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Attn: CEQ-2022-0002

We are pleased to provide feedback on the Climate and Economic Justice Screening Tool (CEJST) that will serve as a guide for federal agencies to identify disadvantaged communities. Identifying the communities that are politically and socially marginalized, and financially underserved while disproportionately burdened by pollution is just the first step in addressing the historic environmental injustice in the United States. Thank you for your work to correct these historic injustices and ensure federal resources flow to those communities most in need.

However, we are concerned that the beta version of the CEJST currently excludes important metrics that are necessary to develop an accurate determination of "disadvantaged communities". The comments below summarize improvements that could be made to the tool that will better target populations that have historically been the most harmed by pollution. These improvements will help ensure the Administration is able to achieve the important goals of the Justice40 Initiative.

Considering CEJST's Origins in State Climate Justice Initiatives

The concept behind the Justice40 Initiative - providing 40% of climate change related program investments to disadvantaged communities - was directly modeled on the Climate Leadership and Community Protection Act (CLCPA), passed in New York State in 2019. The goal of the CLCPA is to reduce emissions statewide, while also targeting emissions reductions and investments in communities that have been burdened the most by pollution, now known as disadvantaged communities. While New York was the first state to set a minimum investment criteria for disadvantaged communities, other states have developed tools to map environmental justice communities including California, Virginia, Colorado and Washington state. The first version of CaliEnviroScreen, was released nearly a decade ago, and the Washington Environmental Health Disparities Map has been operational since 2018. Given that the White House's goals match the intent set by these state initiatives, CEQ should **closely follow the example set by each of these maps and enable regulations and legislation in order to ensure the ultimate success of the federal climate tool**.

In particular, CEQ should include several key metrics that are present in the five states with equity maps, but currently absent from the beta version of CEJST. For example, CalEnviroScreen and Colorado's Environmental Justice Map use additional health indicators to identify at-risk populations including low birth weight, which is a result of living in areas of high pollution but is not reflected in CEJST. Moreover, New York, Colorado, Virginia and

Washington State all include race as a criterion to define disadvantaged communities. Recognizing that states are already leading the way on climate justice, CEQ should avoid non-standard changes to map methodology which threaten to reduce the overall accuracy of the CEJST.

Application of Interim Guidance and WHEJAC Final Recommendations

Although OMB and CEQ provided the Interim Implementation Guidance for the Justice40 Initiative, and the White House Environmental Justice Advisory Council (WHEJAC) submitted Final Recommendations on Justice40 and the CEJST, the findings of these documents are not fully reflected in this final screening tool. For example, while the Interim Guidance lists racial and ethnic residential segregation as a variable for agencies to consider with respect to historically marginalized communities, race was intentionally left out of the CEJST according to CEQ officials. And numerous potential hazards, exposure burdens, and demographic factors provided by the WHEJAC with respect to defining disadvantaged communities were not included in the screening tool, without justification. The White House, OMB and CEQ should commit to using the recommendations of experts on the WHEJAC to inform the CEJST and the development of the Justice40 program.

Specifically the WHEJAC proposes potential hazards including proximity to brownfields; the production development, and refining of oil and related facilities; industrial facilities; operating and retired power plants and peakers; large scale industrial agricultural facilities; incinerators; and coal ash dump sites. None of these potential hazards are included as indicators in the CEJST.

With respect to exposure burdens, the WHEJAC specifically recommended that the following exposure burdens be included in the CEJST: ozone, nitrogen dioxide, sulfur dioxide, pesticide use, state level drinking water surveillance for PFASs, and human environmental chemical body burn by state or county. None of these recommended exposure burdens were included in the CEJST, despite the availability of data sets for each of these exposure factors.

The CEJST also failed to take into account recommendations of demographic factors provided by the WHEJAC, other than race. The WHEJAC recommended the following demographic factors which were omitted by the CEJST: crowding, index of concentration of the extremes, redlined neighborhoods, gentrification pressure, racially restrictive covenants, gerrymandering, lack of childcare, community development services, age and gender distribution.

Scientific Evidence and Data

For decades researchers have proven that there is a direct relationship between communities of color and proximity to environmental pollution. Back in 1987, United Church of Christ's seminal Toxic Wastes and Race report definitively proved that race, not income, is the single most statistically significant predictor of placement of toxic waste facilities within a community.

Those findings were reaffirmed in a revisited report 20 years later. This fact is true for all sources of pollution, including fossil fuel infrastructure. And numerous studies continue to report that race is unequivocally the most important factor that contributes to pollution exposure, regardless of the source of pollution, and this is true even when income and region are taken into account. Simply put, to ignore race as an indicator of environmental pollution would be to ignore decades of scientific evidence.

Including race as a factor when identifying disadvantaged communities would align with the Administration's Executive Order from 2021, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations. This Executive Order directs every federal agency to collect, maintain and analyze health and environmental data to compare health risks "borne by populations identified by race, national origin or income". Given that agencies should already be analyzing health risks based on race, it follows that race should be included in the federal tool that attempts to identify the health and environmental burdens caused by pollution.

Furthermore, ignoring racial and ethnic demographics in CEJST's methodology would fail to account for the vast racial inequities which are directly attributable to federal government policy—disparities that are critical causation factors for nearly all of the criteria included in the tool's current version. Race must be included as a determining factor in the screening tool as it is the most accurate method for assessing disproportionate environmental burden.

Each of the categories currently included in the CEJST rely on criteria that have direct links to residential segregation policies pursued by federal, state, and local governments. During the New Deal, the Federal Housing Administration (FHA) imposed racially restrictive covenants on government-backed housing developments, and the FHA's Home Owners' Loan Coalition created racial guidelines for over 200 cities. While redlining represents the most durable practice to etch segregation into the geography of our communities, it was not the only one. Even in the decades immediately following the 1968 Fair Housing Act, Department of Housing and Urban Development (HUD) policies actually encouraged deliberate loans for and sales of poor-quality, dilapidated houses to Black consumers. And in the 21st century, racist predatory practices continue to evolve through government incentivized policies, such as subprime lending.

The data below, organized by CEJST's methodology categories, conveys the close link between federally encouraged residential segregation policies and the socio-economic impacts CEQ hopes to map with the tool. **This also suggests that utilizing historical metrics such as redline maps may be worth consideration as a method to approximate capturing the detrimental effects of racist policy making within CEJST.**

Climate Change

- Population Loss Rate (defined as including expected losses from climate impacts such as heat and flooding)
    - Studies report that redlining is responsible for extreme heat disparities in neighborhoods of color. Many of the nation's historically redlined districts "now contain the hottest areas" in the United States, according to data collected from 108 cities across the country by researchers at the Science Museum of Virginia and Portland State University. In fact, historically redlined districts are on average 5 degrees Fahrenheit warmer than non-redlined districts, the study shows. And in several instances, the difference in summer surface temperatures between redlined and non-redlined neighborhoods was as much as 20 F.
    - Research also concludes that historical redlined neighborhoods face far higher higher flood risk

Clean Energy and Energy Efficiency

- Energy burden
    - High energy burden correlates most strongly with race. Nationally, Black households spend 43 percent more of their income on energy costs than their white, non-Latinx counterparts; Latinx households spend 20 percent more; and Native American households spend 45 percent more. Black Americans earning less than 150 percent of the poverty level are also about twice as likely to have their electricity shut off as white households with similar incomes, despite being more likely to give up other needs in favor of paying utility bills.
    - High energy burden is most often associated with older, less energy efficient homes. Research indicates that Black Americans are more likely to live in older, energy inefficient homes with structural deficiencies, outdated appliances and faulty energy systems. In the mid-20th century, HUD policies encouraged deliberate loans for and sales of poor-quality, dilapidated houses to Black consumers.
- PM2.5 in the air
    - People of color are subject to disproportionately high levels of air pollution due to living in close proximity to fossil fuel facilities. In particular, fine particulate matter, which is highly concentrated in low income neighborhoods and communities of color, and especially Black communities.
    - Historic redlining is overwhelmingly associated with worse air quality and proximity to fossil fuel and chemical facilities.
    - Black children are nearly twice as likely to suffer from asthma as white children largely because of this.

Clean Transit

- CEJST counts communities with disproportionate *diesel particulate matter exposure* and *traffic proximity and volume* as disadvantaged in this category.
- It is well-documented that federal and state planning of the interstate highway system was used as a tool to segregate and impoverished Black communities. Today, the impacts of transit related air pollution fall heaviest on Black communities.

Reduction and Remediation of Legacy Pollution

- Proximity to hazardous waste facilities
    - The 1987 Toxic Wastes and Race report definitively proved that race, not income, is the single most statistically significant predictor of placement of toxic waste facilities in a community. Numerous studies have continued to report that race is unequivocally the most important factor that contributes to pollution exposure, regardless of the source of pollution, and this is true even when income and region are taken into account.
- Local decisions to place hazardous waste, superfund sites in Black and Brown communities have strong ties to federal segregationist policies which ultimately created 'sacrifice zones' which incentivized the placement of toxic facilities in communities of color due to lower property values and less political power.

Other studies have also demonstrated links between redlining and public health issues such as disproportionate lead paint exposure and other public health issues such. Moreover, given the tool's focus on education, it's worth noting that public schools are still segregated by race, and resegregating fast. As a result, white students are more likely to get K-12 funding than students of color. **Ultimately, all of the above factors lend credence to the need for CEQ to use racial demographics and/or historical redlined maps as a cross-cutting methodological criterion for determining 'disadvantaged communities' as it already does for income and education.**

Specific Considerations for Special Populations Including: Native American Tribes, Alaskan Natives and other rural Alaskans, Native Hawaiians and other Pacific Islanders

While it is important to have standardized metrics to distinguish economically and environmentally marginalized communities, there are special populations for whom geography, lifestyle, culture and population density require additional consideration to best reflect the true impacts from climate change and historic disinvestment from state and federal governments. These populations include Native American Tribes, Alaskan Natives and rural Alaskans, Pacific Islanders and Native Hawaiians.

Native Americans and Tribal Lands

In addition to considering race as a criteria for identifying historically marginalized communities, Native Americans and all Tribal lands should be categorized separately as "historically

disadvantaged communities", providing them with automatic eligibility for Justice40 funding and/or benefits. There is a clear and ongoing history of systemic oppression of Native Americans in which the federal government has intentionally attempted to dissolve Tribal lands by reducing Native populations through violent and coercive acts. Native lands have been specifically targeted as sacrifice zones and continue to have water and energy resources stripped from their lands. The prevalence of oil and gas leasing on Tribal lands creates pollution disparities while also accelerating the pace of climate change.

The CEJST tool does not properly reflect the extent to which Native Americans and Tribal lands have been historically and systematically marginalized because the tool uses census tracts to identify disadvantaged communities, which creates a checkerboard map of disadvantaged communities within Tribal land. This is problematic because it creates scenarios where parts of the tribal land are considered disadvantaged while others are not. This puts an undue burden on Native communities when applying for funding under Justice40 because typically a Tribe would apply for a program jointly rather than by individual census tracts. More broadly, Tribes consider their land holistically rather than segmented by census tract, as should the federal government given their status as sovereign nations. Instead of separating Tribal lands by census tract, the entire land should be regarded as one singular disadvantaged community, or conversely every census tract within a Tribal territory should be established as disadvantaged.

Alaska Natives and other rural Alaskans

The geographic landscape of Alaska is distinct from that of the lower 48 states such that Alaska is particularly vulnerable to the impacts of climate change, which requires distinct consideration with regard to identifying historically marginalized populations. Unlike most other states, the vast majority of the Alaskan population is condensed in one city, which means the census tract model used in the CEJST results in inaccurate assessments of climate and economic impacts throughout the state.

Alaska is the only state situated in the arctic, which is suffering greatly from climate change due to permafrost melt and associated flooding. Alaska is warming twice as fast as the global average, which means that the effects of climate change are more present and more extreme than in the lower 48 states, which warrants special attention in assessing Alaska's historically marginalized populations. Specifically, the factors relating to agricultural loss rate, building loss rate and housing cost burden should be assessed differently based on the particular geography and culture of the state.

Regarding the agricultural loss rate, it must be considered that farm lands are relatively scarce in Alaska, rather Alaska Native people have a history of subsistence hunting, fishing and foraging for food resources which is now also a common way of life for rural Alaskans. This means that rather than being concerned with the loss rates of crops, the focus should be on the impacts to

natural resources and lands which host the wildlife and plantlife that Alaskans rely on. Global warming and resource extraction pose a particular threat to Alaskan wilderness given the hunting, fishing and foraging that Alaskans depend on for sustenance, which is why natural wildlife areas must be considered in Alaska in lieu of the agriculture loss rate.

Building loss rate is another metric that is not appropriate for assessing disadvantaged communities within Alaska given the cultural and geographic differences of the state. Permafrost thaw, related flooding and coastal erosion are the most significant environmental concerns that pose infrastructure risks due to the rapid warming of the arctic. Permafrost thaw results in flooding and erosion that requires infrastructure maintenance due to impacts to buildings and critical infrastructure. Even though 86% of Alaska Native villages are impacted by sea level rise resulting from permafrost melt, they are not being captured by the CEJST tool due to the limitation of the building loss rate metric, and as a result are not considered disadvantaged communities despite actively experiencing the impacts of climate change.

Finally, the housing cost burden metric should be expanded to consider overcrowding and substandard housing which are the biggest housing and economic related disadvantages faced by Alaskans. Housing cost burden is not a significant concern in the state because overcrowding of households is common, and the increased number of individuals in the household theoretically results in a reduced cost burden. This means that despite the prevalence of low income and substandard housing, economically disadvantaged Alaskans are not correctly reflected on the CEJST.

Native Hawaiians and other Pacific Islanders

Natives to the Hawaiian Islands and Pacific Islands including the US territories of American Samoa, Guam and the Northern Mariana Islands must also be considered distinctly from other populations given their particular vulnerabilities to climate change and cultural connection to the land. Islands are more immediately and severely impacted by sea level rise and warming ocean temperatures. The changing weather and rain patterns increase droughts and accelerate water scarcity, in addition to exacerbating coastal erosion and flooding. Unlike the contiguous 48 states, resource scarcity due to climate change is of particular concern given the high cost of importing resources and the difficulty of accessing emergency resources after a natural disaster. The CEJST should take water scarcity and the high cost of transporting resources into account when identifying disadvantaged communities in the Pacific Islands.

The flooding and coastal erosion seen in Hawaii is anticipated to impact over 500 cultural sites, which have great historical and cultural value to Native Hawaiians. The destruction of cultural sites, which by nature are irreplaceable, should also be considered when assessing whether communities in the Pacific Islands are disadvantaged. Additionally, climate change increases the prevalence of mosquito and waterborne diseases, which should be added to the health

vulnerabilities criteria for identifying disadvantaged communities in addition to the health factors currently listed in the CEJST. In addition, Native Hawaiian and Pacific Islander communities have experienced distinct forms of environmental racism and injustice including being subject to US military bombing and nuclear warfare testing that still have impacts today. Distinct from Native American Tribes, Native Hawaiians and Indigenous Pacific Islanders have never received tribal status or any of the benefits associated with it, but still suffer from intergenerational economic, health, and social legacies of colonization and oppression.

Accuracy and Scope

The quality and accuracy of the screening tool dictates how useful it will be for guiding federal and state investments, this is why identifying and applying the proper criteria is essential. Casting a wide net and broadening the scope of who is considered disadvantaged dilutes the benefit of the tool because the intent of the Justice40 program is to serve the communities that are *most* impacted by pollution, through targeted investments. Without precision and discernment between communities that are marginally impacted, rather than severely impacted by environmental pollution, the tool loses utility because agency staff will not have a clear idea of which communities should be prioritized for Justice40 programs. CEQ must use indicators that get at the root of environmental inequality, and focus on cumulative impacts, to determine which populations and regions are most impacted by pollution. Numerous indicators were provided by the WHEJAC which would help narrow down the populations that are considered disadvantaged, making the tool more functional.

It is also important to recall that the majority (60%) of benefits from climate related programs will still be fully accessible to all other communities that are not specifically impacted by environmental injustice.

Thank you for considering our comments and for your work on this important matter.

Letter Signatories

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