



Environmental Justice Leadership Forum on Climate Change

USEPA
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Dear Mr. Charles Lee:

Thank you for the opportunity to comment on the Draft EJ 2020 Action Agenda Framework proposed by the Environmental Protection Agency (the Agency) on April 15, 2015. The **Environmental Justice Leadership Forum on Climate Change (EJ Forum)**ⁱ is a national coalition of over 42 community based environmental justice organizations representing 23 different states. The EJ Forum was formed in 2008 to *mobilize and facilitate a national working group of environmental justice leaders to catalyze and inform state and federal policy, help grassroots campaigns, provide a unified, strong voice, and support political and legislative action that will result in the development of just policies and mechanisms that equitably reduce carbon emissions in all communities.*

Our Members have always and continue to be heavily engaged in permitting and rulemaking actions initiated by the Agency to provide an environmental justice perspective that is often not sought or included in Agency actions. We engage by offering public comments and testimony, serving on multiple federal advisory committees and providing our “on-the-ground” expertise at various Agency sponsored workshops and meetings. Consequently, our recommendations represent the concerns of a diverse set of communities across the country.

We appreciate your efforts to work into the proposed framework some of the specific comments offered by our individual members that were raised in one-on-one meetings prior to the release of this document. In addition to those comments, we have some additional thoughts about goals 1 & 3 outlined in the framework, and a diverse set of general recommendations.

MAIN GOAL 1: DEEPEN ENVIRONMENTAL JUSTICE PRACTICE WITHIN EPA PROGRAMS TO IMPROVE THE HEALTH AND ENVIRONMENT OF OVERBURDENED COMMUNITIES

- EJ in rulemaking:
 - **Require states, as a part of their planning process, to conduct an EJ analysis to ensure that equity considerations are used to inform planning and make sure the path forward to compliance is beneficial to all Peoples.** This should not be an option, and states should be required to provide additional engagement opportunities – beyond the **one** required meeting – with interested stakeholder and community groups. While guidance from the Agency can be useful to State Agencies, having a mandate in the final rule that requires an analysis be conducted can provide an impetus to move in that direction. If states refuse, than EPA must complete the analysis. We have the right as Americans to life, liberty and the pursuit of happiness. Without an environmental justice analysis and corresponding corrective rulings, regulations and practices the right to life is seriously compromised and too often cut short. Statistics from both the EPA, other federal agencies, and academia show that certain communities in proximity to emission emitting facilities have greater health risks and higher incidences of death related to

environmental factors. We are talking about both a systemic change in policy making, as well as addressing our constitutional and human rights.

- **Enhance regional EJ coordinator engagement and accountability with state environmental agencies, particularly in the rule-making and other Agency action processes.** Regional coordinators should be the connective tissue between community stakeholders and the state environmental process to ensure the proper public participation activities are happening. The Agency should strongly consider increasing the required amount of public engagement for rulemakings. While this might be seen as an extra burden, in most cases, 1 meeting at the State level to accommodate all stakeholders is insufficient, especially if true engagement is what the Agency desires.
- **Guidance generated with various rulemakings – both EJ and general guidance – should be promoted as a tool and integrated into the standard operating procedures, as well as Performance Partnership Agreements used by state and local environmental Agencies.** Regional coordinators could help facilitate some of this knowledge transfer through meetings, conferences, webinars, etc. with local and state environmental partners.
- Enhance science tools for considering EJ in decision-making
 - **Develop guidance on how citizen science and spiritual knowledge/expertise will be integrated and used by state environmental agencies to help implement policy, provide additional data for enforcement and compliance proceedings and to help create protective standards.** The use of hand-held monitors and NextGen monitoring and other devices are improving and being used more frequently by stakeholders. The value of citizen data should not be overlooked or underestimated. Providing state agencies with direction as to how to use this additional data source is needed. Along these same lines, understanding how to incorporate the spiritual value of the earth and its resources and most prominently the knowledge of Indigenous Peoples and Native American Peoples, and how to incorporate that into the decision making process as an ‘added value’ to the scientific decision making process is critical as well.
 - **Advancing cumulative impacts research into action is critical.** While it is hard to reach the ‘perfect model’ or ‘perfect scientific methodology’ to quantify/qualify cumulative risk. To move us out of “we can’t do”, the Agency should start to utilize the frameworks/tools developed thus far, to create a process by which decision making (i.e. permitting) intentionally considers all major/minor, permitted, mobile, etc. sources of pollution. This goal needs to be more specific, and have an OWNER attached to it. (Possibly the Office of Research and Development) with specific tasks as a part of a workplan. The webinar series created by EPA staff is a great starting point in terms of documenting the progress.ⁱⁱ Now is the time to put some traction and move forward with ‘what we know’ versus focusing using on what we do not know.
 - **In the Agency’s most recent 2014 Climate Change Indicators Reportⁱⁱⁱ, it would be helpful to infuse EJ indicators into this next analysis.** Possible ‘indicators’ from an EJ perspective could include utilizing the EJ Index from EJ SCREEN and looking at national trends (depending on how often the data is updated in this analytical tool), looking at emissions of GHG to air and how that has changed over time, compliance and enforcement related to emissions of climate forcers, as well as developing a measure of ‘climate resilience/readiness’ that could incorporate multiple media. It would be a great opportunity for the EJ Forum to provide some guidance as to what ‘indicators’ could be useful for the internal process.

MAIN GOAL 3: DEMONSTRATE PROGRESS ON OUTCOMES THAT MATTER TO OVERBURDENED COMMUNITIES

- **An evaluation of the effectiveness of Agency programming needs to be undertaken.** This type of evaluation can be useful in determining which programs have been impactful, should re-purposed or defunded. This evaluation should be internal and external. The internal process would include creating a mechanism by which the EPA and other Agencies in the federal family track/document – on an annual basis – how they have taken steps to integrate EJ into their practices, as well as monies that have been used to provide staff, assistance, etc., by program. This evaluation would be posted for public review, utilizing current reporting mechanisms (e.g., White House Council on

Environmental Quality or Agency accountability reports related to finance and planning. The external process could garner feedback from external stakeholders - from community organizations, NGOs, small businesses - as to the impact of certain Agency programs. Periodic evaluation can help inform how the Agency moves forward with program priorities. For example, the Urban Air Toxics Program and the CARE program that was independently evaluated and found to be a successful program that should be sustained^{iv}. Currently, the CARE program is defunded. Creating an evaluation mechanism using indicators of progress, jointly developed between Agency personnel and community members. This mechanism should be transparent and updated on an annual basis, possibly coupled with the Agency Sustainability Scorecard that is submitted to the White House in February.

- **Delineating the responsible party and actions to track progress on the proposed framework is crucial.** The Action Framework should have a specific effort attached to each statement. Will each of the statements have specific actions/tasks associated with it? For example, Under Goal 1, Section D, where it says “Advance research on cumulative risks and impacts”, it would be helpful to denote at least one specific action associated with advancing this work. It would also help to know who (which department, individual, etc.) will be responsible for moving forward with the identified efforts. Accountability and a point of contact is needed for community engagement.
- **Evaluate previous recommendations and implement them.** There are numerous reports that have been generated by many of the advisory committees and boards to the EPA as it relates to environmental justice. Undergoing a structured scan and status of the recommendations related to environmental justice that have been proposed would be a useful piece of information. For example, we support many of the recommendations that have not been addressed in the recommendations submitted to the Agency from the National Environmental Justice Advisory Council on April 29, 2011 in response to EJ Plan 2014^v. It is very important that we do not create too many new goals without addressed the goals that were already set forth.

GENERAL RECOMMENDATIONS

- **Expanding the definition of environmental justice communities.** The issue has been raised regarding how prisoners – defined as people held in prisons, jails, detention facilities, civil commitment centers and other facilities that hold people against their will as punishment or while awaiting court-related proceedings, i.e. trial, sentencing, deportation, etc. – are a community of concern that is being ignored. In some accounts, prisoners are confined to places that are not meeting environmental, health and safety standards, and, in some cases, environmental conditions that are within the facility and outside the facility, with some prisons being sited on former waste sites, flood plains and hazards. We encourage the Agency to start a dialogue on the EJ implications on prisoner populations and facilities.^{vi}
- **Accountability and Structure.**
 - There appears to be an obvious difference in the amount of time and effort spent to address and engage on environmental justice within the various Offices of the EPA. While the capacity of EJ organizations is limited to focusing federal advocacy on generally one media (i.e. air, water, waste), that should not preclude the Agency Offices from investing time and effort to insure that EJ is a high priority within that Office. We are charging the OEJ, and/or other higher ranking officials that report to the Administrator to develop a transparent method of oversight to insure that ALL offices are working to integrate EJ into the programming and planning. At the least, developing a system – or integrating into an existing system – efforts, outcomes for each Office – is critical.
 - Where feasible, every Federal Advisory Committee should be required to have an Environmental Subgroup as a part of structure to ensure that the recommendations from these bodies do not explicitly address EJ issues which cross various departments, sectors, and media.
- **Addressing Human Rights and Civil Rights.**
 - Develop a strategy and workplan to address the backlog of complains relative to the Office of Civil Rights. A conversation, webinar, convening that includes community members to understand the challenges of this process, where it stands, how it can be used would be useful.

- Develop a strategy/workplan about how to operationalize how a human rights framework - the human rights to life, health, and freedom from racial discrimination, self-determination, and meaningful participation in governmental decisions – into Agency priorities. A recent report discusses specific actions that are needed to address human rights, environmental justice and climate justice.^{vii}
- **Building capacity for communities.** Enhance the funding that is available for technical assistance for communities for research, permitting and compliance assistance/research, etc.
- **The monetization of costs and benefits on health and environmental factors needs to be integrated into the environmental justice discussion.** A set of guidelines to address how the costs of inaction will impact environmental justice communities does not seem to be addressed anyway in the Plan. Looking specifically at the EPA's Office of Policy – Guidelines for Preparing Economic Analysis^{viii} there is a section that addresses distributional costs and benefits for Environmental Justice. However, we would like to suggest that the cost of ‘inaction’ be included. Using health data and health cost data, based on specific actual and projected health outcomes, putting dollars and cents to substantiate the need for certain permitting and other decisions to be made is critical.

We trust that you will strongly consider our suggestions and recommendations and we are willing to clarify our comments or work with you to flesh out some of the ideas presented. Again, thank you for the opportunity and we look forward to the EPA being the lead Agency to building sustainable communities and eliminating structures and processes that contribute to environmental racism. If you have any specific questions regarding these comments, please contact Dr. Jalonne L. White-Newsome, National Coordinator for the Environmental Justice Leadership Forum on Climate Change at (202)495-3036 or jalonne@weact.org.

With kind regards,

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ⁱ Website for the Environmental Justice Leadership Forum on Climate Change, www.ejleadershipforum.org

ⁱⁱ Cumulative Risk Webinar Series: What we learned, EPA/600/R-14/212, July 2014, <http://www.epa.gov/ncer/cra/webinars/cra-webinar-summary.pdf>

ⁱⁱⁱ Climate Change Indicators in the United States, 2014, Third Edition, <http://www.epa.gov/climatechange/pdfs/climateindicators-full-2014.pdf>

^{iv} Putting Community First: A Promising Approach to Federal Collaboration for Environmental Improvement: An Evaluation of the Community Action for a Renewed Environment (CARE) Demonstration Program, May 1, 2009: http://www.issuelab.org/resource/putting_community_first_a_promising_approach_to_federal_collaboration_for_environmental_improvement_an_evaluation_of_the_community_action_for_a_renewed_environment_care_demonstration_program

^v NEJAC Comments to the EPA Plan EJ 2014, April 2011, <http://www.epa.gov/environmentaljustice/resources/publications/nejac/plan-ej-2014-comments-0511.pdf>

^{vi} See EJ 2020 comments submitted from the Human Rights Defense Center, <https://www.humanrightsdefensecenter.org/>

^{vii} The Need for Human Rights Advocacy to Overcome Injustice: Lessons from the Environmental Justice and Climate Justice Movement, US Human Rights Network, 2013, www.ushrnetwork.org

^{viii} Guidelines for Performing an Economic Analysis, May 2014: [http://yosemite.epa.gov/ee/epa/erm.nsf/vwAN/EE-0568-50.pdf/\\$file/EE-0568-50.pdf](http://yosemite.epa.gov/ee/epa/erm.nsf/vwAN/EE-0568-50.pdf/$file/EE-0568-50.pdf)