

United States Senate

April 20, 2022

The Honorable Brenda Mallory
Chair
Council on Environmental Quality
730 Jackson Place, NW
Washington, DC 20503

Dear Chair Mallory,

We write to urge you to center transparency, community accessibility, and racial, economic, and environmental justice in the continued refinement of the Climate and Economic Justice Screening Tool (CEJST). As new funding from the *Infrastructure Investment and Jobs Act* becomes available for dissemination and as the Biden administration allocates money from regular and emergency appropriations packages, an effective screening tool will be essential to track our country's progress on the Justice40 agenda—establishing an Environmental Justice Scorecard and ensuring that disadvantaged communities receive at least 40 percent of the beneficial investments from relevant programs.¹

Decades of redlining and industrial zoning in redlined areas have led to disproportionate rates of lead poisoning, exposure to toxic waste, and other injustices that have imposed immense financial and health burdens on Black, Brown, and Indigenous communities. Yet these communities also experience chronic disinvestment, and thus lack the resources needed to remediate past harms and adapt to future adverse impacts. Therefore, we must reject and actively work to redress the policies that have been predicated upon racism and bias—to do otherwise or to ignore this legacy would perpetuate white supremacy. While existing law may hinder efforts to legislate funding on the explicit basis of race in order to address this injustice, an inherent understanding of this history will be essential in the development of the CEJST. Recent analysis shows that the current beta version of the tool could potentially exclude 2,200 census tracts in which the 80 percent or more of residents are non-white.² We must ensure that this tool avoids the inadvertent perpetuation of environmental racism and effectively integrates and accounts for harms felt by different communities, in order to create new opportunities for investments and community empowerment.

¹ Shalanda Young et al., *The Path to Achieving Justice40*, The White House (July 20, 2021), whitehouse.gov/omb/briefing-room/2021/07/20/the-path-to-achieving-justice40/.

² Naveena Sadasivam and Clayton Aldern., *The White House Excluded Race From its Environmental Justice Tool. We Put It Back In: A Grist Analysis Shows How the 'Race-Neutral' Tool Can Still Prioritize Communities of Color*, Grist (February 24, 2022), <https://grist.org/equity/climate-and-economic-justice-screening-tool-race/>.

The CEJST should integrate feedback from key stakeholders, such as the recommendations provided by the White House Environmental Justice Advisory Council (WHEJAC), frontline organizations, and attendees of CEQ listening sessions. Continuous engagement with stakeholders will ensure the tool both informs communities about environmental and economic harms and receives information from communities in return, with an understanding of the systemic barriers that can impair the reporting and documentation of environmental justice threats. The tool should not only be used as a database, but as a means of empowering these communities to continuously interface with the federal government in order to report on the effectiveness of Justice40-related programs. The federal government may be meeting its targets according to its own evaluation, but what matters is meeting them according to environmental justice communities.

CEQ must ensure that there is Tribal consultation on the development and applications of the tool in relation to Tribal nations, consistent with existing executive orders and Biden administration principles, as well as engagement with agencies that direct their activities to Tribal nations.^{3,4} CEQ should also create a clear, transparent, and accessible process to periodically update and evaluate data contained within the tool, with full data updates no less than once every three years and with as much data as possible updated annually.

In addition to the direct creation and refinement of the screening tool, CEQ should establish an interagency task force on EJ mapping and data collection, comprising high-ranking officials from key agencies. CEQ should also direct and conduct an annual federal data audit within all relevant agencies to plug any gaps in relevant data sets for environmental and economic justice metrics, such as energy burden or maternal mortality data.

We urge CEQ to undertake the following activities as part of the ongoing development process for the Climate and Economic Justice Screening Tool:

- Consider adopting more metrics that indicate the interrelation between race and climate vulnerability, transit, clean energy, energy efficiency, and housing, such as: level of access to emergency services; percent of low-income housing in relation to flood zones; average wait time, including for transfers; safe routes to schools; investments in weatherization; level of redlining; and percentage of foreclosed homes.
- Develop a method to consider metrics to measure socioeconomic hardship, social stressors, public health, and pollution burdens in a given community in aggregate to produce cumulative environmental justice scores.
- Develop a process in consultation with states and U.S. territories by which communities who may not be designated as disadvantaged under the most recent iteration of the tool can demonstrate complex investment needs using qualitative or quantitative data that

³ Exec. Order No. 13175, 3 CFR 13175 (2000).

⁴ Joseph R. Biden, Jr., *Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships*, The White House (Jan. 26, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/>.

meets certain standards, including data produced by Tribal nations, to support and submit for their identification as an environmental justice community. Establish an equitable and expedient method for reviewing this data and incorporating it into the tool in future audits.

- Establish an equitable method for incorporating community feedback on strengths and weaknesses of federally funded initiatives, and include this feedback in data audits.
- Develop a plan that includes strategies to overcome barriers to public engagement, including language, transportation, and economic barriers, and lack of internet access. This should include a nation-to-nation consultative process for engaging Tribal nations.
- Task agencies with identifying rulemaking and other strategies to require disclosure and transparency of critical data sets. Many of these strategies are within the existing regulatory authority of the agencies.
- Require each agency to publish draft Justice40 implementation targets for community feedback and accountability.
- Strongly consider incorporating regional factors or creating regional maps.
- Conduct research and outreach to understand and prevent the tool from enabling practices that would use information about climate vulnerabilities to potentially withdraw resources from vulnerable communities.
- Require each agency to publish draft Justice40 implementation targets for community feedback and accountability

The CEQ could also benefit from continuing its consultation with those developing state-level environmental justice mapping tools, looking to models like the Maps and Geospatial Information System Tools for Environmental Justice, CalEnviroScreen, and the recent collaboration of EPA Region 3 with the Community Engagement Environmental Justice and Health Group to develop the Maryland EJScreen tool. With so much depending on the successful implementation of the Justice40 Initiative, continuous engagement with stakeholders, advocates, and community experts will be critical to develop a tool that works for all.

The catastrophic impacts of climate change are inextricably linked to health, economic, and racial injustice. All communities in the United States are facing powerful and frequent hurricanes, devastating wildfires, and tornadoes, but Black, Brown, and Indigenous communities face an extra burden: the burden of environmental racism. Pollution from fossil fuel extraction and combustion, toxic chemical spills, water contamination, and other environmental harms affect every facet of life for those exposed, from birth weight to educational outcomes. These communities also have been historically locked out of the resources needed to adapt to climate impacts, remediate past harms, and build a clean energy future—this tool, and the Justice40 Initiative, are key to addressing these inequities.

As you continue to work on this tool and communicate its updates, features, and modifications with stakeholders and policymakers, we ask that you keep us informed about what Congress and other supporters of the Climate and Economic Justice Screening Tool can do to facilitate your

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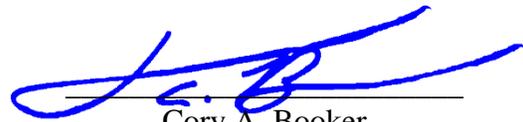
ongoing efforts. Whether through codification, additional funding, better data collection in territories, or assisting in the development of a schedule for updates, we would benefit from your expertise on what further steps may be useful in ensuring the tool is continually updated and in effect for years to come.

We thank you for your work to date on the development of the Climate and Economic Justice Screening Tool, and we look forward to its ongoing improvement in consultation with communities.

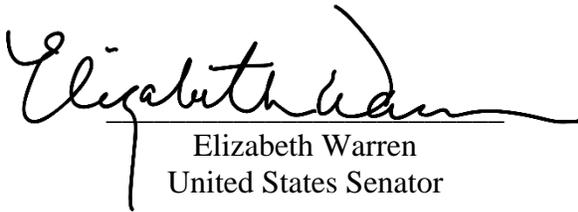
Sincerely,



Edward J. Markey
United States Senator



Cory A. Booker
United States Senator



Elizabeth Warren
United States Senator



Bernard Sanders
United States Senator



Alex Padilla
United States Senator



Benjamin L. Cardin
United States Senator