

May 25, 2022

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Re: Request for Information: Climate and Economic Justice Screening Tool Beta Version  
(Agency/Docket Number: CEQ-2022-0002)

Dear Chair Mallory and Ms. Murthy,

The undersigned organizations are members of Coming Clean and/or Environmental Justice Health Alliance for Chemical Policy Reform, two allied networks working to transform the chemical and fossil fuel industries so that they are no longer a source of harm, leaving no community or worker behind. We represent grassroots Environmental Justice groups, health organizations, environmental groups, community and neighborhood organizations and many more constituencies united in working toward a more just and equitable present and future. We request that you consider these comments in response to the Request for Information on the White House Council on Environmental Quality's beta version of the Climate and Economic Justice Screening Tool (CEJST).

The creation of the Justice40 Initiative (J40) was a historic step for the Biden-Harris Administration in recognizing systemic disinvestment in communities that are historically overburdened by the cumulative and synergistic impacts of pollution, racism and economic inequality. The CEJST plays a crucial role in advancing the J40 by identifying the communities at greatest disadvantage to help ensure that public health, economic and environmental investment benefits are delivered to these communities who need it the most. This is why accurately identifying and prioritizing environmental justice communities for targeted resources is so important.

Given the historic nature of J40, the fact that community demographics and challenges evolve over time, and the fact that there is no such thing as a perfect screening tool, it will be essential that the CEJST improve over time, through an iterative and transparent process, to more accurately capture the realities on the ground and target investments to improve these realities. It

may be difficult or impossible to reflect some of the most disadvantaged communities like farmworkers, unhoused people and people in tribal communities or US territories, in nationally-available sources that currently exist, like the US Census. However, it will be crucial to ensure that such communities are not simply ignored by the J40 or the CEJST, and that active measures are taken to ensure these realities are reflected. While the CEJST is designed as a tool to identify disadvantaged communities and the beta version is primarily targeted to federal and state agency audiences, there are multiple audiences for the tool, including EJ communities themselves.

Our comments reflect a number of suggestions in response to the RFI including overall better accessibility for the general public and those most impacted by environmental and economic injustice; improvements to socioeconomic and other indicators that better capture what it means to be “disadvantaged” and datasets that may assist these efforts. Data inequity exists for many areas of disadvantage. For these areas, CEQ should use their authority to require additional data collection, while also not using lack of data as a reason for inaction.

**Key recommendations:**

1. *Adopt a more transparent, democratic process:* We encourage CEQ to adopt a transparent, democratic and iterative process for updating, finalizing and implementing the screening tool.
2. *Improve design:* We outline design features that could improve the user-friendliness and accessibility of the screening tool.
3. *Revise socioeconomic indicator thresholds:* We raise concerns that the socioeconomic indicator thresholds adopted by the CEJST are too rigid, and give several examples of overburdened communities that are excluded by the beta version of the screening tool.
4. *Revise environmental indicators to capture cumulative and disproportionate impacts:* We raise concerns that cumulative and disproportionate pollution burden is inadequately captured in the current version of the tool.
5. *Consider farmworkers as an important disadvantaged community:* We propose several additional indicators that could help identify disadvantaged farmworker communities.
6. *Add more indicators of environmental & health impacts:* We suggest additional pollution burden and health burden indicators that could be included to better identify and prioritize communities for targeting J40 investment benefits.
7. *Collect more data, without delaying action:* We outline datasets that are currently insufficient or not available, that the CEQ should consider incorporating into future

iterations of the screening tool, while stressing that lack of additional data is no reason for delay.

## **I. PROCESS RECOMMENDATIONS**

First, we are very appreciative that CEQ released this Beta version of the screening tool for public input. We are also appreciative of the fact that CEQ has now released a technical support document that talks a little more about some of the underlying assumptions built into the tool.

Implementing the Justice40 Initiative is urgent, because our communities have waited far too long. We also know that federal infrastructure funds are being disbursed now and must be guided by the spirit and letter of the Initiative. While we are extremely grateful that CEQ heard communities' and advocates' requests for additional time, even 90 days is an insufficient amount of time to adequately explore and comment on a tool of this level of importance and complexity. This comment is our best attempt given significant time and capacity constraints on the organizations who have collaborated on them, and based on the specific expertise and focus areas of those in our networks who contributed to its writing. We want to acknowledge that this comment is not comprehensive or all-encompassing of every possible way the tool could or should be improved.

The importance of an iterative, transparent, and democratic process for finalizing and further updating the CEJST cannot be overstated. This process should be clearly laid out in a way that is understandable and must emphasize the input, knowledge and engagement of EJ communities, consistent with the right to self determination and the other Principles of Environmental Justice.<sup>1</sup> In particular, it would be important for advocates and communities to have clear guidance on the schedule and process through which the tool will be updated and how they can engage both during those periods of update and public comment and in an ongoing process of “ground truthing” in addition to those periods.

The CEJST website should include an FAQ and/or address the following questions: How will the tool be updated over time? How is the data feeding into the tool being updated over time? How are agencies being directed or required to use the tool in their decision making? How does the CEJST work alongside other existing screening tools, especially state tools for screening Environmental Justice or Cumulative Impacts? What programs are covered by J40?

### **An “investment benefit” should be defined by the community it is intended to benefit**

Since Justice40 is about delivering “investment benefits,” it is critical not only to define “disadvantaged” as the CEJST attempts to do, but also to define investment benefits. An investment *benefit* should be defined by the community it is intended to benefit. Residents are

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<sup>1</sup> The Principles of Environmental Justice. <https://ej4all.org/assets/media/documents/ej4all-Principles2.pdf>

experts in their own experiences and needs, as well as their community's challenges and assets. What looks like a benefit in one neighborhood might not fit another. Robust community engagement paired with technical support will be required to truly achieve the aims of Justice40.

CEQ must work with federal investment distributors (federal agencies, states, etc) to ensure that communities identified by CEJST are targeted in order of greatest need, and then proactively and meaningfully engaged in designing/defining projects, programs or direct monetary investments that will benefit them. Without accountability in defining and tracking benefits, the entire J40 Initiative will be imperiled, even if the CEJST is perfectly designed and implemented to identify the right communities.

### **Intentionality, community engagement and guardrails are crucial to ensure that J40 does not become a driver of displacement and gentrification in disadvantaged communities**

The J40 Initiative process must include, and the CEJST must account for, the right to return and recover. Especially as the climate crisis continues to intensify, communities displaced by climate and/or chemical disasters must be intentionally and meaningfully engaged in any build back process. It is well documented, for example, that the population of New Orleans has never rebounded, over fifteen years after Hurricane Katrina. Further, those who have returned (or newly moved) to the city since the storm tend to be whiter and wealthier than those who have not.<sup>2</sup> This “climate gentrification” is an example of what can happen when a catastrophic event like a “natural disaster” or a human-caused chemical disaster causes a sudden depopulation or major loss of existing homes and structures (not to mention human lives).

A slower moving but equally pernicious displacement of historical and current residents can occur with an influx of financial investments to a community. As dollars flow into “revitalization” in the form of increased access to goods and services, more green spaces or parks, cleaning up legacy pollution, etc, cost of living can also sharply increase, causing families who may have lived in that community for decades or even generations to get pushed out. This impact can be even more quickly and acutely felt in historical communities with a higher percentage of renters (as compared to homeowners).

J40 investment benefits are intended to go to disadvantaged communities (ostensibly to address the causes and effects of those disadvantages), however without intentional policies and protections to ensure non displacement for existing community residents, they could have the unintended consequences of instead simply replacing those residents. This is a critical issue for the CEJST and the EJ Scorecard to track.

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<sup>2</sup> Babb, N. (2021). “Baby Won't You Please Come Home:” Studying Ethnoracial Segregation Trends in New Orleans Pre and Post Hurricane Katrina. *Journal of Public & International Affairs*. Retrieved from <https://jpia.princeton.edu/news/baby-wont-you-please-come-home-studying-ethnoracial-segregation-trends-new-orleans-pre-and-post>.

## **More clarity is needed about how the CEJST will be used and work in conjunction with the EJ Scorecard**

The process of how this tool will be used by agencies in the J40 process needs to be understood by community members and advocates. This understanding must also be transferable and equally understood by state governments and actors.

Executive Order 14008 which established the Justice40 Initiative also requires the publication of an annual Environmental Justice Scorecard.<sup>3</sup> It is important that the CEJST and EJ Scorecard work hand in hand. The process of how the EJ Scorecard will be designed, updated, and work in conjunction with the CEJST needs to be better understood. The EJ Scorecard will be crucial to tracking the progress of J40 overall, and the CEJST in particular. It will be critical that the EJ scorecard includes robust tracking of federal investments, where they were directed, and the demographic makeup of those communities (including race, income, and linguistic characteristics) in order to ensure that J40 is functioning properly and not falling into historic patterns of inequity. The CEJST should be updated to include lessons learned in the process of implementing and tracking J40.

While the CEJST is currently designed as a tool to identify disadvantaged communities, future versions of the tool should include the accountability element of the Environmental Justice Scorecard, perhaps as additional map layers, that helps communities visually track where federal benefits are being allocated.

## **A mechanism is needed for communities to self-designate as disadvantaged**

Self-determination and communities speaking for themselves are core tenants of the Jemez Principles for Democratic Organizing<sup>4</sup> and the Principles of Environmental Justice.<sup>5</sup> Establishing a process that is clear, transparent, and accessible would also help to address some of the above challenges with communities being left out of the CEJST. It could also help to address additional challenges with the tool, including critical data gaps that may cause communities and cumulative impacts to be undercounted. Nationally consistent data are often unavailable at the census tract level for topics that are relevant for the CEJST. For example, environmental health outcomes are very important for Justice40, but these health data are not always available at the census tract level.

A self-designation mechanism would allow a community with a documented cancer cluster or hotspot of elevated blood lead levels, for example, to make a case for being considered a

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<sup>3</sup> Executive Order 14008: *Tackling the Climate Crisis at Home and Abroad*  
<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>

<sup>4</sup> Jemez Principles for Democratic Organizing.  
<https://ej4all.org/assets/media/documents/Jemez%20Principles%20for%20democratic%20organizing.pdf>

<sup>5</sup> Principles of Environmental Justice. <https://ej4all.org/assets/media/documents/ej4all-Principles2.pdf>

disadvantaged community. Second, rural environmental issues and the populations affected by them are often less visible in nationally available, representative datasets. Proximity-based metrics, several of which are proposed in the current draft CEJST, also tend to minimize threats in rural areas because the census tracts are very large and the population centers are very small. The erasure of rural EJ communities is a long-standing criticism of EJ screening tools, and could be lessened here by an accessible self-designation mechanism.

Some of the characteristics of an adequate self-designation mechanism include: language accessibility; protection of anonymity as needed; adequate weight given to community-generated data; consideration of qualitative data; and co-design with stakeholders who might be especially in need of using such a mechanism, such as Native/Indigenous communities, undocumented immigrants, and farmworker groups.

*Process Recommendations:*

- CEQ should clarify that communities identified in the CEJST as disadvantaged have self determination, and identify a process by which disadvantaged community residents can drive the process of identifying and implementing “investment benefits” in their communities.
- CEQ should establish a transparent and accessible avenue for communities to self-designate as disadvantaged.
- CEQ should also consider adding the percentage of rented vs. owned housing units as an indicator of disadvantage.<sup>6</sup>
- The CEJST should work in conjunction with the EJ Scorecard and future iterations of the tool could include an accountability layer (which could be based on the EJ Scorecard or not) as an additional layer on the CEJST map. The EJ scorecard should track federal investment benefits by geographic area and demographic makeup of communities to ensure the CEJST is working to properly identify disadvantaged communities and that the J40 Initiative isn’t perpetuating ongoing systemic inequities and biases.
- The CEJST must be updated to include lessons learned in the process of implementing and tracking J40.
- CEQ may also consider adding the percentage of rented vs. owned housing units.

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<sup>6</sup> Prochaska, J. D., Nolen, A. B., Kelley, H., Sexton, K., Linder, S. H., & Sullivan, J. (2014). Social Determinants of Health in Environmental Justice Communities: Examining Cumulative Risk in Terms of Environmental Exposures and Social Determinants of Health. *Human and ecological risk assessment : HERA*, 20(4), 980–994. <https://doi.org/10.1080/10807039.2013.805957>

## II. USABILITY AND ACCESSIBILITY RECOMMENDATIONS

CEQ should improve the user-friendliness and accessibility of the screening tool. It is important for our communities to be able to find and navigate where they live, using the tool. Searching by street address, rather than simply zip code or city, is more common and allows for community members to directly find their home/business without having to search for where they fall within the limits of the census tracts in their area. A city or zipcode comprises many tracts– searching by address will allow for a more direct search.

In addition to the street map base layer, we suggest adding the option to toggle between aerial imagery and street map– or using a hybrid basemap. Understanding the spatial variation of census tracts can be difficult, so including aerial imagery would help demonstrate where residential areas are located in relation to industrial zones, highways, parks, and other infrastructure. For agencies and community members, aerial imagery gives a better picture of conditions on the ground.

One of the advantages of the screening tool is that it incorporates various environmental, economic, and sociodemographic datasets in one place. However, on the summary map, users are only able to see which communities meet the criteria for being defined as disadvantaged. Similar to the EPA EJSCREEN tool, where users can see *both* the index scores and the individual indicators, we request that the tool be updated to allow users to filter by specific categories and indicators to see which communities meet the criteria for health burdens only, for example, and for the individual indicators within each category. We believe this would be helpful for both disadvantaged community members/the general public and government agencies who will be using the tool to direct investments.

It is important to clearly distinguish among categories, indicators and thresholds in the tool. These are not common and widely understood terms. If a census tract is visually marked on the tool as disadvantaged, the screening tool should specify the categories in which it counts as disadvantaged, the indicators being referenced, and the specific thresholds it exceeds. The screening tool should use visual markers like color gradients or shading to distinguish census tracts that are disadvantaged in one category of criteria, from census tracts that are disadvantaged in multiple categories of criteria. The screening tool should distinguish disadvantaged census tracts based on the numbers of indicators and thresholds they exceed so that it clear and so that the areas of greatest disadvantage can be identified and prioritized.

There are multiple audiences for the tool, and the tool should be better designed to reflect this. The tool should be translated into more languages and the CEQ should seek community input to identify which languages are most needed. Adding data on specific languages spoken as a data or map layer so that government agencies and disbursers of federal investment benefits can have this information and prepare with appropriately translated outreach, materials and events would

help ensure meaningful engagement of disadvantaged communities with limited English proficiency.

The colors used in the beta version of the tool are too similar and light in color to clearly distinguish between communities classified as disadvantaged and those not. For visually impaired individuals, making this distinction could be even more difficult.

The tool often uses complex, technical language. This language should be simplified as much as possible to be more accessible for the general public. For example, on the tool's methodologies page, there is an explanation for the formula used to classify communities as disadvantaged. While the formula given is thorough, it uses complicated language that makes it hard to understand the tool at a high level. Complimenting this formula with language like, "This tool identifies communities as disadvantaged based on a community's environmental burdens and income," can help make the user experience simpler, while still allowing for people more versed in data and science to delve deeper into the technical aspects of the tool.

The way the CEJST is currently designed, there is no easy way to see which thresholds are exceeded without clicking a specific census tract, clicking multiple dropdown menus and doing a lot of scrolling down. The scrolling feature itself in the narrow right sidebar with the categories is rather difficult to navigate, requiring the user to highlight and drag down instead of using the keyboard arrows (at least in the Safari browser). This relatively easy fix would significantly improve readability of the tool.

#### *Recommendations:*

- Enable users of the tool to conduct a search by submitting their street address.
- Add an aerial or satellite imagery layer to the visualization (i.e., like "Google Earth" view).
- Visually differentiate between census tracts to show the number of categories and indicator thresholds exceeded (we recommend a shading or gradient approach that shows the degrees to which census tracts are disadvantaged, rather than the tool's current binary classification of marking a census tract as either "disadvantaged" or not).
- Translate the tool into more languages.
- Consider adding data on specific languages spoken as a data or map layer so that government agencies and disbursers of federal investment benefits can ensure meaningful engagement of disadvantaged communities with limited English proficiency.
- Avoid technical terminology and jargon and favor instead, or supplement with, easily understandable summaries.



### III. SOCIOECONOMIC INDICATORS

The tool currently sets a mandatory socioeconomic indicator threshold that requires both low income and higher education non-enrollment criteria to be met. This socioeconomic indicator threshold needs to be more flexible in order to accurately capture disadvantaged communities. We recognize that to some extent any tool will include imperfect thresholds, however by rigidly applying cutoffs for income and higher education non-enrollment, the CEJST is overlooking key disadvantaged communities.

In the sections below, we highlight examples of specific communities that exceed the threshold for a number of environmental and climate indicators but that do *not* meet both the low income and higher educational non-enrollment thresholds as required, arguing that these communities ought to count as disadvantaged. The current design of the tool wrongfully excludes the following communities from eligibility for federal benefits, due to overly rigid socioeconomic indicator thresholds:

- Overburdened communities in Los Angeles, Austin and other cities that fail to meet the low income threshold, but should qualify as disadvantaged due to the high cost of living of those metropolitan areas.
- EJ communities in New Castle, Delaware and elsewhere that exceed environmental/climate thresholds in several categories, but fall in the 58th percentile for low income, just short of the threshold.
- Middle-income Black communities like those in Brandywine, Maryland that face significant environmental and health burdens as a result of systemic racism.
- Unincorporated communities like Brandywine, Maryland and Eastern Travis County, Texas that face significant environmental burdens, but may not be accurately identified by census data.
- Communities like Institute, West Virginia that meet the low income threshold *and* multiple environmental/climate thresholds, but don't meet the higher education non-enrollment threshold.

#### **The Federal Poverty Level fails to account for variation in cost of living**

The low income indicator metric is currently defined as a national-level comparison based on the Federal Poverty Level. This fails to account for significant differences in cost of living between states and regions. For instance, the cost of living in a large urban area like Los Angeles is tremendously high. The tool should better address this to avoid missing disadvantaged communities. It is useful for the CEJST to track the percentage of households whose income is at or below 200% of the federal poverty level, however we recommend that the percentile score for

the census tract be generated *relative* to the other census tracts in the state or region (for example, the encompassing metropolitan statistical area, in the case of census tracts located within an MSA). Alternatively, this issue could be addressed in the tool by invoking state or regional poverty levels, and/or considering a housing burden metric that accounts for regional cost of living (for both renters and homeowners and includes the cost of utilities).<sup>7</sup>

*Recommendation:*

- The CEQ should consider including additional low income indicators to better account for variation in the cost of living across cities, states and regions.

**Overburdened communities falling just short of 65% low income threshold are excluded by the current tool**

Communities that are between the 50th and 65th percentile for the low income indicator may nevertheless face significant environmental and health burdens. The Center for Neighborhood Technology's analysis<sup>8</sup> found several census tracts with high concentrations of people of color (over 50%) and significant cumulative environmental burdens that were not considered a disadvantaged community because they barely missed one of the socioeconomic cutoffs. This includes multiple EJHA affiliate communities that experience high pollution exposure, and high health burdens.

Along the Route 9 corridor in New Castle, DE Census tract: 10003015400 exceeds three of the four thresholds for health burden indicators, including falling in the 97th percentile nationally for low life-expectancy. This tract is majority People of Color and also meets the legacy pollution criteria, as well as nearly meeting the housing and transportation criteria, but currently is not counted as disadvantaged (though several surrounding tracts are) because it falls in the 58th percentile for low income. A more flexible consideration of the socioeconomic indicator category could address this.

*Recommendations:*

- CEQ may want to consider creating a score or index to identify disadvantaged communities instead of using binary cutoffs for individual indicators.
- Within a scoring or indexing methodology, CEQ could consider weighting certain indicators more than others.

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<sup>7</sup> See, e.g., CalEnviroScreen, Housing Burden. <https://oehha.ca.gov/calenviroscreen/indicator/housing-burden>

<sup>8</sup> Justice40 Analysis. (n.d.). Retrieved May 12, 2022, from <https://apps.ent.org/justice40/>

## **Middle-income Black communities who experience significantly disproportionate environmental and health burdens are excluded by the current tool**

The tool does not account for racial disparities in pollution exposure across income levels. Research shows that Black Americans are exposed to higher concentrations of fine particulate matter than the U.S. population overall, regardless of income level.<sup>9</sup> Another study found that Black middle-income households are more likely to live in communities with higher air pollution concentrations than white low-income households.<sup>10</sup> For example, the community of Brandywine, Maryland – where roughly three-quarters of residents are Black – has a median household income more than twice that of Maryland as a whole and does not meet the low-income threshold in the tool.<sup>11</sup> Yet, there are five power plants operating within a 13-mile radius of the town, in addition to surface mining operations, a Superfund site, a sludge lagoon, a concrete batching facility, and a fly ash landfill. This community does exceed the thresholds for higher education non-enrollment, legacy pollution and climate change indicators, but is not categorized as a disadvantaged community due to its average income alone.

### *Recommendation:*

- CEQ should consider accounting for racial disparities in pollution exposure across income levels.

## **Environmental risks and burdens experienced by unincorporated communities are not captured by the current tool**

Many unincorporated communities are home to landfills and sewage treatment plants for nearby cities. While these communities may bear the burden of living near polluting facilities, they may not receive the services provided by such facilities.<sup>12</sup> Frequently, unincorporated communities will lack access to municipal services such as water and wastewater systems. Using census tract level data may fail to capture these communities and identify them as disadvantaged. For instance, the aforementioned community of Brandywine is unincorporated and split across several census tracts. Only one census tract adjacent to Brandywine is defined as disadvantaged in the tool. Therefore any benefits that may be directed toward that tract may not necessarily reach all members of the community.

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<sup>9</sup> Mikati I, et al. Disparities in Distribution of Particulate Matter Emissions Sources by Race and Poverty Status. *Am J Public Health*. 2018;108:480-485.

<sup>10</sup> Downey L, Hawkins B. Race, Income, and Environmental Inequality in the United States. *Social Perspect*. 2008;51(4):759-781.

<sup>11</sup> Center for Community Engagement, Environmental Justice, and Health. *Brandywine, MD as a “Sacrifice Zone” for the DMV*. February 1, 2019. <https://www.ccejh.center/mid-atlantic/projects/2019/2/1/brandywine-md-as-a-sacrifice-zone-for-the-dmv-k9kls-zakag-jas3j>

<sup>12</sup> A. Lowman, M.A. McDonald, S. Wing, N. Muhammad Land application of treated sewage sludge: community health and environmental justice *Environ. Health Perspect.*, 121 (5) (2013), pp. 537-542.

Another example is the Eastern Travis County, an area right outside of the Austin City Limits. Certain neighborhoods in the Eastern Travis County such as Austin’s Colony, Hornsby Glen, and Garden Valley Village are not marked as disadvantaged, yet they face higher rates of asthma due to aggregate mining operations, are located on or near flood zones, lack of clean and affordable water<sup>1314</sup>, and are exposed to more industry pollution with the Tesla gigafactory and battery cathode plant.<sup>1516</sup> Because they are unincorporated, data about that area is often untracked or lumped together with the overall Travis county demographics.

*Recommendations:*

- CEQ should improve measures and data collection to identify environmentally burdened unincorporated communities through partnerships with local community based organizations.
- CEQ should also consider implementing a process whereby communities adjacent to those categorized as “disadvantaged” by the tool can self-designate as disadvantaged (discussed in further detail below).

**Overburdened communities that meet the low income threshold but do not meet the higher education non-enrollment threshold are arbitrarily excluded by the current tool**

Communities who do meet the threshold for low-income but do not meet the threshold for higher education non-enrollment, while meeting or exceeding the threshold for a number of the environmental or climate indicators should not be excluded. For instance, Institute, West Virginia is a Black legacy environmental justice community that is not considered disadvantaged under the current structure of the CEJST. The indicators currently demonstrate that Census tract: 54039010400 (Institute) exceeds thresholds for asthma burden, toxic water discharge, proximity to RMP facilities and low income; however, because the socioeconomic indicators require that both the low income AND higher education threshold be met, Institute is excluded. Institute is an unincorporated community that is host to West Virginia State University, a historically Black and land grant university that is largely a commuter school. Originally founded as the West Virginia Colored Institute in 1890. It is important to note, in 1891 this school was designated by the US Congress as one of the original land grant schools under the Second Morrill Act. Today, Institute

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<sup>13</sup> KXAN. (29 December, 2020). Austin's Colony residents report orange water, call for accountability of utility company. <https://www.youtube.com/watch?v=FYPqS9Vj51o>

<sup>14</sup> Texas Public Utility Commission’s Water and Sewer CCN Viewer. <https://www.puc.texas.gov/industry/water/utilities/map.aspx>

<sup>15</sup> Tesla’s Water Worries Don’t End In Berlin; Giga Texas In Booming Austin May Also See Drier Times.(6 April, 2022). <https://www.forbes.com/sites/alanohnsman/2022/04/06/teslas-water-worries-dont-end-in-berlin-giga-texas-in-booming-austin-may-also-see-drier-times/?sh=136f6c803d7a>

<sup>16</sup> Piedmont Lithium. Safety Data Sheet for Lithium Hydroxide Monohydrate. (23 July, 2020). <https://piedmontlithium.com/wp-content/uploads/SDS-Piedmont-Lithium-LithiumHydroxideMonohydrate.pdf>

is host to one of the top 25 emitters of ethylene oxide in the country,<sup>17</sup> a carcinogen emitted into the air, in amounts significantly exceeding EPA's actionable threshold of 100-in-1 million cancer risk. Neither this metric, nor this chemical's historic burden on the community are captured in the CEJST. The additional historic burden of 80 years of highly toxic chemical manufacturing in this community, beginning at a time predating modern environmental laws, is also not adequately captured in the tool.

#### *Recommendations:*

The socioeconomic indicator needs to be more nuanced, more flexibly applied, and/or alternative pathways for designating a community as disadvantaged need to be established. Some possible ways to handle this include:

- Take a scoring or index approach to defining disadvantaged communities rather than a binary threshold approach. We talk more about this recommendation below, as an example of a way to begin to account for cumulative impacts.
- Add additional socioeconomic indicators. Some specific examples are included below, though this list is not exhaustive.

#### **Race should be included as a socioeconomic indicator**

The failure to include race as a factor in identifying disadvantaged communities is a failure to incorporate the science on race-based environmental and health hazards, and a failure to attempt to redress historical racism. For example, the science shows that among women with a college education or higher, Black women are five times more likely to die during pregnancy than similarly educated white women. And pregnancy-related deaths for college-educated Black women are 1.6 times higher than for white women with less than a high school education, an even more stark indicator of systemic racism.<sup>18</sup> A study published in the American Journal of Public Health Association in 2018 by EPA scientists warns that: "Disparities in burden from PM-emitting facilities exist at multiple geographic scales. Disparities for Blacks are more pronounced than are disparities on the basis of poverty status. Strictly socioeconomic considerations may be insufficient to reduce PM burdens equitably across populations."<sup>19</sup> The screening tool is likely to underestimate or overlook severely disadvantaged communities by not including race as a socioeconomic indicator. Most national databases stratify data by race.

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<sup>17</sup> Environmental Protection Agency, Office of Inspector General. Management Alert: Prompt Action Needed to Inform Residents Living Near Ethylene Oxide Emitting Facilities About Health Concerns and Actions to Address Those Concerns (Report No. 20-N-0128). 2020, March 31.

[https://www.epa.gov/sites/default/files/2020-03/documents/\\_epaog\\_20200331-20-n-0128\\_0.pdf](https://www.epa.gov/sites/default/files/2020-03/documents/_epaog_20200331-20-n-0128_0.pdf)

<sup>18</sup> Petersen EE, Davis NL, Goodman D, et al. Racial/Ethnic Disparities in Pregnancy-Related Deaths — United States, 2007–2016. *MMWR Morb Mortal Wkly Rep* 2019;68:762–765. DOI: [http://dx.doi.org/10.15585/mmwr.mm6835a3external icon](http://dx.doi.org/10.15585/mmwr.mm6835a3external%20icon).

<sup>19</sup> Mikati, I., Benson, A. F., Luben, T. J., Sacks, J. D., & Richmond-Bryant, J. (2018). Disparities in distribution of particulate matter emission sources by race and poverty status. *American journal of public health*, 108(4), 480-485.

*Recommendation:*

- We recommend that the screening tool include race as a socioeconomic indicator.

**Native, Indigenous and Tribal Communities experience unique historical and ongoing disadvantages**

Settler colonialism, land dispossession, forced migration, and hundreds of years of cultural genocide uniquely contextualize the socioeconomic status of Native, Indigenous and Tribal communities in the U.S. Recent datasets published in *Science* show that Indigenous land density has been reduced by nearly 99% when features of historical tribal lands to present-day tribal lands are compared.<sup>20</sup> Tribes' present-day lands are also on average more exposed to climate change risks and hazards, including more extreme heat and less precipitation, and heightened wildfire hazard exposure, when compared to historical tribal lands.

*Recommendations:*

- The federal government has a unique responsibility to restore and invest in Native, Indigenous and Tribal communities. Moreover, census data for Native, Indigenous and Tribal communities may be inadequate or incomplete. For these reasons, we encourage the CEQ to consider including all Native, Indigenous and Tribal communities as disadvantaged communities for the purpose of the CEJST.
- CEQ and the Administration should engage in meaningful and robust consultations with these stakeholders, to gain a better understanding of benefits that would be most impactful to individual Native, Indigenous and Tribal communities.
- CEQ should consider adding food insecurity, particularly for communities like Alaska Natives who rely on traditional food sources, as socioeconomic indicator.

**Historic redlining data should be used as a socioeconomic indicator**

The tool's socioeconomic indicators primarily capture lower income census tracts that do not have a large proportion of university students. Furthermore, as described above, the low income indicator does not account for differences in cost of living nationwide, and may exclude communities with a higher household income relative to the federal poverty level, but low relative to the county or state.

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<sup>20</sup> Farrell J, Burow PB, McConnell K, Bayham J, Whyte K, Koss G. Effects of land dispossession and forced migration on Indigenous peoples in North America. *Science*. 2021 Oct 29;374(6567):eabe4943. doi: 10.1126/science.abe4943. Epub 2021 Oct 29. PMID: 34709911.

CEQ should consider including other predictors of socioeconomic disadvantage. For example, evidence suggests that historically redlined communities, particularly in urban areas, are exposed to higher concentrations of air pollution<sup>21</sup> and extreme heat.<sup>22</sup> In the mid-20th century, the Home Owners' Loan Corporation (HOLC) developed maps evaluating primarily urban communities for mortgage lending risk. The communities identified as “high risk” underpinned redlining decisions by lending institutions, and research shows these disparities still persist. Today, the majority of communities categorized as higher risk in the HOLC maps are primarily low income<sup>23</sup> and have higher rates of asthma.<sup>24</sup> Furthermore, a recent study highlights the connection between structural racism and the placement of oil and gas wells. After analyzing data from 17 cities, the researchers found that redlined communities have more oil and gas wells, and therefore, may experience elevated exposure to contaminants from these wells.<sup>25</sup>

#### *Recommendations:*

- CEQ should consider incorporating data on historically redlined communities in the tool. The Mapping Inequality project at the University of Richmond provides publicly accessible data on redlining in cities nationwide.<sup>26</sup>
- CEQ may also consider adding a socioeconomic indicator for the proportion of federally assisted housing in a census tract. Evidence shows that 70 percent of Superfund sites nationwide are located within one mile of federally assisted housing.<sup>27</sup> Furthermore, nearly one-third of federally assisted housing are in areas with high risk of harm from natural hazards such as tornadoes, hurricanes, and flooding.<sup>28</sup>

### **Linguistic isolation should be used as a socioeconomic indicator**

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<sup>21</sup> Lane HM, et al. Historical Redlining is Associated with Present-Day Air Pollution Disparities in U.S. Cities. *Environ Sci Technol Lett.* 2022;9(4):345-350.

<sup>22</sup> Hoffman JS, Shandas V, Pendleton N. The Effects of Historical Housing Policies on Resident Exposure to Intra-Urban Heat: A Study of 108 US Urban Areas. *Climate.* 2020;8(1):12.

<sup>23</sup> Mitchell B, Franco J. *HOLC “Redlining” Maps: The Persistent Structure of Segregation and Economic Inequality.* National Community Reinvestment Coalition. March 20, 2018. <https://ncrc.org/holc/>

<sup>24</sup> Nardone A, et al. Associations between historical redlining and current-age adjusted rates of emergency department visits due to asthma across eight cities in California: an ecological study. *The Lancet.* 2020;4(1):E24-E31.

<sup>25</sup> Gonzalez DJX, et al. Historic redlining and the siting of oil and gas wells in the United States. *J Expo Sci Environ Epidemiol.* 2022.

<sup>26</sup> Mapping Inequality: Redlining in New Deal America. Downloads & Data. <https://dsl.richmond.edu/panorama/redlining/#loc=4/41.212/-105.513&text=downloads>

<sup>27</sup> Coffey E, et al. *Poisonous Homes: The Fight for Environmental Justice in Federally Assisted Housing.* Shriver Center on Poverty Law & Earthjustice. June 2020. <https://www.povertylaw.org/report/poisonoushomes/>

<sup>28</sup> Aurand A, et al. *Taking Stock: Natural Hazards and Federally Assisted Housing.* The Public and Affordable Housing Research Corporation & The National Low Income Housing Coalition. 2021. <https://preservationdatabase.org/wp-content/uploads/2021/06/Taking-Stock.pdf>

Linguistic isolation is currently included as an indicator in the workforce development category. We support this inclusion. We believe linguistic isolation should also be included as a socioeconomic indicator. The CEJST should also consider including a data layer for the specific languages spoken at the highest geographic resolution possible, as this information will be critical to ensuring that communities can be meaningfully engaged.

*Recommendations:*

- Consider adding linguistic isolation as an additional socioeconomic indicator
- Consider adding data on households with limited English proficiency as a data or map layer.

#### **IV. THE TOOL DOES NOT TRACK OR DIFFERENTIATE BASED ON CUMULATIVE IMPACTS**

The CEQ’s Request for Information asks “how can the tool’s methodology incorporate a cumulative impacts approach that quantitatively measures the combined adverse factors that contribute to the conditions that Justice40 is intending to address?”

Unfortunately, the current version of the screening tool fails to identify the real-world lived experience of cumulative impacts on overburdened communities. The tool does not distinguish between communities that exceed one threshold and those that exceed many. The reality is that overburdened communities disproportionately face extreme threats to their health from multiple sources of pollution across multiple media (land, air, and water). These hazards include high numbers of toxic “legacy” sites; large numbers and concentrations of chemical storage and industrial facilities; air pollution from major transportation infrastructure such as highways, railyards, and ports; environmental exposure to heavy metals such as lead; workplace and take-home exposures from hazardous occupational settings; increased rates of safe drinking water violations; and heightened exposure to toxic chemicals in consumer products. The threats converge in these communities due to historic and continuing racist and discriminatory policies and practices that perpetuate economic and health injustices, resulting in cumulative impacts on individual and population health. Additionally, low-income, Indigenous, Black, and/or other populations of color are also more likely to lack access to health care facilities, healthy food, and adequate formal education opportunities. Each of these are also associated with increases in risk of adverse health outcomes and can further compound the negative effects of hazardous environmental exposures on these populations.

The tool should inform government agencies to be able to target the *most disadvantaged* communities for the earliest and greatest investment (including direct financial investment as well as capacity-building and technical assistance to communities to connect community needs and solutions with J40 programs). The CEQ, OMB and Climate Policy Office should require or



incentivize federal agencies (and other disbursers of federal investments) to prioritize targeting investment benefits to the communities at the greatest level of need.

It is critical that the government is proactive in prioritizing communities that are at a higher level of “disadvantage” in order to avoid replicating the same inequities that J40 is intended to redress. Without actively promoting investment benefits targeting areas with greater (and/or more complicated or difficult to address) needs, J40 will inadvertently favor communities that are already more well off because those communities will be best positioned to accept investments. Federal, state and nonprofit agencies who are the recipients or distributors of federal investments will favor projects in communities where they are easier to deploy—places where they have existing infrastructure and connections. Communities experiencing high levels of cumulative impacts tend to experience overlapping and compounding burdens, which are almost by their very nature more entrenched and difficult to remedy. Redressing these systemic injustices and distributing the benefits of federal investments equitably is at the heart of what J40 is about.

One possible way to try to assess cumulative impacts would be to take an indexing or “scoring” approach to identifying disadvantaged communities, rather than a binary “in or out” approach. Census tracts could then be visually differentiated based on their score. As discussed above, this alternative approach would allow for more flexibility in defining disadvantaged communities for inclusion in Justice40. An indexing approach could include some level of “weighting” certain indicators (for example health burdens), or not, and could include a score in each category as well as an overall score. A community’s scores for a given category could be informative to identify communities for a specific area of investment, while an overall score from the eight categories could help to identify communities that are most cumulatively burdened.

Another option would be for CEQ to retain the threshold approach but include a measure of the total number of thresholds exceeded. This option would still allow the CEJST to more clearly identify communities experiencing a high burden of cumulative impacts; however, prioritization within a given category of investment would not be facilitated since the binary “in or out” classification would remain.

*Recommendations:*

- J40 covered programs should target the *most* disadvantaged communities for the earliest/most investment.
- Incorporate the concept of cumulative impacts and differentiate the degree of disadvantage by using one of the methods proposed here, or another appropriate methodology.
- Visually reflect differences in degree of disadvantage in the mapping tool.

- Give consideration to, test and work with communities to ground-truth the possible weighting of certain indicators over others.

## **V. FARMWORKER COMMUNITIES ARE DISADVANTAGED BUT ARE NOT INCLUDED IN THE CURRENT TOOL**

### **Census data do not accurately reflect farmwork populations**

Data collected by the Census Bureau in the decennial census do not properly reflect the size and location of the U.S. farmworker population. This is partly due to the difficulties in reaching farmworkers, which are caused by language barriers, migratory patterns (e.g. workers who move from state to state following the crops), residing in remote rural locations, and distrust of the authorities by workers who do not have U.S. citizenship or permanent residency.

#### *Recommendations:*

- Use U.S. Department of Agriculture (USDA) Census of Agriculture data<sup>29</sup> on farm employment to help identify locations of farmworker communities. While the data collected by USDA reflects the number of workers in each county's agricultural operations as reported by employers and not the communities of residence of these workers, the Census of Agriculture provides at least an approximation of the numbers of farmworkers in each locality, allowing the user to identify areas with large concentrations of farmworkers. Data available at the county level.
- Obtain data from USDA Rural Development,<sup>30</sup> which finances the construction of multi-family on-farm and off-farm housing for year-round and migrant or seasonal farmworkers, on the location of USDA-financed farmworker housing. This would be a useful source of location data for some farmworker communities. Data are not published online.

### **Data on unsafe housing conditions could help identify currently excluded disadvantaged communities, including farmworkers**

Farmworkers experience high rates of substandard and unsafe housing conditions.<sup>31</sup> The problems documented include extreme crowding, incomplete or absent indoor plumbing, mold,

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<sup>29</sup> United States Department of Agriculture. National Agricultural Statistics Service, <https://www.nass.usda.gov/AgCensus/>

<sup>30</sup> USDA Rural Development's Multifamily Housing (MFH) Programs. <https://www.rd.usda.gov/programs-services/multi-family-housing-programs>

<sup>31</sup> Farmworker Justice. 2014. Farmworkers Housing and Health in the United States: a General Introduction and Overview. <https://www.farmworkerjustice.org/wp-content/uploads/2015/07/Intro-to-Farmworker-housing-and-health-FW-Housing-Symposium.pdf>

and structural deficiencies, among many others.<sup>32, 33</sup> Data on substandard and/or crowded housing can help identify some of these disadvantaged communities to properly direct housing investments to address these problems.

*Recommendations:*

- Incorporate data from the U.S. Census Bureau’s American Community Survey (ACS)<sup>34</sup> on housing with incomplete indoor plumbing, which is one measure of substandard housing that can be used to map particularly disadvantaged areas. Available at the zip-code tabulation area level.
- In addition, use ACS data on housing occupancy to identify communities with high rates of overcrowded housing. Available at the zip-code tabulation area level.

**Data on medically underserved areas could help identify currently excluded disadvantaged communities, including farmworkers**

Farmworkers (and other disadvantaged communities) face barriers accessing health care, both because they tend to live in medically-underserved areas<sup>35</sup> and because they often lack health insurance.<sup>36</sup> Investments in better medical services to serve these populations are critical to improve their health status, but depend on a proper understanding of the places where the need is most pronounced.

*Recommendations:*

- Use data collected by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health to map medically-underserved areas (MUAs).<sup>37</sup> According to HRSA, MUAs have a shortage of primary care health services within geographic areas such as a whole county; a group of neighboring counties; a group of urban census tracts; or a group of county or civil divisions.

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<sup>32</sup> Villarejo, D. California’s Hired Farm Workers Move to the Cities: The Outsourcing of Responsibility for Farm Labor Housing. California Rural Legal Assistance Priorities Conference, Asilomar, California. 2014. [https://archive.crla.org/sites/all/files/u6/2014/rju0214/VillarejoFrmLbrHsngHlth\\_CRLA\\_012414.pdf](https://archive.crla.org/sites/all/files/u6/2014/rju0214/VillarejoFrmLbrHsngHlth_CRLA_012414.pdf)

<sup>33</sup> Quandt SA, Brooke C, Fagan K, Howe A, Thornburg TK, McCurdy SA. Farmworker Housing in the United States and Its Impact on Health. *New Solut.* 2015 Nov;25(3):263-86. doi: 10.1177/1048291115601053. Epub 2015 Aug 28. PMID: 26320122.

<sup>34</sup> U.S. Census Bureau. American Community Survey. <https://www.census.gov/programs-surveys/acs>

<sup>35</sup> Luque JS, Castañeda H. Delivery of mobile clinic services to migrant and seasonal farmworkers: a review of practice models for community-academic partnerships. *J Community Health.* 2013 Apr;38(2):397-407. doi: 10.1007/s10900-012-9622-4. PMID: 23054421.

<sup>36</sup> Ornelas I, Fung W, Gabbard S, Carroll D. *Findings from the National Agricultural Workers Survey (NAWS) 2017–2018: A Demographic and Employment Profile of United States Farmworkers.* Research Report No. 14. Prepared for the U.S. Department of Labor by JBS International.: [https://wdr.doleta.gov/research/FullText\\_Documents/ETAOP2021-22%20NAWS%20Research%20Report%2014%20\(2017-2018\)\\_508%20Compliant.pdf](https://wdr.doleta.gov/research/FullText_Documents/ETAOP2021-22%20NAWS%20Research%20Report%2014%20(2017-2018)_508%20Compliant.pdf).

<sup>37</sup> U.S. Department of Health. Health Resources and Services Administration. Medically Underserved Areas/Populations. <https://data.hrsa.gov/tools/shortage-area/mua-find>

- Use American Community Survey<sup>38</sup> health insurance data to identify communities with low rates of health insurance. Available at the zip-code tabulation area level.
- Use National Vital Statistics System<sup>39</sup> data to identify communities with lower rates of early prenatal care. Publicly available at the county level. Restricted-use files containing more detailed geographic information are available upon request from the CDC Research Data Center.<sup>40</sup>

**Disproportionately high rates of pesticide poisoning incidents and birth defects should be included as indicators of disadvantage**

Many farmworkers are routinely exposed to pesticides, whether by handling, mixing and applying pesticides, working in previously treated areas, or being exposed to pesticide drift or residue from the fields. In addition to acute poisonings, these chemicals pose significant health risks from chronic exposure, including neurological effects and birth defects in the children of farmworkers.<sup>41</sup>

Despite the well-documented risks, detailed data on pesticide poisoning incidents is limited to certain states. Funds should be available for the National Institute for Occupational Safety and Health (NIOSH) to expand its pesticide incident surveillance beyond the 13 states currently participating in its Sentinel Event Notification System for Occupational Risk (SENSOR) program. Reducing rates of birth defects and other harms caused by pesticide exposure through investments in prenatal care access, maternal health education, farmworker protection initiatives and pesticide regulation enforcement should also be a priority.

*Recommendations:*

- Include data on pesticide poisoning incidents collected by the National Institute for Occupational Safety and Health (NIOSH) SENSOR Program.<sup>42</sup> Data at the zip code level may also be requested from the American Association of Poison Control Centers National Poison Data System.<sup>43</sup>

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<sup>38</sup> U.S. Census Bureau. American Community Survey. <https://www.census.gov/programs-surveys/acs>

<sup>39</sup> Centers for Disease Control and Prevention. National Center for Health Statistics. National Vital Statistics System. Birth Data. <https://www.cdc.gov/nchs/nvss/births.htm>

<sup>40</sup> Centers for Disease Control and Prevention. National Center for Health Statistics. Research Data Center. <https://www.cdc.gov/rdc/index.htm>

<sup>41</sup> Arcury TA, Quandt SA. Pesticides at work and at home: exposure of migrant farmworkers. *Lancet*. 2003 Dec 13;362(9400):2021. doi: 10.1016/S0140-6736(03)15027-1. PMID: 14686376.

<sup>42</sup> National Institute for Occupational Safety and Health. Sentinel Event Notification System for Occupational Risk. <https://www.cdc.gov/niosh/topics/pesticides/overview.html>

<sup>43</sup> American Association of Poison Control Centers. National Poison Data System. <https://aapcc.org/national-poison-data-system>

- Use birth defects tracking data<sup>44</sup> collected by the Centers for Disease Control and Prevention (CDC) and state tracking registries to identify disadvantaged communities affected by higher rates of birth defects. (In addition to pesticide exposure, poor nutrition and other factors associated with poverty also put farmworkers at risk of having children with birth defects. Rates of birth defects and their relationship to chemical exposures and nutritional status make them useful indicators of the general state of health of communities.)

### **Lack of internet access should be included as an indicator of disadvantage**

Gaps in rural internet access worsen the difficulties farmworkers already face in accessing critical services, including health care. Since the Biden-Harris administration has “made it a top priority<sup>45</sup> to ensure all Americans have access to reliable, affordable, high-speed internet”, it is extremely important to ensure that the hard-to-reach, rural communities—farmworkers among them—are prioritized for investments in broadband. It is also important to invest in outreach concerning the Affordable Connectivity Program,<sup>46</sup> so that eligible individuals are aware of the availability of financial assistance to increase the affordability of internet service.

#### *Recommendation:*

- Use Federal Communications Commission Fixed Broadband Deployment<sup>47</sup> data to identify internet service gaps affecting farmworkers and other rural communities. Available at the census place level.

### **Heat-related illnesses and death, including chronic kidney disease, should be included as indicators of disadvantage**

Heat-stress is an issue for all outdoor workers, but this tool should specifically consider farmworkers, and other outdoor workers that are not covered by OSHA, often not provided with regular work breaks, sufficient drinking water, shade, or other means of preventing heat-related illnesses and deaths. Chronic or repeated heat exposure elevates the risk of dehydration, heat

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<sup>44</sup> Centers for Disease Control and Prevention. Birth Defects Research and Tracking. <https://www.cdc.gov/ncbddd/birthdefects/research.html>

<sup>45</sup> The White House. (2022, February 14). FACT SHEET: Biden-Harris Administration Announces 10 Million Households Enroll in Broadband Affordability Program, Thanks to Bipartisan Infrastructure Law. <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/14/fact-sheet-biden-harris-administration-announces-10-million-households-enroll-in-broadband-affordability-program-thanks-to-bipartisan-infrastructure-law/>

<sup>46</sup> The White House. (2022, February 14). FACT SHEET: Biden-Harris Administration Announces 10 Million Households Enroll in Broadband Affordability Program, Thanks to Bipartisan Infrastructure Law. <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/14/fact-sheet-biden-harris-administration-announces-10-million-households-enroll-in-broadband-affordability-program-thanks-to-bipartisan-infrastructure-law/>

<sup>47</sup> Federal Communications Commission. Fixed Broadband Deployment. <https://broadbandmap.fcc.gov/>

stroke, cramps, exhaustion and hospitalization. Between 1992-2017, heat exposure resulted in 815 occupational deaths and over 70,000 illnesses among U.S. workers (see ‘Extreme Heat Is Killing Workers’ in Vice, Sept 23, 2021). U.S. farmworkers are about 35 times more at risk of heat-related death than the general labor force, and even higher than other outdoor occupations such as construction (see Gubernot et al 2015). This problem will continue to be more severe, and deadly, as extreme heat waves continue to grow in frequency, duration, and intensity. Heat stress has also been linked to an epidemic of chronic kidney disease of non-traditional origin (CKDnt) among farmworkers in other countries. While research on CKDnt incidence in the U.S. is still in its early stages, there is evidence that farmworkers suffer from high rates of acute kidney injury (AKI), a known precursor to chronic kidney disease. AKI among these workers is believed to be related to dehydration and heat stress caused by working in high temperatures.

In the Girasoles study, funded by NIOSH and conducted by researchers at Emory University and the Farmworker Association of Florida, researchers looked into heat hazards experienced by farmworkers over the course of three days. Study results showed that over four in five workers had core temperatures that exceeded 38°C (100.4°F) on at least one of the study days. This temperature is the recommended physiologic limit for core temperature, at which the risk of serious heat injury rises steeply for many individuals. Beyond body core temperature that exceeded recommended limits, multiple participants were found to meet criteria for acute kidney injury on at least one of the three study days. Over one in three workers experienced acute kidney injury stage 1 or higher on at least one study day according to the change in their blood creatinine levels from before the workday to after. Approximately half of the workers were dehydrated prior to going to work, and that proportion increased to over three-fourths after the workday. The likelihood of a worker developing acute kidney injury during a workday increased by nearly 50 percent for each 5-degree F increase in heat index.<sup>48</sup>

#### *Recommendations:*

- Add heat illness and heat stress data, with intentional consideration of outdoor workers including farmworkers. This should include data on heat-related hospitalizations, heat-related mortality, heat-related emergency department visits.
  - Data sources: U.S. Department of Labor, Bureau of Labor Statistics, Census of Fatal Occupational Injuries, and the confidential on-site Census of Fatal Occupational Injuries database. See also data from the state census of fatal occupational injuries where available. See CDC data tracking information.
- Use kidney disease prevalence data to identify communities experiencing higher rates of kidney disease.

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<sup>48</sup> David Arkush; Valerie Mac, PhD, RN; Nell Hodgson; Jeannie Economos. 2019. Unworkable: Dangerous Heat Puts Workers at Risk, Public Citizen and the Farmworker Association of Florida. Microsoft Word - Public Citizen et al., Unworkable, FL Heat Stress (Oct. 2018).docx ([floridafarmworkers.org](http://floridafarmworkers.org))

- Data source: CDC, National Center for Chronic Disease and Health Promotion, Division of Population Health kidney disease prevalence data

## VI. ADDITIONAL CONSIDERATIONS THAT COULD IMPROVE THE CEJST

### A. Disproportionate pollution burden is inadequately captured in the current version of the tool

There are a number of other pollution burden datasets and approaches that CEQ should further consider to address this concern.

1. *Include cancer risk from air toxics as an indicator:* EPA's National AirToxScreen assessment (the next version of the National Air Toxics Assessment or NATA)<sup>49</sup> highlights a number of communities where the hazardous air pollutants from facilities exceed EPA's action benchmark for unacceptable cancer risk – which is itself already far too high and outdated as it does not protect children or communities exposed to multiple types of sources. Identifying proximity to these facilities would identify areas of known high cancer and chronic non-cancer risk from air pollution. Cancer risk is assigned at a census tract level. Limitations for this dataset exist including that the underlying data comes from the most recent National Emissions Inventory (which is currently 5 years outdated), and hazardous air pollutant emissions are only supplied voluntarily by states because these emissions are not required to be reported under the Air Emissions Reporting Rule, and are based primarily on industry estimates using emission factors which are known to lead to under-reporting of emissions. The AirToxScreen also underestimates cancer and chronic non-cancer risk in these areas by not adequately capturing or accounting at all for peak emissions or acute harm, not considering legacy or background emissions that far exceed current emissions but can persist in homes, backyards, gardens, and people's bodies, and only identifying chemicals with quantified cancer or chronic non-cancer risk, and sometimes not using factors to account for known, greater vulnerability to risk in early life and other criteria.
2. *Include proximity to facilities that report the EPA's Toxics Release Inventory (TRI):* EPA's TRI<sup>50</sup> identifies facilities that emit over 800 chemicals that can cause adverse human or environmental effects. Limitations for this dataset include that not all facilities or chemicals are required to be reported and emissions reported do not adequately reflect health burden posed by high emissions/peak exposures periods. However, residential

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<sup>49</sup> Environmental Protection Agency (EPA). Air Toxics Screening Assessment. <https://www.epa.gov/AirToxScreen>

<sup>50</sup> EPA. Toxics Release Inventory. <https://www.epa.gov/toxics-release-inventory-tri-program>

proximity to TRI facilities often illustrate racial and income-based disparities.<sup>5152</sup> In absence of race as a socioeconomic indicator, proximity to these facilities using TRI data may serve as a race-conscious indicator.

3. *EPA's Facility Level Information on Greenhouse gasses Tool (FLIGHT)*<sup>53</sup> identifies facilities with greenhouse gas emissions. While greenhouse gasses in and of themselves can lead to health issues, facilities that emit other hazardous chemicals rely upon greenhouse gas-generating processes. For example, more than 90 percent of the carbon dioxide-equivalent releases reported by the plastics industry occurs in just 18 communities.<sup>54</sup> The total amount of greenhouse gas reported to be released in proximity to a community would be a good indicator of greater cumulative burdens from large-scale<sup>55</sup> industrial pollution sources.
4. *Account for access to clean and safe drinking water:* Toxic wastewater discharge as included in the beta version of the CEJST is an important indicator of water quality in many communities. However, it does not fully account for all considerations that should be given to clean water and wastewater infrastructure.

First, violations, enforcement and compliance of regulated drinking water sources must be considered. An analysis<sup>56</sup> of nationwide Safe Drinking Water Act (SDWA) violations from 2016 to 2019 found a disturbing relationship between multiple sociodemographic characteristics—especially race—and drinking water violations. At the county level, as people of color, low-income people, non-native English speakers and crowded conditions and/or sparse access to transportation increased, the rate of drinking water violations also increased. This analysis also revealed that race, ethnicity, or language spoken had the strongest relationship to slow and inadequate enforcement of the SDWA of any sociodemographic characteristic analyzed. Drinking water systems in counties with

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<sup>51</sup> Sacoby M. Wilson, Herb Fraser-Rahim, Edith Williams, Hongmei Zhang, LaShanta Rice, Erik Svendsen, and Winston Abara, 2012: Assessment of the Distribution of Toxic Release Inventory Facilities in Metropolitan Charleston: An Environmental Justice Case Study. *American Journal of Public Health* 102, 1974\_1980, <https://doi.org/10.2105/AJPH.2012.300700>

<sup>52</sup> Paul Mohai, Paula M. Lantz, Jeffrey Morenoff, James S. House, Richard P. Mero, “Racial and Socioeconomic Disparities in Residential Proximity to Polluting Industrial Facilities: Evidence From the Americans' Changing Lives Study”, *American Journal of Public Health* 99, no. S3 (November 1, 2009): pp. S649-S656.

<sup>53</sup> EPA's Facility Level Information on GreenHouse gasses Tool (FLIGHT). <https://ghgdata.epa.gov/ghgp/main.do>

<sup>54</sup> Beyond Plastics. The New Coal: Plastics and Climate Change. October 2021. <https://www.beyondplastics.org/plastics-and-climate>

<sup>55</sup> For most industrial sectors, facilities that emit over 25,000 metric tons CO<sub>2</sub>e per year are required to report. <https://www.epa.gov/ghgreporting/key-facts-and-figures#:~:text=The%20GHGRP%20requires%20annual%20reporting,year%20are%20required%20to%20report.>

<sup>56</sup> Natural Resources Defense Council , Coming Clean, Environmental Justice Health Alliance for Chemical Policy Reform. Watered Down Justice. September 2019. <https://www.nrdc.org/sites/default/files/watered-down-justice-report.pdf>



higher vulnerability related to race, ethnicity, or language spoken were likely to spend more time out of compliance with the law for more violations for more contaminants. In addition, as racial, ethnic, and language vulnerability increased at the county level, the average number of formal enforcement actions increased yet violations remained uncorrected despite enforcement actions. **CEQ should consider adding slow or inadequate SDWA enforcement as an indicator.**

Second, Indigenous communities face severe disparities in water-related infrastructure maintenance and improvement and water contamination. Tribal systems also face unique concerns associated with complex jurisdictional challenges and legal and regulatory gaps. They also often lack authority to create water districts.

Third, lack of access to safe drinking water is an indicator of intense vulnerability and needs to be accounted for. Most drinking water provided to farmworkers in the fields or in labor camps (where migrant farmworkers are often housed) comes from private wells. These sources are not regulated under the Safe Drinking Water Act, and very few states regulate them. Because they live and work in heavily agricultural areas, farmworkers' drinking water is especially susceptible to chemical and biological hazards from toxic pesticides, fertilizers, and animal and human waste. For example, in southern California's Coachella Valley, at least 10,000 people (mostly farmworkers) live in trailer parks that are not served by public water systems. Many have wells with contaminants such as arsenic and bacteria. As is true for many Environmental Justice communities and populations, lack of farmworker access to safe drinking water becomes invisible because their drinking water sources are not federally regulated and because farmworker communities generally lack economic and political power. Decision makers at all levels need to take urgent action to ensure safe drinking water for farmworkers.

Fourth, nitrates are of particular concern as groundwater contaminants in agricultural areas. They have been known to contaminate drinking water, particularly in rural and predominantly Latino areas -- especially where farmworkers live.<sup>57</sup> Nitrate poisoning from contaminated drinking water can be especially fatal to infants and is linked to increased risk of colorectal cancer, thyroid disease, and neural tube defects.<sup>58</sup>

Fifth, some populations completely lack access to drinking water resources. Communities without access to potable water such as Sandbranch, Texas and the border colonias face

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<sup>57</sup> Lisa Gross, October 7, 2020, "Niatrate Tainted Drinking Water Plagues California Farmworker Towns, Study Shows", Fern's Ag Insider, [https://thefern.org/ag\\_insider/nitrate-tainted-drinking-water-plagues-california-farmworker-towns-study-shows/](https://thefern.org/ag_insider/nitrate-tainted-drinking-water-plagues-california-farmworker-towns-study-shows/)

<sup>58</sup> Ward M, et al. Drinking Water Nitrate and Human Health: An Updated Review. *Int J Environ Res Public Health*. 2018;15(7):1557.

inordinate injustice related to drinking water. In addition to lack of drinking water resources, these communities often lack other basic infrastructure needs, including paved roads, sewer systems, storm drainage, electricity, telecommunications, health care, and solid waste disposal. For communities like Sandbranch, which exist just outside of major metropolitan areas, the disparity in access to resources can feel even more pronounced. **Such communities must be accounted for in the CEJST.**

5. *Include proximity to commercial waste incinerators:* Many studies have documented inequitable distribution of environmental hazards including incinerators and waste facilities.<sup>59</sup> EPA maintains a Map of Commercial Waste Combustors in the U.S.<sup>60</sup> that could be used to identify communities susceptible to this pollution burden.
6. *Include proximity to CAFOs:* Unless required under state law, most concentrated animal feeding operations (CAFOs) are not required to report air emissions. There are state databases of CAFOs that can be used to identify these pollution sources, such as the Minnesota Pollution Control<sup>61</sup> and Maryland EJScreen Mapper<sup>62</sup> which includes a context layer with CAFO locations.
7. *Include hazardous smoke and ash from burning sugarcane:* Sugarcane in the United States is grown in Florida, Louisiana, and Texas. In Florida, which leads the nation in sugarcane production, the surrounding communities are predominantly poor, rural, and African American.<sup>63</sup> Burning sugarcane increases rates of asthma and cancer in surrounding communities where the ash falls. Brazilian researchers have found the practice to cause such severe and systemic health problems in sugar cane workers that they recommend the practice be ended worldwide. Some data that tracks air quality over a broad area or over a long period of time might miss the acute risks to workers and communities exposed to sugar cane ash. But researchers have found 15 times more carcinogenic compounds in the air in Belle Glade, FL, where lots of sugar cane ash falls, during the burning season than other parts of the year. It is important, therefore, to track sugar cane burning as its own hazard. That can be done using this map of where sugar

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<sup>59</sup> Environmental Justice Health Alliance for Chemical Policy Reform, Coming Clean, and Center for Effective Government. (2014, May). *Who's in Danger? Race, Poverty and Chemical Disasters*.  
<https://ej4all.org/about/resources>

<sup>60</sup> EPA Map of Commercial Waste Combustors in the U.S.  
<https://www.epa.gov/hwgenerators/map-commercial-waste-combustors-us>

<sup>61</sup> Minnesota Pollution Control. Map of concentrated animal feeding operation (CAFO).  
<https://hub.arcgis.com/datasets/mpca::feedlots-2/explore?layer=3&location=45.438644%2C-92.029556%2C7.24>

<sup>62</sup> Maryland EJScreen Mapper. <https://p1.cgis.umd.edu/ejscreen/>

<sup>63</sup> Ellis Rua of the Associated Press, Dec 1,, 2019, WUSF Public Media, [Sugar Field Burning Plagues Poor Florida Towns With Soot | WUSF Public Media](#)

cane is grown in the U.S. <sup>64</sup> Sugar cane burning increases risk of cancer and asthma, studies show.<sup>65</sup>

## **B. Disproportionate health burdens are inadequately captured in the current version of the tool**

CEQ should consider adding further health burden indicators to address this concern, including the below suggestions.

### **1. Include maternal and infant health outcomes**

There is growing evidence that climate related hazards such as increased days of extreme heat, and wildfire smoke are exacerbating existing disproportionate maternal and infant health burdens in low income communities and communities of color, with race being a strong driver. For example, the science shows that among women with a college education or higher, Black women are still five times more likely to die during pregnancy than similarly educated White women. Pregnancy-related deaths for college-educated Black women is 1.6 times higher than for White women with less than a high school education (see CDC 2019 data and report [here](#)).<sup>66</sup> Among farmworker women, pregnancy and infant care poses unique obstacles due to extreme poverty, language barriers, lack of financial resources or health insurance, and work-related migrations that make continuity of care near-impossible.

Furthermore, evidence suggests that exposure to air pollutants such as fine particulate matter and ozone are associated with preterm birth and low birthweight infants.<sup>67</sup> Exclusion of these data may miss communities with maternal and neonatal health disparities. For example, according to the Maryland EJScreen Mapper,<sup>68</sup> a state environmental justice screening tool, the aforementioned community of Brandywine, Maryland ranks in the top 90th percentile in the state of Maryland for low birthweight infants, but does not meet the threshold for any of the health burdens indicators in the Climate & Economic Justice Screening tool.

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<sup>64</sup> United States Department of Agriculture. National Agricultural Statistics Service. Map of areas where sugar cane is grown in the U.S. [https://www.nass.usda.gov/Charts\\_and\\_Maps/Crops/County/sc-pr.php](https://www.nass.usda.gov/Charts_and_Maps/Crops/County/sc-pr.php)

<sup>65</sup> [tcpalm.com](http://tcpalm.com)

<sup>66</sup> Petersen EE, Davis NL, Goodman D, et al. Racial/Ethnic Disparities in Pregnancy-Related Deaths — United States, 2007–2016. *MMWR Morb Mortal Wkly Rep* 2019;68:762–765. DOI: <http://dx.doi.org/10.15585/mmwr.mm6835a3>

<sup>67</sup> Bekkar B, et al. Association of Air Pollution and Heat Exposure with Preterm Birth, Low Birth Weight, and Stillbirth in the US: A Systematic Review. *JAMA*. 2020;3(6):E208243.

<sup>68</sup> Maryland EJScreen Mapper. <https://p1.cgis.umd.edu/ejscreen/>

*Recommendation:*

- Include maternal and infant health care indicators, such as maternal mortality, low birthweight, and/or preterm birth, to capture the reality for Black women, women of color, and farmworker women. Most state health departments already collect these data.

*Data source:* U.S. Census Bureau. (2020). Current Population Survey, Annual Social and Economic (ASEC) Supplement: Table PINC-05: Work Experience – People 15 Years Old and Over by Total Money Earnings, Age, Race, Hispanic Origin, Sex, and Disability Status. See <https://www.census.gov/data/tables/time-series/demo/income-poverty/cps-pinc/pinc-05.html>

## **2. Health insurance coverage**

Pregnant women without health insurance often delay or forgo prenatal care during early pregnancy stages, which is associated with a higher risk of death for both the infant and mother. Latina women have the lowest health coverage rate of any racial or ethnic group in the U.S., with 20 percent of Latinas uninsured, compared with 8 percent of white women. Even when adjusted for income, Latinas still fare worse, with 1 in 4 low-income Latinas uninsured, compared with 1 in 6 low-income white women. This is a particular concern among farmworker communities, where roughly 86 percent self-identify as Hispanic.<sup>69</sup>

Furthermore, while the asthma, diabetes, and heart disease health burden indicators provide a baseline for disease prevalence, the data are based on self-reported diagnoses by a health professional and may not capture individuals with inadequate access to health care, such as undocumented people. Including an additional indicator characterizing access to health care services may provide more context for health burdens in a community.

*Recommendation:*

- Use access to affordable quality health care as an indicator.

*Data source:*

<https://www.statista.com/statistics/200970/percentage-of-americans-without-health-insurance-by-race-ethnicity/>

## **C. Other recommendations**

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<sup>69</sup> NPWF 2019. Fact Sheet: Latinas Experience Pervasive Disparities in Access to Health Insurance. National Partnership for Women & Families. April 2019. Available at: <https://www.nationalpartnership.org/our-work/resources/health-care/latinias-health-insurance-coverage.pdf>

There are other instances of disadvantage that are not adequately captured in the beta version of the CEJST.

*Recommendations:*

- CEQ should consider including the entire territory of Guam and the U.S. Virgin Island as disadvantaged due to inadequate consistent representation in national databases.
- Farmers who have historically been denied U.S. Department of Agriculture benefits due to discrimination should be considered as disadvantaged under the tool.<sup>70</sup>

## **VIII. DATA NEEDS**

There are a number of areas where insufficient data exists to fully capture the complexities of what it means to be disadvantaged. Some of these data are captured at the state or other geographic level, or are captured intermittently and are touched on previous sections. Below we highlight some key areas where gaps exist. CEQ should use its authority to recommend data collection in these areas. These data gaps should not deter action.

- A. The United States government must do a better job incorporating community knowledge, particularly in Native, Indigenous and/or Tribal Communities. Much better information on disparities in water contamination, health burdens, workforce development, legacy pollution, housing, infrastructure and climate change impacts on Native & Indigenous Communities is needed and should be included to the maximum extent possible in future iterations of the CEJST.

In the meantime, CEQ and the Administration should engage in meaningful and robust consultations with Tribal communities as well as meaningfully involve Native and Indigenous community members and stakeholders who live outside geographically concentrated areas like reservations and pueblos.

Particularly in small or geographically remote communities, such as Savoonga on Saint Lawrence Island in the Arctic, the U.S. government and other agencies must trust, partner with and fund local community residents to gather and record their own data on disproportionate health and quality of life impacts. National, or even state data sets on things like cancer tend to gloss over what can be crisis levels of cancer or other health disparities tend to minimize or underestimate the impacts on small and/or rural communities.

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<sup>70</sup> Clements, M. (2021, February 24). *Financial services: Fair lending, access, and retirement security*. Financial Services: Fair Lending, Access, and Retirement Security | U.S. GAO. Retrieved May 25, 2022, from <https://www.gao.gov/products/gao-21-399t>

- B. Where data gaps exist to the extent that entire geographic areas are not able to be included in the CEJST (e.g. communities in Guam and the U.S. Virgin Islands are not currently covered by the beta tool), CEQ should err on the side of inclusion and consider including those entire areas as disadvantaged. This automatic inclusion would be consistent with the precautionary principle and acknowledge that the systemic injustices which lead to communities to be undercounted or uncounted in datasets like the census, are at the root of what it means to be “disadvantaged”.
- C. The United States Department of Agriculture’s National Agricultural Statistics Service should improve disaggregate analysis and enhance their sample to better identify farmworker populations.
- D. Better information collection is needed to capture the negative externality impacts of gentrification and displacement in communities, particularly, though not exclusively in urban areas. This information could inform future iterations of the CEJST and/or the EJ Scorecard in order to ensure that J40 investments do not become unintentional engines of displacement for existing disadvantaged communities.
- E. Current data sets and the census fail to account for unhoused populations.
- F. Better data is needed to capture the unique needs of rural communities.
- G. Tracking arsenic, nitrates, bacteria, and other pesticide, fertilizer, and manure runoff that contaminates the drinking water of rural communities, particularly farmworkers who often live nearby and rely on well water.
- H. Additional and more current data is needed on what languages are spoken in communities. This information will be critical to ensure that government agencies and NGOs implementing J40 programs can meaningfully engage with disadvantaged communities to ensure that residents are full participants in defining and reaping the benefits of federal investments.
- I. Better data is needed to capture migrant workers, especially undocumented people since this population tends to be undercounted and we know was especially undercounted in the 2020 census due to Trump Administration pressures.

There is little recent data quantifying the number of migratory farmworkers in various states and in each of the migrant streams (Eastern, Midwest and Western). The Department of Labor’s 2017-18 National Agricultural Workers Survey (NAWS)

estimates that 13 percent of U.S. farmworkers are migratory.<sup>71</sup> These workers experience high levels of housing insecurity and substandard housing. In order to focus investments to address these issues, a better understanding on the number of migratory workers who move through each state and the localities in which they tend to reside is needed.

- J. Better quality and more data is needed on toxic air pollution and its impacts on communities.
- a. **Existing data is incomplete and flawed where it does exist.** EPA's National Emissions Inventory is the primary federal source of air toxics data – but it contains many flaws that lead to underestimation of hazardous air pollutant emissions, and there is a five-year delay in the public availability of these data.<sup>72</sup> For example, because this inventory was created by a rule implementing the National Ambient Air Quality Standards (NAAQS) state implementation plan (SIP) requirements, the reporting of hazardous air pollution emissions to the NEI is currently voluntary.<sup>73</sup> This means that EPA has no data at all from some states, and the data are likely substantially underestimating emissions even in states that choose to report this information. Further, because many underlying air rules do not require actual air emission monitoring, many or most of the emission reports to the NEI are based on the use of emission factors or estimates which are known to be outdated and insufficient to capture real-world emissions, especially of fugitive emissions, and only some are in the process of revision.<sup>74</sup>

*Recommendation:* CEQ should call for EPA to update the emission factors to better account for air toxics emissions, most expeditiously for source categories where rulemakings or reconsideration proceedings are in process. CEQ should

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<sup>71</sup> Ornelas I, Fung W, Gabbard S, Carroll D. Findings from the National Agricultural Workers Survey (NAWS) 2017–2018: A Demographic and Employment Profile of United States Farmworkers. Research Report No. 14. Prepared for the U.S. Department of Labor by JBS International. Available at: [https://wdr.doleta.gov/research/FullText\\_Documents/ETAOP2021-22%20NAWS%20Research%20Report%2014%20\(2017-2018\)\\_508%20Compliant.pdf](https://wdr.doleta.gov/research/FullText_Documents/ETAOP2021-22%20NAWS%20Research%20Report%2014%20(2017-2018)_508%20Compliant.pdf).

<sup>72</sup> The TRI is another source of air toxics reporting, that contains more recent information, but in recent years there have been many reports of facilities changing their emission reports, and the process of verifying the reliability and accuracy of these numbers is unclear. *See, e.g.*, S. Lerner, TRACKING THE INVISIBLE KILLER, Trump EPA Invited Companies to Revise Pollution Records of a Potent Carcinogen, The Intercept (Mar. 18, 2021), <https://theintercept.com/2021/03/18/epa-pollution-cancer-ethylene-oxide/>.

<sup>73</sup> 40 C.F.R. sec. 51.15(a)(4) (“A state may, at its option, include estimates of emissions for additional pollutants (such as hazardous air pollutants) in its emission inventory reports.”); <https://www.epa.gov/air-emissions-inventories/air-emissions-reporting-requirements-aerr>.

<sup>74</sup> *See, e.g.*, <https://www.epa.gov/air-emissions-factors-and-quantification/documentation-supporting-draft-and-final-emissions-factors>; EIP, Who's Counting? (2004), [https://environmentalintegrity.org/wp-content/uploads/2016/11/2004-06\\_Whos\\_Counting.pdf](https://environmentalintegrity.org/wp-content/uploads/2016/11/2004-06_Whos_Counting.pdf). In addition, EPA has issued an Enforcement Alert to address the inappropriate use of certain AP-42 emission factors. EPA OECA (Nov. 2020), <https://www.epa.gov/sites/default/files/2021-01/documents/ap42-enforcementalert.pdf>

also direct EPA to speed up the reporting so more current, higher quality data on air toxics are available to EPA, states, and the public.

- b. Actual emissions data is woefully lacking due to inadequate fenceline and ambient air monitoring.** Only one national emissions standard for hazardous air pollutants requires fenceline monitoring to assure measurement of fugitive emissions of benzene and to require corrective action if a fenceline concentration level is exceeded – the Petroleum Refineries Air Toxics Rule, and that should be strengthened and expanded, and made more accessible to the public.<sup>75</sup> Expanding the requirements for both continuous emissions measurement of vents, stacks, and other emission points, and for fenceline monitoring of fugitive emissions (paired with health-protective corrective action) is essential to improve the quality of air toxics emission data reported to EPA, to states, to the NEI, and ultimately available to the public.

*Recommendation:* CEQ should support the call of fenceline and environmental groups for EPA to strengthen and expand these requirements in all section 112 rules where this is needed, starting most urgently with all of the section 112 rules that cover chemical and petrochemical complexes, and to strengthen the refinery monitoring rules.<sup>76</sup> CEQ should also support the call of fenceline and environmental groups for real-time air monitoring at the most hazardous facilities regulated by the Clean Air Act’s Accidental Release Prevention/Risk Management Program, both to gather information on the worst acute harm from such releases and to inform communities and support emergency response in real time.<sup>77</sup>

In addition, EPA is in the process of reviewing and potentially revising the Air Emissions Reporting Rule, and has recognized the need to address gaps in air toxics data.<sup>78</sup> EPA has stated that it expects to convene a Small Business

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<sup>75</sup> 40 C.F.R. Part 63 Subpart CC (should be strengthened and expanded at refineries and refinery petrochemical complexes); *see also* EIP Map showing Benzene Fenceline Monitoring at Refineries 2018-2021, <https://storymaps.arcgis.com/stories/9cc8aa37cb34444dbb053a097c22ba07>.

<sup>76</sup> Example chemical and petrochemical rules where this can and should be required include the following rules covering sources often located at the same or nearby locations, and where communities and environmental groups are urging EPA to expand and strengthen fenceline monitoring for chemicals like benzene, ethylene oxide, chloroprene, 1,3-butadiene, and more: Ethylene Production, Hazardous Organic Chemical NESHAP/Synthetic Organic Chemical Manufacturing, Miscellaneous Organic Chemical Manufacturing, Group I Polymers & Resins (Neoprene Production), Polyether Polyols Production, Organic Liquids Distribution, Cyanide Chemicals Manufacturing, Chemical Manufacturing Area Sources, and other similar sources.

<sup>77</sup> Comment submitted by Environmental Justice Health Alliance for Chemical Policy Reform et al. to Federal Register Notice No. 2021-11280. (2021, July 30). “Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Notice of Virtual Public Listening Sessions.” <https://www.regulations.gov/comment/EPA-HQ-OLEM-2021-0312-0149>

<sup>78</sup> <https://www.epa.gov/reg-flex/potential-sbar-panel-revisions-air-emissions-reporting-requirements-aerr>



Advocacy Review Panel on this rule, but has not provided much information regarding what it is considering.

*Recommendation:* CEQ should advise EPA to ensure that hazardous air pollutant emissions reporting requirements are added into this rule, pursuant to EPA's section 112 authority.

## **THE CEJST IS CRITICAL TO DELIVERING ON THE PROMISE OF JUSTICE40**

The CEJST is a crucial tool for advancing this Administration's Justice40 Initiative. We appreciate the opportunity to offer our comments and recommendations first on the beta version of such an important tool. EJHA and Coming Clean are especially grateful for the extension of the comment period, which allowed us to better incorporate the guidance, direct language/section contributions, and feedback, that we received from frontline communities, farmworker advocates and other partner organizations.

While no screening tool will ever be perfect, we offer our recommended improvements to the CEJST to ensure that the communities most harmed by polluting industries, racist housing and zoning policies, inequitable healthcare, and hazardous working conditions will benefit the most from the Justice40 Initiative. We are thankful to the CEQ staff and WHEJAC leaders for the countless hours that have been invested in getting this beta tool and the Justice40 Initiative to where it is today. We are committed to continuing to engage with the CEQ, OMB and the Climate Policy Office to improve the CEJST in what we hope will be a transparent, democratic and iterative process. Please don't hesitate to reach out to us (EJHA Organizer Stephanie Herron and Coming Clean Federal Policy Director Dr. Maya Nye if you have any questions or concerns about these recommendations.)

Sincerely,

Environmental Justice Health Alliance for Chemical Policy Reform (EJHA)

Coming Clean

Center for Food Safety

Material Research L3C

PODER (People Organize in Defense of Earth and Resources), Austin, TX

Migrant Clinician Network

Science and Environmental Health Network

Toxic Free NC

Alaska Community Action on Toxics

American Sustainable Business Network

Locust Point Community Garden, Baltimore, MD

CleanAirNow, Kansas City, MO

Black Women for Wellness, Los Angeles, CA

Alianza Nacional de Campesinas, Inc.

Farmworker Association of Florida

Mujeres Divinas, Wolcott, NY

Dr. Yolanda Whyte Pediatrics, Atlanta, GA

Moms for a Nontoxic New York

California Rural Legal Assistance Foundation

Rural Coalition, Miami, FL

Multicultural Efforts to end Sexual Assault (MESA)/Purdue University, West Lafayette, IN

Alliance of Nurses for Healthy Environments

Women's Voices for the Earth

Farmworker Justice

Clean Water Action

Center for Progressive Reform

Center for Environmental Policy and Management

Texas Campaign for the Environment

People Concerned About Chemical Safety, Institute, WV

Our Future West Virginia

Mujeres Luchadoras Progresistas, Salem, OR

Pesticide Action Network

Green America

Natural Resources Defense Council

Breast Cancer Prevention Partners

International Center for Technology Assessment

Rubbertown Emergency ACTION, Louisville, KY

Delaware Concerned Residents for Environmental Justice

New Castle Prevention Coalition, New Castle, DE

National Family Farm Coalition

Learning Disabilities Association of America