BLUEGREEN ALLIANCE

CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

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BlueGreen Alliance Comments on the CEQ Screening Tool (beta version) for Justice40
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The BlueGreen Alliance (BGA) is a coalition of the nation's largest labor unions and environmental organizations, collectively representing millions of members and supporters. Systemic racism and oppression are knotted into the challenges that BGA was created to address by building a clean, healthy, and prosperous economy for all. BGA is working to ensure that our environmental and economic policy work will improve economic, racial, and environmental justice across the United States. Our approach is informed by our *Solidarity for Racial Equity* platform and the Biden administration's Justice 40 (J40) Initiative.[i]

BGA applauds the Council on Environmental Quality's (CEQ) herculean efforts to put together an environmental justice (EJ) screening tool that is data-driven and user-friendly. As stated on the website, *the purpose of the CEQ screening tool is to help Federal agencies identify disadvantaged communities that are marginalized, underserved, and overburdened by pollution.*[ii] These communities are identified at the intersection of socioeconomic indicators and environmental or climate indicators based on the J40 Initiative to provide—at minimum—40% of benefits of climate and clean energy federal investments to disadvantaged communities.

Defining "Disadvantaged Communities"

In addition to the CEQ screening tool criteria of disadvantaged communities, there are other relevant definitions and screening tools from stakeholders that are worth exploring. The current U.S. Environmental Protection Agency (EPA) definition of overburdened community is, "minority, low-income, tribal, or indigenous populations or geographic locations in the United States that potentially experience disproportionate environmental harms and risks."[iii] Several states also have defined "disadvantaged communities" in statute. These definitions may differ from CEQ's but also more accurately reflect the realities that communities face on the ground. In order to accommodate the potentially wider definitions of "disadvantaged community" than what is in the CEQ screening tool, BGA encourages CEQ and federal agencies to consider 40% of investments to be the basement—not the ceiling—for funding to disadvantaged communities. This will begin to address this larger definition of communities in

need, and to include communities that have been disproportionately harmed by deindustrialization, energy transition, and other forms of job loss.

There are also several states that have their own customized EJ screening tools. These are important for identifying environmental justice issues that are particular to a state—such as factory farms—but many of these additional EJ indicators do not show up in the CEQ screening tool. It is important that these tools be used in conjunction with the CEQ screening tool to ensure that those closest to the problem can identify themselves as disadvantaged communities and get the federal resources promised.

Feedback on the Screening Tool

In exploring the beta screening tool, there are a number of observations and corresponding recommendations that we would like to share with CEQ to improve the beta version.

Missing Indicators

Race: Most notably, race is missing from the methodology. The decision to omit race from the screening tool could lead to the erasure of race from future federal decisions as well as have lasting impacts on how effective federal investments will be in combatting environmental injustice. Furthermore, excluding race fails to acknowledge the role the federal government has played in concentrating environmental harms in communities of color through redlining and other policies. Therefore, we cannot expect proxy indicators for race, such as socioeconomic status, to be sufficient in addressing the tangible, historical, and routine federal discrimination and divestments in communities of color.

There are numerous examples where race is the most significant factor for exposure even when accounting for socioeconomic status. Here are three:

- Toxic air: A 2018 study conducted by EPA scientists found that race—more than socioeconomic status—was a predictor of exposure to toxic air pollution. The study found that Black U.S. residents are exposed to 1.54 times more fine particulate matter and Hispanic residents 1.2 times more than white residents.[iv] The study, published in the journal of the American Public Health Association warns that, "Strictly socioeconomic considerations may be insufficient to reduce PM burdens equitably across populations".

- Chemical disasters: Vulnerability to chemical disasters also disproportionately impacts people of color. The percentage of African Americans living in fence-line zones around 3,433 of the most dangerous facilities is 75% greater than for the United States as a whole. The percentage of Latinos in these zones is 60% greater.[v] In fact, the Center for Effective Government found that people of color make up almost half of the total population living within a one-mile fence-line zone near these facilities, and that they are about twice as likely as white individuals to live in these zones.[vi] Another study found that chemical incidents are more likely to occur in counties housing larger black populations.[vii]
- Hazardous waste sites: The seminal 1987 Toxic Wastes and Race in the United States report found that, "race proved to be the most significant among variables testing in association with the location of commercial hazardous waste facilities. This represented a consistent national pattern."[viii]

Recommendation: *Include race in the methodology of the screening tool.*

Abandoned Mine Lands (AML): For generations, coal-dependent areas have built their economies around coal, not only for the employment of their citizens, but for the public revenue that supports their schools, infrastructure, and small businesses. As demand for coal decreases, these communities face an uncertain future. Because these regions are often geographically isolated and coal facilities are frequently a primary direct and indirect employer of workers across multiple counties, the economic and social infrastructure of a region undergoes lasting changes when facilities close. For every direct coal job that has been lost, four other jobs have disappeared in these communities—meaning a quarter of a million jobs already have been lost.[ix] This leads to devastating impacts on communities, workers, and their families. For example, over the last decade in Central and Northern Appalachia, poverty levels have either remained stagnant or increased in around 95 counties.[x] These same areas experience a high prevalence of abandoned (coal) mine lands.

AMLs are a threat to human health and the environment. Out of three tiers, Priority 1 sites are considered the most dangerous, prioritized by their proximity to people and their level of danger. Acid mine drainage pollutes the water around AML sites. Underground fires that can burn for decades cause toxic air pollution and are also a known hazard for collapse.[xi] Reclaiming abandoned mine lands—and doing so in ways that will reinvigorate and

diversify the economies of local communities—will mean cleaner air and water and provide opportunities for the creation of good jobs.

Recommendation: *Include "Priority 1 Abandoned Mine Lands (AML) sites within 2 kilometers" as an indicator under the Reduction and Remediation of Legacy Pollution category*.

Deindustrialized and energy-transition indicator: One of the Biden-Harris administration priorities is to, "assist community-led transitions to a clean energy economy, and to build a healthier, more equitable, and sustainable future."[xii] Including deindustrialized and energy transition communities that have experienced (or will soon experience) a shuttering of a power plant, mine or manufacturing facility would ensure resources are invested in this priority of the administration. Targeting these communities also aligns with the Office of Management and Budget interim guidance definition of "disadvantaged community" that includes jobs lost through the energy transition AND high unemployment and underemployment.[xiii]

Recommendation: *Identify an indicator(s) that captures deindustrialized and energy-transition communities, such as census tracts that have experienced a shuttering of a manufacturing facility, power plant or mine in the last two years, or where a closure has been announced*.

Indicator Analysis

EJ Communities in College and University Towns: It is our understanding that the *Higher Ed Enrollment* threshold of 20% or less is to ensure that large student populations do not falsely inflate the low-income threshold of a community. However, the reality is that there are communities within these college towns that would otherwise qualify as disadvantaged communities but—because of this indicator—they are not characterized as such by the tool. One example is Institute, West Virginia, which is part of a region known as "Chemical Valley" and is also home to West Virginia State University. Institute, WV, is a majority-black community located near the Union Carbide plant that produces large quantities of ethylene oxide—a known-human carcinogen. According to ProPublica analysis, "Of the more than 7,600 facilities across the country that increased the surrounding communities' excess estimated cancer risks—that is, the risk from industrial pollution on top of any other risks people already face—the Institute plant ranked 17th."[xiv]

However, when you look up Institute, WV, on the screening tool, it is not identified as disadvantaged. Another noted error is when clicking on the Legacy

Pollution data, it is listed as being above the threshold (above 90th percentile) at 92% for proximity to Risk Management Program (RMP) facilities, but this is not denoted in blue to indicate that it is above the threshold amount. You will also note in the *Workforce Development* category that the *High School Degree Attainment Rate* (HSDAR) is at 3% for Institute, WV. Clearly there is a disconnect between the intention of excluding transient student populations with the *Higher Ed Enrollment* rate threshold and the eligibility of the residents in Institute, WV, to receive Justice40 benefits.

Recommendation: *Cross-check all census tracts that are above stated thresholds and have a very low HSDAR, but are excluded from J40 status due to the Higher Ed Enrollment rate. Identify a data-driven threshold for HSDAR below which communities should be considered J40 even if the Higher Ed Enrollment rate is above 20%.*

Cumulative Impacts: The beta version of the screening tool does not take into account cumulative impacts. For example, if a community is 5 kilometers from one RMP facility, it is treated the same as a community that is 5 kilometers from multiple RMP facilities. This is the reality for many communities such as those that live along the 85-mile corridor in Louisiana known as "cancer alley" or near the shipping channels in Texas.

Recommendation: Help federal agencies to prioritize resources by including additional data that tracks cumulative impacts.

Conclusion

We appreciate the effort put into this tool and understand that it will continue to evolve. Our hope is that there will continue to be a feedback mechanism for disadvantaged communities to continue to engage in this iterative process. We look forward to supporting CEQ in this endeavor.

[i] BlueGreen Alliance, *Solidarity for Racial Equity, 2021*. Available online: https://www.bluegreenalliance.org/resources/solidarity-for-racial-equity/

[ii] Council on Environmental Quality, Climate and Economic Justice Screening Tool (BETA), 2022. Available online; https://screeningtool.geoplatform.gov/en/

[iii] U.S. EPA, *EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples*, July, 2014. Available online: https://www.epa.gov/sites/default/files/2017-10/documents/ej-indigenous-policy.pdf?VersionId=_fETfCeyPmIV.T5FztQcZWMsw.a5JgCG

[iv] American Journal of Public Health, *Disparities in Distribution of Particulate Matter Emission Sources by Race and Poverty Status*, 2018. Available online: https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2017.304297

[v] Coming Clean, *Who's In Danger? Race, Poverty, and Chemical Disasters*, 2014. Available online: www.comingcleaninc.org/assets/media/images/Reports/Who's%20in%20Danger%20Report%20FINAL.pdf

[vi] Center for Effective Government, *Poverty, Race, and Unequal Chemical Facility Hazards*, 2016. Available online: www.foreffectivegov.org/sites/default/files/shadow-of-danger-highrespdf.pdf.

[vii] Union of Concerned Scientists, *Double Jeopardy in Houston: Acute and Chronic Chemical Exposures Pose Disproportionate Risks for Marginalized Communities*, 2016. Available online: https://www.ucsusa.org/sites/default/files/attach/2016/10/ucs-double-jeopardy-in-houston-full-report-2016.pdf.

[viii] Commission for Racial Justice, *Toxic Wastes and Race in the United States*, 1987. Available online: https://www.nrc.gov/docs/ML1310/ML13109A339.pdf

[ix] Union of Concerned Scientists (UCS) and Utility Workers Union of America (UWUA), *Supporting the Nation's Coal Workers and Communities in a Changing Energy Landscape*, 2021. Available online: https://www.ucsusa.org/sites/default/files/2021-05/Supporting-the-Nation%27s-Coal-Workers-%28report%29.pdf

[x] Appalachian Regional Commission (ARC), *Income and Poverty in Appalachia*, 2021. Available online: https://www.arc.gov/income-and-poverty-in-appalachia/

[xi] Department of Interior, Natural Resources Revenue Data. Available online: https://revenuedata.doi.gov/how-revenue-works/aml-reclamation-program/

[xii] Department of Energy, "DOE Will Assist 22 Communities with Locally Tailored Pathways to Clean Energy," 2022. Available online: https://www.energy.gov/articles/doe-will-assist-22-communities-locally-tailored-pathways-clean-energy

[xiii] Office of Management and Budget, "Memorandum for the Heads of Departments and Agencies," 2021. Available online: https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf

[xiv] Mountain State Spotlight, "How Black Communities Become 'Sacrifice Zones' for Industrial Air Pollution," 2021. Available online: https://mountainstatespotlight.org/2021/12/21/black-communities-industrial-air-pollution/