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Comments on the Environmental Justice Scorecard (Docket Number CEQ-2022-0004)

Introduction

As sustainability scientists, nature based solution implementers, data scientists, economists, and experts working at the intersection of policy and environmental justice, we believe that CEQ has the opportunity to establish a strong foundation for the Environmental Justice Scorecard and set a new precedent for iterative federal agency technology development that relies on community-centric qualitative and quantitative data. Given the diversity of state-specific climate and economic injustices, States provide a fertile testing ground to validate, vet, and incorporate more data that can then be integrated into the federal Environmental Justice Scorecard.

In setting this foundation, careful attention should be paid to addressing related challenges, including:

- **Establishing policies and processes to pursue environmental justice goals while developing objective metrics for the scorecard.** While metrics are important, designing these policies and processes require substantial investments of time and resources to ensure that agencies build momentum and a strong foundation early.

- **Developing national level metrics that incorporate more qualitative and quantitative community data for evaluating environmental justice processes, programs and outcomes.** Doing so will require capacity to improve data standards, digital infrastructure and interoperability across agencies at different levels of government, and support for capacity in communities to enable participation in the process.

- **Centering community engagement and equity in the development and continuous updating of the scorecard and related policies and processes.** Consistent community engagement is invaluable throughout and agencies should have plans in place to continuously seek community input and listen - in short, this public comment period should be the beginning of engagement, not the end. Representatives from impacted communities should have the opportunity to participate in scoring agencies, and in developing the scorecard framework.

Lastly, the durability and relevance of this tool to the Justice40 initiative is key - stay steady in utilizing the data, both qualitative and quantitative, that can fully consider and adjust for specific community attention, and resources, where environmental injustice is pervasive.

1. Vision.

The Environmental Justice Scorecard is a positive step toward providing accountability to communities facing environmental injustices and the public. However, to better meet the needs and priorities of environmental justice communities, the following should be considered:

- **Integration into performance assessments.** While a scorecard will provide a focal point for understanding performance, its ultimate impact will depend in part on how well it is integrated into the performance assessments throughout government from CEQ and the Office of Management Budget (OMB) down through the agency bureaus and programs that are responsible for executing the agency strategies to address environmental injustices (see more in Additional Feedback on this point).

- **Accountability beyond federal agencies.** There is a need to ensure objectivity and also evaluate how state and local funding is flowing to address environmental injustice. For example, many of the Federal funds require a match by the communities receiving those funds. Most communities do not have the matches required or the capacity to develop dedicated revenue streams to take advantage of the Federal funding. This is an EJ issue that you can read about further here. The scorecard can and should be configured to track all investments, programs, loans, and grants under federal law, including the Infrastructure and Investment Job Act and the Inflation Reduction Act, and matching private and tribal funds. The scorecard should evaluate how these investments are distributed and whether they reduce burdens and provide benefits to environmental justice communities. This will highlight where there are geographic gaps in funding streams and where to address those gaps through innovative programs, capacity, technical assistance, and more.

- **Flattening environmental issues.** Scorecards and metrics inevitably reduce an issue or problem down to a few dimensions over a certain timeframe and suffer from the implicit biases in the collection, analysis, and presentation of data. Data coverage, accuracy, completeness, and other characteristics should be considered along with the historic burden of communities. Acknowledge these realities and take steps to mitigate them, such as adding a data confidence scale or indicator to flag data that does not meet standard non-biased data criteria and providing mechanisms to account for the history of EJ in this country and who has borne the burden. Including qualitative data can also be another means to recognize and contextualize EJ issues.

- **Systematic thinking about benefits and harms.** To realize the full potential of an EJ scorecard, systemic thinking and attention to data silos are critical to avoid unintentionally undermining agency efforts to address environmental injustices. While environmental data have been collected by agencies at all levels of government for decades, much of it is not easily findable, accessible, or usable in its current form. Furthermore, many datasets and applications are not connected or available to programs in other agencies or departments, at both the state and federal level, due to a lack of standardization and digital infrastructure that

limits cross-agency collaboration and coordination. In some cases these challenges result in agencies undertaking conflicting projects: one might be investing in improvements to natural areas only to have an agency permit a dam upstream that will affect the results downstream. If the data are not known to exist or their relationship to agency data are undefined, then it's easy to see how connections are missed.

2. Framework

The EJ Scorecard represents an opportunity for agencies to evaluate equity at the onset of a program and it could set a precedent for how to measure environmental, economic, and climate justice impacts, including - but not limited to - Justice 40 programs. To do so, there are three main types of data collection that can inform the creation of an Environmental Justice Scorecard: 1) data to identify where there are current environmental injustices, 2) data to understand historic and cumulative environmental injustices, and 3) data that assesses and tracks federal (state, local and private) investments to help determine whether reductions in pollution burdens are being achieved and benefits are provided to environmental justice communities to meet Justice 40 targets. In the following paragraphs we address considerations for using these data to trace who benefits and who bears the burden, and for centering justice in decision making. We also address the need for data and digital infrastructure to support this effort.

Benefits to Communities and Reducing Burdens and Harms in Communities

Informed by conversations with environmental justice advocates, there are a few key considerations to trace who bears the burden and who benefits for any investment. While the following is not meant to be exhaustive, it aims to provide considerations for further exploration:

a. ***Tracing who benefits***: Tracing beneficiaries requires careful consideration of the quantity and location of investments, both financial resources and staff time. The geospatial component that undergirds this analysis is substantial given that there is no precedent for evaluating where and how the benefits of an investment will flow to specific communities or neighborhoods at the national scale. Most government contracts are traceable at the county or city level which is not fine-scale enough to understand environmental, economic and public health, and racial equity impacts. Additionally, the beneficiaries may not be captured by the location of where the work was done. Some investments, such as those in transportation infrastructure, have the potential to benefit some members of a community while harming others. Calculation of benefits needs to recognize this, and generally should focus on generating benefits for marginalized groups. There are several studies that agency staff can reference to inform the analyses of how benefits or burdens will be realized ([Mohai & Saha, 2006](#); [Mohai et al., 2009](#); [Bowen & Wells, 2002](#)). To improve efforts to trace the benefits of investments, agency staff could be asked to estimate how much of the investment will benefit disadvantaged communities. In addition, agencies should consider feedback loops that may occur once the funding goes to a community. These feedback loops can limit the amount of actual benefit that disadvantaged residents receive even though the investment benefits are going to projects nearby.

b. ***Tracing who bears the burden:*** While tracing who bears the burden of environmental injustices is not the focus of the Justice40 initiative, it is critical to document so as not to perpetuate additional harm to environmental justice communities and the environmental justice scorecard can play an important role in that. Agency staff should complete Impact Assessments, or additional fields could be added to relevant permitting or contracting processes to estimate the proportion of the impact to disadvantaged communities. However, similar limitations to those described for the geospatial analysis of benefits above are applicable here. Cumulative assessment approaches, which track environmental impacts over time, may be useful in this context and EPA has efforts underway to examine them. In addition, these impact assessments should allow for the use of community knowledge, information, and data, including Indigenous Traditional Ecological Knowledge and other forms.

It is important to note that a lack of data on a specific problem is not evidence that there is no problem. The implications of this are profound, as it may change conclusions about which communities should be prioritized for investments. Data, broadly speaking, can be an indicator of digital connectivity and therefore, no data may be an indicator of an unconnected and vulnerable population. These communities may have lost trust in governments ability to deliver investments to address local harms and building trust in those communities should be a priority.

Centering Justice in Decision Making

Centering justice in decision making requires **procedural justice** in which all have equal access and respect in the decision making process in order to ultimately achieve distributional justice. For a decision to be just, those affected by the decision should have an effective voice ([Schlosberg, 2003](#)), and agree to the process ([Kuehn, 2000](#)). Further, procedural justice demands representative and inclusive participation. However, **often scientific expertise, access to data, and analyses are technical processes that are exclusionary.** Translating technical information and including those that have been impacted enable us to create, present, and mediate information in a more inclusive manner from local to federal government. To address this, programs like the Environmental Justice Scorecard that are dependent on such information should deliberately build capacity among community groups for data collection and analysis. Improving data availability should not just be a contract to consultants, but also involve the frontline groups that are intended to benefit. Furthermore, beyond data collection, interpreting data is an equally important way to prioritize the voice of community members, and our role as technical experts is to make sure that we have the tools in place to use "neutral data" to achieve distributional and procedural justice.

Capacity building to apply for and use funding is also a key enabler of centering justice in decision making because it provides communities with opportunities to participate in established processes. To help with this, readiness metrics, used to assess if a community is ready to absorb funding from federal partners (e.g. match funds, ability to take on loans, financial capacity to manage large infusion of capital), could be taken into account in the EJ Scorecard. Agencies generally include these readiness metrics in application processes and candidates must demonstrate that they meet these criteria. Measures of readiness generally bias toward communities that have the resources to plan ahead. For those that are not ready, there should be deliberate capacity building to get them ready as a way of enabling participation by communities that have had difficulty participating in the past. It would be difficult to capture all of the readiness factors in one scorecard like this one but CEQ can put into place recommendations and examples for how the data and outputs of the tool could be used to support funding decisions and take steps to build capacity.

Data and digital infrastructure considerations to realizing a robust and accurate EJ Scorecard

Recent executive orders and unprecedented investment in environmental initiatives have made it abundantly clear that new or ongoing data collection requirements are going to represent a major budget commitment across federal agencies. Many of these investments, including the $32.5 million that has been appropriated to CEQ for environmental justice data collation, will contribute directly to the success of the Environmental Justice scorecard. However, what we've found in our review of past data on environmental injustices and environmental spending is that we will not maximize the use of those funds, nor be able to effectively evaluate Justice40, without far better digital infrastructure and data standardization.

For one illustrative example, water data is fragmented across 25 different federal entities across 57 data platforms collecting 462 different data types. What this looks like in practice is that each state has their own data format and process for how information is collected about where water infrastructure investments are being prioritized through State Revolving Funds. Not all are machine readable and not all capture the same level of detail - this makes it near impossible to holistically understand where water infrastructure improvements are occurring.

That said, we know this is not just affecting water data - this is the case more often than not where environmental programs operate across regions or states. We must invest in data standardization to ensure that they are connected with other sources of data and to improve our ability to evaluate environmental progress. Concrete steps, such as moving away from publishing data in PDFs and standardizing the names of fields in datasets, would have multiple layers of benefits, improve national level tracking, and help incorporate better information into an Environmental Justice Scorecard.

3. Engagement.

Implementation and use of a data-driven tool such as the EJ Scorecard is an ongoing, sustained process. *We strongly recommend CEQ expand public engagement and also ask agencies to initiate community driven engagement processes to support the development of additional and more accurate indicators relevant to Justice40 programs and to related initiatives, such as enforcement programs and Title VI compliance.* Metrics to evaluate meaningful community engagement and outreach efforts by agencies should also be developed with community input. Recent processes that should have taken the opportunity to build tools with communities, have fallen short of engagement goals, as described in [previous comments](#) on the Climate and Economic Justice Screening Tool. Proactive, intentional outreach with consideration for the time and resources needed to engage with government agencies is necessary to collaborate with the communities represented and affected by the dataset. Communities should have the opportunity to outline the factors that most affect them and that comes from not only public listening sessions, but also hands-on trainings, speaking events at conferences, and other opportunities to have meaningful interactions with agency staff that are involved in decision making.

We recommend that CEQ explore a range of options and innovations in community engagement that have been tested recently by other government agencies, such as the US Forest Service (USFS) and Parks Service (NPS). USFS, for example,

worked with [Hispanic Access Foundation](#) to convene partners representing a wide variety of minoritized and disinvested communities for an advisory council that provided community input on a range of USFS activities and spending decisions. NPS, for their part, enlisted a consultant to conduct a series of listening sessions on how NPS "can evolve their practice to earn, build upon and sustain the trust of communities who have been historically excluded by science and by NPS," including stipends for the community members' time spent in the sessions. This example underscores the invaluable nature of partnering with established and trusted organizations to lead community engagement processes, and can serve as a model for agencies implementing more robust engagement strategies.

Ensuring that equitable practices are in place to involve the communities who will be utilizing this tool will provide the most relevant feedback and keep the tool relevant in the long-run. As CEQ considers options for engagement around the scorecard, considering the [spectrum of engagement](#) may also be helpful.

4. Additional Feedback.

In this section we include additional resources that may be useful in designing and implementing the Environmental Justice Scorecard:
- Guiding principles for developing new tools
- Replicating existing regulatory and evaluation processes
- Guiding questions to evaluate equity and environmental justice

Guiding principles for developing new tools

In using data and technology to support development of the scorecard, here are some guiding principles we recommend to enhance the chances of success:

- **PROJECT DESIGN:** Successful data projects require multidimensional thinking and address people, planet, process, policy, and partnership; they also require a clear and shared understanding of motivation and goals. Articulate goals and tactics at various levels of work (organization; program; project) and define what equitable means in the context of any given project. Bring subject-matter, technical, policy, legal, and community expertise together, and give accessibility goals and resource requirements extensive attention at each stage of a project.
- **DATA EQUITY:** Data and technology can often reinforce or intensify structural challenges and biases. Regularly check biases in work and examine how data projects might unintentionally reinforce or perpetuate racism and other forms of harm. As noted above, part of improving data equity is about discovering the limitations of the data to avoid biasing results. For example, avoid completely relying on Census data for community demographic information, which has historically had trouble reaching certain populations, and consider other sources of this data that may come from more local levels or be collected more frequently. Including Indigenous Traditional Ecological Knowledge is another way to improve data equity.
- **USER-CENTERED DESIGN:** Iterative user-centered design processes that incorporate stakeholder feedback at every stage is vital. This begins with a discovery phase that clarifies project goals and produces an analysis of the needs, expectations, and existing practices of the intended audiences. This becomes the foundation for a design phase where key workflows, visuals, and interactive components represented through rounds of low- and

high-fidelity wireframes and on-brand mockups are determined. Throughout this process, stay focused on the highest priority use cases and project goals, which leads to solutions that feel right to users, fitting into their workflows and expectations, and allows for development to focus on the essentials first.

● **AGILE DEVELOPMENT**: Following agile development processes enable us to build better, more useful tools by making room for changes in direction and priority as applications are implemented and put to use. Doing so creates space and processes for subsequent build-out of additional use cases without slowing progress on the highest priority use cases.

● **EVALUATION:** High tech is not always better than low-tech. Carefully consider new data performance and relevance and include users and those impacted by the technology, regardless of tech familiarity, in the design and evaluation of data products. Regularly assess any risks of products or services.

● **TRUST:** Improving environmental outcomes is an urgent priority but in order to make rapid progress, partners need to build trust. In many cases, organizations may need to start by going slow, and address power imbalances, to build that trust. Work in partnership and clearly articulate the responsibility and accountability to partners.

● **OPEN-SOURCE:** If possible, we recommend using open-source software when building the platform for this scorecard as it more easily enables community collaboration and innovation.

Replicate Existing Regulatory and Evaluation Processes on Cost and Effectiveness with an Equity Screen

The federal government has a vested interest in evaluating the effectiveness of programs to improve governance and performance. There have been several initiatives including in 1993 with the Government Performance and Results Act (GPRA), which led to the 2002 Program Assessment Rating Tool (PART), and, most recently, in 2010 the GPRA Modernization Act (GPRAMA) (Table 1). Looking beyond the Environmental Justice Scorecard, we can learn from how prior administrations have conducted performance review processes of agency programs to inform how CEQ may replicate the process with equity at the center.

Table 1: Contrasting the Three Performance Management Reforms (Alexander Kroll & Donald P. Moynihan, 2020)

Reform	Government Performance and Results Act (GPRA)	Program Assessment Rating Tool (PART)	GPRA Modernization Act (GPRAMA)
Time frame type	Adopted in 1993 Bipartisan statutory reform driven by Congress	2002–2008 Presidential initiative (Bush administration)	Adopted in 2010 Bipartisan statutory reform driven by Congress
Key requirements	Agencies engage in strategic planning, set goals, measures, and data for the long and short term.	Programs rated in terms of their effectiveness. Ratings based on about 30 questions and 5-point scales.	Agencies establish agency priority goals, cross-agency priority goals, and quarterly reviews.

In 2002, the PART evaluation was launched by OMB in an effort to evaluate performance of all federal programs. There was an emphasis on transparency and standardization to increase the credibility of the program. Through a 30-question survey, four components were evaluated: program purpose and design (20%), strategic planning (10%),

program management (20%), and program results and accountability (50%). It was formally introduced in fiscal year 2004 and each year 20% of federal programs (or budget coverage) were evaluated. Depending on the outcome of the evaluation, agencies budgets were adjusted and long-term improvement plans were implemented. In the first year, 40% of federal programs evaluated were deemed "results not demonstrated," signifying that the program goals were not having the intended impact. The following year, 40.3% of programs were categorized as effective or moderately effective.

PART was initially seen as a successful method for easy-to-understand benchmarks, but overtime it was increasingly partisan in practice. Programs in liberal agencies received lower PART scores compared to more conservative agencies (Gallo and Lewis 2012; Gilmour and Lewis 2006) and in one example the Department of Education had more PART analyses relative to the Department of Defense despite having just one-tenth of the budget (Alexander Kroll & Donald P. Moynihan, 2020). **The central lesson learned from this is that review processes should not be led by political appointees and distill programs into a standard template, but instead should center agencies' expertise and account for the variation in programs.**

The GPRA Modernization Act addressed some of these concerns. The GPRAMA program conducts "quarterly data-driven reviews of key goals by agency officials, prioritizing a small number of high-priority agency goals, and cross-agency goals" (Alexander Kroll & Donald P. Moynihan, 2020). Under GPRAMA, agencies set 5-year Strategic Plans and submit Annual Performance Plans to evaluate if the goals can be met with their annual budget. A major strength of this is that the unit of analysis is not "programs", but rather the organizational goals (~90 in total) and strategic objectives (~300 in total) per the agency's strategic plan. In this updated process, OMB does not have authority to interrogate the agencies, but rather implements a consistent routine by agency staff to reflect on their programs and make incremental updates to better meet their goals.

In the context of Justice40 and the EJ Scorecard, we aren't evaluating the cost effectiveness and performance of programs but rather the environmental justice and equity implications of programs. OMB's role in leading these evaluations, in partnership with the CEQ and Office of Information and Regulatory affairs (ORIA), would help ensure that equity is incorporated into program allocations and priorities.

Guiding Questions to Evaluate Equity and Environmental Justice

To inform the equity screen in performance reviews - that may also have relevance to agency program design and implementation - we outline several questions that could be used:

- **Equity**: Does the project or investment provide tangible – direct and/or indirect – benefits to disadvantaged communities? Does it allow financial and other resources to reach new places? What does success look like, now and into the future?
- **Unintended Consequences and Harm**: Have you come across ways in which this program is, or may be, contributing to environmental injustices? Is there a risk that disadvantaged communities will be disproportionately impacted by the investment? If so, are there opportunities to mitigate the risk?

- **Systems Approach**: Does the project or investment help address systemic and institutional barriers that exacerbate poor health outcomes and other conditions for disadvantaged communities?
- **Equity-Focused Leadership**: Does the project or investment partner adequately demonstrate a commitment to diversity? Is the leadership team and board diverse, and do they have internal policies that address diversity, equity and inclusion?
- **Key Stakeholder Engagement**: Has the program staff meaningfully engaged impacted partners? Have outcomes/goals been co-created with the community?
- **Improvements**: Are there changes in prioritization or design criteria that would ensure all Americans, especially those who have been underinvested in, could better benefit from this investment?
- **Measurable Co-Benefits**: Does the project or investment provide ancillary benefits to communities or in areas of work that are a priority for the agency?
- **Alignment with Local Plans**: Will the project or investment support the goals/objectives of local plans that address water, health and/or equity (such as climate action plans, health impact assessments, lead line replacement plans, etc.)? Does the plan cover unique issues of priority from any disadvantaged populations in the community?

We suggest including both quantitative and qualitative data sources in the EJ scorecard. These framing questions can serve as useful intermediates to quantitative metrics or be complementary qualitative responses in the EJ Scorecard.