete Streets Design Model. The Initiative is also looking to better integrate transit corridor planning into Complete Streets plans and projects.
- FHWA developed [Curbside Management research](#) solutions to optimize curb productivity for the transportation network that address: increased freight and deliveries, transit priority, shared mobility and micro-mobility, pedestrian access, electric and autonomous vehicles, and curbside retail.
- FHWA’s efforts will help state and local entities build projects, conduct planning and programs that will improve mobility among all users of the transportation system, reducing congestion and improving flow of traffic through clean transit and transportation.
- The Federal Transit Administration (FTA) is taking actions to address clean transit and transportation investment, most noticeably, through the Pilot Program for Transit-Oriented

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Development (TOD) Planning. The TOD Pilot Program provides funding for comprehensive or site-specific planning that supports economic development, increased transit ridership, multimodal connectivity and accessibility, improved transit access for pedestrian, bicycle, and micro-mobility traffic, and increased mixed-use development near transit stations, and addresses climate change, challenges facing environmental justice populations, racial equity, and barriers to opportunity.

- The TOD Pilot Program grants are competitively awarded to local communities to integrate land use and transportation planning with new fixed guideway or core capacity capital improvement transit projects. The grants help organizations plan for transportation projects that connect communities and improve access to transit and affordable housing.
- Since 2014, 110 agencies have received \$90 million dollars in federal support to complete TOD planning studies throughout the country. As a result of these planning studies, many transit agencies have begun to construct TOD. The FTA continues to help transit agencies and their community partners to consider TOD. On January 20, 2022, FTA [announced](#) the award of approximately \$11 million to [20 projects in 12 states](#) for FY2021 TOD planning grants to support community efforts that improve access to public transportation.
- In the spring of 2022, FTA hosted three TOD Listening Sessions with the purpose of engaging in dialogue with key stakeholders regarding challenges and opportunities to further advance equitable development around transit that supports the equity and environmental goals of the Biden-Harris Administration. The listening sessions were developed in partnership with the Department of Housing and Urban Development and the DOT Build America Bureau.
- Additionally, DOT has created two working group to further support the implementation of TOD projects, including:
 - DOT-HUD Equitable Transit Oriented Development, a cross-agency partnership that focuses on furthering the implementation of equitable, sustainable transit and housing options in environmental justice communities, among other focus areas.
 - Build America Bureau—FTA, an interagency working group that focuses on providing information on financial options for transit-oriented development projects through the Transportation Infrastructure Finance and Innovation Act and Railroad Rehabilitation & Improvement Financing programs.
- The Bipartisan Infrastructure Law authorized approximately \$68.9 million in contract authority for the TOD Pilot Program over five years from FY2022 to FY2026.
- FTA is also taking action to address clean transit and transportation investment through its Areas of Persistent Poverty (AoPP) competitive grant program. There is \$16.2 million in available FY2021 funding for AoPP. This includes unspent funds from the previous year FY2020 program. The AoPP funds will be awarded for planning, engineering, or development of technical or financing plans for projects that assist areas of persistent poverty. The FTA seeks to use the AoPP Program to encourage racial equity in two areas: (1) planning and policies related to racial equity and barriers to opportunity; and (2) engineering, or development of technical or financing plans, for project investments that either proactively address racial equity and barriers to opportunity or redress prior inequities and barriers to opportunity. The FY2021 program received 104 applications and the project selection process is currently underway.
- In October 2020, FTA announced [25 projects in 17 states](#) that received a share of approximately \$8.5 million in funding through the Helping Obtain Prosperity for Everyone (HOPE) program (the

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predecessor to “AoPP”). The HOPE program funded planning for projects that were designed to improve transit service and facilities in areas of persistent poverty in the U.S. There is \$20 million available for AoPP in FY2022 funds, provided by annual appropriation to the Transit Infrastructure Grant program

- The TOD and AoPP programs support the President’s goals of building resilient modern infrastructure and an equitable, clean energy future. In addition, through the promotion of increased access for environmental justice populations, increased equity-focused community outreach and public engagement of underserved communities, adoption of equity-focused policies, a reduction of greenhouse gas emissions, and addressing the effects of climate change, the TOD Pilot Program advances the goals of Executive Order 13985: *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*; Executive Order 13900: *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*; and Executive Order 14008: *Tackling the Climate Crisis at Home and Abroad*.

WHEJAC Recommendation: “School buses and sanitation trucks are some of the dirtiest vehicles that travel throughout EJ communities spewing diesel exhaust and fine particulates which contribute to poor air quality.”

Response:

- While the electrification of school buses and sanitation trucks do not fall within DOT’s purview, Congestion Mitigation Air Quality funds can be used for their purchase. The Joint Office of Energy and Transportation—a collaborative office created in accordance with the Bipartisan Infrastructure Law and shared by U.S. Department of Energy and DOT—will be providing technical assistance to the EPA in support of their efforts to electrify school buses.

WHEJAC Recommendation: “Support development of alternate shared transit entrepreneurship. Many communities have little to no public transit, and many low-income communities have a low percentage of car ownership. Many low-income residents and young people have no way in small towns and suburbs and under-resourced cities like Detroit or Los Angeles to get to jobs without public transit. Many new ways of van sharing and other entrepreneurial ventures are starting that can address this challenge. These startups need to be resourced with incentives and seed money.”

Response:

- FTA has a long history of investing in new mobility models to enhance scarce transit resources, address transit deserts, or help people connect to nearby transit services. FTA’s Accelerating Innovative Mobility (AIM) and Integrated Mobility Innovation (IMI) grant programs have awarded \$30 million to transit agencies exploring new transit service delivery models and partnership for on-demand transit in rural, suburban and urban areas that have connected people to jobs and other key services. FTA is preparing to look at investments that address people’s inability to connect with transportation options and enhance mobility through new mobility as a service resource and software to provide riders with real-time information on transportation options.
- Additionally, over the last five years DOT and all Operating Administrations invested \$50 million to fund the Small Business Innovation Research (SBIR) Program, which is a program designed to

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spur entrepreneurship in areas of need for the transportation industry. The DOT is considering adding a focus area for the SBIR program to support the development of alternate shared transit options.

WHEJAC Recommendation: “Establish a sustainable communication office for communities that have been so egregiously neglected by government and impacted by racist public policy, environmental pollution and climate change. This office will be established to utilize a “whole of government” approach to address the enormous challenges that exist for improving the quality of life of these communities. “The Black Belt” of rural Alabama is an example of an area that needs a “whole of government approach to address the challenges that exist in this area. “The Black Belt” of rural Alabama has several environmental justice communities in need of federal investments to improve air and water quality and basic health services, especially the City of Uniontown. The city needs fundamental infrastructure such as a hospital, local ambulance service, a fire department, equipment for local police, and storm shelters to protect residents from tornados which are prevalent in the area. The community also needs a community youth center to create a safe, clean space for community engagement and education. Importantly, any federal investments to the area must involve transparency and public participation. For example, residents of Uniontown have not been given basic information about the U.S. Department of Agriculture’s grant to improve wastewater infrastructure, and as a result there is a lack of trust and accountability.”

Response:

- Infrastructure needs for community youth centers, local ambulance service, hospitals, fire departments, equipment for police, and storm shelters are outside of DOT’s purview. Therefore, the White House Environmental Justice Interagency Council (IAC) may be in a better position to implement this whole of government approach. However, while DOT has not established a new sustainable communication office, DOT has taken numerous steps to further our priorities of equity and resilience:
- DOT has made both part of our [FY2022-2026 Strategic Plan](#). This plan includes actions to:
 - Repair, rebuild, and modernize our roads, bridges, and pipelines, with a particular focus on climate change mitigation, resilience, equity, and safety for all users;
 - Improve healthy, sustainable transportation options for millions of Americans by modernizing and expanding public transit and rail networks across the country;
 - Support the transition to net-zero emissions and create good-paying jobs by building a national network of electric vehicle (EV) chargers; and
 - Support a more just and equitable transportation system by investing in historically underserved communities to connect them with jobs, resources, and opportunities, and empowering them to build generational wealth.
- DOT has issued a [Climate Action Plan](#). This plan identified five priority actions that DOT will focus on:
 - Incorporating resilience into DOT grant and loan programs;
 - Enhancing resilience throughout the project planning and development process;
 - Ensuring resilience of DOT facilities and operational assets;
 - Ensuring climate-ready services and supplies; and
 - Improving climate education and research on resilience.

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- This plan also includes a section on climate change and equity.
- DOT is in the process of implementing the climate and equity-focused programs created by the Bipartisan Infrastructure Law. For example:
 - Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) Grant Program—This program will provide grants for resilience improvements through formula and competitive funding to assess vulnerabilities of and improve resilience of transportation assets.
 - Reconnecting Communities Pilot Program- this program allows eligible entities to apply for funding, in order to restore community connectivity to study the feasibility and impacts of removing, retrofitting, or mitigating an existing eligible facility; to conduct planning activities necessary to design a project to remove, retrofit, or mitigate an existing eligible facility; and to conduct construction activities necessary to carry out a project to remove, retrofit, or mitigate an existing eligible facility.
 - Carbon Reduction Program (CRP), which provides funds for projects designed to reduce transportation emissions, defined as carbon dioxide (CO₂) emissions from on-road highway sources.
 - National Electric Vehicle Infrastructure Formula Program (“NEVI Formula”) to provide funding to States to strategically deploy electric vehicle (EV) charging infrastructure and to establish an interconnected network to facilitate data collection, access, and reliability.
- DOT has added language on equity and on climate change/resilience into its Notices of Funding Opportunities and into its discretionary grant program evaluation criteria.
- DOT has also issued an [Equity Action Plan](#). The Plan highlights work that DOT will undertake across four focus areas—wealth creation, power of community, interventions, and expanding access—to expand access and opportunity to all communities while focusing on underserved, overburdened, and disadvantaged communities.
- As part of this focus on equity, DOT is analyzing opportunities and developing resources to improve community engagement in Departmental decision-making including the development of a Transportation Disadvantaged Census Tract mapping tool [Transportation Disadvantaged Census Tracts \(arcgis.com\)](#).

WHEJAC Recommendation: “Black and other communities of color are disproportionately exposed to interstates and highways that expose residents to high levels of PM_{2.5} and other air pollutants in vehicle exhaust.”

Response:

- Thank you for the recommendation. We are investing billions of dollars into transit and low/no emission buses, and we've set more stringent CAFE standards, which will help reduce emissions and improve public health. Please see our response to recommendation below for a full discussion regarding how FHWA addresses near-road pollutants for federally-funded and approved highway projects.

WHEJAC Recommendation: “Develop an air monitoring network that includes the detection of PM_{2.5} in areas where a DOT-funded transportation project, a fossil-fired power plant, or PM_{2.5} major emitting

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facility is located within three miles of a residential area. Provide public access to the air quality data. Coordinate with the Centers for Disease Control a public health response that removes the threat of air pollution exposure for residents.”

Response:

- The U.S. Environmental Protection Agency (EPA) has an extensive national network of air quality monitoring stations, including those in the near road environment. The Near Road Monitoring Network emphasizes placement of monitors in areas with expected high concentrations near the road due to traffic volumes and fleet mix. Air quality monitoring data, including near road monitors, are publicly available on EPA’s [website](#).
- FHWA addresses near road pollutants for Federally-funded and approved highway projects via certain Clean Air Act requirements, including transportation conformity (42 U.S.C. 7506(c)) and the transportation conformity regulation (40 CFR Part 93). The transportation conformity process ensures that FHWA and FTA projects do not cause an exceedance of, or interfere with, the maintenance of EPA’s national health-based air quality standards, including PM_{2.5}, at both the project and regional levels for affected communities.
- Additionally, FHWA has conducted extensive research on the near road environment, including case studies on affected roadway environments, health effects of diesel emissions, and assessment of FHWA-funded project types on health. The modes have some ability to include PM monitors as mitigation. Several state DOTs have opted to use near road air quality monitoring for projects where community concerns were raised. Given that aviation is another major source of air pollution, including PM 2.5, the FAA has also been conducting research and attempting initiatives to reduce air pollution.
- FHWA works specifically with on-road mobile source emissions and does not have jurisdiction over other sources of PM_{2.5} emissions such as power plants or industrial sources.

WHEJAC Recommendation: “Conduct civil rights compliance reviews under Title VI of the Civil Rights Act to ensure that DOT funds allocated to states are not invested in transportation projects that exacerbate or otherwise perpetuate racial discrimination.”

Response:

- In accordance with DOT’s Title VI Order 1000.12(c) (issued June 11, 2021), during the pre-award review period, we are implementing a proactive approach to Title VI in which each Operating Administration (OA) conducts a Title VI Assessment of each applicant for Federal financial assistance to determine that the applicant will not use Federal financial assistance to discriminate on the basis of race, color, or national origin (including limited English proficiency). The OA may not award the Federal financial assistance until they sign the DOT Title VI Assurance and have determined that the applicant has demonstrated compliance with Title VI. Assessments will consider, among other things, information, including demographic information, about the affected and/or impacted community, any proposed locations or alternative locations for any facilities to be constructed or used, and whether the location, program, or activity will have a disparate impact or result in disparate treatment on the basis of race, color, or national origin (including limited English proficiency).

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- DOT has also been actively working to update existing Title VI modal circulars, provide Title VI trainings and toolkits, and evaluate the necessary resources to expand compliance activities. Additionally FTA and FHWA conduct Title VI compliance reviews currently, as well as periodic reviews of the programs.
 - FTA issued an RFI, which closed in January 2022, to solicit feedback from the public as it actively updates the agency's Title VI circular.
 - FHWA released the [Title VI Toolkit](#) in the summer of 2021. The toolkit provides basic fact sheets as well as best practices for the development and implementation of Title VI plans as well as compliance.
 - Through 2023, DOT is actively working with all of its modal agencies to ensure that recipients of DOT formula funding have fully compliant Title VI plans in place.
 - DOT is actively evaluating the resources that will be required to increase compliance reviews beyond current practices.
- DOT is planning to issue guidance for USDOT funding recipients to meet the requirements of meaningful public participation and community engagement under Title VI, NEPA, and other existing requirements, with accompanying best practices and trainings.

WHEJAC Recommendations for All Federal Agencies, [pages 52-57](#):

Response:

- The Bipartisan Infrastructure Law established a new Office of Tribal Government Affairs and a new position of Assistant Secretary for Tribal Government Affairs to oversee the Tribal Transportation Self-Governance Program (23 U.S.C. §207) and the coordination and implementation of Tribal policies and programs. As currently organized, the Department has a position of Deputy Assistant Secretary for Tribal Affairs who oversees the Tribal Affairs program and the Tribal Transportation Self-Governance Program.
- The Director of the Office of Tribal Government Affairs has been designated by the Secretary of Transportation to oversee and enact the Plan of Action that was drafted as directed by the Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships issued January 26, 2021.
- The Plan of Action has been approved by DOT leadership and submitted to the White House and the Office of Management and Budget in accordance with the Memorandum.
- The DOT Office of Tribal Government Affairs will continue to work with Federally-recognized Tribes that request assistance. Additionally, we will continue to support and work with the Administration and Congress in accordance with Federal law on issues related to Indian Country.
- DOT programs, such as the FHWA's Tribal Transportation Program (TTSGP), provide stewardship and oversight for direct funding agreements with Federally-recognized Tribes. The Tribal Transportation Self-Governance Program was authorized by Section 1121 of the Fixing America's Surface Transportation Act, Pub. L. 114-94. Section 1121 is codified at 23 U.S.C. § 207. The TTSGP provides Federally-recognized Tribes and Tribal organizations with greater control, flexibility, and decision-making authority over federal funds used to carry out Tribal transportation programs, functions, services, and activities in Tribal communities.

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- The Office of Tribal Government Affairs will continue to work with our Tribal Organizations on transportation issues. Additionally, we will continue to support the work of the Biden-Harris Administration and Congress on transportation issues related to Indian Country.
- Additionally, the Office of Tribal Government Affairs will continue to support DOT's responsibility to carry out consultation with Federally-recognized Tribes in accordance with E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*, and DOT's Tribal Consultation policy (DOT Order 5301.1).
- DOT strives to engage Federally-recognized Tribes early in the process when undertaking actions that may have Tribal implications. Examples of how DOT works to ensure meaningful Tribal input:
 - Seeking Tribal input when the USDOT develops or revises regulations with Tribal implications and providing adequate time to allow for comment
 - Notifying Tribes of grant opportunities
 - Developing policy and programs using input, guidance, and recommendations from Tribal leaders
 - Seeking and responding to comments from Tribal governments
 - Supporting Tribal governments on making transportation services available to improve mobility, employment opportunities, and access to community services for people who have disabilities, are elderly, or low-income
- DOT has recently engaged Tribes in consultation regarding issues such as low flying aircraft over Tribal sites and proposed updates to DOT's Tribal Consultation policy.
- As we enact our Plan of Action as directed by the Presidential Memorandum on Tribal Consultation, we look forward to hearing from Tribal entities and their needs and challenges. Additionally, we look forward to working with our partners across the Administration, Congress, and Tribal entities in implementing solutions that work for Indian Country.
- Some DOT programs, such as the FHWA's Tribal Transportation Program and FTA's Tribal Transit program, provide stewardship and oversight for direct funding agreements with Federally-recognized Tribes. In addition, programs such as the Tribal Transportation Program Bridge Program and the Tribal Transportation Safety Fund provide set-asides from the overall Tribal Transportation Program.
- Additionally, in the Spring of 2022 DOT launched technical assistance programs targeted specifically to Tribal and Rural entities. This summer DOT will be launching Thriving Communities, a robust technical assistance program with a particular focus on Disadvantaged Communities.
- The Office of Tribal Government Affairs will support DOT's efforts to strategically organize the implementation of infrastructure investments.
- The Office of Tribal Government Affairs looks forward to supporting the Administration and Congress in addressing and finding solutions to funding for Tribal Historic Preservation Offices in Indian Country.
- The Office of Tribal Government Affairs will support DOT efforts to consider the cultural impacts of infrastructure and support DOT's consideration of Tribal ecological knowledge in project design and development.
- The Office of Tribal Government Affairs looks forward to supporting the Administration and Congress in addressing and finding solutions to funding for feasibility studies in Indian Country.

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- The Office of Tribal Government Affairs looks forward to supporting the Administration and Congress in addressing and finding solutions regarding multi-year funding for infrastructure projects in Indian Country.
- The Office of Tribal Government Affairs will support DOT in implementing applicable federal law regarding non-Federally recognized Indigenous peoples, grassroots organizations, community organizations, and entrepreneurship in infrastructure development.
- The Office of Tribal Government Affairs will support DOT in implementing applicable federal law regarding non-Federally recognized Indigenous peoples. Additionally, the Office of Tribal Government Affairs will support the federal government's trust responsibility to Native Hawaiians.
- The Office of Tribal Government Affairs will support DOT in implementing applicable federal law regarding the opportunity and funding for non-Federally recognized Indigenous peoples, grassroots organizations, and entrepreneurs.

WHEJAC Recommendations for the Definition of Investment Benefits, [page 57](#):

Response:

- We support the Administration's Justice40 initiative, which aims to deliver 40 percent of the overall benefits of federal investments in climate and clean energy, including sustainable transportation, to disadvantaged communities. DOT intends to use the Climate and Economic Justice Screening Tool (CEJST) that is being developed by the White House Council on Environmental Quality (CEQ) to ensure that everyone is receiving the benefits intended from Federal programs. In the interim, consistent with OMB's Interim Guidance for the Justice40 Initiative, DOT developed an interim definition of disadvantaged communities, which includes (a) certain qualifying census tracts, (b) any Tribal land, or (c) any territory or possession of the United States. DOT developed a mapping tool to assist applicants in identifying whether a project is located in a Disadvantaged Community. [Transportation Disadvantaged Census Tracts \(arcgis.com\)](#)
- There may be additional factors that should be considered in determining transportation-disadvantaged communities. For example: those in areas of persistent poverty; high unemployment and underemployment; racial and ethnic residential segregation, particularly where the segregation stems from discrimination by government entities; high transportation cost burden and/or low transportation access; disproportionate environmental stressor burden and high cumulative impacts. Additionally, Justice40 measures the benefits provided to disadvantaged communities, and these are not limited to direct impacts, but may be indirect as well. Investments do not have to be made directly in a disadvantaged community for the community to reap benefits.
- We agree that these are important investments and suggest that this definition should consider addressing low-income populations, those impacted by ethnic residential segregation, and those who are linguistically isolated. Currently, the Climate and Economic Justice Screening Tool, which is expected to be the tool used to identify disadvantaged populations, considers a comprehensive definition of disadvantage and does not single out particular demographics.
- We agree that investments in local communities are important and we would suggest a clarification of "indirect" and "direct" (especially "indirect investments") utilizing an economics-

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based definition. This type of definition will likely remove any non-monetary benefits that communities may see, meaning we would not provide the full picture of benefits. Additionally, to support Justice40, this definition would need to be revised to specify that these investments would need to benefit disadvantaged communities. It is also important to understand that our programs have strict eligibility requirements established in statute by Congress.

- We recommend that this definition be revised to specify that these investments would need to benefit disadvantaged communities (not EJ communities alone, which are a subset of disadvantaged communities). We also are interested in why this is limited to “essential services” while the other definitions are not.
- DOT always seeks to avoid disproportionate negative impacts to environmental justice communities, as laid out in the DOT Order 5610.2(a) Environmental Justice, and to minimize and mitigate any negative impacts. Given the nature of transportation, harms and benefits are complex and not always easy to define. For example, an infrastructure project that brings additional traffic (i.e., business) to disadvantaged community-owned businesses is considered a positive benefit to the business yet others perceive the traffic as a negative impact because it brings additional air pollution or increases their travel times.
- In accordance with Justice40, this definition will need to be revised to refer to disadvantaged communities, not EJ communities, which are a subset of disadvantaged communities.
- In accordance with EO 12898, Federal agencies are required to avoid disproportionately high and adverse harm to EJ communities.

WHEJAC Guiding Principles: Program Criteria to Maximize Federal Investment Benefits and Avoid Harm in EJ Communities, [page 57](#):

Response:

- Pursuant to President Biden’s Executive Order on *Tackling the Climate Crisis at Home and Abroad*, USDOT is implementing the Justice40 Initiative to deliver 40 percent of the overall benefits of relevant federal investments to disadvantaged communities. In the fall of 2021, senior USDOT leaders held two virtual public meetings to explain the Justice40 Initiative and solicit feedback from participants. Furthermore, we are imbedding climate and equity considerations into all of the Department’s actions, including into our notices of funding opportunities.
- It is our Department-wide policy to comply with E.O. 12898 and to the greatest extent practicable and permitted by law, to achieve environmental justice as part of our mission by identifying and addressing disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of programs, policies, and activities on minority populations and low-income populations in the United States. Should harm to EJ communities be anticipated as part of a transportation project, we strive to ensure that any adverse effects from our projects are not disproportionately high and adverse (in accordance with E.O. 12898); that they are avoided, minimized, or mitigated to the greatest extent practicable; that they are fully disclosed to the public through meaningful public involvement; and that they are included in every phase of our decision-making processes.
- DOT supports, and is undertaking efforts to increase, community-driven and mid-/long-term rebuilding and implementation projects. For example, DOT is in the process of implementing the

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equity-focused programs created by the Bipartisan Infrastructure Law. The Reconnecting Communities Pilot Program provides funding to restore community connectivity to study the feasibility and impacts of removing, retrofitting, or mitigating an existing eligible facility; to conduct planning activities necessary to design a project to remove, retrofit, or mitigate an existing eligible facility; and to conduct construction activities necessary to carry out a project to remove, retrofit, or mitigate an existing eligible facility.

- As discussed above, DOT issued an [Equity Action Plan](#) that highlights work we will undertake across four focus areas—wealth creation, power of community, interventions, and expanding access—to expand access and opportunity to all communities while focusing on underserved, overburdened, and disadvantaged communities. As part of this focus on equity, DOT is analyzing opportunities to improve community engagement in Departmental decision-making.
- DOT agrees with the value of community engagement in decision-making and includes it during its planning processes and during the National Environmental Policy Act (NEPA) environmental review process. DOT requires, and is seeking to increase, meaningful and representative public participation engagements held by Metropolitan Planning Organizations and State DOTs in the development of State Transportation Improvement Plan and Transportation Improvement Plan, in all communities, with a focus on rural and urban communities.
- Additionally, when DOT prepares an Environmental Assessment or Environmental Impact Statement for a project, it complies with the applicable public involvement requirements set forth the CEQ regulations implementing NEPA and applicable agency policies and procedures. As part of this NEPA process, information regarding the potential impacts of the projects and any the potential alternatives to the proposed project are shared with the public, and their feedback is sought, documented, and considered as part of the decision-making process.

D. Non-IAC Member Responses

1. Appalachian Regional Commission (ARC)

WHEJAC Recommendations for the Appalachian Regional Commission:

- “Increase funding for the Partnerships for Opportunity and Workforce and Economic Revitalization (POWER) and Assistance to Coal Communities (ACC) programs. POWER and ACC have provided critical support for planning activities in communities affected by the coal transition, but they remain underfunded compared to the scale of communities’ needs. This problem will worsen as mine and plant closures accelerate in the coming years.”
- “Reduce or eliminate matching requirements for broadband construction projects in environmental justice coal-impacted communities. It is critical to subsidize broadband construction in coal-impacted communities and existing grant programs. Programs at ARC, EDA, USDA, and NTIA are important tools for increasing access. In coal-impacted areas, the match requirements are prohibitive and limit the number of communities who can apply for funding.”
- “Expand covered functions of the HUD Utility Allowance to include internet service. Currently, HUD’s Utility Allowance doesn’t cover internet service. However, without this service, those in public housing lack access to opportunities to find new work, workers cannot attend training programs, and children lack access to complete homework after school.”²¹

Response:

Justice40 Initiative—Partnerships for Opportunity and Workforce and Economic Revitalization (POWER) Initiative

Appalachia has been disproportionately affected by the downturn of the coal industry as demand for coal has fallen across the United States. The POWER Initiative is an equity-based strategy designed to address rural poverty and assist Appalachia in better competing in the global economy by funding competitively selected projects that meet the following criteria:

- Emphasize large-scale activities that are multi-jurisdictional
- Engage a broad range of partners
- Are sustainable and can transform the local economy

In the second quarter of FY 2022 ARC announced investment of almost \$21 million in POWER funding bringing the total of investment to more than \$316.6 million in **393 projects** across 358 coal-impacted Appalachian counties since POWER’s establishment in 2015. Together, ARC’s investments are projected to have helped create or retain more than 36,600 jobs and prepare nearly 14,300 workers and students for new employment opportunities in entrepreneurship, broadband development, tourism, and other emerging industry sectors.

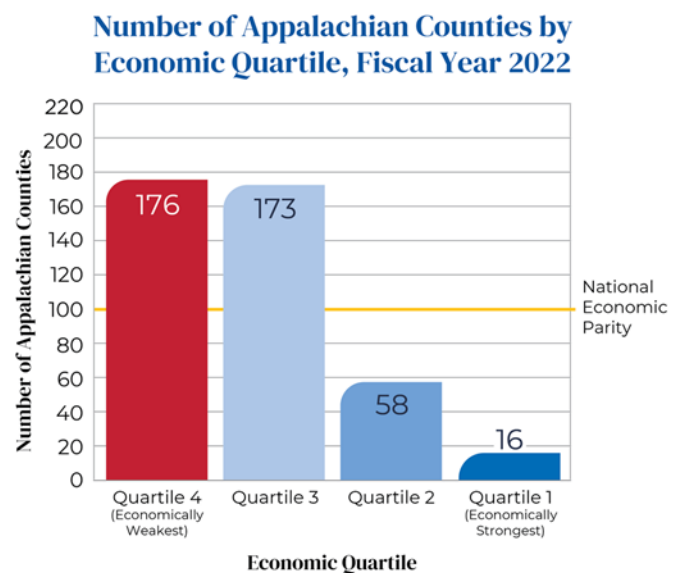
²¹ ARC defers this question to HUD. Please see HUD’s response to this recommendation in its section.

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Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad,” established the Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization collaborative effort of multiple federal agencies to promote and support economic revitalization in communities impacted by coal-specific job losses. ARC uses its membership in this group to participate in the national conversation and to bring the specific needs and issues of the Region to the immediate attention of partner federal agencies. The ARC Federal Co-Chair’s service as the **Chair of the Community Engagement Subcommittee** enables ARC to deploy its special expertise to build the capacity of underserved communities and accelerate outreach to the most distressed or marginalized areas through roundtables and listening sessions. The first of these sessions, cohosted with the Department of Energy (National Energy Technology Laboratory) took place late in the fourth quarter of FY 2021. While the event was scheduled to be in-person, a last-minute pivot to a virtual format was necessary due to COVID. Additional outreach opportunities are under development.

ARC Equity:

ARC charts its progress in establishing economic equity and achieving its mission with an index that compares the economic condition of Appalachian counties with all the counties in the nation (based on unemployment, per-capita income, and poverty rates). The Index demonstrates that Appalachia has proportionally more of the economically weakest counties and fewer of the economically strongest counties compared to the rest of the nation. Moreover, about 22 percent of the weakest counties (includes 81 distressed and 95 at-risk for a total of 176 counties) in the nation are in Appalachia, while the Region has only 2.1 percent of the nation’s strongest counties.



When this index shows an equal share of counties across each quartile, Appalachia will be at socioeconomic parity with the nation. Consistent with the administration’s emphasis on equity, ARC targets its resources to the areas of greatest need. In FY 2021, **70 percent** of ARC’s grant dollars went to support projects that primarily or substantially benefited economically distressed counties and areas.

New Strategic Plan Development:

Early in FY 2022, ARC adopted *Appalachia Envisioned: A New Era of Opportunity | ARC Strategic Plan Fiscal Years 2022-2026* which established the mission to innovate, partner, and invest to build community capacity and strengthen economic growth in Appalachian Region. This plan reflects directives included in Executive Order 13985 “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,” which guides agencies to address barriers that have prevented “underserved communities” from participating fully in aspects of economic, social, and civic life. The comprehensive plan development process included a series of community conversations, focus

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groups, and a public survey to gather input and affirm an investment framework to meet Appalachia's economic needs. Approximately 2,000 participants shared insights on the strengths, challenges, and opportunities facing communities, along with ideas to advance economic prosperity. Breakout sessions and Focus Groups included:

- Historically Black College and University (HBCU) Presidents
- Intermodal Transportation
- Development District Association of Appalachia (DDAA) Board and Local Development Districts (LDDs)
- Tourism
- Entrepreneurship
- Health
- Youth (2 groups)
- Broadband
- Philanthropy
- Substance Abuse
- ARC Leadership Institute
- Economic Development
- Water/Sewer
- Non-Profits
- Community Colleges of Appalachia (CCA)

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Five Strategic Goals resulted, including:

1. Building Appalachian Businesses;
2. Building Appalachia's Workforce Ecosystem;
3. Building Appalachia's Infrastructure;
4. Building Regional Culture and Tourism; and
5. Building Community Leaders and Capacity.

Ongoing Stakeholder Engagement Efforts:

Along with making critical investments to initiate new ideas or to close funding gaps, the ARC partners with other federal agencies to extend the reach of existing national programs into the most economically distressed and disadvantaged communities. The following activities describe new and continued stakeholder engagement activities:

- The Appalachia Nonprofit Resource Center continues to offer free online access to curated resources for nonprofit organizations navigating beyond the COVID-19 crisis.
- The Appalachian Community Capacity-Building Pilot Program has been launched to provide special capacity building training on ways to strategically use American Rescue Plan Act funding to bolster long-term economic health of Appalachian communities. The recipient selection process will be competitive; however, preference will be for Local Development Districts serving distressed counties, distressed areas, Interagency Working Group (IWG) on Coal & Power Plant Communities and Economic Revitalization Priority Energy Communities, and other underserved communities.
- The Appalachian Leadership Institute will continue to provide comprehensive leadership and economic development training opportunity for emerging leaders to learn strategies to collaborate regionally and position their communities to thrive.

2. Department of Education (ED)

WHEJAC Recommendation:

- “Environmental education (EE) is the process used to achieve the goal of environmental justice. A curriculum that is focused on teaching students about environmental justice (EJ) would provide the history of the movement and what environmental issues frontline and EJ communities face that are different from other communities, in addition to the knowledge and skills that a student learns through environmental education.”
- “Any EE curriculum focused on achieving environmental justice must meet the same standards for all EE curriculum, as outlined in the Materials Guidelines for Excellence (linked below). Environmental education can and should promote the development of the attitudes, knowledge, skills, and motivations that people need for meaningful involvement in and resolution of environmental justice issues. The focus should always be on helping students develop the critical thinking, problem-solving, decision-making skills that students need to both understand and take actions that support the ideas that environmental protection is for all, regardless of who you are and where you live.”
- “A clear distinction between helping students understand environmental justice and advocating a specific set of actions needs to be made. Environmental education does not focus on specific recommendations on how to act but teaches students that they have the knowledge and skills and empowers them to take actions in support of environmental protection and environmental justice goals.”
- “It is important to recognize that there are actions within the environmental justice sphere that do not involve education (e.g., advocacy, political activism, taking legal actions, lobbying) and that there are aspects of the environmental education process (e.g., teaching basic environmental science) that are not necessarily directly related to environmental justice. However, environmental knowledge, skills, and attitudes gained through environmental education should empower meaningful involvement in environmental justice decision-making.”
- “In terms of policy recommendations, the federal government can be really helpful at providing capacity building grants either for professional development, pre-service teacher preparation, and curriculum development. Ultimately, I think this can best be leveraged in conjunction with the established programs at the Department of Education, given they are large enough to achieve maximum scale—Title II (teacher pd), Title IV (curriculum and pd) for ESSA primarily and Title II (teacher prep) of HEA. I would recommend staying away from any prescriptive curriculum requirements on things like standards. In thinking about this, you might consider developing a program to support building capacity and elevating some of the promising work occurring—a federal effort could help further incentive this work in other districts or states but would be most helpful to be grounded in local assets, context, and need.”²²

²² The WHEJAC recommendation also included “Examples where this has been successfully implemented” which was provided and presented to the agency.

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- “Identify climate justice education as an essential component of K-12 curriculum in the district. Schools for Climate Action’s website offers free resolution templates for teachers, students and allies to draft a school board resolution calling for a climate justice curriculum.”²³
- “Ensure that climate justice education is transdisciplinary with touchpoints in literature, social studies, history, mathematics, and science.”²⁴
- “From the National Environmental Justice Advisory Council (NEJAC) Youth Perspectives on Climate Change Report to increase accessibility to climate change curricula and educational resources:
 - Create a youth climate change educational hub with curricular materials, presentations, and interactive workshop plans on EPA website
 - Strengthen accessibility of these resources to those not in college or in the college pipeline
 - Validate alternative ways of understanding climate change
 - Integrate climate change curricula into the broader context of other social justice movements.”²⁵
- “Develop a Youth Environmental Justice Education Grant for K-12 Schools in majority community of color school districts. This can target creating a funding mechanism and collaboration between the Office of Children’s Health Protection in the Program Implementation Coordination Division Schools Coordinators (to manage the program evaluation and monitoring for the program) along with the Office of Environmental Justice, and Office of Ground Water Drinking Water. Funding should be available for remediation of drinking water sources at schools, testing, etc., parameters should include special consideration for schools and child care facilities serving environmental justice communities by accounting for factors such as (but not limited to): race/ethnicity of the student population, public funding allocation to schools, test-score and performance of students.”
- “Develop a Youth White House Environmental Justice Advisory Council.”
- “Develop a Career Technology Education (CTE) grant program to support middle schools and high schools (6-12) to design and implement environmental justice high school to career pathways curriculum prioritizing schools serving majority (75%+ community of color student populations).”
- “Develop a grant program exclusively for Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs) and Asian American and Pacific Islander Serving Institutions (AAPISIs) to develop green workforce & training (environmental justice) development programming prioritizing career development opportunities in frontline communities.”
- “Invest in Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs) and Asian American and Pacific Islander Serving Institutions (AAPISIs) agricultural programming to address food equity issues (e.g. fresh fruits

²³ The WHEJAC recommendation also included “Examples where this has been successfully implemented” which was provided and presented to the agency.

²⁴ The WHEJAC recommendation also included a quote sourced from the EPA.

²⁵ The WHEJAC recommendation included several “Examples of these recommendations in action” from the NEJAC, pages 36-37.

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and vegetables) in frontline communities with a history of elevated lead exposure and food deserts/swamps.”

- “Invest in Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs) and Asian American and Pacific Islander Serving Institutions (AAPISIs) (via grant funding) to develop innovative career pathways focused on the care and increased growth of trees through urban planning and development through an environmental justice lens.”²⁶

Response:

The Department of Education’s Statutory Role

The Biden-Harris Administration has taken significant steps to address the global climate crisis and environmental justice, and new programs have been implemented related to sustainable schools at agencies including the U.S. Department of Energy (DOE) and U.S. Environmental Protection Agency (EPA). The U.S. Department of Education (ED), however, does not have environmental education or any curricular authorities. It also does not have formal school sustainability or infrastructure roles.

ED is statutorily prohibited from prescribing curriculum (See 20 U.S.C. 3403 and 20 U.S.C. 1232a). ED does not have any dedicated grant programs or authorities related to environmental education. Issues related to school environments, facilities, and grounds are also entirely state and local.

Because of ED’s statutory constraints on prescribing curriculum, many of the recommendations in the White House Environmental Justice Advisory Council (WHEJAC) report cannot be addressed by our agency.

Activities in Support of Environmental Education and Justice

ED has leveraged its [Climate Adaptation Plan](#) to guide the agency to think creatively about school sustainability, including environmental education. Over the past year, ED has:

- Held public listening sessions related to sustainability and infrastructure, including environmental education.
- Created a core internal working group on matters related to school sustainability and infrastructure that meets biweekly and a cross-ED sustainability and infrastructure coordinating group, involving all principal offices, that meets monthly to consider how existing programs might support school sustainability and infrastructure.
- Designated a Special Advisor for Infrastructure and Sustainability to help drive public engagement, programs, and guidance with consideration to these matters.
- Worked to develop guidance to clarify how existing ED funds may be used to support outdoor, environmental, and sustainability education for students
- Continued to run its Green Ribbon Schools (ED-GRS), a federal recognition award for school sustainability. By highlighting schools, districts, and postsecondary institutions’ cost-saving,

²⁶ The WHEJCA recommendation included “Source: Black Millennials 4 Flint”

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health-promoting, and performance-enhancing sustainability and environmental education practices, ED-GRS celebrates these schools and brings more attention to their work. ED-GRS honorees must show progress in the three pillars: 1) reducing environmental impacts; 2) improving health and wellness; and 3) offering effective environmental and sustainability education. Every year, anywhere from 30-50% of honorees are in communities where more than 40% of the student body is eligible for free and reduced-price lunch.

- Maintained collaboration with the Center for Green Schools at the U.S. Green Building Council to promote federal and non-profit resources for school sustainability on the Green Strides School Sustainability Resource Hub. This site is designed to help all schools move toward the three pillars of ED-GRS.
- Strengthened collaboration relating to sustainable schools and environmental learning with federal partners.

New Budget Proposal Creating Office of Infrastructure and Sustainability

- The President's FY2023 Budget included a proposal for a new Office of Infrastructure and Sustainability to support schools in creating healthy, safe, sustainable, 21st-century learning environments. This office would oversee a proposed National Clearinghouse on School Infrastructure and Sustainability and administer the ongoing ED-GRS recognition award.
- The proposed clearinghouse would provide technical assistance and training to state and local educational agencies on issues related to educational facility planning, design, financing, construction, improvement, operation, and maintenance, including green building design and operation practices consistent with the Administration's commitment to address the causes and consequences of climate change. The clearinghouse would also develop resources and assemble best practices on issues related to ensuring equitable access to healthy, educationally adequate, and environmentally and fiscally sustainable public school facilities and grounds. The new office would provide additional capacity to engage with multi-agency efforts, education stakeholders, states, and districts.

3. Department of Homeland Security (DHS)

WHEJAC Recommendation: “Prioritize federal funding for rooftop/on-site/localized solar and battery energy storage systems (BESS) as proposed in the We Want Sun Civil Society Proposal (<https://www.queremosolpr.com/>). The Federal Emergency Management Agency (FEMA) has allocated \$9.7 billion for electric system work in Puerto Rico. In addition, HUD will provide Community Development Block Grant Disaster Recovery (CDBG-DR) funds for the 10% cost share. Most of the FEMA funding is authorized pursuant to section 528 of the Stafford Act. Additional funding could be available under sections 404 and 406 of the Stafford Act. The 2018 Bipartisan Budget Act (Public Law 115-123), allows for the use of funds for alternative technologies, such as rooftop on-site localized solar and storage (BESS). FEMA Building Resilient Infrastructure and Communities (BRIC) can also be used for rooftop/on-site/localized solar and battery energy storage systems.”

Response:

- FEMA supports efforts by the Government of Puerto Rico to achieve its goals for energy grid recovery and transformation. To date, FEMA has obligated over \$11.4 billion to the Puerto Rico Electric Power Authority (PREPA), which includes the largest single allocation in FEMA’s history: nearly \$9.5 billion to rebuild the island’s power grid.
- In line with Executive Order 14008, Tackling the Climate Crisis at Home and Abroad, FEMA works with the Commonwealth to maximize the flexibility of FEMA funding, including the ability to pursue renewable energy resources. FEMA encourages communities to develop plans that address long-term risks, such as climate change, and promote resilience through hazard-resistant design to achieve risk reduction.
- FEMA also works in coordination with the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency (COR3) to maximize the application of Section 20601 of the Bipartisan Budget Act of 2018 (P.L. 115-123). This authority allows FEMA to provide assistance to restore disaster-damaged facilities to an industry standard, without regard to pre-disaster condition—a flexibility that includes the ability to pursue renewable energy resources. FEMA also recently released guidance [for Hazard Mitigation Grant Funding for Microgrid Projects](#) that highlights the benefits of microgrids to strengthen community lifelines and mitigate natural hazard risks.
- FEMA remains committed to supporting Puerto Rico’s recovery through equitable, sustainable, and resilient solutions.
- FEMA recognizes that maintaining resilient electrical infrastructure can minimize the disruptive effects power interruptions have on communities. This is particularly significant when power loss affects facilities deemed critical by the community, such as utilities, medical facilities, first responders, and other facilities needed for emergency service functions. Power losses also have potential to cause significant disruptions to the supply chain by affecting manufacturing industries, financial corporations, information technology services, storage and preservation of perishables, data centers, and control centers, among other industries and business functions.
- FEMA’s Hazard Mitigation Grant Program (HMGP) provides funding for mitigation projects that reduce loss of life and property in communities during natural hazard events. By law, HMGP is a recipient-led (State, Tribe or Territory) program. The Recipient sets the priorities based on their FEMA-approved Hazard Mitigation Plan, which directly informs project development and

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submission; therefore, FEMA has limited influence over the types of projects each recipient prioritizes for federal funding. However, there is frequent coordination between the Federal and non-Federal entities to ensure projects are eligible and adequately scoped. As an example, the Commonwealth of Puerto Rico has prioritized available HMGP funds to protect the Federal investment in Puerto Rico's public infrastructure.

- Under the 5 Percent (%) Initiative, up to 5% of the total HMGP funds may be set aside by the recipient to fund mitigation activities that are difficult to evaluate using FEMA-approved cost-effectiveness methodologies. These funds are not eligible to be used in situations where the mitigation activities can be evaluated under FEMA-approved cost-effectiveness methodologies but do not meet the required BCA threshold. Solar PV systems may be eligible under the 5% Initiative as long as there is a proven mitigation value, where future damages or loss of life or injury are reduced or prevented. However, solar PV systems are currently not eligible for funding if intended to be used as a primary, independent power source. FEMA currently funds generators and microgrids as a secondary source of power under HMGP mitigation project funding if they protect critical facilities. In addition, FEMA is exploring the mitigation value and eligibility of this activity type and other Nature-Based Solutions to promote resiliency and climate change adaptation.
- For all HMA programs, including Building Resilient Infrastructure and Communities, rooftop/on-site/localized solar and battery energy storage systems (BESS) may be eligible for funding if the projects are 1) aligned with local and state mitigation plans, 2) feasible and effective, 3) cost-effective and demonstrated through FEMA's benefit cost analysis software, 4) a long-term solution to natural hazard risk, and 5) meet all environmental planning and historic preservation compliance requirements.

WHEJAC Recommendation: "Prohibit FEMA funding for going to permanent fossil fuel generation and infrastructure; require plans and recovery dollars for energy systems to go toward energy efficiency and literacy programs, including solar water heaters, efficient appliances, clean energy, and battery storage."

Response:

- FEMA Public Assistance (PA) does not have the authority to prohibit federal grant funding from supporting permanent fossil fuel generation and infrastructure projects. Additionally, FEMA PA is not required to review plans and or require recovery dollars to be utilized for energy systems supporting energy efficiency and literacy programs. FEMA PA provides funding for measures that are proven cost effective and that will mitigate for or lessen the risk of future disaster losses. These measures may include incorporating current building codes that include efficient materials and methods. FEMA has discretionary authority to provide incentives to recipients to invest in measures that increase readiness for, and resilience from, a major disaster.
- Prohibition of funds as described here would require statutory and regulatory changes to FEMA's grant program authorities. Additionally, HMGP funding is available to support the activities identified in the recipient's (State, Tribe or Territory) FEMA-approved hazard mitigation plan—provided the activities are eligible—which are prioritized by the Recipient. FEMA Hazard Mitigation Assistance (HMA) grants do not typically fund replacement of water heaters, appliances, and the like. HMA programs are unable to fund energy generation or energy efficiency projects, such as appliance rebates. HMGP can only fund energy-related

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projects that have a clearly demonstrated mitigation value, such as burying power lines to reduce wind or wildfire risk. As mentioned previously, HMA grant programs can fund both generators and microgrids as a secondary source of power, provided they protect critical facilities. With the ability to disconnect and operate independently, microgrid systems can provide grid resilience, mitigate disturbances caused by natural disasters and allow for faster system response and recovery.

WHEJAC Recommendation: “Require public input and hearings for investments in disaster recovery efforts to ensure impacted communities have a voice in how funds are spent.”

Response:

- FEMA Public Assistance (PA) generally provides a public comment period as part of the structured policy and regulatory development process, wherein public stakeholders may provide suggestions for improving disaster assistance and outreach to impacted communities. Additionally, Executive Order 13985 has enabled FEMA to look more closely at marginalized and underserved communities to ensure the Agency is providing a tailored level of assistance to all stakeholders. Through directives such as the assignment of additional Program Delivery Managers to applicants with high social vulnerability index (SVI) scores, FEMA PA is able to proactively assist applicants and subapplicants to push their recovery efforts forward. Further, to comply with the requirements for environmental review under the National Environmental Policy Act, each grant project that is not statutorily or categorically excluded requires providing the public the opportunity for notice and comment. On a project-by-project basis, this affords the public the opportunity to weigh in on how a specific project is done and for outreach to different components of the community to allow for equitable considerations.
- Currently, FEMA has a hazard mitigation planning requirement which States, Locals, Tribes, and Territories (SLTTs) must undergo in order to be eligible to receive mitigation grant funding following a disaster event. The planning process necessarily includes public input as SLTTs undertake basic mitigation planning activities—identification of hazards, assessment of risk and capabilities, development of a mitigation strategy, and adoption and implementation of the mitigation plan. There is necessarily public involvement in the planning and implementation of mitigation projects post-disaster. Under the current statutory and regulatory framework, States, Territories and Tribes are authorized to administer the Hazard Mitigation Grant Program. Public notice and comment is an important part of the Environmental Planning and Historic Preservation process as well. Executive Order 11988 (Floodplain Management) requires public notification and opportunity for comment on proposed actions that have the potential to impact or be impacted by the floodplain. Relatedly, the National Environmental Policy Act (NEPA) requires public involvement for proposed actions that necessitate an Environmental Assessment or an Environmental Impact Statement to be generated.

WHEJAC Recommendation: “Develop guidance and policy for governors requiring them to certify relief assistance and funds received during major declared disasters and emergencies are spent in an equitable and nondiscriminatory way, including individual assistance, hazard mitigation, and public assistance.”

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Response:

- FEMA Public Assistance (PA) has regulatory guidance for recipients at 44 CFR Parts 7 and 206.11 wherein the agency requires that assistance is provided in an equitable and impartial manner. Additionally, pursuant to Executive Order 13995, the FEMA-State Agreement for COVID-19 declarations requires each applicant and recipient to focus the use of FEMA funding on the highest-risk communities and underserved populations. The COVID-19 Medical Care Policy requires all recipients and subrecipients of PA funding for vaccine-related efforts to submit reports on the consideration of equity in vaccine administration every 30 days. This program has allowed recipients and subrecipients to focus on equity and have it drive their decision making and resource allocation through their recovery efforts.
- FEMA PA is continually evaluating policies and authorities to ensure that new guidance and tools for disaster assistance fully encapsulate equity considerations and that implementation is carried out in as equitable a manner as is possible. The nation needs all communities to be resilient. Proactively prioritizing actions that advance equity for communities and identifying groups that have historically been underserved or disproportionately affected by disasters is critical for their resilience. FEMA will continue its efforts to integrate equity as a foundation of its culture through transformational change within our workforce, across our programs, and throughout the emergency management community.
- To date, Individual Assistance (IA) has no concerns with incorporating language to address this issue in the FEMA State Agreement (FSA), signed with the state, territorial, or tribal government at the beginning of a major disaster declaration. However, any changes to the FSA template would need to be coordinated through FEMA's Office of Chief Counsel.
- Through statute (Stafford Act, Sec. 308. Nondiscrimination in Disaster Assistance (42 U.S.C. 5151)), regulation (44 CFR Part 7—Nondiscrimination in Federally Assisted Programs), and Guidance (Part III, D.1 Non-discrimination Compliance, FY15 HMA Guidance) FEMA has in place a framework to ensure compliance with Title VI of the Civil Rights Act of 1964. 44 CFR Part § 7.7 and § 7.932(a) further require assurances from the Recipient (State, Tribe or Territory) that nondiscrimination statutes and regulations will be adhered to. As per 44 CFR, §206.433, the Recipient has primary authority and responsibility to administer the grant award in compliance with all relevant statutes, regulations, and guidance. With every primary grant award, the Recipient must submit a standard form 424, Statement of Assurances, which includes a provision for compliance with the Civil Rights Act of 1964. However, with EO 13985 Advancing Racial Equity and Support for Underserved Communities (effective 01/20/21), revisions to EO 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations and related FEMA doctrine and policy, FEMA is beginning to seek ways to implement greater consideration for equity in program delivery. This may include making use of demographic, economic and other data of grant recipients as well as providing more specific guidance and policy for our external stakeholders.

WHEJAC Recommendations for All Federal Agencies, [pages 52-57](#):

Response:

- We would also like to offer the below as a general response to the many wonderful WHEJAC comments received for all agencies. The Department was not explicitly named within EO 12898,

THE JUSTICE40 INITIATIVE: DHS RESPONSE

yet voluntarily signed the interagency MOU for EJ in 2011, published its first EJ Strategy in 2012, mandated an EJ Directive in 2016, stood up an internal DHS EJ Working Group, and has published an annual EJ Implementation Report online for 11 years. The Department is committed to appropriately identifying and addressing disproportionately adverse human health and environmental impacts from our actions. For example, in May 2021, DHS published its updated Environmental Justice Strategy for FY 2021-2025. The Strategy emphasizes the Department's commitment to considering and addressing potentially adverse effects of its actions, especially in communities burdened with adverse environmental impacts, poverty, or racial inequity, and those facing disproportionate impacts due to climate change, while at the same time taking action to support community resilience. The DHS Office of the Chief Readiness Support Officer (CRSO) and the DHS Office for Civil Rights and Civil Liberties (CRCL) co-lead implementation of the Department's Environment Justice Strategy. In regards to environmental justice CRSO leads the Department in environmental planning and historic preservation, environmental compliance, sustainability, resilience, and climate change and CRCL leads the Department's effort to ensure nondiscrimination in DHS federally assisted programs in accordance with Title VI of the Civil Rights Act of 1964, and advance equity consistent with EO 13985. CRCL recently published the Department's Equity Action Plan. CRSO also published the Department's Climate Action Plan in 2021 and successfully integrated environmental justice considerations throughout.

- DHS is also committed to implementation of EO 14008 and the Justice40 Initiative to meet the goal that 40 percent of the overall benefits of investments from covered programs flow to disadvantaged communities. DHS has taken action to implement the Justice40 Initiative enterprise wide and has identified several FEMA assisted programs, two of which serve as pilot Justice40 programs, with covered investments as defined in the Interim Implementation Guidance for the Justice40 Initiative. The Department is taking steps to integrate the Justice40 requirements into Department financial assistance policy to ensure the evaluation of new programs for covered investments. The Department will require eligible new programs to develop a benefits methodology and stakeholder engagement plan and provide routine reporting on the distribution of benefits. CRSO and CRCL will oversee implementation of the Justice40 initiative for eligible new programs. The Department will take action to meet or exceed the forty percent goal, strengthen meaningful public engagement and community-driven approaches, and reduce barriers facing underserved communities to promote equitable outcomes for communities.
- Regarding tribal consultation, the Department routinely engages with Tribal Nations and indigenous populations while executing our mission. The Department coordinates internal consultation and collaboration efforts between a network of more than 300 professionals across the Department. Whether done through consultation during the National Environmental Policy Act, National Historic Preservation Act, or EO 12898, DHS continues to improve our nation-to-nations relationship by working and consulting with federally recognized tribal governments routinely. The Tribal Desk within the Office of Intergovernmental Affairs (IGA) is the designated lead for tribal relations and consultation at the Department of Homeland Security. IGA serves as the main point of contact between the Secretary and tribal leaders across the country, working with our intergovernmental partners across the Department to coordinate Department-level engagement of elected officials, or their designees, related to key Department policy decisions.

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- In 2020, the Department began efforts to update its Tribal Consultation Policy. The Policy implements EO 13175, Consultation and Coordination with Indian Tribal Governments, and establishes an accountable process to ensure timely and meaningful consultation with Indian tribes. DHS is committed to meaningful review and revision of the policy as necessary or as requested by Indian Tribes or Alaskan Native Corporations (ANCs). This effort is also responsive to findings and recommendations of the Government Accountability Office's report, "TRIBAL CONSULTATION: Additional Federal Actions Needed for Infrastructure Projects," which were developed from input from Indian tribes and tribal organizations. Our goal is to update the policy to reflect current authorities and current standards, while continuing to improve DHS's processes for ensuring meaningful consultation with tribal governments. Through revisions to the policy and implementation instruction, DHS seeks to: (a) outline how input from tribal consultations is considered and adjudicated; (b) clarify the statutory requirement to consult with ANCs on the same basis as Indian tribes; (c) improve consultation and coordination with the tribal governments of federally recognized Indian tribes with respect to oil spill prevention, preparedness, response, and natural resource damage assessment; (d) create an EO 13175 tribal working group through the Deputy Assistant Secretary of Intergovernmental Affairs; and (e) establish a sound training and education program for tribal affairs practitioners and other DHS staff who work with Indian tribes.
- In 2021, the Department published its 2021 Action Plan for Tribal Consultation and Strengthening Nation-to-Nation Relationships. This plan was prepared in response to the President's January 26 Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships outlining the Department's action plans to implement EO 13175, Consultation and Collaboration with Indian Tribal Governments.
- This plan is focused on three goals:
 - Increase accountability for including tribal concerns in decision-making and consultation.
 - Increase tribal involvement in Department actions and decision-making.
 - Increase the Department workforce's capacity and capability to collaborate and consult with Tribal Nations.
- The goals are implemented through four action items:
 - Update the Department's Tribal Consultation Policy
 - Create a Tribal Advisory Council
 - Develop Awareness Level Training
 - Increase Coordination of Consultation Efforts

4. Tennessee Valley Authority (TVA)

WHEJAC Recommendation: “As the nation’s largest public power provider, Tennessee Valley Authority should lead by example by implementing a transition to clean energy well ahead of the President’s industry-wide target of 2035, as well as by ensuring the large population of disadvantaged communities in their territory receive the benefits of this transition. Specific actions the administration should take include calling on TVA to set an ambitious goal of transitioning to clean energy by 2030 in its next integrated resource plan, creating a specific carve out for TVA in federal Clean Energy Standards, and prioritizing the rapid and safe cleanup of coal ash contaminated sites across its territory.”

Response:

Thank you for the invitation for the Tennessee Valley Authority (TVA) to describe actions that TVA has taken with respect to the White House Environmental Justice Advisory Council’s (WHEJAC) May 2021 recommendations. Vice President, Environment and Chief Sustainability Officer Rebecca C. Tolene, appreciates the opportunity to engage with you and your staff on these important issues and look forward to our ongoing dialogue.

Every day, 10 million people across the seven-state Tennessee Valley region depend on TVA to be their low-cost, reliable energy provider that generates and delivers the energy that powers their lives and the region’s economy.

Our 10,000 dedicated employees, 60% of whom are represented employees and nearly 20% of whom are veterans, rise to that challenge, ensuring the lights come on for our customers day and night. Our teammates are adapting and innovating, while never losing sight of the unique, long-standing mission TVA has been pursuing for nearly nine decades:

- Providing low-cost, reliable, resilient energy,
- Fostering the economy by stimulating capital investment and jobs growth, and
- Preserving and protecting the environment and the lands and waters that have been entrusted to us.

TVA is the nation’s largest public power provider. Unlike investor-owned utilities, we do not seek to make a profit each quarter or year. Our goal is to carry out our mission of service, rooted in the TVA Act of 1933. TVA’s operating model generates revenue needed to manage our system costs while keeping rates low for our customers—without federal appropriations—and have averaged 70,000 jobs and 9 billion dollars in capital expansion back into the Valley over the past 5 years. We support the communities we serve through investments in cleaner generating facilities and integrating renewable generating assets, strengthening energy efficiency programs, and enhancing the transmission system that carries reliable, resilient energy to customers’ homes and businesses. Our investments also support the critical partnerships we have with 153 Local Power Companies (LPCs). TVA’s mission of service is as critical today as it ever has been. Just as TVA brought electricity, flood control, economic development and environmental stewardship to the Valley at its founding, it now ushers in the new era of clean energy in the Valley transition.

THE JUSTICE40 INITIATIVE: TVA RESPONSE

Climate change is one of the major challenges that our nation and the world face today, and it must be responded to with innovation and urgency. TVA is pursuing an industry-leading plan to reduce carbon emissions beyond the prior reduction of 63% from 2005 to 2020. We are proud that these efforts have positioned TVA as the leader in carbon emissions reductions in the Southeast. As we look ahead, we are executing a plan to reduce carbon by 70% by 2030 and have a path to an 80% reduction by 2035—without affecting energy costs, reliability, or resiliency.

TVA is a national leader in carbon reduction, but we know there is more to do. Beyond 2035, we aspire to achieve net-zero emissions by 2050 and are actively pursuing available technologies and researching emerging technologies that are needed to get there. We continue to invest in emerging technologies, including energy storage, electric vehicle evolution, decarbonization options, connected communities, regional grid transformation, and advanced nuclear solutions. TVA agrees that reducing carbon emissions across the economy is a shared priority and believes that the cost of this priority can't solely be borne by the ratepayers of the Tennessee Valley. For more details, please review the [TVA Sustainability Report](#).

Even now, TVA is having critical conversations with the utility industry and other major sectors (such as transportation), policymakers, local leaders, and our served communities to consider cost conscious and equitable solutions to achieve this ambitious net-zero target. The ongoing transition to cleaner energy must be intentional and balanced, to deliver the greatest value for the 10 million Americans that we are privileged to serve without leaving communities behind in that transition. This is particularly important given our service area's unique set of regional challenges, including widespread areas with depressed incomes, harsh summers and winters, severe weather events, and aging and energy-inefficient housing.

As we continue this transition, TVA remains committed to safely managing coal ash, the byproduct of burning coal to produce electricity. TVA is an industry leader in the safe, secure monitoring and management of coal ash and takes its responsibility seriously. TVA has pioneered new technology and uses the best science, data, and research to ensure our coal ash sites are safe and secure. TVA's commitment to protecting the environment is demonstrated by our robust groundwater monitoring program and implementation of federal and state requirements.

TVA's activities reflect the TVA commitment to carrying out a statutory mission that benefits all the people of the Valley, including disadvantaged communities. Consistent with our mission to serve the people of the Valley, we direct substantial resources to provide opportunities for disadvantaged communities within our region to benefit from the following program examples:

- Home Uplift—Home Uplift provides home energy efficiency upgrades for families in need. TVA and local power companies work together with local governments, community organizations, and public and private businesses to pool resources and scale our impact. Home Uplift provides a range of energy upgrades in participants' homes designed to increase comfort, improve health, and lower energy bills. TVA actively seeks partnerships with internal and external stakeholders to address the issue of low-income energy. TVA is currently partnering with various community groups and consulting firms to provide objective third-party review of Home Uplift processes. This includes minority outreach through Centro Hispano, as well as cross referral with other programs and organizations that offer social services such as the Tennessee Housing

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Development Agency, U.S. Department of Agriculture Rural Housing Service, and Habitat for Humanity. One hundred percent of the benefits will be realized by underserved communities.

- **Building Futures Initiative**—TVA created Building Futures to increase minority participation in TVA's Quality Contractor Network. TVA partnered with the Tennessee Urban League Affiliates to recruit weatherization and HVAC contractors and to qualify participants for membership in the network. TVA has also built 3 technical training facilities that provide local training on trades that feed TVA contractor networks. TVA has partnered with Goodwill Industries, community action agencies, Weatherization Assistance Program providers, and local community education institutions to identify training needs within those communities and develop and enhance training programs. Contractors recruited through Building Futures are eligible to work in TVA's Home Uplift and Residential Services programs.
- **School Uplift (SUP)**—Launched in May 2021, School Uplift is a 12-month training program that helps public schools across the Valley reduce energy waste and improve learning environments. TVA is currently working with 100 new schools each year and partnering with state agencies to create additional opportunities for participating schools. The SUP provides low- and no-cost behavior change training to help schools reduce energy consumption, thus decarbonizing schools and enabling savings to be reinvested in educating students. SUP supports underserved communities by prioritizing grants for areas with high childhood poverty. Once a school has completed the training program, it can apply for two different grants:
 1. **Building Energy Upgrade Grant:** Up to six grants valued from \$200K-\$400K are awarded each year to schools that demonstrate the greatest need for building upgrades.
 2. **Energy Technology Grant:** Up to ten grants valued up to \$100K are awarded each year to schools that earned the most points by adopting energy saving practices.
- **Community Centered Growth (CCG)**—Piloted in 2021, CCG helps local businesses in underserved communities make smart energy choices that save money and lead to decreased energy use, improved facilities, and reduced carbon emissions. TVA provides funding for facility improvements and manages the upgrade process for businesses in National Opportunity Zones—counties including underserved areas identified by census data and factors like income and population.

In addition to the above TVA programs and initiatives, our 2020 Sustainability Report provides a comprehensive view of our performance and possible future goals in the following areas, including lower consumer energy costs through energy efficient homes in valley communities, decarbonization of the electricity we provide, and cleaner transportation through electrification. We seek and support partnerships that help reduce the barriers affecting low-income people and communities and deliver broad and inclusive economic impact through investment programs, community engagement, employee volunteerism, our supply chain partnerships, and addressing environmental justice considerations in our decision-making processes. Examples include:

- **Generating Justice Pro Bono Program:** In 2021, TVA legal professionals and employees, in partnership with TVA's Office of General Counsel (OGC), provided more than 80 lower-income individuals from across the Valley with pro bono legal services, the value of which is estimated

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at \$40,000. These services included hosting three pro bono virtual clinics, serving low-income individuals on wills and estate, family law, debt relief, housing/eviction support, and other legal issues. TVA OGC has also partnered with local legal aid societies at eight virtual legal clinics in Shelby County, TN, a disadvantaged community in TVA's service area. As the Generating Justice program grows and matures, TVA expects even more participation from employees and community partners.

- Save It Forward—A Strategic Energy Management pilot: TVA's Industrial Strategic Energy Management (SEM) program is offered as a complementary, value-added service to large industrial businesses. EnergyRight® for Business & Industry aims to leverage the success of the Industrial SEM program and amplify TVA's mission of improving the quality of life in the Valley through a new pilot, Save It Forward: A Strategic Energy Management pilot.
- The Save It Forward pilot model is an innovative funding approach where businesses partner with TVA to redirect half of the businesses' total SEM related cost savings into a charitable fund that will support Business & Industry programs in their communities. For this pilot, with 10 Industrial SEM participants, the initial \$1M investment into the SEM program is expected to translate into a projected total savings of approximately \$2M for all participants. For each participant, half of those savings (\$100k) are retained, and the other half (\$100k) is reinvested into the local community. These programs create projects in schools or in neighborhood small businesses. Each project centers on reducing energy burden and uplifting the local community, while simultaneously furthering carbon reduction efforts.

WHEJAC Recommendations for All Federal Agencies, [pages 52-57](#):

Response:

Over 20 federally recognized Indian tribes (Tribes) have a religious and cultural connection to ancestral homelands in the Tennessee Valley and play a vital role in the management of cultural resources on TVA land. Tribes possess traditional knowledge and a special expertise in regard to both natural and cultural resources. Like similar federal agencies, TVA works with Tribes in a government-to-government relationship, respecting tribal sovereignty and self-determination. TVA consults with Tribes on TVA programs and undertakings that pertain to the American Indian Religious Freedom Act (AIRFA), Archaeological Resources Protection Act (ARPA), Native American Graves Protection and Repatriation Act (NAGPRA), National Historic Preservation Act (NHPA), and other laws, executive orders, and presidential memoranda.

In compliance with the Presidential Memorandum of January 26, 2021 (Tribal Consultation and Strengthening Nation-to-Nation Relationships), TVA prepared an action plan to implement the policies and directives of Executive Order 13175 on April 21, 2021. This detailed plan of action was developed in consultation with Tribes. The plan is located on our website. <https://tva.com/tribal>. TVA is drafting its Tribal Consultation Standard Policy & Procedure (SPP), to support an "accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." The SPP will expand on TVA's consultation process outlined within the detailed plan of action.

THE JUSTICE40 INITIATIVE: TVA RESPONSE

TVA holds a recurring monthly call and an annual multi-day meeting with Tribes to maintain relationships and open communication. Due to the COVID-19 pandemic, TVA has hosted its annual meeting virtually for the past two years. During the 2021 annual meeting, seventeen Tribes were in attendance and seven Tribes presented to TVA leadership and employees about tribal sovereignty, cultural sensitivity, APRA protocols, reinterment, tribal youth initiatives, natural resources, and the importance of rivercane to many Tribes. TVA's 2022 annual meeting will be held virtually again, and we hope to resume face-to-face consultation in 2023.

TVA consults with Tribes regarding the repatriation and disposition of Native American ancestral remains and other cultural items as defined in NAGPRA. Over the past twelve years, TVA has repatriated over 9,000 ancestral remains and over 176,000 funerary objects and completed disposition of 55 ancestral remains and over 100 funerary objects. TVA continues to inventory and assess its collections in order to move forward with returning Native American ancestral remains and cultural items to Tribes. In 2020, TVA executed a comprehensive agreement with six Tribes regarding the inadvertent discovery of Native American ancestral remains on TVA land. This agreement outlines a process for how TVA notifies Tribes as well as how TVA will handle these discoveries in the field. Since the execution of this document, TVA has successfully been able to leave and protect almost all of these ancestral remains in place.

TVA has committed to provide land for the purpose of reburial of NAGPRA ancestral remains and other cultural items excavated from TVA land prior to 1990 for Tribes with an interest in the Tennessee Valley. TVA and twelve Tribes have executed a Reinterment Memorandum of Agreement (MOA) that memorializes this commitment. TVA also works with Tribes to provide individual reburial locations for inadvertent discoveries and other remains that can be returned to their original location on TVA land.

To meet its responsibility to Tribes under the United Nations *Declaration on the Rights of Indigenous Peoples*, *American Indian Religious Freedom Act* and Executive Order 13007 *Indian Sacred Sites*, TVA facilitates opportunities for Tribes to access sacred sites on TVA land and to hold religious and private gatherings. As a land managing agency, TVA recognizes the responsibility we have to manage and protect indigenous sacred sites on our land. To reaffirm this commitment, TVA became a signatory to the 2021 *Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Indigenous Sacred Sites*. TVA has also been consulting Tribes regarding sacred sites and their surrounding landscapes as Tribes have indicated that some of these locations could also be considered traditional cultural places and potentially be a part of a larger traditional cultural landscape. TVA has initiated two projects with Tribes to better understand specific sacred sites on TVA land. TVA has drafted a management plan and standard recordation forms for one specific type of above ground resource and is working to document and record the location of the forced Native American Removal Routes and associated archaeological sites located within TVA's Power Service Area (PSA) and specifically on TVA land.

Over the past six years, TVA has increased its efforts to provide partnership and engagement opportunities to strengthen TVA's relationship with Tribes, and to encourage meaningful cultural interaction between tribal representatives, TVA staff, and the public. Since 2015, TVA has hosted seven Tribal archaeological field schools in the Tennessee Valley. These field schools provide opportunities for Tribes to visit their ancestral homeland and to interact and engage with archaeologists in the field.

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These interactions provided opportunities from Tribes to gain more experience conducting archaeological survey and for archaeologists to learn directly from Tribes about their history and culture. Eight Tribes have participated in these field schools.

TVA provides opportunities for Tribes to talk about their culture, history, tribal sovereignty, and government consultation directly with TVA staff and the public. These engagement opportunities raise Native American cultural awareness and inform TVA staff and the public on the importance of TVA's government-to-government relationship with Tribes. TVA facilitated a series of virtual presentations for Tribes to present their history, culture, and perspective specifically to TVA archaeological staff and contractors. In 2021, nineteen Tribes participated in these engagement opportunities.

TVA has initiated a plant partnership to restore and enhance native plants. TVA is partnering with Tribes to plant and restore rivercane on TVA land. TVA recognizes that Indigenous Traditional Ecological Knowledge (ITEK) and tribal expertise is key to ensuring the best management, treatment, and protection of these sites as Tribes have a vast knowledge of rivercane and experience with its cultivation. In the future, TVA hopes to provide locations for Tribes to collect and harvest rivercane for traditional use.

TVA is founded on a mission of service and supporting disadvantaged communities in the Tennessee Valley will continue to be at the center of our efforts to make life better for the people we serve. TVA appreciates the opportunity to respond to the White House Environmental Justice Advisory Council's recommendations and hopes that we can continue to partner for the betterment of communities in our service area. TVA remains committed to providing programs and pursuing policies that lead to generating increasingly cleaner electricity, all while ensuring that our area's disadvantaged communities are able to benefit from the transition in the same form and manner as the rest of the people of the Valley.

III. Climate and Economic Justice Screening Tool (CEJST)

A. Background

The Climate and Economic Justice Screening Tool (“CEJST” or “tool”) is a critical component of the Biden-Harris Administration’s historic commitment to addressing inequity and inequality. In [Executive Order 14008](#) on *Tackling the Climate Crisis at Home and Abroad*, President Biden directed CEQ to develop a geospatial mapping tool to identify disadvantaged communities that are marginalized, underserved, and overburdened by pollution. The tool will provide important information for the [Justice40 Initiative](#), which, as discussed earlier in this report, aims to provide 40 percent of the overall benefits of certain Federal investments in seven key areas to disadvantaged communities. These areas are: climate change, clean energy and energy efficiency, clean transit, affordable and sustainable housing, training and workforce development, reduction and remediation of legacy pollution, and the development of critical clean water and wastewater infrastructure.

CEQ launched a beta—or draft—version of the tool on February 18, 2022 with support from the U.S. Digital Service (USDS), and in collaboration with other Federal agencies and departments. The tool was released in a beta version in order to receive feedback from the public, Tribal Nations, and Federal agencies. CEQ has offered numerous ways to provide feedback on the tool through the CEJST website and has also published a [Request for Information](#) in the Federal Register. After hearing from environmental justice leaders, community-based organizations and allied groups, and members of the public from across the country, CEQ [extended](#) the public comment period until May 25, 2022. Since launching the beta version of the tool, CEQ has held two Tribal consultations with leaders of Tribal Nations and four public listening sessions. In addition, in coordination with USDS, CEQ held three public training sessions on the beta version of the CEJST.

The beta version of the CEJST website is available at <https://screeningtool.geoplatform.gov>. It features a user-friendly, searchable map that identifies disadvantaged communities across all 50 states, the District of Columbia, and the U.S. territories, to the extent that the data for the U.S. territories are available. The CEJST methodology uses environmental and climate indicators, together with socioeconomic indicators, to identify disadvantaged communities at the U.S. census tract level, which are geographic areas that contain approximately 4,000 people. The CEJST website also enables users to download a draft list of disadvantaged communities as a spreadsheet that includes the relevant data for all of the indicators. In addition, CEQ and USDS released a [CEJST Beta Technical Support Document](#) that provides detailed information on the data and methodology used in the beta version of the CEJST.

As CEQ developed the beta version of the CEJST, it actively considered the recommendations of the WHEJAC. During the initial design of the CEJST and during the ongoing public comment period, CEQ also benefited from engagement on the CEJST with the WHEJAC. The following section summarizes how the

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recommendations in the WHEJAC's May 2021 report have been addressed by CEQ in the development of the CEJST.

B. CEQ Response to WHEJAC's Recommendations on CEJST

1. Response to the Climate and Economic Justice Screening Statement of Principles in the WHEJAC report

WHEJAC Recommendation: "1. Climate and Economic Justice Screening Tool must be integrated and / or supplemented with local community knowledge and data"

Consistent with this recommendation, one of the reasons that CEQ launched the CEJST in a beta version was to facilitate the integration of local community knowledge. The tool offers numerous ways for members of the public to provide feedback on the tool, including feedback on individual Census tracts directly on the website. In other words, by launching the tool in a beta version, CEQ has sought to provide opportunities for local communities to "groundtruth" the tool to ensure that it reflects the realities they experience. In addition to holding four listening sessions with the public on the beta version of the tool, CEQ also issued a [Request for Information](#) in the Federal Register seeking additional knowledge and data recommendations, including from local communities. The Request for Information included the following questions:

1. Methodology: Please refer to the Climate and Economic Justice Screening Tool website for more information regarding the methodology (available at <https://screeningtool.geoplatform.gov/en/methodology>).
 - a. Given the function and role of the Climate and Economic Justice Screening Tool in identifying disadvantaged communities to support the Justice40 Initiative, please provide comments and recommendations for improving the methodology used to identify disadvantaged communities.
 - b. Recognizing the role of the tool in identifying disadvantaged communities for Justice40 investment benefits across agencies and programs, how can the tool's methodology incorporate a cumulative impacts approach that quantitatively measures the combined adverse factors that contribute to the conditions that Justice40 is intending to address?
2. Datasets: Data in this beta version of the tool provides measures for socioeconomic status and in the areas of climate, clean energy and energy efficiency, clean transit, affordable and sustainable housing, training and workforce development, clean water infrastructure, and the remediation of legacy pollution.
 - a. What recommendations for additional datasets would enhance and improve upon the set of indicators currently used in the Climate and Economic Justice Screening Tool? In your comments, please include why and how the data recommendations would improve upon the current set of data and/or indicators used in the tool. (The list of details to include about each dataset is not included here.)

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3. Map Usability and Accessibility. The Climate and Economic Justice Screening Tool map (available at <https://screeningtool.geoplatform.gov>) provides an online geospatial platform that provides the user with the capability to identify the communities identified as disadvantaged by the Climate and Economic Justice Screening Tool methodology. We are soliciting information regarding usability and accessibility of the geospatial platform. Please provide recommendations on the following:

- a. What modifications can improve the usability, accessibility, or design of the mapping functions that display the data and results of the Climate and Economic Justice Screening Tool?
- b. Are there specific features or functions that will enhance the usability of the interactive map by community members and organizations, government staff, and other stakeholders?

4. Additional Feedback: What additional feedback would you like to provide on the beta version of the Climate and Economic Justice Screening Tool?

The beta version of the CEJST uses only nationally-consistent, publicly-available datasets, but CEQ continues to welcome recommendations based on local community knowledge and data for improving the accuracy of the tool. For example, as part of the Tribal consultation process, CEQ specifically asked Tribal leaders to provide suggestions for enhancing the accuracy of the data in the CEJST, and, if Tribal leaders recommend using data from Tribal Nations, what additional considerations or practices CEQ should follow.

Finally, as a policy matter, CEQ has committed to [elevating Indigenous knowledge in Federal policy decisions](#). In November 2021, CEQ and the White House Office of Science and Technology Policy issued a [memorandum on Indigenous Traditional Ecological Knowledge and Federal Decision Making](#).

WHEJAC Recommendation: “2. Climate and Economic Justice Screening Tool must be continually updated and improved as new and updated data become available. The tool should also accommodate integration of new relevant metrics as new data layers become available”

As envisioned by [Executive Order 14008](#), the CEJST will be refreshed annually, including updates with any new or updated data sources. A new version of the CEJST, along with an updated technical support document, will be released after the feedback from the public comment period, Tribal consultations, and meetings with Federal agencies has been reviewed. The CEJST will be continually updated as new data and research become available. CEQ further envisions that the CEJST website will always have features that enable users to submit new data suggestions.

WHEJAC Recommendation: “3. Climate and Economic Justice Screening Tool needs to acknowledge data gaps and uncertainties—no data or poor data availability should not lead to the assumption that there is not a problem”

CEQ agrees that no data or poor data availability should not lead to the assumption that there is not a problem. U.S. environmental policies and programs are usually designed and directed toward solving problems that are well-documented by scientific study and data. Robust national air quality data, for example, has enabled the EPA to reduce a wide range of dangerous emissions over the past half-century. Wildlife professionals have successfully protected imperiled animals and plants whose

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populations are most closely tracked and studied. And food regulators have banned the use of chemicals and pesticides when the toxicity to humans has been thoroughly studied and documented.

Too often, however, U.S. environmental policy fails to protect the American people from harms that have not yet been well studied or where complete and rigorous data are available to policy-makers. A failure to adequately document and address the cumulative impacts of multiple environmental harms, for example, has enabled toxic facilities to continue to be permitted in areas that are already overburdened by pollution. Likewise, Federal and state environmental policy are often slow to respond to pollutants and hazards for which data are still emerging, notwithstanding the realities and harms that families and communities are reporting on the ground. Gaps in environmental data enable environmental harms to persist and worsen, and are a persistent and undeniable driver of environmental injustice.

The development of the beta version of the CEJST has highlighted many environmental justice data gaps. As discussed in greater detail in the [CEJST Beta Technical Support Document](#), CEQ and USDS compiled over 150 datasets and ideas for datasets from Federal agencies, environmental justice data experts, and recommendations on the CEJST from the WHEJAC. Many of the suggested datasets are not currently suitable for inclusion in a narrowly-targeted resource allocation methodology because they do not contain data at the census tract level. In addition, not all data included in the beta version of the CEJST are available for all U.S. territories.

CEQ, with the support of USDS, is working to make additional data available at a census tract level by working with the responsible parties for existing data sources to release data with more granularity, and by collaborating in new data-gathering efforts that are underway in the Biden Administration. In addition, CEQ and USDS are considering ways in which the CEJST methodology for identifying disadvantaged communities can address communities with no data or poor data availability.

WHEJAC Recommendation: “4. Climate and Economic Justice Screening Tool should be leveraged to track progress on EJ goals, including Justice40 Investments and their impacts”

As required by [Executive Order 14008](#), CEQ developed the CEJST as a geospatial mapping tool to identify disadvantaged communities that are marginalized, underserved, and overburdened by pollution. The tool will provide important information for the [Justice40 Initiative](#), which, as discussed earlier in this report, aims to provide 40 percent of the overall benefits of certain Federal investments to disadvantaged communities. The beta version of the CEJST was developed with these Federal resource allocation purposes in mind. The White House has informed agencies that after the public comment period has ended and the CEJST is updated, guidance will be provided on how to use the CEJST to prioritize allocating 40 percent of the overall benefits of Justice40 investments to disadvantaged communities and how to report on such progress.

In addition, [Executive Order 14008](#) also tasked the White House Office of Management and Budget, in coordination with CEQ, USDS, and other relevant agency heads, and the IAC, with publishing an annual Environmental Justice Scorecard detailing agency environmental justice performance measures. In March 2022, the WHEJAC provided phase one recommendations on the Environmental Justice Scorecard, and those recommendations will be addressed in a future report to Congress. As part of the

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White House’s deliberations on the Environmental Justice Scorecard, it will consider the WHEJAC’s recommendation to leverage the CEJST to track progress on environmental justice goals, including Justice40 investments and their impacts.

WHEJAC Recommendation: “5. CEQ and USDS should engage private tech companies to learn about leverage [sic] their existing data sources and tools that can be leveraged for the CEJ Tool [sic] to facilitate its rapid development and deployment”

CEQ and USDS are committed to learning about all nationally-consistent, publicly-available data sources that are relevant to the CEJST, including those known to private tech companies. During the public beta period, private companies have responded to the [Request for Information](#) in the Federal Register and identified new potential sources of data. Like all feedback received during the public beta period, this feedback will be considered as the tool is updated.

In order to promote transparency and facilitate rapid improvement of the tool in future iterations, CEQ and USDS built the beta version of the CEJST using [entirely open-source](#) and best-in-class frameworks such as MapLibre, Python, JavaScript, React (a widely-used open-source framework developed by Facebook), Amazon Web Services, and more. Because the codebase for the tool is open source, any parties with an interest in contributing to the tool, including private tech companies, can contribute data, features, bug fixes, translations, or make other improvements to the tool.

WHEJAC Recommendation: “6. CEQ and USDS should facilitate a timely process of data sharing and collaboration across all relevant federal agencies to enable integration of existing data and ensure efficient development and deployment of the Climate and Economic Justice Screening Tool.”

CEQ and USDS have taken steps to facilitate data sharing and collaboration across all relevant Federal agencies, with the goal of integrating existing data into the beta version of the CEJST and ensuring efficient development and deployment of the tool once it is updated. The beta version of the CEJST includes data from a wide variety of sources, including the U.S. Census Bureau, EPA, CDC, DOT, DOE, FEMA, and HUD. CEQ and USDS met multiple times with every agency whose data are used in the tool to ensure the quality, scope, resolution, and recency of the data.

USDS also conducts user research as a standard part of the software development process. During the development of the beta version of the CEJST, USDS and CEQ met with Federal program officers. These initial meetings adopted a generative approach, which meant that the tool was not shown to the Federal program officers. The goal was to provide potential users with a clean slate to think about solutions unbiased by reactions to the tool and its design. This research approach enabled USDS and CEQ to obtain a deeper understanding of the Federal program officers’ needs, how they make decisions, and the tools they use. This has enabled CEQ and USDS to design the tool and iterate on a solution that meets Federal program officers’ needs and program requirements.

After the launch of the beta version of the CEJST, CEQ and USDS have also met with every Federal agency that will be using the tool in order to identify disadvantaged communities for the purposes of the Justice40 Initiative. These conversations have focused on collaborative data sharing and information sharing, as well as provided a forum for feedback on the tool’s methodology and usability. Given that

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some agencies have also developed their own tools for identifying disadvantaged communities, these meetings have provided an opportunity to consider how the tools can be integrated. Additionally, because of the tool's [open-source](#) development, all agencies are able to use the data, data processing, and mapping visualizations from the tool for their own purposes as they wish. These efforts will lead to greater collaboration across the Federal Government on topics relevant to data on climate justice, economic justice, and environmental justice.

2. Response to the Climate and Economic Justice Screening Tool Question 1: Recommendations for Identifying the Goal and Purpose of the Climate and Economic Justice Screening Tool; and Justice40 Initiative Question 3: Recommendations for Defining “Disadvantaged Communities”

Consistent with [Executive Order 14008](#), the beta version of the CEJST was developed to help agencies identify disadvantaged communities for the purposes of the Justice40 Initiative, which, as discussed earlier, aims to provide 40 percent of the overall benefits of certain Federal investments to disadvantaged communities. The tool was created with these Federal resource allocation purposes in mind. In developing the definition of disadvantaged communities through the CEJST, CEQ considered the recommendations of the WHEJAC on page 64 of the report, which provided recommendations for defining “disadvantaged communities.”²⁷

Although the beta version of the CEJST was developed primarily to help Federal agencies direct the 40 percent of the overall benefits of Justice40 investments to disadvantaged communities, the tool could potentially be used for other purposes. For example, the WHEJAC recommendations on pages 66-67 of its May 2021 report envisioned ways that the tool could be used to promote accountability, evaluate policies, and serve as a hub for information about issues relevant to environmental justice, such as data on permits and emissions. In addition, the WHEJAC identified other potential users of the CEJST, such as communities who could use the tool to help advocate for themselves. In fact, during the public beta period, state agencies, utilities, non-profit groups, private companies, and other stakeholders have commented on the CEJST and expressed interest in learning how they might use the tool for their own goals.

The CEJST will be continually updated as new data and research become available. Moreover, as new iterations of the tool are developed in the future, CEQ and USDS will bear in mind the recommendations of the WHEJAC regarding the goal and purpose of the CEJST.

²⁷ Although this was part of the WHEJAC’s recommendations on the Justice40 Initiative, it is included in the CEJST section as it is more relevant here.

3. Response to Climate and Economic Justice Screening Tool Question 2: Recommendations for Identifying Indicators to be Included in the Climate and Economic Justice Screening Tool

a) Methodology and Data used in the beta version of the CEJST

The WHEJAC’s recommendations on the indicators and datasets for the CEJST were all considered very carefully during the development of the beta version of the tool. The current methodology and data used in the beta version of the CEJST are described in the [CEJST Beta Technical Support Document](#) and on the [Methodology & data page](#) of the CEJST website. This section provides a high-level summary of both the methodology and datasets used, using text drawn largely from the CEJST Beta Technical Support Document.

(1) Methodology

As required by Executive Order 14008, the CEJST seeks to identify disadvantaged communities that are “marginalized and overburdened by pollution and underinvestment in housing, transportation, water and wastewater infrastructure, and health care.” To achieve this goal, the beta version of the CEJST uses a thresholds approach with categories that were informed by the areas of investment covered by the Justice40 Initiative. The eight categories in the beta version of the CEJST are: climate change, clean energy and energy efficiency, clean transit, affordable and sustainable housing, reduction and remediation of legacy pollution, critical clean water and wastewater infrastructure, health burdens, and training and workforce development.²⁸

In the beta version of the CEJST, a community qualifies as disadvantaged if (1) the U.S. census tract is above the threshold for one or more environmental or climate indicators,²⁹ and (2) the U.S. census tract is above the threshold for the socioeconomic indicators. A U.S. census tract must exceed the threshold for both indicators to be considered disadvantaged. Below, each set of environmental or climate indicators and socioeconomic indicators is referred to as a single combined threshold. Most indicators that feed into each combined threshold are percentiles.³⁰ Each indicator has a cutoff value as a

²⁸ As set forth earlier in this document and in OMB Memorandum [M-21-28](#) (July 20, 2021) on “Interim Implementation Guidance for the Justice40 Initiative,” the covered areas of investment are: climate change, clean energy and energy efficiency, clean transportation, affordable and sustainable housing, training and workforce development (related to climate, natural disasters, environment, clean energy, clean transportation, housing, water and wastewater infrastructure, and legacy pollution reduction, including in energy communities), remediation and reduction of legacy pollution, and critical clean water and waste infrastructure.

²⁹ Environmental or climate criteria encompass environmental, climate, health, or other socioeconomic burdens. In particular, the training and workforce development category reflects socioeconomic burdens experienced by marginalized, underserved, and overburdened communities. It is also the only complete threshold across all 50 states, D.C., Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, American Samoa, and Guam.

³⁰ Percentiles reflect the distribution of a variable and run from the 0th percentile, meaning the lowest score on a given scale, to the 100th percentile, meaning the highest score on a given scale. A variable that lists a census tract as “77th percentile” means that this tract has a higher measurement on this variable than 77% of all census tracts.

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threshold. To be considered disadvantaged, a census tract must exceed the cutoff values for both (1) an environmental or climate indicator, and (2) the corresponding socioeconomic indicators.

The beta version of the CEJST uses thresholds rather than indexing, which enables the tool to account for regional, state, and other geographic differences across the U.S., including between urban and rural areas. Each threshold is measured independently and the thresholds do not compete with each other. In other words, adding a new threshold to the methodology will add some communities to the definition of disadvantaged without having to remove other communities. The eight combined threshold categories and their indicators are shown in the table below.

The current CEJST methodology does not directly address cumulative impacts because the current version uses a threshold approach which denotes in a binary fashion whether communities are, or are not, considered disadvantaged. As part of the [Request for Information](#) in the Federal Register on the beta version of the CEJST, CEQ is soliciting [public input](#) on how the tool's methodology can incorporate a cumulative impacts approach that quantitatively measures the combined adverse factors that contribute to the conditions that disadvantaged communities experience.

Table 1. Overview of methodology in the beta version of the CEJST

Category	Environmental or climate indicators	Socioeconomic indicators
Climate change	<ol style="list-style-type: none"> Expected agriculture loss rate is at or above the 90th percentile, Expected building loss rate is at or above the 90th percentile, or Expected population loss rate is at or above the 90th percentile 	<ol style="list-style-type: none"> Low income (at or above 65th percentile for households living at or below 200% of the Federal poverty level), and Over 80% of individuals 15 or older are not currently enrolled in higher education
Clean energy and energy efficiency	<ol style="list-style-type: none"> Energy burden is at or above the 90th percentile, or Particulate matter (PM) 2.5 in the air is at or above the 90th percentile 	<ol style="list-style-type: none"> Low income (at or above 65th percentile for households living at or below 200% of the Federal poverty level), and Over 80% of individuals 15 or older are not currently enrolled in higher education
Clean transit	<ol style="list-style-type: none"> Diesel particulate matter exposure is at or above the 90th percentile, or 	<ol style="list-style-type: none"> Low income (at or above 65th percentile for households living at or below 200% of the Federal poverty

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Category	Environmental or climate indicators	Socioeconomic indicators
	2. Traffic proximity and volume is at or above the 90 th percentile	level), and 2. Over 80% of individuals 15 or older are not currently enrolled in higher education
Affordable and sustainable housing	1. Percent of housing units built pre-1960 (used as an indicator of potential lead paint exposure) is at or above the 90 th percentile AND median home value is at or less than the 90 th percentile, or 2. Housing cost burden is at or above the 90 th percentile	1. Low income (at or above 65 th percentile for households living at or below 200% of the Federal poverty level), and 2. Over 80% of individuals 15 or older are not currently enrolled in higher education
Reduction and remediation of legacy pollution	1. Proximity to hazardous waste facilities is at or above the 90 th percentile, or 2. Proximity to Risk Management Plan (RMP) facilities is at or above the 90 th percentile, or 3. Proximity to National Priorities List (NPL or Superfund) sites is at or above the 90 th percentile	1. Low income (at or above 65 th percentile for households living at or below 200% of the Federal poverty level), and 2. Over 80% of individuals 15 or older are not currently enrolled in higher education
Critical clean water and wastewater infrastructure	1. Wastewater discharge is at or above the 90 th percentile	1. Low income (at or above 65 th percentile for households living at or below 200% of the Federal poverty level), and 2. Over 80% of individuals 15 or older are not currently enrolled in higher education
Health burdens	1. Asthma is at or above the 90 th	1. Low income (at or above 65 th

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Category	Environmental or climate indicators	Socioeconomic indicators
	<p>percentile, or</p> <ol style="list-style-type: none"> Diabetes is at or above the 90th percentile, or Heart disease is at or above the 90th percentile, or Low life expectancy is at or above the 90th percentile 	<p>percentile for households living at or below 200% of the Federal poverty level), and</p> <ol style="list-style-type: none"> Over 80% of individuals 15 or older are not currently enrolled in higher education
Training and workforce development	<ol style="list-style-type: none"> Low median income as a percentage of area median income is at or above the 90th percentile, or Linguistic isolation is at or above the 90th percentile, or Unemployment is at or above the 90th percentile, or The percentage of people living at or below 100% Federal poverty line is at or above the 90th percentile 	<ol style="list-style-type: none"> More than 10% of adults 25 or older have not attained a high school degree, and Over 80% of people 15 or older are not currently enrolled in higher education

(2) Data

The beta version of the CEJST includes data from a wide variety of sources, including the U.S. Census Bureau, EPA, CDC, DOT, DOE, FEMA, and HUD. The datasets selected were chosen after consideration of more than 150 datasets and ideas for datasets suggested by Federal agencies, environmental justice data experts, and the WHEJAC. Each included dataset meets the following relevance, availability, and quality requirements:

- Relevance to the goals of Executive Order 14008 and the Justice40 Initiative:** To achieve the environmental justice goals set forth in Executive Order 14008 and ensure that the CEJST is relevant to the Justice40 Initiative, the beta version of the tool includes comprehensive datasets related to climate, environmental, energy, and economic justice.
- Publicly-available:** Because the CEJST and its methodology are publicly-available, the data it uses must also be publicly-available. Confidential data are not included in the tool.

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3. **Comprehensive and consistently accurate:** CEJST sought to identify disadvantaged communities across the 50 states, D.C., and the five U.S. territories of Puerto Rico, American Samoa, the Northern Mariana Islands, Guam, and the U.S. Virgin Islands. Datasets that include all 50 states and D.C., as well as the five U.S. territories, are preferred, but many datasets are not available for the U.S. territories. In light of this, datasets were only selected if, at a minimum, they were comprehensive and consistently accurate for all 50 states and D.C. Effort was also made to include datasets that are relevant to both rural and urban areas.
4. **Data exists at the census tract level:** The beta version of the CEJST identifies disadvantaged communities at the census tract level because that is the smallest geographic unit for which publicly-available, nationally-consistent datasets can be consistently displayed on the tool. Datasets that provide information at the state or county level do not have the level of granularity needed to incorporate into the CEJST.

The datasets used in the beta version of the CEJST are summarized in the table below. As noted in the table, certain variables are used directly in the beta version of the CEJST, without additional calculations, whereas others are calculated by the beta version of the CEJST before use in the tool. More detail can be found in the [CEJST Beta Technical Support Document](#).

Table 2. Overview of data in the beta version of the CEJST

Dataset	Source (date)	Variables included or calculated	Relevant categories
U.S. Small-area Life Expectancy Estimates Project (USALEEP)	CDC (2010-2015)	<ul style="list-style-type: none"> Low life expectancy 	Health burdens
American Community Survey (ACS)	U.S. Census (2015-2019) ³¹	<ul style="list-style-type: none"> Low income Unemployment Median home value Lead paint (housing stock age used as a proxy) Poverty (CEJST calculates) 	All thresholds

³¹ Note that the years of data available for the U.S. territories are different.

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Dataset	Source (date)	Variables included or calculated	Relevant categories
		<ul style="list-style-type: none"> High school degree attainment rate (CEJST calculates) Linguistic isolation (CEJST calculates) Higher education non-enrollment 	
PLACES: Local Data for Better Health	CDC (2016-2019)	<ul style="list-style-type: none"> Heart disease Asthma Diabetes 	Health burdens
Low-Income Energy Affordability Data (LEAD) score	DOE (2018)	<ul style="list-style-type: none"> Energy burden 	Clean energy and energy efficiency
EJScreen	EPA (varies, 2014-2020)	<ul style="list-style-type: none"> Traffic proximity and volume Diesel particulate matter exposure PM2.5 Wastewater discharge Proximity to Risk Management Plan (RMP) facilities Proximity to National Priorities List (NPL) sites Proximity to hazardous waste facilities 	<ul style="list-style-type: none"> Clean energy and energy efficiency Clean transit Reduction and remediation of legacy pollution Critical clean water and wastewater infrastructure
Comprehensive Housing Affordability Strategy (CHAS)	HUD (2014-2018)	<ul style="list-style-type: none"> Housing cost burden (CEJST calculates) 	Affordable and sustainable housing

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Dataset	Source (date)	Variables included or calculated	Relevant categories
National Risk Index	FEMA (2014-2021)	<ul style="list-style-type: none"> Expected population loss rate (CEJST calculates) Expected building loss rate (CEJST calculates) Expected agriculture loss rate (CEJST calculates) 	Climate change
TIGER files	U.S. Census (2010)	<ul style="list-style-type: none"> Geographies of census tract boundaries 	N/A

b) The WHEJAC's recommendations continue to inform the development of the CEJST

CEQ and USDS appreciate the efforts that the WHEJAC made to identify indicators, data categories, and datasets for consideration in the CEJST. As noted earlier, CEQ and USDS considered over 150 datasets, many of which were recommended by the WHEJAC. In fact, most categories of indicators recommended by WHEJAC on pages 68-74 of its May 2021 report have been incorporated into the beta version of the CEJST, as noted in the list below. When developing future versions of the CEJST, CEQ will continue to look to the WHEJAC recommendations for guidance.

WHEJAC recommendation: "1. Exposure Burdens"

WHEJAC recommendations included in the beta version of the CEJST:

- PM2.5 in the air sourced from Fusion of model and monitor data from 2017 as compiled by EPA's EJSCREEN
- Diesel particulate matter exposure as sourced from National Air Toxics Assessment (NATA) from 2014 as compiled by EPA's EJSCREEN
- Lead paint as sourced from [American Community Survey](#) from 2015-2019

WHEJAC recommendation: "2. Proximity to potential hazards"

WHEJAC recommendations included in the beta version of the CEJST:

- Proximity to National Priorities List (NPL) sites i.e. Superfund sites as sourced from [CERCLIS database](#) from 2020 as compiled by EPA's EJSCREEN
- Proximity to Risk Management Plan (RMP) facilities as sourced from [RMP database from 2020](#) as compiled by EPA's EJSCREEN

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- Proximity to hazardous waste facilities sourced from [Treatment, Storage, and Disposal Facilities \(TSDF\)](#) data from 2020 calculated from EPA's RCRA database as compiled by EPA's EJSCREEN

WHEJAC recommendation: "3. Sensitive populations"

WHEJAC recommendations included in the beta version of the CEJST:

- Asthma sourced from CDC's [PLACES](#) data from 2016-2019
- Diabetes sourced from CDC's [PLACES](#) data from 2016-2019
- Heart disease sourced from CDC's [PLACES](#) data from 2016-2019

WHEJAC recommendation: "4. Demographic factors"

WHEJAC recommendations included in the beta version of the CEJST:

- Low income sourced from the [American Community Survey](#) from 2015-2019
- Unemployment sourced from the [American Community Survey](#) from 2015-2019
- Linguistic isolation sourced from the [American Community Survey](#) from 2015-2019
- Housing cost burden sourced from the [Comprehensive Housing Affordability Strategy dataset](#) from 2014-2018

WHEJAC recommendation: "5. Energy"

WHEJAC recommendation included in the beta version of the CEJST:

- Energy burden sourced from [LEAD Score](#) from 2018

WHEJAC recommendation: "6. Economic Development/Investment"

- The beta version of CEJST does not have any data sources corresponding to this category of indicators. The WHEJAC's recommendations are still under consideration.

WHEJAC recommendation: "7. Climate Vulnerability"

WHEJAC recommendations included in the beta version of the CEJST:

- Expected agricultural loss rate, building loss rate, and population loss rate sourced from FEMA's [National Risk Index](#) from 2014-2021

WHEJAC recommendation: "8. Infrastructure"

- The beta version of CEJST does not have any data sources corresponding to this category of indicators. The WHEJAC's recommendations are still under consideration.

WHEJAC recommendation: "9. Indigenous and Tribal Land"

- CEQ has held two Tribal consultations with leaders of federally recognized Tribal Nations in order to address this topic area. The WHEJAC's recommendations are still under consideration.

Many of the data categories and datasets suggested by the WHEJAC on pages 68-76 of its May 2021 report are not currently suitable for inclusion in a narrowly-targeted resource allocation methodology because they do not contain data at the census tract level. CEQ, with the support of USDS, is working to

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make additional data available at a census tract level by working with the responsible parties for existing data sources to release data with more granularity, and by collaborating in new data-gathering efforts that are underway in the Biden Administration.

Some of the datasets that were considered are listed below. These datasets are not currently eligible for inclusion in the beta version of the CEJST.

- Proximity to concentrated animal feeding operations (CAFOs): The data for these sites in EPA's Facility Registry Service (FRS) significantly under-represent the reality of CAFOs across the U.S., and many of the addresses on the data could be improved to be more accurate. Similarly, the USDA may have relevant data, as demonstrated by their 2012 Census of Agriculture; however, these data are not available at the census tract level.
- Coal ash dump sites: The project development team is working to identify a consistent source of information.
- Safe Drinking Water Information System (SDWIS): This dataset is not yet mapped between system names (and their health-based violations) and system geographic boundaries/census tracts.
- Birth outcomes, such as preterm births or low birth weights: These data are not currently publicly-available at the census tract level.
- Medicaid claims data: These data are not currently publicly-available at the census tract level. Data may be available from the Centers for Medicare & Medicaid Services (CMS) relating to Medicaid claims that are attributed to maternal health outcomes, lead poisoning, or other relevant health outcomes.
- Foreclosure rates: Some of the highest quality data at the census tract level was last updated in 2009 in HUD's Neighborhood Stabilization Program. The project development team is looking for more recent data.
- Pesticide use data: These data are not currently publicly-available at the census tract level.
- Abandoned mine data: Some datasets such as E-AMLIS are available but require additional investigation to determine if nationally-consistent criteria are met.

An updated version of the CEJST, along with an updated technical support document, will be released after the feedback from the public comment period, Tribal consultations, and meetings with Federal agencies has been reviewed. The CEJST will be continually updated as new data and research become available. As new versions of CEJST are developed, CEQ will also continue to review the recommendations from the WHEJAC to ensure that the CEJST utilizes all possible publicly-available, nationally-consistent datasets to identify disadvantaged communities for prioritization in Federal resource allocation decisions.

IV. Executive Order 12898 Revisions

A. Background

In 1994, President Clinton issued [Executive Order 12898](#) on *Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*. This order stated that each covered Federal agency “shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.” On the same day that Executive Order 12898 was signed, President Clinton also issued a [Memorandum for the Heads of All Departments and Agencies](#), which tied the obligations in the order to several statutory authorities, including Title VI of the Civil Rights Act of 1964, the National Environmental Policy Act of 1969, and Section 309 of the Clean Air Act.

In 2011, the Federal agencies that were covered by Executive Order 12898, along with several other participating agencies, entered into a [Memorandum of Understanding on Environmental Justice and Executive Order 12898](#) (MOU). The goals of this MOU were to declare the continued importance of identifying and addressing environmental justice, to renew commitments to write strategic plans and other reports, to establish better structures for the Interagency Working Group on Environmental Justice, and to identify particular areas of focus for agencies. The agencies that signed this MOU also adopted a [Charter for the Interagency Working Group on Environmental Justice](#). Over the last few decades, the Federal Government has made strides to address environmental justice, but more work remains.

In [Section 220 of Executive Order 14008](#), President Biden amended Section 1-102 of Executive Order 12898 and replaced the Interagency Working Group on Environmental Justice with the IAC, which was established within the Executive Office of the President and is chaired by the Chair of CEQ. As required by the executive order, the IAC submitted to the President, through the National Climate Advisor, a set of recommendations for further updating Executive Order 12898.

B. CEQ Response to Executive Order 12898 Revisions

[Section 221\(b\) of Executive Order 14008](#) tasked the WHEJAC with providing “recommendations to the White House Environmental Justice Interagency Council established in section 220 of this order on how to increase the Federal Government’s efforts to address current and historic environmental injustice, including recommendations for updating Executive Order 12898.”

In response to this mandate, the WHEJAC’s Final Recommendations addressed these key questions:

- What sections of Executive Order 12898 should be revised?
- What components should be added to Executive Order 12898?
- What components should be removed from Executive Order 12898?

EO 12898 REVISIONS

The WHEJAC issued a comprehensive set of recommendations for revising and replacing Executive Order 12898 on pages 77-92 of its final report. The recommendations included seven sections as follows:

Part I—Federal Actions to Address Environmental Justice in Populations of Color, Tribal and Indigenous Populations, and Low-Income Populations

Part II—Definitions

Part III—Federal Agency Responsibilities and Implementation

Part IV—Research, Data Collection, and Analysis

Part V—Subsistence Consumption of and Cultural Practices Reliant on Biota, including Fish and Wildlife

Part VI—Public Participation and Access to Information

Part VII—General Provisions

These recommendations from the WHEJAC have been considered as the Federal Government has undertaken the process of reviewing Executive Order 12898. Each recommendation set forth in the WHEJAC's recommendations for the updated executive order has been meticulously evaluated. Based on the recommendations of the WHEJAC and ongoing communications with Federal agencies, CEQ has been working diligently to develop recommendations for a durable, impactful, and effective approach for updating Executive Order 12898. The [process of developing executive orders](#) is lengthy because it involves a multi-step institutional review in preparation for the President to reach a decision. Given that the deliberative process for developing a draft executive order for the President's consideration is ongoing, details cannot be shared publicly at this point. However, it is anticipated that a draft executive order updating Executive Order 12898 will be ready for the President's consideration and review in the summer of 2022.

Conclusion

CEQ is pleased to provide this report to fulfill its statutory requirement to Congress, and provide a robust and timely response to the WHEJAC's May 21, 2021 report, [Final Recommendations: Justice40, Climate and Economic Justice Screening Tool, and Executive Order 12898 Revisions](#). This report provides a status update on the Biden-Harris Administration's historic whole-of-government environmental justice agenda, which showcases the rapid and broad progress that has been made in just over a year. Never before has the Federal Government undertaken such a sweeping, ambitious, and determined effort to deliver justice and equity for disadvantaged communities who have been marginalized and overburdened by pollution and underinvestment in housing, transportation, water and wastewater infrastructure, and health care.

Over the past year, the recommendations provided by the WHEJAC have helped guide the IAC's and CEQ Chair's decision-making and policymaking on these new environmental justice initiatives. By making long overdue investments, by ensuring those investments reach the communities that need them most, by integrating environmental justice voices and expertise in Federal decision-making, and by taking action to cut pollution and alleviate environmental burdens, the Administration is delivering, and will continue to deliver, on President Biden's promise of a healthy and safe environment for all.

CONCLUSION



Caption: President Joe Biden and Vice President Kamala Harris arrive at the Dr. Martin Luther King Jr. Memorial, Thursday, October 21, 2021, in Washington, D.C. (Official White House Photo by Adam Schultz). Source: [White House Flickr](#).