

# Investor Guidance for Corporate Action on Environmental Justice

December 2023

*The following expectations were developed by an investor working group on environmental justice and are currently in draft form, undergoing external review. This document is an excerpt from the full Guidance, which will be published in the forthcoming year. The working group consists of more than 25 North American investor organizations and is co-managed by the Investor Environmental Health Network (IEHN) and the Interfaith Center on Corporate Responsibility (ICCR).*

## Investor Expectations

Investors expect companies to implement the following actions to meaningfully address environmental justice impacts.

- I. **Conduct an independent assessment** or audit to determine whether and how the company's practices, operations, and policies pose heightened health and environmental harm or risk to adjacent marginalized communities.
- II. **Establish an environmental justice strategy** to rectify existing and past disparate harms and mitigate future risk.
- III. **Formalize and implement stakeholder consultation processes** to require the solicitation and meaningful incorporation of stakeholder feedback into company decision-making.
- IV. **Establish strong governance structures.**
- V. **Provide meaningful and regularly updated disclosures** to stakeholders.

The following pages provide an in-depth walkthrough of the crucial components of each recommended action to ensure meaningful implementation.

### I. Conduct an environmental justice assessment.

An understanding of a company's environmental justice impacts is best established through an assessment or audit by which the company gathers all information and data necessary to determine whether – and how – company operations pose disparate harm to marginalized communities<sup>1</sup>. The assessment's scope should include past, present, and potential future disparate health and environmental impacts of the company's operations on adjacent marginalized communities as well as a review of cumulative<sup>2</sup> impacts.

An initial comprehensive assessment should be followed by at least annual updates to track progress. Ideally, the assessment should be conducted by an independent third-party with civil rights, environmental justice, and community engagement experience to provide objectivity, assurance, and specialized expertise beyond what might be possible with an internal analysis.<sup>3</sup>

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<sup>1</sup> Harm may be to health in the form of emissions and pollution to water, air, and land; economic, as it relates to impacts on home property values, earning potential, or access to financing; and to quality of life, as it relates to noise pollution, light pollution, and access to clean outdoor recreational spaces. Environmental justice focuses first and foremost on the first segment—harms to health based on environmental exposures.

<sup>2</sup> Cumulative impact refers to the total exposure to pollution and environmental hazards that a single community may face from multiple sources. Companies may address cumulative impact by prioritizing pollution reduction at a facility that relative to the rest of the company's facilities is not highly polluting, but that exists in a particularly overburdened community. This requires the company to broaden its scope to the context in which its operations exist.

<sup>3</sup> See more on the importance of retaining an independent entity with topic expertise in "[The Rationale for and Key Elements of a Business Civil Rights Audit](#)" by Laura W. Murphy.

### **Data Inputs – Practices and Operations**

First and foremost, an assessment should include gathering available environmental justice data for all company facilities; namely, pollution data by facility overlaid with demographic data (race, ethnicity, socioeconomic status, etc.) of the population surrounding that facility. The area assessed should be limited to the populations who are most materially affected by facility pollution<sup>4</sup> and not based on boundaries like zip codes or county lines by which pollution does not adhere. These data should be gathered and analyzed in tandem with the company's own emissions and pollution data, including but not limited to data from environmental justice screening tools like EPA's EJScreen, data collected through facility permitting and compliance processes, data reported to government agencies such as to EPA for the Toxics Release Inventory Program, and data tracked and collected internally for other purposes.<sup>5</sup> Pollution data should include criteria air contaminants (including CO, NOx, SOx, PM<sub>2.5</sub>, VOCs), hazardous air pollutants, and other controlled and fugitive air emissions, as well as hazardous and non-hazardous waste, wastewater discharge, leachate, and uncontrolled discharges from disasters and spills.

Other information important in determining facility impact may include disease and chronic illness rates, community complaints, violations and citations, fines, lawsuits, controversies, and regulatory actions, including not only fines and citations, but quarters in noncompliance with environmental statutes. This information should be combined with affected community demographic characteristics whenever possible.

Environmental justice data should also be collected for all other relevant company activities and physical assets. This may include logistics and distribution hubs, transportation routes, Superfund sites and brownfields, waste diversion and processing sites, contracted manufacturing and processing operations, natural resource extraction sites, and permanent equipment placement.

### **Data Inputs – Policies**

In addition to data related to the company's practices and physical operations and impacts, a comprehensive environmental justice assessment must include a review of company policies and processes to identify those that may have environmental justice implications. For instance, environmental justice implications may arise from the prioritization of facility and vehicle upgrades to cleaner and/or safer technologies, or from the integration of environmental justice considerations into research and development priorities.

As such, processes that should be reviewed for their potential environmental justice impacts include but are not limited to: facility siting, expansion, and acquisition processes; research and development priorities; operational and logistical decision-making processes; stakeholder engagement and feedback processes; process and product inputs and material health; chemical, hazard, and waste management; disaster preparedness; CERCLA compliance and defense strategies; emission reduction and safer substitution prioritization; governance structures and cross-collaboration; internal goal setting and related incentive structures; and public policy advocacy and lobbying activities.

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<sup>4</sup> According to environmental justice academics Paul Mohai and Robin Saha, a 3 km (1.86 mile) radius distance is an appropriate range in which health, economic, and other quality of life impacts from hazardous waste treatment, storage, and disposal facilities have been found to exist. The most appropriate radius may differ based on business activity but may not necessarily align with permitting requirements.

<sup>5</sup> The availability of some data, including demographic and pollution data, may differ based on region and country. Within the U.S., EPA's EJScreen tool and Climate Economic Justice Screening Tool (CEJST) provide access to environmental justice data at the national level, while several states have built out their own more detailed tools.

### **Stakeholder Consultation**

Above and beyond the data and information sources listed above, the company must solicit and meaningfully incorporate feedback from key stakeholders when determining the specific matters to be analyzed as part of the assessment. Key stakeholders may include affected community members, civil rights organizations, environmental justice issue experts, and employees and contracted workforces.

Feedback solicitation should be proactive and informed and should not solely rely on voluntary stakeholder involvement through comment periods and public hearings. Feedback received should be meaningfully incorporated into company decision-making with the ability to influence action. Stakeholder involvement should not result in retaliatory actions upon those who participate. (See more on stakeholder consultation in section III.)

If hiring a third-party assessor, the identity of the assessor should be made public and communicated meaningfully, effectively, and in a timely manner to workers and affected community members to allow for inbound engagement. A means for individuals to contact the assessor and the company to provide feedback should be made readily available.

### **Analysis**

Once all data and relevant information are collected and feedback has been solicited and integrated, analyzing them to identify whether and where company operations and actions pose heightened health and environmental risk to marginalized communities is the necessary next step. This includes identifying policies and processes that may contribute to future disparate outcomes.

A report summarizing the assessment's findings should be published on the company's website and disclosures should be updated through appropriate channels at least annually. (See more on disclosures in section V.)

## **II. Establish an environmental justice strategy.**

Based on the results and findings of the audit and stakeholder consultation, the company should establish an environmental justice strategy to rectify existing and past disparate harms and mitigate future risk. Such a strategy should be comprehensive, spanning the company's governance and policies, inputs and processes, and outputs and impact. The company's stance on the topic and its long-term vision in addressing environmental justice should also be made explicit. Over time, the performance of the strategy in affecting necessary change should be measured through regular data updates and assessments.

Below are some examples of actions that may be taken as part of an environmental justice strategy.

- Measure the chemical footprint<sup>6</sup> (use of hazardous chemicals<sup>7</sup>) of the company's facilities, conduct hazard assessments to benchmark and prioritize chemicals of concern for safer substitution, and establish policy goals for zero hazardous emissions and zero hazardous chemical footprints.
- Identify company facilities that pose elevated environmental justice risk and prioritize them for clean technology upgrades, safer substitution upgrades, and/or pollution reduction and mitigation measures.

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<sup>6</sup> The Chemical Footprint Projects' 2023 Survey: [Manufacturing Module Guidance](#).

<sup>7</sup> Aligned with authoritative references of what defines a "chemical of concern" including but not limited to the Globally Harmonized System of Classification and Labeling of Chemicals (GHS).

- Set explicit and quantitative goals to reduce exposure and risks for marginalized communities living in proximity to company operations, focusing on regions that demonstrate the highest environmental justice risk first. Work with communities to provide access to necessary data and information.
- Integrate environmental justice considerations above and beyond regulatory requirements into processes that govern facility siting and expansion, acquisitions, research and development, disaster response, site remediation, and asset and facility subsidization.
- Embed environmental justice considerations into existing company programs around topics such as product stewardship, research and development, material health, community investment, human rights, environmental health and safety, and climate.
- Publish an environmental justice policy applicable to all company operations that formalizes the company's stance and long-term goals on environmental justice factors.
- Align the company's public policy advocacy and lobbying activities with environmental justice goals, including at the municipal, state, and federal levels.

### III. Formalize and implement stakeholder consultation processes.

Corporate action on environmental justice is an ever-present part of the community and stakeholder experience, and it is in companies' and investors' interests that those experiences are positive. Those living in proximity to company facilities and operations and directly affected by their impacts and pollution must be consulted in the process of addressing environmental justice. In addition, civil rights organizations, environmental justice issue experts, and employees and contracted workforces can provide crucial input. Stakeholder consultation is a necessary component of not only the company's initial environmental justice assessment and strategy-setting, but of ongoing work to address the topic.

Companies should formalize processes that require the solicitation and meaningful incorporation of input from affected communities above and beyond regulatory requirements in making business decisions that may materially affect them. This includes implementing due diligence protocols that allow communities to report concerns and processes to ensure that these concerns are communicated upward and systematically addressed and resolved. Consultation should be proactive, informed, and not solely reliant on voluntary stakeholder involvement through comment periods and public hearings.

Importantly, stakeholders should be empowered with the ability to influence the outcomes that affect them. The International Association of Public Participation (IAP2) provides a helpful framework<sup>8</sup> in understanding what constitutes meaningful community engagement by defining public participation as a spectrum from lowest to highest degrees of engagement, as summarized below. In this context, "the public" as used below should be thought of as affected communities.

- Inform: To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.
- Consult: To obtain public feedback on analysis, alternatives and/or decisions.
- Involve: To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.
- Collaborate: To partner with the public in each aspect of the decision-making process, including the development of alternatives and the identification of the preferred solution.
- Empower: To place final decision making in the hands of the public.

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<sup>8</sup> See IAP2's *Core Values, Ethics, Spectrum – The 3 Pillars of Public Participation*: <https://www.iap2.org/page/pillars> and *Spectrum of Public Participation*: [https://cdn.ymaws.com/www.iap2.org/resource/resmgr/pillars/Spectrum\\_8.5x11\\_Print.pdf](https://cdn.ymaws.com/www.iap2.org/resource/resmgr/pillars/Spectrum_8.5x11_Print.pdf).

At a minimum, companies should aim to reach the “Involve” tier of the spectrum in their environmental justice stakeholder consultation efforts. Ideally, companies should aim to reach the “Collaborate” and “Empower” tiers whenever possible.

Individuals who participate in stakeholder feedback processes should be provided with basic assurances, including guaranteed non-retaliation and confidentiality for those who request it, including workers or community members who may wish to interact directly with the company’s chosen assessor and not be identified by the company.

#### **IV. Establish strong governance structures.**

Clear governance, oversight, and incentive structures are key to ensuring positive outcomes. Whether environmental justice efforts are embedded into existing strategies and programs, or distinct strategies and programs are created, all goals, commitments, and responsibilities must be explicit and clearly communicated internally and externally. Strategy oversight should span management and the board of directors, and proper incentive and accountability structures should be implemented through linkages to executive pay, internal goal-setting, and regular assessments of outcomes.

While creating a new position or team focused on environmental justice may make sense in some cases, it is more likely that oversight of a company’s environmental justice strategy should be embedded into existing structures. Proper governance should be cross-departmental, involving all departments whose activities pose environmental justice implications as identified through the environmental justice assessment, and should have meaningful access to senior executives and the board of directors.

#### **V. Provide meaningful and regularly updated disclosures to stakeholders.**

Lastly, transparency is crucial. Environmental justice information should be made accessible to key stakeholders, understanding that different stakeholders require access to different types of information.

For instance, investors expect companies to provide environmental justice disclosures on a regular, at least annual cadence in an easily accessible fashion, whether that be through the company’s annual ESG reporting or its website. These disclosures include:

- Quantitative and qualitative environmental justice data and how these data inform business decisions;
- Policies, practices, and strategies in place to address environmental justice, including goals and progress updates;
- Allocation of responsibilities companywide regarding the governance and management of environmental justice issues; and
- Extent and use of consultation with affected communities and other key stakeholders.

On the other hand, communities near a company’s facility may be most interested in real-time fenceline pollution monitoring data. The company should utilize stakeholder consultation to determine the types of data and information that are meaningful and useful to communities and should make these data and information easily accessible.