SOUTHERN ENVIRONMENTAL LAW CENTER

136 East Rosemary Street, Suite 500
Chapel Hill, NC 27514

Telephone 919-967-1450
Facsimile 919-929-9421

February 19, 2025

Charles Lee
Senior Policy Advisor
EPA Office of Environmental Justice & External Civil Rights
1200 Pennsylvania Ave. NW
Washington, DC 20460
Lee.Charles@epa.gov

Barry Breen
Principal Deputy Assistant Administrator
EPA Office of Land and Emergency Management
1200 Pennsylvania Ave. NW
Washington, DC 20460
breen.barry@epa.gov

Submitted via Regulations.gov

Re: Comments in Support of EPA's Interim Framework for Advancing Consideration of Cumulative Impacts, Docket ID No. EPA-HQ-OLEM-2024-0360

Dear Mr. Lee and Mr. Breen:

On behalf of Fairview Neighborhood Improvement Association, Environmental Justice Community Action Network, One Hundred Miles, Urbana Perry Neighborhood Planning Assembly, Concerned Citizens of Cook County, Phillips Community Association, *Dogwood Alliance*, Clean, Healthy, Educated, Safe & Sustainable, Inc., Mobile Environmental Justice Action Coalition, GASP, We Matter Community Association, Mothers Out Front, Sierra Club, West End Revitalization Association, 7 Directions of Service, NC FIELD, Inc., NC Black Alliance, Organized Uplifting Resources & Strategies, Northampton First, Partners for Environmental Justice, North Carolina Environmental Justice Network, Duplin County Branch of the NAACP, North Carolina Conservation Network, Tyrrell County Community Development Corporation, CleanAIRE NC, North Carolina NAACP, Winyah Rivers Alliance, NC Climate Solutions Coalition, Pitt County Coalition Against Racism, Black-Sampit Riverkeeper, Congaree Riverkeeper, NOTRA, Black Seed Saving Collective, Coastal Carolina Riverwatch, Southern Coalition for Social Justice, Charleston Waterkeeper, Toxic Free North Carolina, Friends of the Earth US, NC Poor People's Campaign, South Carolina Wildlife Federation, NC League of Conservation Voters, Women Leading 4 Wellness & Justice, Center for Biological Diversity, Bethany Cutts, PhD and Marian Johnson-Thompson, PhD the Southern Environmental Law Center ("SELC") submits these comments in support of EPA's Interim Framework for Advancing Consideration of

Cumulative Impacts ("Interim Framework" or "Framework"). Communities and governments have awaited direction from EPA on how to assess and address collective harm to communities from environmental pollution and stressors that burdened communities across the country. The Interim Framework is a long overdue, strong step to address these issues.

While more substantive guidance is still necessary—particularly directing permitting agencies on how to incorporate assessment findings into decision making processes to mitigate or prevent cumulative impacts—this Interim Framework offers principled approaches and examples to identify cumulative impacts to help EPA and local permitting agencies be responsive to their citizens and better protect public health.

I. The Interim Framework Provides a Foundation for Future Guidance on Cumulative Impacts

Communities across the United States are burdened by cumulative impacts.[1] EPA defines cumulative impacts as "the totality of exposures to combinations of chemical and nonchemical stressors and their effects on the environment, health, well-being, and quality of life outcomes."[2] This longstanding definition, and the intent behind considering cumulative impacts in government decision making, acknowledges the fact that pollution does not exist in a vacuum or care about artificial jurisdictional boundaries. To the contrary, pollutants often compound—traveling, mixing, and depositing together. Oftentimes, polluting facilities are located near one another, inundating communities with a cocktail of pollution that may be difficult to trace back to a particular source. Moreover, people living in these communities are often faced with a number of nonchemical stressors, including lack of access to healthcare, green space, or employment, noise, odor, and flooding, that compound the harms or make it more difficult to recover from unexpected events.

Decades of research, as identified in the Interim Framework, demonstrates the harmful effects of cumulative environmental impacts.[3] Humans are exposed to chemical stressors, like pollution and chemicals, in a variety of ways, including through drinking water, air pollution, food, and soil.[4] These exposure pathways can come from a variety of sources such as discharge or emissions from nearby polluting facilities, highway vehicle

---

[1] *See, e.g.*, *infra* § III.

[2] EPA, Interim Framework for Advancing Consideration of Cumulative Impacts 32 (2024) [hereinafter Interim Framework] (emphasis added), https://www.epa.gov/system/files/documents/2024-11/epa-interim-cumulative-impacts-framework-november-2024.pdf.

[3] *See, e.g.*, UNITED CHURCH OF CHRIST, TOXIC WASTE AND RACE IN THE UNITED STATES 23 (1987), https://www.ucc.org/wp-content/uploads/2020/12/ToxicWastesRace.pdf ("The findings of the analytical study suggest the existence of clear patterns which show that communities with greater minority percentages of the population are more likely to be the sites of commercial hazardous waste facilities.").

[4] UNION OF CONCERNED SCI., THE COMMUNITY GUIDE TO CUMULATIVE IMPACTS 7 (2024), https://www.ucsusa.org/sites/default/files/2024-10/Cumulative%20Impacts%20Guide_Eng.pdf.

emissions, and food additives or pesticides.[5] Non-chemical stressors are "social and physical burdens" often created through a myriad of social constructs.[6] These include poverty or low-wealth, poor water or transportation infrastructure, lack of affordable health care, flood-prone topography, and heat stress.[7] Together, harmful chemical and non-chemical stressors impact the health and well-being of exposed people.

While this guidance recognizes the disproportionate cumulative impact burden borne by communities of color, notably, any person or community can be harmed by cumulative impacts. Therefore, cumulative impact assessments, and this Interim Framework, play an important role in quantifying exposures and their effects to ensure that "*all* people are protected from disproportionate and adverse environmental human and environmental effects and hazards."[8]

A. The Interim Framework Correctly Acknowledges that Environmental Harm is Not Equally Distributed or Experienced

The Interim Framework correctly acknowledges that pollution has not been equally distributed throughout the United States, and its impacts are worsened by the presence of other vulnerabilities.[9] As identified in the Interim Framework, decades of research shows that a disproportionate share of polluting facilities are located in communities of color and poor communities.[10] This placement of pollution was often times by design as not-so-long-ago discriminatory practices, like redlining, relegated people of color to communities also zoned for heavy industry.[11] This unequal distribution of polluters has resulted in increased pollution in communities of color, with race being a key indicator of proximity to pollution.[12]

Some communities are more vulnerable to the harms of cumulative impacts.[13] Communities with less wealth, higher rates of health diagnoses, less access to healthcare and insurance, poor infrastructures, or other non-chemical stressors, are less resilient in the face of environmental harm.[14] This is where the consideration of non-chemical

---

[5] *Id.* at 11.
[6] *Id.* at 7.
[7] *Id.*
[8] Interim Framework, *supra* note 2, at 10 (emphasis added).
[9] *Id.* at 4, 8.
[10] *See, e.g.*, United Church of Christ, *supra* note 3; Haley M. Lane et al., *Historical Redlining is Associated with Present-Day Air Pollution Disparities in U.S. Cities*, 9 ENV'T SCI & TECH. LETTERS 345 (2022), https://pubs.acs.org/doi/10.1021/acs.estlett.1c01012.
[11] *See* Lane et al., *supra* note 10.
[12] Christopher W. Tessum et al., *PM2.5 Polluters Disproportionately and Systematically Affect People of Color in the United States*, SCI. ADVANCES, Apr. 2021, https://pmc.ncbi.nlm.nih.gov/articles/PMC11426197/pdf/sciadv.abf4491.pdf.
[13] *E.g.*, Lane et al., *supra* note 10; UNION OF CONCERNED SCI., *supra* note 3.
[14] UNION OF CONCERNED SCI., *supra* note 4, at 11; CRISTINA BRADATAN ET AL., ESTIMATING COMMUNITY RESILIENCE 3 (2023), https://www.census.gov/content/dam/Census/programs-surveys/international-programs/select-topics-in-international-population-health/estimating-community-resilience.pdf.

stressors, as recognized in the Framework, is critical in cumulative impact assessment and decision making.

B. The Interim Framework Correctly Identifies that Environmental Harm Should be Measured by Localized, "Fit-for-Purpose" Cumulative Impacts Assessments

Locality matters in assessing cumulative impacts. As the Interim Framework identifies, "[s]cience shows that the connections between spatial concentrations of environmental burdens and benefits, their distribution in society, and the resulting health disparities continue over generations."[15] Moreover, the types of pollution, the non-chemical stressors, and the proposed action will vary from community-to-community and with time. Therefore, the localized, "fit-for-purpose" approach presented in the Interim Framework provides the flexibility that decision makers need to assess cumulative impacts.

The Framework properly explains, that "cumulative impacts assessment does not require identifying, measuring, and quantifying all exposures and effects."[16] Instead, these assessments "can be tailored to focus on exposures and effects of greatest relevance to the decision context."[17] This follows the real-life approach to research, in which, outside of a lab, researchers cannot measure or control for every variable. Rather, the approach and analytical methods, and factors considered should depend on present factors.[18]

C. The Interim Framework Defines the Necessity for Meaningful Community Involvement

As exemplified in the communities described below, stressors, vulnerabilities, and community dynamics vary from place to place. Turning to community to identify historical or concurrent local conditions can provide decision makers, as outsiders, with insight and data that would otherwise be inaccessible.[19] Since EPA's "fit-for-purpose" model does not require quantification of all exposures and effects, community engagement allows impacted communities to identify the most pressing factors. Further, as the Framework states, engaging community is also essential to garner trust in the decision making process and outcome.[20] These are important principles for EPA, state, and local governments to consider in their assessments and decision making processes.

---

[15] Interim Framework, *supra* note 2, at 8.
[16] *Id*. at 14.
[17] *Id*.
[18] *Id*. at 14.
[19] *Id*.
[20] *Id*.

II. EPA Should Build Upon Interim Framework and Provide Substantive Guidance to Permitting Agencies on How to Analyze Cumulative Impacts

It is critical that cumulative impacts be accounted for in governmental decision making processes. The Interim Framework is a starting point, however it does not articulate clear guidance on how EPA, or state permitting issues, will act based on identified cumulative impacts. EPA's work to advance consideration of cumulative impacts should therefore continue as outlined in the Interim Framework.[21]

EPA should continue its work with communities and experts. Experts and community collaborators provide EPA with essential perspective, knowledge, and direction.[22] Specifically, as identified in the Interim Framework, EPA should keep, or reinstate, the chartered work group intact,[23] and continue its ongoing projects and funding programs that advance consideration of cumulative impacts.[24] Further, as identified in the Interim Framework, EPA should not go the road of cumulative impacts assessment alone. Instead, EPA should continue to engage other federal agencies in a whole-of-government approach to ensure all communities are protected from cumulative impacts.

EPA should also keep tools, protocols, and data to assess cumulative impacts publicly available. Government-collected data—formerly, publicly available in government databases—house vital information, necessary to conduct accurate cumulative impact assessments. Tools such as EPA's EJScreen and the Climate and Economic Justice Screening Tool, which relied on data from the EPA, U.S. Census Bureau, and Centers for Disease Control and Prevention, were critical for stakeholders as they provide reliable data on demographics, community health, and environmental permits and monitoring. These tools also generated reports that help the public contextualize the data.[25] Government data and reports are essential to assess and address cumulative impacts. Therefore, these tools and datasets need to be reinstated so they continue being freely, publicly accessible.

III. The Interim Framework Matters because Communities are Harmed by Cumulative Impacts

This Interim Framework, and any substantive guidance to follow, is important because cumulative impacts are doing real harm to communities on the ground. As described in the Framework, the particularities of a community matter. There are endless examples, including those listed below, of communities that are surrounded by multiple sources of pollution, have poor infrastructure, high rates of health disparities, and little

[21] *Id*. at 29–31.
[22] *Id*. at 23, 29
[23] *See id*. at 28.
[24] *See id*. at 29.
[25] *See, e.g.*, EPA, *EJScreen Community Report: Fairview Neighborhood* (Jan. 31, 2025), https://perma.cc/L2T7-VDND (providing community information for user-specified area).

access to healthcare, green spaces, or public transportation. Communities with fewer financial resources and access to health care are harmed more by pollution burdens.[26] Similarly, these communities do not recover from disaster as quickly as a wealthier community with better infrastructure, access to healthcare, and an overall financial safety net.[27] Moreover, disproportionately, the communities that experience the aggravated harm of cumulative impacts are poor communities and communities of color. The U.S. south is home to many of these communities. Building on the Interim Framework and offering substantive guidance to permitting agencies, could mitigate these ongoing collective harms.

A. Fairview Community, North Carolina

The Fairview Community, located in Fayetteville, North Carolina, is surrounded by polluting industries on all sides.[28] Within the community, there are several dozen households—including a public housing unit—two churches, a small park, and a historic graveyard. According to EPA's EJScreen Tool, the Fairview community is made up 100% of people of color and 87% low income households, with 22% of the population identifying as a person with at least one disability, and an average life expectancy that is almost a decade shorter than the state average.[29] For decades this community has organized to fight the creeping, persistent encroachment of industry around it, including a concrete block manufacturer, two water treatment plants, and a landfill.[30]

In the 1950s and 1960s, Fairview was a thriving, walkable, Black, middle-income community. Over the past four decades, more and more polluting facilities were sited and expanded in and near the community. Today, families living in the Fairview Community are hemmed in by polluting industries on all sides. To the north, west, and south, concrete manufacturing facilities, sited just a few feet from some people's back doors, emit noise, dust and other air pollutants around the clock and fill the street with constant truck traffic. Questionable rezoning practices[31] resulted in residential lots being rezoned as heavy industrial areas and brought the production and storage of industrial materials into people's backyards. Community members describe that sometimes the dust "is so bad, you can almost taste it." They also report that the local youth recreation league removed the Fairview Community's baseball field—which is separated from the concrete

---

[26] *See* UNION OF CONCERNED SCI., *supra* note 4, at 11.
[27] *See* BRADATAN ET AL, *supra* note 14, at 2.
[28] *Id.*
[29] *Id.*; Ctr. for Disease Control & Prevention, *U.S. State Life Tables, 2020*, NAT'L VITAL STATISTICS REPORTS 3 (Aug. 23, 2022), https://perma.cc/VLM9-SB9M (showing an average life expectancy of 76.1 years for North Carolina).
[30] *See, e.g.*, *Residents Kick Up Dust Over Cinder-Block Plant*, WRAL (Nov. 10, 2006), https://perma.cc/E3FB-DXA8.
[31] *See* Evey Weisblat, *Neighbors of Proposed Masonry Business Expansion in Fayetteville Concerned Over Environmental, Health Impacts*, CITYVIEW, https://perma.cc/DHM5-5THC (last updated Apr. 22, 2024).

reclamation site to the north of the community by just a thin row of trees and a chain link fence—from the league game schedule after years of complaints from parents about the air quality and children's difficulty breathing while playing sports at the field. To the east, the municipal water treatment facility emits odors that neighbors smell while walking on the Cape Fear River Trail, a nearby nature trail. The CSX railroad track, with its constant noise and air pollution, the ever-growing Ann Street Landfill, with its string of permit violations and longstanding malodor issues, and a wastewater treatment plant encroach from the south. The only road in and out of the community runs between these various polluting industries, so community members must drive between these facilities—and through their pollution—to reach work, grocery stores, healthcare, and other public facilities and services.

In a locally administered community survey, people expressed concerns for community health, particularly children's health, air quality, traffic, noise, and soil and water quality from local industrial pollution.[32] Many community members are afraid to have gardens because they are concerned that their soil and water are polluted and avoid spending time outside because of the odor and dust. Fairview community members are concerned for their own health and well-being, but they also worry that this air pollution travels to other nearby communities that are not aware of the threat.

The Title V air quality permit for the nearby Ann Street Landfill—a county-owned, over 350-acre facility which includes an active, lined municipal solid waste landfill ("MSWLF"), a closed, unlined MSWLF, and an active construction and demolition debris landfill unit[33]—is currently in the renewal process with the North Carolina Department of Environmental Quality ("NCDEQ"). The Landfill's reported toxic air emissions have increased dramatically since the facility last modeled its toxic air pollution in 2019. For example, from 2019 to 2023, reported benzene emissions increased by 170%, and reported vinyl chloride emissions increased by 822%.[34] These rising pollution levels pose a serious risk to the surrounding community. Benzene and vinyl chloride are both known human carcinogens and can cause a host of other health problems including liver damage,

---

[32] Fairview Neighborhood Improvement Ass'n, Fairview Community Survey Responses (2024), https://perma.cc/L6M7-GR4R.

[33] The lined MSWLF is approximately 55.3 acres, the closed MSWLF is approximately 70 acres, and the CDLF is located on top of part of the closed MSWLF on 29.6 acres. *See generally* N.C. Dep't of Env't Quality, *Permit No. 2601* at 3 (Aug. 23, 2023), https://perma.cc/BD9H-QJWM; N.C. Div. Air Quality, *Application Review* (Dec. 20, 2024), https://perma.cc/E6YB-YMVD.

[34] *Compare* N.C. Dep't of Env't Quality, *2023 Emissions Inventory Review / Data Tracking Form* 1–2 (June 28, 2024), https://perma.cc/X462-NK54 (showing benzene emissions of 114.45 pounds per year ("lbs/yr") and vinyl chloride emissions of 356.60 lbs/yr), *with* N.C. Dep't of Env't Quality, *2020 Emissions Inventory* 11–12 (Jan. 28, 2025), https://perma.cc/EL34-NHYL (showing 2019 benzene emissions of 42.35 lbs/yr and vinyl chloride emissions of 38.67 lbs/yr).

headaches, and weakened immune systems.[35] These risks are especially concerning given the proximity of the Landfill to people's homes, parks and recreation spaces, and workplaces, and the vulnerability of the nearby Fairview Community that is already overtaxed with pollution.

Given the stressors present in this community—which include the multiple polluting facilities described above, high prevalence of disabilities, lower life expectancy, and low wealth—NCDEQ should not consider the impacts of nearby polluting facilities in isolation. NCDEQ should assess the cumulative impacts in permitting actions, including the current Ann Street Landfill permit action. However, without clearer guidance from EPA, they will not do so.[36] The Fairview Community, and the communities to follow, demonstrate why EPA must build on the Interim Framework to achieve its goal of protecting all people.

B. Snow Hill Community, North Carolina

Sampson County is a rural county located in eastern North Carolina where families are affected by multiple sources of industrial pollution. The county ranks second in the country for hog production and hosts the second largest pork processing plant in the state, the largest landfill in the state—which is one of the greatest landfill emitters of methane in the country[37]—a wood pellet manufacturing facility,[38] and an animal waste biogas processing facility.[39]

Sampson County's Snow Hill Community is a small neighborhood that has been bisected by both a highway and the siting of the Sampson County Landfill, along with other polluting operations. Once a vibrant community that was a "centerpiece of Black excellence in Sampson County," with its own barber shop, Boy Scout troop and community center, and middle-class population comprised of teachers, lawyers, and doctors, Snow Hill has been steadily declining since the arrival of the Sampson County Landfill in 1973, which has expanded over the last five decades and now has a footprint greater than 1,300 acres.[40] Today, the community is plagued by persistent odor, contaminated drinking water

---

[35] EPA, *Benzene*, https://perma.cc/4CXL-K6MG (last visited Jan. 31, 2025); EPA, *Vinyl Chloride*, https://perma.cc/4JRF-58PJ (last visited Jan. 31, 2025).
[36] *See* Email from Maia Hutt, SELC, to Shawn Taylor, N.C. Dep't of Env't Quality (Jan. 15, 2025), https://perma.cc/PD6L-7JJP.
[37] Lisa Sorg, *Sampson County Site Ranks No. 2 Among U.S. Landfills for Methane Emissions*, NC NEWSLINE (Jan. 25, 2023).
[38] *See Air Permit Issues for Enviva Pellets Sampson*, N.C. DEP'T OF ENV'T QUALITY (Jan. 20, 2022), https://www.deq.nc.gov/news/press-releases/2022/01/20/air-permit-issued-enviva-pellets-sampson.
[39] *See Release: Air Permit Issued for Align RNG Biogas Processing Facility*, N.C. DEP'T OF ENV'T QUALITY (Jan. 6, 2021).
[40] Chris Berendt, *Sampson County Landfill Issues Addressed*, THE SAMPSON INDEP. (Feb. 19, 2016), https://perma.cc/4KUE-W4U4; *see also* N.C. Div. of Waste Mgmt. Solid Waste Management Facility Permit No. 8202-MSWLF-2000 (Nov. 15, 2022), https://perma.cc/843V-7X2V.

wells,[41] near-constant truck traffic, and trash blowing onto their property. Sixty percent of the community is people of color, and 38% of households are low income.[42] The community is also in the 69th percentile in the United States for asthma and 81st percentile in the United States for heart disease.[43]

Community members warned that siting a regional landfill, which accepts a variety of waste,[44] in the area would lead to increased industrialization and pollution in the area, and these warnings proved true. In the 1990s, massive industrial hog operations that store hog feces and urine in open cesspits and spray the liquid fraction on fields, rapidly proliferated throughout Sampson County.[45] Today, over a dozen industrial hog operations, each housing thousands of hogs, exist within approximately 2 miles of the community.[46] And over the last decade, industrial poultry operations—which are largely unregulated—have spread across the county.[47] With them, these industries have brought water pollution that prevents locals from safely consuming their private well water,[48] odor and air pollution that keeps people sequestered indoors, and roads full of trucks that carry dead animals and felled trees. Community members describe the odors from each of these industries, and after years of exposure to the myriad pollution sources nearby, they can distinguish—by smell—between pollution from the hog farms and the landfill on any given day. Similarly,

---

[41] Lisa Sorg, *Homes Near Sampson County Landfill on Bottled Water after PFAS Detections*, NC NEWSLINE (Nov. 17, 2023), https://ncnewsline.com/2023/11/17/homes-near-sampson-county-landfill-on-bottled-water-after-pfas-detections/.

[42] EPA, *EJScreen Community Report: Sampson County, NC 2 Miles Around the Area* (2024) [Attachment 1].

[43] *Id*.

[44] URS GRP., INC., SOLID WASTE MANAGEMENT PLAN UPDATE 5–20 (July 2012), https://perma.cc/6T2F-3LX9; *Solid Waste & Recycling*, SAMPSON CNTY., https://perma.cc/W7SU-ZVMW (last visited Feb. 17, 2025); Sampson Cnty. Disposal, Disposal Gate Rate (Per Ton) (2023), https://perma.cc/4GZZ-BWHH; Steve DeVane, *Sludge from Chemours Plant Dumped in Sampson County Landfill*, THE FAYETTEVILLE OBSERVER (Oct. 20, 2018), https://perma.cc/225N-MFXV.

[45] Melba Newsome, *Rural NC Black Communities Paying the Price of Environmental Racism,* THE CHARLOTTE POST (Sept. 30, 2021), https://www.thecharlottepost.com/news/2021/09/30/local-state/rural-nc-black-communities-paying-the-price-of-environmental-racism/; James R. Jones, *Hog Farming*, NCPEDIA (2006), https://www.ncpedia.org/hog-farming.

[46] *See DWR Animal Operations Permit*, DEQ, https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=85ae6392d0e94010a305eedf06e3f288 (last visited Feb. 17, 2025) (search "Sampson County Landfill, 7434 Roseboro Hwy, Roseboro, NC, 28382, USA").

[47] Melba Newsome, *Unchecked Growth of Industrial Animal Farms Spurs Long Fight for Environmental Justice in Eastern NC*, NC HEALTH NEWS (Oct. 20, 2021), https://www.northcarolinahealthnews.org/2021/10/20/environmental-justice-and-industrial-farming-in-eastern-nc/.

[48] *See, e.g.*, Rev. Jimmy Melvin, *Minister: Hog Operations Have Harmed Sampson-Duplin Church, but NC Legislators Have Turned Deaf Ear*, THE FAYETTEVILLE OBSERVER (June 25, 2021), https://www.fayobserver.com/story/opinion/2021/06/25/minister-hog-operations-have-harmed-sampson-duplin-church-but-nc-legislators-have-turned-deaf-ear/5332715001/.

some homes' wells are contaminated by PFAS, likely from the Landfill, as well as indicators of nutrient contamination from hog farms.

Like with other permitting decisions in the state, in issuing the most recent air permit at the landfill, NCDEQ did not adequately consider cumulative impacts from the other surrounding polluting industries, or the particular vulnerabilities of the Snow Hill community. The nearby presence of other polluting facilities, most community members' dependence on private well water, noise or traffic disturbances from the landfill, and the prevalence of health ailments, should all have been considered in whether to renew the air permit, including appropriate modifications to address these concerns. Instead, NCDEQ issued a new permit that failed to adequately address these issues. Stressors like these should be assessed and considered in decision making, and future guidance from EPA should direct states on how to do so.

C. Hopewell, Virginia

Hopewell is a small city south of Richmond that is highly industrialized. The city first received national attention in 1975 when it was discovered that a chemical plant, which manufactured the toxic insecticide Kepone, was dumping the contaminants into the James River.[49] The effects of the Kepone releases were also felt inside the chemical plant, where workers who made the insecticide fell ill from chemical poisoning.[50] The plant quickly closed and over time the Hopewell community recovered from the Kepone crisis, but they continue to bear a significant pollution burden.

Combined, Hopewell's industrial sources of air pollution account for 6.3% of Virginia's emissions of criteria pollutants and 8.9% of Virginia's emissions of air toxics[51]—all in a city that has only 0.27% of Virginia's population.[52] As a result, the residents of Hopewell face more health challenges than Virginians as a whole. The average life expectancy in Hopewell is 73 years,[53] nearly four years shorter than the statewide average

---

[49] Gregory Wilson, *The Legacy of Kepone*, VA. HUMANITIES (2016), https://virginiahumanities.org/2016/12/the-legacy-of-kepone/.

[50] *Id*.

[51] According to EPA's 2020 National Emissions Inventory data, Hopewell sources contributed 481 of Virginia's 5,430 tons of emissions of air toxics and 8,317 of Virginia's 131,880 tons of criteria air pollutants. *See* EPA, 2020 NEI Data Retrieval Tool, https://awsedap.epa.gov/public/single/?appid=20230c40-026d-494e-903f-3f112761a208&sheet=5d3fdda7-14bc-4284-a9bb-cfd856b9348d&opt=ctxmenu,currsel (last visited Feb. 17, 2025) (for total Virginia emissions, select "Virginia" for Location, filter for "CAP" for criteria pollutants or "HAP" for air toxics under Pollutant, and select "Facility Data"; for total Hopewell emissions, also filter for "Hopewell city" under State-County).

[52] U.S. Census Bureau, Hopewell city, Virginia, tbl. P1, https://perma.cc/Y7U9-5XWJ (last visited Feb. 23, 2024); U.S. Census Bureau, Virginia, tbl. P1, https://perma.cc/EZ56-N2Q8 (last visited Feb. 26, 2024).

[53] EPA, *EJScreen Community Report: Hopewell, VA*, at 1 (retrieved Oct. 3, 2024) [hereinafter *Hopewell Community Report*] [Attachment 2].

(76.8 years).[54] Hopewell residents have the seventh-highest cancer mortality rate in the state,[55] and higher than average rates of cancer, heart disease, and asthma.[56] Exposure to air pollution increases the risk of all three diseases.[57]

Moreover, nearly 57% of the residents of Hopewell are people of color,[58] as compared to 40% for Virginia as a whole.[59] Hopewell has a poverty rate of 23.8%[60] and is in the 86th percentile among Virginia localities for the percentage of its population classified as low-income (48%).[61] By and large, Hopewell represents one of Virginia's most environmentally burdened communities.

Recently, Virginia Department of Environmental Quality ("VDEQ") issued a Title V permit to AdvanSix Resins and Chemicals LLC, a chemical manufacturing plant in Hopewell with a long history of environmental violations.[62] SELC, along with several state and local groups, submitted comments on the draft permit, calling for VDEQ to consider cumulative impacts to the surrounding community in this permitting decision, to strengthen the draft permit's monitoring and testing provisions, and to allow the public to see the facility's emissions calculations.[63] The state agency responded to public comments but issued the operating permit without significant change, and apparently without giving consideration to the community's health or historic pollution exposure.[64] This permitting action represents a missed opportunity to mitigate harms to an already vulnerable community through cumulative impacts assessment and consideration.

D. South Memphis, Tennessee

The city of Memphis is home to myriad singular pollution sources that affect the air and water quality. Memphis is uniquely situated because it relies completely upon an underground aquifer for its drinking water, the purity of this aquifer is threatened with

---

[54] *Virginia*, NAT'L CTR. FOR HEALTH STATS., https://www.cdc.gov/nchs/pressroom/states/virginia/va.htm (last updated Oct. 3, 2024).
[55] *NCI Cancer Atlas Table View: Mortality, Virginia Counties, All Races, All Malignant Cancers (Both Sexes), 2018–2022*, NAT'L CANCER INST., https://gis.cancer.gov/canceratlas/tableview/?d=3&a=51&r=1&s=4 (last updated Dec. 10, 2024).
[56] *Hopewell Community Report*, *supra* note 53, at 4.
[57] *See Ambient (Outdoor) Air Pollution*, WORLD HEALTH ORG. (Oct. 24, 2024), https://www.who.int/news-room/fact-sheets/detail/ambient-(outdoor)-air-quality-and-health.
[58] *Hopewell Community Report, supra* note 53, at 1.
[59] U.S. Census Bureau, Virginia, tbl. P1, https://perma.cc/EZ56-N2Q8 (last visited Feb. 26, 2024).
[60] *QuickFacts: Hopewell city, Virginia*, U.S. CENSUS BUREAU, https://www.census.gov/quickfacts/hopewellcityvirginia (last visited Feb. 17, 2025).
[61] *Hopewell Community Report*, *supra* note 53, at 3.
[62] *See* AdvanSix Resins and Chemicals LLC, Hopewell Plant Permit No. PRO50232 (June 10, 2024), https://virginiamercury.com/wp-content/uploads/2024/07/50232-106-AdvanSix-Title-V-Renewal-final.pdf.
[63] *See* Letter from Patrick J. Anderson et al., SELC, to Cheryl Mayo, DEQ (Feb. 26, 2024) [Attachment 3].
[64] Va. Dep't of Env't Quality, AdvanSix Resins and Chemicals LLC: Summary of and Response to Public/EPA Comments (Apr. 4, 2024) [Attachment 4].

overuse as industry floods Memphis, drawing down the aquifer and pulling in pollutants more quickly than the aquifer can filter them.[65] In South Memphis, there are 33 toxic waste sites that threaten the Memphis Sand Aquifer, one of these being TVA Allen's coal ash ponds.[66] TVA was ordered to clean these toxic ash pits and have opted to truck this toxic ash across South Memphis without warning residents for the next 10 years, further contributing to the air pollution issues in the area.

South Memphis is particularly overburdened with air pollution. A 2013 study concluded that South Memphis bears most of the city's burden of toxic air pollution:

> Twenty-two of the top 30 major emission sources in Shelby County reside in or near southwest Memphis. There are other significant local transportation sources of air pollution, including barge traffic on the Mississippi River, truck and autos on interstate highways, several local rail yards, and air traffic at Memphis International Airport, the busiest airport in the U.S. and second busiest in the world by cargo traffic.[67]

More recent data confirm that the community remains an air pollution hot spot. EPA's ECHO tool shows 103 facilities with active permits for releases in and around South Memphis, the 38109-zip code. All of these facilities have a demonstrable effect on the air quality, Memphis has been measuring above the 2015 eight-hour ozone design value; in 2024 alone the county issued more than 10 code orange alerts for ozone.[68] Additionally, Shelby County's monitors currently show the area failing to attain the particular matter ("PM2.5") annual National Ambient Air Quality Standards, meaning there are more small particles of smoke in the air than EPA has determined is safe for populations.[69] PM2.5 causes more detrimental health effects than any other pervasive pollutant in the United States.[70] The communities most at risk from particle pollution are those already suffering from pre-existing health hardships, and vulnerable populations such as communities of

---

[65] *Our Aquifer,* PROTECT OUR AQUIFER, https://www.protectouraquifer.org/our-aquifer (last visited Feb. 1, 2025).
[66] Austyn Gaffney & Martha Park, *Memphis May Have the Sweetest Water in the World, but Toxic Waste Could Ruin It All- A Comic*, THE GUARDIAN, (Apr. 11, 2022), https://www.theguardian.com/us-news/2022/apr/11/memphis-water-toxic-waste-comic.
[67] Chunrong Jia et al., *Air Toxics Concentrations, Source Identification, and Health Risks: An Air Pollution Hot Spot in Southwest Memphis*, TN, 81 ATMOSPHERIC ENV'T 112, 112 (Dec. 2013), https://www.sciencedirect.com/science/article/abs/pii/S1352231013006948?via%3Dihub#.
[68] *See* Shelby Cnty. Health Dept. (@shelbytnhealth), INSTAGRAM, https://www.instagram.com/shelbytnhealth/ (last visited Jan. 27, 2024).
[69] SHELBY CNTY. HEALTH DEPT., EXCEPTIONAL EVENT DEMONSTRATION: 2023 CANADIAN WILDFIRES 19 (Dec. 2024) [Attachment 5].
[70] *Inhalable Particulate Matter and Health (PM2.5 and PM10)*, CALIFORNIA AIR RESOURCES BOARD https://ww2.arb.ca.gov/resources/inhalable-particulate-matter-and-health#:~:text=In%20addition%2C%20of%20all%20of,Global%20Burden%20of%20Disease%20Project (last visited Dec. 18, 2024).

color, low-income communities, children, and older adults.[71] According to the U.S. Climate Vulnerability Index, all of South Memphis is in the 90th percentile nationally or above for non-White and non-Hispanic population.[72] Additionally the same source shows that the poverty rates for much of South Memphis is at or above the 90th percentile nationally.[73]

The people of Memphis bear the effects of this pollution as evidenced by the health of the city. The American Lung Association has rated the city an F for ozone pollution.[74] Memphis has also been named the 15th most challenging place to live with Asthma in 2024.[75] Local advocates are aware of the harm this plethora of pollution poses to public health and have been asking the local permitting authorities to consider cumulative impacts in their permitting and regulatory decisions. This includes calls to address these concerns in recent comments on Ideal Chemical and Supply and in the community petition to the health department to act on the generalized condition of pollution to which Commercial Sterilizer contributes.[76]

E. Brunswick, Georgia

The coastal community in Brunswick, Georgia has faced decades of industrial pollution that has affected nearly every aspect of their lives. Perhaps most egregiously, for nearly a century, Hercules LLC, a manufacturing company, operated a chemicals plant along a tidal creek in the city.[77] The plant produced toxaphene, a biopersistent insecticide and probable human carcinogen, and dumped toxic waste in a landfill for decades until it was banned in the United States in 1980s.[78] The landfill was designated as a Superfund site

---

[71] *EJScreen Indicators Overview – Particulate Matter 2.5 (PM2.5),* EPA, https://web.archive.org/web/20250202074252/https://www.epa.gov/ejscreen/ejscreen-indicators-overview-particulate-matter-25-pm25 (last updated July 30, 2024) (archived version last saved Feb. 2, 2025).
[72] *Minority*, U.S. CLIMATE VULNERABILITY INDEX, https://map.climatevulnerabilityindex.org/map/minority/usa?mapBoundaries=Tract&mapFilter=0&reportBoundaries=Tract&geoContext=State (last visited Feb. 18, 2025).
[73] *Poverty*, U.S. CLIMATE VULNERABILITY INDEX, https://map.climatevulnerabilityindex.org/map/below_poverty/usa?mapBoundaries=Tract&mapFilter=0&reportBoundaries=Tract&geoContext=State (last visited Feb. 18, 2025).
[74] *Tennessee: Shelby*, AM. LUNG ASS.: STATE OF THE AIR 2024, https://www.lung.org/research/sota/city-rankings/states/tennessee/shelby (last visited Feb. 1, 2025).
[75] ASTHMA AND ALLERGY FOUNDATION OF AMERICA, 2024 ASTHMA CAPITALS 6 (2024), https://aafa.org/wp-content/uploads/2024/09/aafa-2024-asthma-capitals-report.pdf.
[76] *See* Letter from KeShaun Pearson, Memphis Comm. Against Pollution et al. to Wasim Khokar, Shelby Cnty. Health Dep't, RE: Public Comments on Air Permit Application for Ideal Chemical and Supply Company (Oct 31, 2024) [Attachment 6]; Letter from Amanda Garcia, SELC et al. to Bruce Randolph, Shelby Cnty. Health Dep't, RE: Petition for an Emergency Air Pollution Order Under Memphis Code Section 9-12-9 Requiring Sterilization Services of Tennessee to Cease Operations to Protect the South Memphis Community's Health (Feb. 7, 2023), https://southernenvironment.sharefile.com/share/view/319e4e57ddd44bc7/fo69432c-0d18-40db-8441-f7a57a89549e.
[77] *See generally, Hercules 009 Landfill Brunswick, GA,* U.S. EPA, https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0401699.
[78] *Id*.

by EPA in 1983, after which EPA found high levels of toxaphene, benzene, and polychlorinated biphenyls ("PCBs") present at the site.[79]

Although the Superfund-designated landfill has undergone some cleanup, the pollution and its harmful effects nevertheless persist to this day. For example, EPA reported in its most recent five-year review report for the site that high levels of benzene were found in groundwater as far as 500 feet away from the boundary of the Superfund site, demonstrating the long-lasting dangers that the community continues to face as a result of this industrial pollution.[80] Preliminary aggregate results of a study conducted by Emory University also show that these locally-specific toxins—toxaphene and PCBs—are present in higher-than-normal levels in the bodies of Brunswick residents. [81] An additional study has been proposed to determine whether those high levels are contributing to the serious health issues, such as cancer, autoimmune conditions, and kidney disease, that the community has struggled with for years. These poor outcomes are the type of vulnerabilities that could be accounted for in a cumulative impacts assessment and mitigated in permitting actions.

In addition to the Hercules landfill site, Brunswick is also home to three other Superfund sites—more than any other city in Georgia.[82] According to EPA's EJScreen tool, Brunswick residents live closer to Superfund sites than 99% of other Georgians, and closer to facilities that handle extremely hazardous substances than 97% of Georgians. Sixty-three percent are low-income, and 70% of Brunswick residents are people of color. Additionally, because these contaminated sites are located on the Georgia coast, they are also particularly vulnerable to the impacts of climate change, including rising sea levels and flooding, heightening public health and safety concerns even further.[83] These demographics and poor health outcomes highlight the disparity that industrial facilities have on communities living in coastal Georgia, which could be measured and addressed in cumulative impacts analyses.

---

[79] *See Id*.
[80] GLYNN ENVIRONMENTAL COALITION, DEC. 2021 GROUND WATER POLLUTION ONGOING AT HERCULES 009 LANDFILL (2021), https://www.glynnenvironmental.org/_files/ugd/af34e1_c6d358a808a044949e7132ebf16873d6.pdf.
[81] *The Burden of Brunswick*, EMORY ROLLINS SCH. OF PUB. HEALTH, https://sph.emory.edu/features/2024/04/brunswick-community-engaged-research/.
[82] Mary Landers, *A Closer Look: Glynn's Superfund sites,* THE CURRENT (Apr. 1, 2024), https://thecurrentga.org/2024/03/21/a-closer-look-glynns-superfund-sites/.
[83] *See EPA Should Take Additional Actions to Manage Risks from Climate Change*, U.S. GOV'T ACCOUNTABILITY OFF. (Oct. 2019), https://www.gao.gov/assets/gao-20-73.pdf.

F. Mobile County, Alabama

Alabama is the seventh poorest state in the nation, with over 16% of Alabama citizens living in poverty.[84] The poverty rate of Black Alabamians is over double that of white Alabamians.[85] Seventeen percent of citizens live with food insecurity, and 42% of unemployed Alabamians lack health insurance.[86] Like other communities throughout the Southeast, lack of basic resources like healthcare and healthy food are exacerbated by environmental inequities.

Mobile County is just one example. Here, the poverty rate is greater than the state average—19.2%. Many communities in Mobile face increased environmental risks, all of which are exacerbated by climate change. For example, Prichard, Alabama is currently experiencing a drinking water and sewage crisis due to leaking and decrepit infrastructure. A majority-Black and low-income community, Prichard is on the frontlines of climate change-induced disasters. The city has a "historical legacy of disinvestment and racial injustice" that "remains baked into the decisions made for the city's residents, including repairing and upgrading its water systems."[87]

Another community on Alabama's coast facing disproportionate environmental burdens is Africatown, Alabama. Africatown is a historically significant place, founded by the enslaved people captured from Africa on the last documented slave ship to reach the United States. Today, Africatown residents experience disproportionate amounts of air and water pollution from concentrated industrial manufacturers and chemical refineries.

Within the Africatown planning district, there are six separate "major" sources of air pollution including a paper mill, two chemical plants, a power plant, and a lumber treatment facility. Also nearby is Hosea Weaver, an asphalt plant that has long plagued residents with excess amounts of dust and noise.[88] Lastly, Africatown Boulevard—a major highway that runs through the town—provides a mobile source of air pollution. It is thus no surprise that residents in Africatown face the highest air toxics cancer risk in Alabama (99th percentile) and in the United States (95th-100th percentile).[89] And despite the concentrated industry in this small, residential area, the Alabama Department of Environmental

---

[84] BARRIERS TO PROSPERITY DATA SHEET 2024, ALABAMA POSSIBLE, https://alabamapossible.org/wp-content/uploads/2024/09/AP_PovertyFactSheet_2024_Web.pdf (showing figures based off U.S. Census Bureau data).
[85] *Id*.
[86] *Id*.
[87] Rachel Ramirez & Eric Levenson, *These Five Cities Could Be One Natural Disaster Away from a Catastrophic Water Crisis*, CNN (Sept. 2, 2023, 3:08 AM), https://www.cnn.com/2023/09/02/us/waterinfrastructure-failure-us-cities-climate/index.html.
[88] Patrick Darrington, *Black Residents Want This Company Gone. Will Alabama's Environmental Agency Approve New Permit?*, INSIDE CLIMATE NEWS (Apr. 4, 2024), https://insideclimatenews.org/news/04042024/alabama-africatown-asphalt-plant/.
[89] *Id*.

Management ("ADEM") regularly does not evaluate the cumulative impacts in deciding to issue air, water, and land use permits and recently reissued the Hosea Weaver air permit over the overwhelming opposition of community members.[90]

G. Burton Street Community, North Carolina

The Burton Street neighborhood spans about half of North Carolina census tract 11 in Asheville, North Carolina. The community was founded in 1912 by civic leader and activist E.W. Pearson, known as the Black Mayor of West Asheville.[91] The neighborhood has remained a cultural stronghold for decades, serving as the site of the Buncombe County and District Colored Agricultural Fair from 1913 to 1947 and standing at the center of schools, churches, community centers, and storefronts still in operation today.[92] According to the 2010 census, the neighborhood has 6-times the number of Black residents as the rest of Buncombe County, has a population of "minority" residents over 10 percentage-points higher than to the rest of the county, and over 20% of residents are below the poverty line.[93]

The Burton Street community has been severely impacted by construction of Western North Carolina's transportation routes. The neighborhood was first encroached upon by the expansion of Patton Avenue, West Asheville's main street, in the 1950s.[94] It was cleaved again more intensely in the 1960s by the construction of Interstate 240 ("I-240") and later, Interstate 26 ("I-26").[95] Changes to the neighborhood brought by construction and the closure of the Burton Street school led to turnover in residents and a decline in community cohesion in the 1970s and 1980s.[96]

Moreover, the harms impacting the community are not only historic. The North Carolina Department of Transportation ("NCDOT") is currently in the process of expanding I-26 through the neighborhood yet again, which will inflict more harm on the Burton Street community. In the agency's environmental analysis, NCDOT determined that the Burton Street community meets race and income thresholds for classification as an environmental justice community.[97] Because of this, NCDOT has rightfully committed to

---

[90] *Id.*

[91] ASHEVILLE DESIGN CTR W. N.C. ALLIANCE, BURTON STREET COMMUNITY PLAN 11 (2010) [Attachment 7].

[92] *Id.*

[93] N.C. DEP'T OF TRANSP., COMMUNITY IMPACT ASSESSMENT: I-26 ASHEVILLE CONNECTOR BUNCOMBE COUNTY, NORTH CAROLINA 66 (2015) [Attachment 8].

[94] ASHEVILLE DESIGN CTR W. N.C. ALLIANCE, *supra* note 91.

[95] *Id.*

[96] *Id.*

[97] N.C. DEP'T OF TRANSP., COMMUNITY IMPACT ASSESSMENT, *supra* note 93, at 61, 66. This report "assess[ed] environmental justice based on race and low-income thresholds put forth by CEQ," which identifies "low-income populations" as those "with the annual statistical poverty thresholds from the United States Census Bureau's Current Population Reports (Series P-60 on Income and Poverty)," and "minority populations" as those "where either: (a) the minority population of the affected area exceeds 50 percent or (b) the minority population percentage of the affected area is meaningfully greater than the minority population in the general population or other appropriate unit of geographic analysis." *Id.* at 61.

attempt to mitigate some of the impact of the I-26 expansion on the Burton Street community, but the mitigation cannot, and does not purport to, address all of the environmental, public health, and social impacts that years of disproportionate road construction siting has had on the neighborhood.

Additionally, the impact of Hurricane Helene demonstrates the compounding nature of stressors in vulnerable communities. Residents across Asheville have had to contend with property damage, loss of utilities for many weeks, loss of work opportunities and in some cases, closure of businesses altogether. Because 2010 census data indicates that 20% of the Burton Street community has income levels beneath the poverty line, it is reasonable to expect that some residents may not have the financial safety net to be able to withstand these financial impacts, nor could any neighborhood prepare for the emotional effects of the disaster itself. Direction from EPA on community engagement and mitigation measures in consideration of cumulative impact assessments could allow state agencies, like NCDOT, to address concerns and harms.

H. The Phillips Community, South Carolina

The Phillips Community is a historic heirs' property settlement community in Charleston County, South Carolina, surrounded by the rapidly developing and affluent Mount Pleasant area. It was founded by formerly enslaved African American people in the 1870s and is recognized in the National Register of Historic Places. At the time of its founding, the Phillips Community was a rural, coastal fishing and farming community. In 1942, Highway 41 was built through the Community, cutting right through the old Phillips school. This was a devastating, Jim Crow-era impact that divided the contiguous historic neighborhood and even forced schoolchildren to cross a two-lane highway just to access the restroom. Following the highway, in the 1980s, developments started popping up all over Mount Pleasant, a phenomenon that continues in earnest today. Over the years, Phillips' residents have watched the surrounding Mount Pleasant population rise approximately 20 times what it was in the first half of the twentieth century, with developments and highways being built around them to keep up. This rapid development has been conducted largely without the consultation and consent of Phillips' residents, imperiling the Community and their way of life. Developers clear large amounts of trees and wetlands, lay impervious surfaces, and raise the ground beneath the new buildings. Over many years, this process of removing vegetation, paving, and elevating the land surrounding the Phillips Community has made the Community one of the lowest elevation areas in Mount Pleasant. Thus, stormwater and runoff now regularly flood the Phillips Community, destroying property and trapping residents.

Then, in 2020, to address significant increases in traffic congestion because of the rampant development around Phillips, Charleston County proposed widening Highway 41 to five-lanes through Phillips, which would have amounted to a de facto relocation of many of Phillips' residents, with traffic, noise, smells, visual disturbances, and stormwater runoff making their generational properties unlivable and destroying the community. Fortunately,

in response to significant public pushback, the County revised the proposal to widen the highway to only three-lanes through Phillips, in addition to the creation of a new parkway to route traffic more directly into surrounding subdivisions. The County chose this less disruptive alternative, in part, because of the "cumulative impacts to the traditional culture of the Philips Community and the traditional cultural identities of community members when considered along with nearby federal and nonfederal projects."[98] Nevertheless, the highway project will still add new impervious surface, exacerbating the flooding issues in the Community. Further, while the County considered cumulative impacts in the highway expansion project and in turn mitigated some harm to the community, other development projects have made no such considerations.

On top of the impacts of development and highway infrastructure on Phillips, climate change has also exacerbated the flooding and stormwater problems facing the Community by creating more severe storms and rainfall in the Charleston area. These stressors in addition to generations of housing inequality and economic vulnerability have compounded on the Phillips Community, making each new development, highway expansion, and storm that much more difficult to recover from. Ultimately, the cumulative impacts of these many projects pose a death-by-thousand-cuts threat to the community, as each exacerbates severe flooding and disturbances in and around the Phillips Community.

I. Lumber City, Georgia

The community of Lumber City, Georgia has long been the target of pollution from the biomass industry. Telfair Forest Products, a wood pellet and shavings manufacturer, has operated a manufacturing plant in Lumber City for decades. The facility has repeatedly violated air permit regulations—the Georgia Environmental Protection Division ("GEPD") has cited it five times over the past 14 years, and the facility has paid more than $50,000 in fines for violations, including pollution limit exceedances, failure to install required pollution controls, and failure to maintain appropriate records and perform required testing.[99] These repeated violations have resulted in years of harmful air pollution and health concerns for the community.

---

[98] *See* CHARLESTON CNTY. TRANSP. DEV., HIGHWAY 41 CORRIDOR IMPROVEMENTS, APPENDIX D – ALTERNATIVES SCREENING REPORT 49 (2022), https://hwy41sc.com/assets/documents/env/SC_41_ER_Appendix_B_Alternatives_Screening_Report.pdf.

[99] Meris Lutz, *Environmentalists challenge big expansion of Georgia wood pellet mill,* ATLANTA J. CONST. (Aug. 2, 2024), https://www.ajc.com/news/business/environmentalists-challenge-big-expansion-of-georgia-wood-pellet-mill/UYYDGIW2SVBWJBONWDWAQN7P7Q/#:~:text=Telfair%20Forest%20Products%20in%20Lumber,and%20failure%20to%20keep%20appropriate.

Around 70% of Lumber City residents are Black[100] and the city, located in a rural county, is in the 86th percentile nationwide for individuals with low incomes.[101] Telfair County, where Lumber City is located, is one of the poorest in Georgia (153rd out of 159 counties; 31.9% poverty rate versus a Georgia 14.3% poverty rate).[102] Residents of Lumber City are also burdened by poor health indicators, including being in the 90th state percentile for low life expectancy and 98th state percentile for heart disease.[103]

In 2024, notwithstanding the Telfair Forest Products facility's history of violations, GEPD granted the facility's application for a significant modification to its Title V operating permit which authorized the facility to double its emissions. SELC challenged GEPD's decision in administrative court, leading GEPD to revoke the permit modification. But GEPD's initial decision to grant the permit modification in the first place was nevertheless concerning.[104] In granting Telfair Forest Products' request for modification, GEPD did not assess or consider the community's health concerns or vulnerabilities. Had the modification been granted, Lumber City residents would have faced double the amount of air pollution from this wood pellet plant than what it already has for years. This is yet another example of how conducting cumulative impacts analyses could have addressed ongoing harm in a vulnerable community at the outset, without having to resort to litigation.

J. Nashville, Tennessee

Nashville would benefit from cumulative impacts analysis in EPA decision making. EPA's ECHO tool shows there are 210 facilities in and around Nashville that have active operating permits for some type of emission release.[105] This does not include the now closed Old County Highway dump in Bordeaux, that remains a topic of concern for local advocates.[106] In addition to the large amount of point sources in Nashville, I-40 bisects North Nashville, a historic Black neighborhood that was torn after advocates were unsuccessful in their fight to change the highway's proposed route.[107] Nashville's traffic congestion was ranked the 27th worst worldwide and 11th worst in the United States. A

---

[100] *Lumber City, GA*, DATA USA (2022), https://datausa.io/profile/geo/lumber-city-ga.
[101] *Lumber City, GA*, CENSUS REPORTER (2023), http://censusreporter.org/profiles/16000US1347952-lumber-city-ga/ (retrieving data from U.S. Census Bureau).
[102] *Georgia Poverty Rate by County*, INDEX MUNDI, https://www.indexmundi.com/facts/united-states/quick-facts/georgia/percent-of-people-of-all-ages-in-poverty#map.
[103] EPA, *EJScreen Community Report Lumber City, GA 1 Mile Ring* (2024) [Attachment 9].
[104] *Georgia Revokes Biomass Facility's Unlawful Air Permit After Conservation Groups' Legal Challenge,* SELC (Oct. 24, 2024), https://www.southernenvironment.org/press-release/georgia-revokes-biomass-facilitys-unlawful-air-permit-after-conservation-groups-legal-challenge/.
[105] *ECHO Facility Search,* EPA, https://echo.epa.gov/facilities/facility-search/results (last visited Feb. 2, 2025) (search for zip code 37209).
[106] Kelsey Gibbs, *Bordeaux Residents Voice Concerns over Proposed Dirt Dumping Plan*, NEWS CHANNEL 5 NASHVILLE, (July 26, 2024) https://www.newschannel5.com/news/bordeaux-residents-voice-concerns-over-proposed-dirt-dumping-plan.
[107] *Nashville I-40 Steering Committee v. Ellington*, 387 F.2d 179 (6th Cir. 1967).

better consideration of pollutant sources that incorporates cumulative impacts assessments will better protect Nashvillians from the effects of pollution.[108] Davidson County, where Nashville is located, has measured PM2.5, which is emitted in vehicle exhaust, greater than the newest EPA design value since as early as 2022.[109] This amount of pollution has direct effects on the lives of Nashvillians.

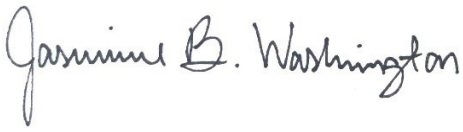
Much of North Nashville is projected to have air pollution related deaths in the 90th percentile and above nationally.[110] As stated above, this neighborhood is also one of Nashville's most congested neighborhoods and has some of the highest concentration of Black people. North Nashville, and the remainder of Nashville, would greatly benefit from the use of cumulative impacts in permitting and enforcement decisions.

IV. Conclusion

All of the communities highlighted above demonstrate the toll that cumulative impacts take on communities. To address these harms and mitigate or prevent future harms, communities and decision makers need guidance on how to conduct cumulative impact assessments and how to incorporate findings into decision making processes. EPA should build off this Interim Framework to provide that guidance, and continue its work with communities, experts, and its chartered work group. The agency should also continue its ongoing projects and funding programs that advance consideration of cumulative impacts and make data to assess cumulative impacts publicly available.

Thank you for your consideration of these comments.

Sincerely,



Jasmine Washington
Staff Attorney
Chapel Hill, NC

---

[108] Caleb Wethington, *Nashville's Traffic Congestion Ranks Among Worst Worldwide, Report Says*, WSMV4 (Jan. 6, 2025), https://www.wsmv.com/2025/01/06/nashvilles-traffic-congestion-ranks-among-worst-worldwide-report-says/.

[109] EPA, *Fine Particle Concentrations for Counties with Monitors Based on Air Quality Data from 2020-2022,* https://www.epa.gov/system/files/documents/2024-02/table_annual-pm25-county-design-values-2020-2022-for-web.pdf (last visited Feb. 2, 2025).

[110] *Air Pollution Related Deaths*, U.S. CLIMATE VULNERABILITY INDEX, https://map.climatevulnerabilityindex.org/map/cc_health_air_pollution_related_deaths/usa?mapBoundaries=Tract&mapFilter=0&reportBoundaries=Tract&geoContext=State (last visited Feb. 2, 2025).

Alyson Merlin
Staff Attorney
Asheville, NC

Aradhana Chandra
Associate Attorney
Atlanta, GA

Ryan Anderson
Associate Attorney
Birmingham, AL

Kim Hayes
Associate Attorney
Charlottesville, VA

Sami Harrell
Associate Attorney
Nashville, TN

Ursa Heidinger
Associate Attorney

Emily Wyche
Staff Attorney
Charleston, SC

Southern Environmental Law Center

Submitted on behalf of:

Andrew Bryant, President
Fairview Neighborhood Improvement Association

Sherri White-Williamson, Executive Director
Environmental Justice Community Action Network,

Alice Keyes, Vice President of Coastal Conservation
One Hundred Miles

Anita Collins, Brunswick Resident
Urbana Perry Neighborhood Planning Assembly

Treva Gear, Chair
Concerned Citizens of Cook County

Richard Habersham, President
Phillips Community Association

Adam Collette, Program Director
Dogwood Alliance

Joe Womack, President
Clean, Healthy, Educated, Safe & Sustainable, Inc.

Ramsey Sprague, President
Mobile Environmental Justice Action Coalition

Jilisa Milton, Executive Director
GASP

Carletta Davis, President
We Matter Community Association

Melissa Thomas, Distributed Senior Organizer
Mothers Out Front

Dori Jaffe, Managing Attorney
Sierra Club

Omega and Brenda Wilson, Co-Founders
West End Revitalization Association

Dr. Crystal Cavalier-Keck, CEO
7 Directions of Service

Yesenia Cuello, Executive Director
NC FIELD, Inc.

Dr. Jovita Lee, Program Director
NC Black Alliance

Rev. Dr. ErNiko Brown, Founder & CEO
Organized Uplifting Resources & Strategies

Richie Harding, Executive Director
Northampton First

George Jones, Executive Director
Partners for Environmental Justice

Rania Masri, PhD, Co-Director
North Carolina Environmental Justice Network

James W. Smith, Jr., President of the NAACP of Duplin County
Duplin County Branch of the NAACP

Will Hendrick, Environmental Justice Director
North Carolina Conservation Network

Mavis Hill, Executive Director
Tyrrell County Community Development Corporation

Jeffrey Robbins, Executive Director
CleanAIRE NC

Deborah Maxwell, President
North Carolina NAACP

Debra Buffkin, Executive Director
Winyah Rivers Alliance

Anita Cunningham, Executive Director
NC Climate Solutions Coalition

Don Cavellini, Co-Chairperson
Pitt County Coalition Against Racism

Erin M Donmoyer, Black-Sampit Riverkeeper
Black-Sampit Riverkeeper

Bill Stangler, Riverkeeper
Congaree Riverkeeper

Syene Jasmin, Secretary
NOTRA

Josie Walker, Co-Founder
Black Seed Saving Collective

White Oak Waterkeeper
Coastal Carolina Riverwatch

Anne Harvey, Chief Counsel for Environmental Justice
Southern Coalition for Social Justice

Andrew Wunderley, Executive Director & Waterkeeper
Charleston Waterkeeper

Kendall Wimberley, Policy Manager
Toxic Free North Carolina

Donna Chavis, Campaign Manager, Climate and Energy Justice Team
Friends of the Earth US

William J. Barber lll & Kim Porter, Co-Chairs, Ecological Devastation Committee
NC Poor People's Campaign

Sara Green, Executive Director
South Carolina Wildlife Federation

Carrie Clark, Executive Director
NC League of Conservation Voters

Ana llarraza-Blackburn & Kim Porter, Co-Executive Directors
Women Leading 4 Wellness & Justice

Hannah Connor, Environmental Health Deputy Director
Center for Biological Diversity

Bethany Cutts, PhD and;

Marian Johnson-Thompson, PhD