

October 23, 2024

To:

White House Environmental Justice Advisory Council (WHEJAC)
Environmental Protection Agency (EPA)

Re: Comments on Environmental Justice Plans and Initiatives of the White House Environmental Justice Advisory Council (Document ID: EPA-HQ-OEJECR-2024-0147)¹

The American Lung Association offers the following comments to the White House Environmental Justice Advisory Council (WHEJAC) and the EPA in their initiatives and plans across the federal government to advance environmental justice.

The WHEJAC noted interest in receiving public comments relevant to the following charges and topics (*italicized*):

(2) National Science and Technology Council (NSTC) Environmental Justice Science, Data, and Research Plan:

The Research Plan makes recommendations under four broad categories:

1. Enhancing meaningful involvement and engagement of the public.
 2. Fortifying just treatment, equitable access, and protection from environmental injustice.
 3. Strengthening work and partnership with non-federal entities.
 4. Institutionalizing environmental justice.
- *What metrics or indicators would prove most useful in evaluating whether the recommendations in the current Research Plan have been meaningfully integrated and used to support the advancement of environmental justice;*

In the context of recommendation #1 related to enhancing public engagement, agencies could employ data analytics as metrics to evaluate whether the recommendations in the current Research Plan have been meaningfully integrated. This could involve continued mapping of trends in the number and type of specific communications (e.g. emails, phone calls, written and oral public comments) an Agency receives including at different steps of any rulemaking; the number of affected EJ communities that are participating in the process; and attendance at virtual and in-person public consultation and outreach community meetings (e.g. listening sessions, townhalls, workshops).

Analyzing these communications based on their content could indicate if the agency has been successful in its outreach to EJ communities and enabling their meaningful

¹ White House Environmental Justice Advisory Council. (Sep 26, 2024). Document ID: EPA-HQ-OEJECR-2024-0147, <https://www.regulations.gov/document/EPA-HQ-OEJECR-2024-0147-0002>

engagement in public policy. Aggregating these data across all agencies could indicate the successes and failures of various agencies in implementing the Plan recommendations across the government. Solutions to overcome these failures could be addressed in the next iteration of the Plan.

On the subject of public participation in government processes, we reference the detailed comments we have previously submitted to the U.S. Environmental Protection Agency² and to the White House Office of Management and Budget.³ Reviewing the public comments received by these and other federal agencies on this topic could help develop a comprehensive set of metrics and gauges to judge the continued effectiveness of implementation of the Plan recommendations.

- *what types of feedback mechanisms could be implemented to meaningfully capture community responses and integrate them into the planning of the NSTC Environmental Justice Subcommittee;*

Community engagement in government processes involves establishing a two-way relationship built on trust.⁴ To gain trust of communities and ensure their continued and sustained engagement, agencies must go beyond the minimal statutory requirements of public participation. Agencies need to show communities where and how their input is being used. Transparency and responsiveness from agencies are critical in reviewing and utilizing community input and providing feedback. Agencies could provide a summary of all substantial comments that they receive from a community at each stage of rulemaking with an explanation of how these comments were considered and used in that stage of the process. The agencies could follow up with community meetings to get feedback from the community on how they perceived the process and any suggestions for improvement. This would help in establishing trust with the community and provide impetus for continued engagement in regulatory processes.

- *what key areas should receive increased or decreased attention in the next iteration of the plan;*

We recommend the consideration of cumulative impacts of multiple risk factors in federal agency rulemakings, with emphasis on scientific approaches and methodologies, receive increased attention in the next iteration of the Plan. This area of policy-applicable science currently suffers from both data gap and funding issues which need to be addressed. While multiple initiatives and measures have been proposed and implemented as part of environmental justice (e.g. outreach, education, and risk communication about pollution and its impacts; establishing additional monitors for

² American Lung Association comments. 01/17/2024. [Achieving Health and Environmental Protection Through Meaningful Involvement Policy](#) (Docket # EPA-HQ-OEJECR-2023-0326, Tracking #: lrh-5lwl-02y9); 02/23/2024. [EPA's Scientific Integrity Policy Draft for Public Comment](#) (Document ID: EPA-HQ-ORD-2023-0240-0001, Tracking #: lsy-y5en-shnb)

³ American Lung Association comments. 06/06/2023. [Proposed EO 12866 Meetings Guidance reforms under "Modernizing Regulatory Review"](#) (Docket ID: OMB-2022-0011, Tracking #: lik-hj3p-6cix)

⁴ Revesz (OMB) Memo on Community Engagement in the Regulatory Process. (July 19, 2023). Page 4

pollution; assessing pollution sources in EJ communities), cumulative impacts assessment has not been consistently and uniformly integrated into every health-based rulemaking within and across agencies.

For example, ambient air pollution control is an area where cumulative impacts have not been integrated into the rulemaking process. Most of EPA's discussions on potential cumulative health impacts of multiple risk factors have been primarily on hazardous air pollutants and air toxics, but they are not captured in the regulation of criteria air pollutant (CAP) exposures, i.e. in the determination of the National Ambient Air Quality Standards (NAAQS) for CAPs which in turn inform the Air Quality Index (AQI), a critical public health risk communication tool.⁵

The CAP exposome includes multiple risk factors. Chemical co-pollutants, non-chemical stressors such as socioeconomic status and sociodemographic factors, preexisting health issues, different life stages, etc. add to the health impacts of CAP exposures. Climate change is another major risk factor which impacts public health on its own and also imposes a penalty on conventional air pollutant exposure. The assessment of cumulative health impacts of all these stressors requires establishing the risk posed by each, quantifying that risk, and weighting the risk in regulating specific air pollutants. The problem with the current paradigm of pollution control, i.e. setting standards for individual pollutants which do not consider co-pollutant effects, is that there can be adverse health impacts from the combination of the multiple pollutants even if no individual standard is violated.⁶ Cumulative impacts assessment also plays a role in the framing and use of the AQI, which is based on short-term health-based primary NAAQS, and also in furthering environmental justice. Therefore, we ask that cumulative impacts assessment technologies and methodologies for use in rulemaking be given priority in the next version of the Research Plan.

(3) Place-Based and Community-Focused Initiatives:

- *What models of community-focused, multiagency collaboration have worked effectively;*
- *what methods, processes, principles, or other components have made these models effective in strengthening health or environmental protection or reducing environmental injustice affecting a specific local community or region; and*
- *in what ways could multiagency efforts at the federal level incorporate effective partnership or input from state, territorial, and local governments, consultation with Tribal governments, and engagement with communities with environmental justice concerns, community organizations, businesses, and members of the public?*

⁵ American Lung Association comment. (08/15/2023). [Cumulative Risk Assessment Guidelines for Planning and Problem Formulation](#). (Docket ID: EPA-HQ-ORD-2013-0292, Tracking #: llc-mlmi-thdx); Comment from Shyamala Rajan, American Lung Association. (07/22/2024). [State-of-the-Science and the Future of Cumulative Impact Assessment Meeting 2 | National Academies](#)

⁶ Sheats, N. & Baptista, A. (2021). [Addressing Environmental Injustice Through the Adoption of Cumulative Impacts Policies](#). Coming Clean. Policy Brief supporting plank #2 of the Louisville Charter.

Too often, disadvantaged communities are disproportionately impacted by climate change, have higher rates of associated health conditions, and are at higher risk of exposure to pollution and natural disasters. The Lung Association's 2024 "State of the Air" report found that nearly 70 million people of color and 16 million people with incomes meeting the federal poverty definition live in counties that received a failing grade for ozone and/or particle pollution. Air pollution poses a significant health risk, affecting nearly every organ in the body. Targeting investments to clean up the most polluted communities first is critical to securing clean air, addressing climate change and advancing environmental justice.

The "State of the Air" report relies on the national network of air monitors. However, many U.S. cities and counties don't have monitors, leaving residents with no official monitored information on their air quality. Traditional ground-based monitors are the cornerstone of air quality assessments and crucial in regulating air pollution, but they are unevenly distributed and limited in coverage, leaving many regions without comprehensive data. Some of these areas are experiencing high levels of pollution from wildfires, expanded oil and gas extraction and other sources. Limitations in current monitoring practices leave pollution hotspots underreported, especially in rural regions.

A new report from the Lung Association, "Something in the Air: Bridging the Air Quality Data Gap with Satellite Technology," available on October 30, 2024, explores how satellite data can be used to enhance our understanding of air quality and protect public health in unmonitored areas. The report found that many counties in the U.S. with incomplete or no monitoring data for annual PM_{2.5} levels in the years 2020, 2021 and 2022 had concerning levels of pollution according to satellite-derived data.

Satellite data provides finer resolution capabilities that can reveal hotspots and pollution patterns and offer actionable insights for decision-makers and community members. Access to air quality data is vital for enabling individuals to take proactive measures to safeguard their health and it equips communities with the knowledge needed to advocate for cleaner air. This data is intended to augment traditional ground monitors, not to replace them, and can help provide a more comprehensive understanding of the nation's air quality.

Additionally, practical measures such as [Smart Surfaces](#) can help protect health and improve environmental justice in the face of a changing climate. From the direct impact of the temperature and weather changes to the special burdens these changes place on the most vulnerable communities, climate change seriously threatens the nation's wellness— especially lung health. One such category of impacts is seen in urban communities facing dangerous heat. Black, Indigenous, and People of Color are [more likely](#) to be living in areas most impacted by extreme heat and poor air quality.

Inequities in exposure to unhealthy air are due in large part to a history of discriminatory practice that consists of systematic denial of services such as mortgages, insurance loans, and other financial services to residents of certain areas based on their race or ethnicity and other means of limited political power within these communities. This

history of disinvestment and redlining is [linked](#) to increased vulnerability of communities of color and those living under the federal poverty line to urban heat and ground-level ozone.

Ground-level ozone pollution, also known as smog, forms when other pollutants react in the presence of heat and sunlight; more heat often means more ozone. This pollutant causes swelling and irritation of the lungs. Immediate irritation can cause wheezing and coughing and shortness of breath. With repeated exposure, ozone can permanently damage lung cells. For those dealing with a chronic lung disease like asthma or COPD, heat and smog may trigger an asthma attack, severe COPD symptoms or lead to a lung infection.

Smart Surfaces is the term used to encompass a suite of technologies that can help reduce heat in cities. These include reflective (cool) roofs and pavements, green roofs, trees, solar photovoltaics (PV), greenspaces and rain gardens. Designed to mitigate urban heat, enhance air quality and improve health, the addition of these transformative urban features can make cities more resilient and vibrant. In addition, increased green spaces in urban areas are correlated with a reduction in air pollution and less mortality and morbidity from respiratory diseases.

Further, we urge WHEJAC to call on EPA to use its regulatory authority under the Clean Air Act to set stronger ozone and NO₂ National Ambient Air Quality Standards (NAAQS) as dictated by science to make the air safer and healthier to breathe. This is also a critical EJ issue since EJ communities face disproportional health burden of pollutant exposure, which is often compounded by numerous vulnerabilities. EPA must also ensure timely implementation of the updated 2024 annual PM NAAQS. Additionally, EPA should invest in research and development of data integration tools to supplement data obtained from ground-based regulatory air monitors with satellite-derived data and those from community air sensors, which could then be incorporated into future NAAQS reviews for better protection of community health.

(4) The Environmental Justice Scorecard:

- *How has the public used Phase One and Phase Two of the Environmental Justice Scorecard, and*
- *how can the federal government improve future versions of the Environmental Justice Scorecard to continue to promote transparency and accountability to the public?*

We support WHEJAC's [recommendations](#) for improvements to the EJ Scorecard, including:

- Adopting the term "Environmental Justice Progress Report" instead of "Environmental Justice Scorecard" to better convey the document's purpose.
- Increasing user friendliness and accessibility by incorporating data visualization, graphical elements for tracking progress over time. This can include an at-a-glance dashboard covering all agencies and a map with agency-specific layers for high-level metrics on the landing page.

- Clearly track short- and long-term environmental justice goals and outcomes.

We also support recommendations for the EPA page to provide a timeline for releasing guidance on cumulative impacts and specify how EPA plans to incorporate cumulative impacts considerations. EPA's page can also show how National Ambient Air Quality Standards non-attainment areas overlap with disadvantaged communities.

(5) Justice40 Initiative:

- *How can the Federal government improve access to and awareness of Justice40 Initiative covered programs for entities eligible to apply for funding from those programs?*

We strongly support the Justice40 Initiative and its stated commitment to ensure 40% of the overall benefits from federal investments to mitigate climate change go to disadvantaged communities. Further, we see 40% as a floor rather than a ceiling, and call for it to cover investments, not just the benefits of investments. Given that prioritization of investments for Justice 40 are guided by the Climate and Environmental Justice Screening Tool (CEJST), it is crucial that the tool accurately identify disadvantaged communities. In [comments](#) on the (CEJST), the Lung Association and several public health, health professional, and science organizations made comments and suggestions to optimize the tool for its intended purpose, including the following:

- Include race as a key indicator.
- Adopt a maternal health indicator.
- Adopt a child blood lead level indicator.
- Consider thresholds to determine levels of need.
- Consider cities and towns with substantial disadvantaged areas as fully disadvantaged in funding decisions.

In addition, we support WHEJAC's [recommendation](#) to enhance the climate change vulnerability category and use a cumulative impacts metric to identify and designate disadvantaged communities. For instance, indicators to assess vulnerability to climate change could be expanded to include heat island risks.

A recent [report](#) from the Government Accountability Office (GAO) found that awareness of Justice40 initiatives is limited. Agencies can take steps to increase outreach to disadvantaged communities and identify and address statutory and regulatory barriers to accessing funding. Agencies should also improve guidance on [meaningful public engagement](#), highlight the value of participatory science and systematically gather feedback from stakeholders on guidance and tools.

Thank you for your consideration of our comments.