

October 3, 2022

Via Regulations.gov Portal

Sharmila L. Murthy
Senior Counsel
White House Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

Subject: Environmental Justice Scorecard Feedback (CEQ-2022-0004)

Dear Ms. Murthy:

The Coastal States Organization (CSO) respectfully submits these comments to the Council on Environmental Quality (CEQ) in response to the Request for Information (RFI) on the Environmental Justice Scorecard.¹ Since 1970, CSO has served as the collective voice for the nation's coastal states, commonwealths, and territories on policy issues relating to coastal, Great Lakes, and ocean management. CSO's governor-appointed delegates – representing the state and territory Coastal Zone Management Programs – partner with coastal communities, federal agencies, tribal governments, academia, non-profit partners, and industry for the effective management, beneficial use, protection, and development of the coastal zone through the federal-state partnership established under the Coastal Zone Management Act (CZMA).²

Coastal states recognize that systematic racism, discrimination against populations based on race, gender, income, and other factors, and institutional barriers in accessing federal funding are strongly determinative of a community's environmental health and hazard resilience. Underserved populations are less able to participate in or have been previously excluded from public engagement processes, and are less likely to have their needs considered in infrastructure planning processes. Likewise, coastal communities often include a mix of well-off and vulnerable populations, and require support to engage the whole community in infrastructure planning and decision making. These barriers to equitable outcomes are likely to become more severe as climate change disproportionately impacts underserved communities with less capacity to adapt and become resilient.

Coastal programs work to integrate diversity, equity, inclusion, and environmental justice (DEIJ) principles into state coastal policies and program operations to ensure that the planning, funding, permitting, and technical assistance services they provide achieve equitable and just outcomes for all underserved populations, while also providing support and assistance to coastal communities to integrate DEIJ principles into their own coastal management policies.

The following comments are based on the experience and expertise of state and territory coastal management programs. CSO's comments are made in addition to and in support of comments submitted by coastal states and territories.

¹ *Environmental Justice Scorecard Feedback*, 87 FR 47,397 (Aug, 8, 2022).

² 16 U.S.C. § 1451 *et seq.*

Does [the vision presented in the RFI] reflect the needs and priorities of communities that face environmental injustices?

As presented in the RFI, the proposed vision for the Environmental Justice Scorecard is to serve “as a robust and comprehensive assessment of the Federal Government's efforts to address current and historic environmental injustice, including the Justice40 Initiative.”³ This vision should include tracking not only outputs (e.g., highlighting federal agency investments, practices, and activities) but also outcomes (e.g. metrics of EJ impacts in communities). Performance metrics based on outcomes are necessary to understand and improve on the efficacy of agency achievements.

The RFI implies that the focus of the first version of the Scorecard will be on agency processes and outputs rather than on-the-ground outcomes in communities – for instance, the following section of the RFI separates “processes and markers of progress” to be tracked in “the first version” from outcomes to be tracked “in the long term.” However, work is ongoing now on a range of overlapping federal tools and trackers of on-the-ground outcomes (e.g., the CEQ Climate & Economic Justice Screening Tool, the Environmental Protection Agency’s EJScreen, the National Oceanic and Atmospheric Administration’s Climate Mapping for Resilience and Adaptation, and the Department of Health & Human Services Environmental Justice Index). The Scorecard should be built from the ground up to integrate indicators from these indices so that the federal government’s performance metrics are meaningfully based in on-the-ground outcomes. Likewise, the Scorecard should be used to provide guidance to other users, such as state and local governments, on how these various federal tools and trackers can be leveraged together to improve program delivery.

Do [the categories presented in the RFI] broadly reflect the needs, priorities, and impacts that communities are facing from environmental injustices?

The RFI indicates that the Scorecard will set 2021 as the “baseline” for environmental justice performance metrics. Environmental justice is achieved when everyone enjoys the same degree of protections and equal access to federal programs and services. The Scorecard’s performance metrics should reflect the reality that enjoying the same degree of protections today requires proactive redress of past unequal access to the benefits of federal services and unequal burdens from past federal policy and decisions, especially with regard to infrastructure investment. Scorecard performance metrics should involve examination not only of the impacts of current and future federal policies, investments, and activities, but also disparate benefits and burdens of past future federal policies, investments, and activities.

For the first version of the Environmental Justice Scorecard, what processes and markers of progress should be reflected in each of these categories?

³ Council on Env'tl. Quality, *supra* note 1 at 47,398.

- Across all categories, the Scorecard should assess and incentivize coordination and cohesion horizontally across federal agencies as well as vertically between federal, state, and local partners. The Scorecard should be used to incentivize a cohesive, all-of-government approach that provides clarity across all programs and integrates state and local partners.
- For instance, CSO represents state coastal management programs which coordinate statewide policy and provide support and assistance to coastal communities to integrate DEIJ principles into comprehensive planning, code enforcement, hazard mitigation, natural resource management, and economic development. Coastal programs are key agency partners to ensure that federal investments integrate with and augment existing efforts in coastal communities, maximizing cost effectiveness, multiplying beneficial impacts, and avoiding duplication. The Scorecard should track efforts by federal agencies to partner with coastal programs to sustain long-term engagement and technical assistance to underserved communities.
- The “Reducing Burdens and Harms in Communities” category includes “regulatory, enforcement, and other actions taken” by federal agencies. It should also track coordination between federal and state programs, and assess how well federal regulatory, enforcement, and other actions align with and support state environmental justice goals, principles, and policies.
- Under “Benefits to Communities,” the Scorecard should track steps taken within existing statutory authorities by federal funding and investment programs to provide flexibility to help underserved communities access funds and meet cost-share obligations. In particular, the Scorecard should track which programs allow other federal funds to serve as match, provide waivers for disadvantaged communities, offer guidance and training on match eligibility, and use innovative approaches such as Global Match under the Federal Emergency Management Agency’s Hazard Mitigation Grant Program, which allows state applicants to spread overmatch funds across sub-applicants.
- Under “Benefits to Communities,” the Scorecard should track steps taken by federal agencies to ensure that federal designations for under-resourced communities, such as FEMA’s “small impoverished community” designation, sufficiently encompass all communities and underserved populations with limited resources or capacity to access federal funding resources and support.
- Under “Benefits to Communities,” the Scorecard should track how much federal investment goes to smaller scale projects and pilot projects that meet the needs of smaller or under-resourced communities.
- Under “Benefits to Communities,” the Scorecard should track steps taken by federal agencies to break the pattern of socioeconomically vulnerable families becoming trapped in risk-exposed properties and socioeconomically vulnerable communities losing the revenue necessary to implement effective mitigation strategies by ensuring that federal investments do not encourage development in high hazard areas and that managed retreat and relocations are appropriately considered as funding priorities.

- Under “Centering Justice in Decision Making,” the Scorecard should track steps taken by federal agencies to support consistent, reliable funding for local planning efforts led by trusted community-based organizations so that historically underserved communities can define community needs and priorities for themselves. The most significant barrier to building and sustaining relationships with underserved communities is a lack of funding and capacity to sustain participation in costly, multi-year federal planning processes. This gap should be met with a policy of local empowerment.
- Under “Centering Justice in Decision Making,” the Scorecard should track steps taken by federal agencies to ensure that federal technical resources such as guidance, data, and decision support tools are developed in consultation with end-users in disadvantaged communities from the earliest scoping and design stages, to ensure that these resources adequately account for and meaningfully address on-the-ground realities.

In the long term, what are the desired outcomes that could be included in each of these categories?

CSO reiterates the feedback provided above that tracking of meaningful on-the-ground outcomes should not be left to a future “long term” iteration of the Scorecard, but should be integrated in the first and every subsequent version of the tool, and should form the foundation of federal performance measurement. Outcomes that should be tracked through the Scorecard include:

- Improvement in local planning and project implementation capacity, including staff capacity, public engagement, and successfully funded projects meeting priorities identified through community-led planning processes.
- Participation of local voices, represented by locally-based community groups, in federal planning and decision-making.
- Public access to public resources, including coastlines and coastal waters, for disadvantaged and isolated communities.
- Quality and access to recreational amenities in disadvantaged communities.
- Progress toward cleaning up urban waterways to give all residents equitable access to better natural resources.

CSO commends CEQ’s commitment to robust engagement and coordination in accomplishing policy actions consistent with Administration priorities and statutory authorities. Please contact John Ryan-Henry (jryan-henry@coastalstates.org) for further information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Derek Brockbank".

Derek Brockbank
Executive Director