



October 3, 2022

Ms. Brenda Mallory  
Chair  
Council on Environmental Quality  
730 Jackson Place NW  
Washington, DC 20503

Re: Docket number CEQ-2022-0004 Environmental Justice Scorecard Feedback

Dear Chair Mallory,

The Association of Metropolitan Water Agencies (AMWA) is pleased to have the opportunity to comment on the Council of Environmental Quality (CEQ) environmental justice scorecard. AMWA is an organization of the largest publicly owned drinking water systems in the United States. AMWA's membership serves more than 156 million people – from Alaska to Puerto Rico – with safe drinking water. The association appreciates CEQ's leadership in advancing environmental justice initiatives across federal agencies and welcomes the opportunity to provide the following feedback on some of the specific questions CEQ raised regarding the scorecard.

**A. EJ Scorecard Vision** - AMWA supports federal agencies' continued emphasis on establishing environmental justice (EJ) priorities based on communities' experience, history, science, and data. AMWA believes environmental justice policies should be integrated into the central practices of all federal agencies, including the Environmental Protection Agency (EPA), the National Oceanic and Atmospheric Association (NOAA), and the Federal Emergency Management Agency (FEMA), and not waver depending on the administration. The EJ Scorecard is one potential method to ensure subsequent administrations continue to evaluate the role of the federal government in addressing historic environmental inequities. AMWA believes EPA's commitment to combat environmental injustices is critical to establishing water equity and is interested to see how federal methods of evaluating this goal ensue.

**B. EJ Scorecard Framework** - AMWA believes the scorecard framework is logical and aligns with many definitions of environmental justice and how to achieve them.<sup>1</sup> However, at least one AMWA member expressed interest in how the CEQ Scorecard might assess how a federal

<sup>1</sup> USEPA. (2022). "Environmental Justice." Retrieved from: <https://www.epa.gov/environmentaljustice>.

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agency's actions affect local or native communities' cultural beliefs or traditions about natural resources. AMWA recommends making this clear in the final framework.

AMWA also has feedback on each category of the scorecard framework.

*1. Reducing burdens and harms in communities* – AMWA believes it would be helpful for the scorecard to assess how an agency's regulatory decisions affect or reduce financial burdens on end-users. As metropolitan water utilities, we are interested in understanding whether a regulation or program grant funding from the EPA influences water utilities rates. For example, it would be useful if the scorecard could assess whether an agency's new regulation requires additional treatment or testing, whether the additional treatment increases costs to utilities that must be paid for with rate increases, and the impacts of the increases across different demographics. Conversely, it would be helpful if the scorecard could assess whether there are reduced costs to ratepayers from federal loan and grant programs that fund infrastructure or other projects.

*2. Benefits to communities* – First, when evaluating the role of federal grant programs on vulnerable communities, AMWA urges CEQ to carefully consider how it defines vulnerable or disadvantaged communities and how they are impacted by agency investments and programs, as there are multiple, conflicting definitions at the federal and state levels.

One example of inconsistencies that would make tracking EPA funding difficult under the CEQ Scorecard is EPA's definition of "disadvantaged communities" under the Bipartisan Infrastructure Law (BIL). EPA's guidance on BIL State Revolving Fund (SRF) funds does not clarify which entities are eligible to receive a set-aside of grant and principal forgiveness funding for "disadvantaged communities." For example, Division J, Title VI of the BIL specifies that 49% of the Drinking Water and Clean Water SRF appropriations provided through the measure must go toward public health projects and lead service line replacements. Additionally, all Drinking Water SRF appropriations provided to address emerging contaminants must go to "eligible recipients" in the form of additional subsidy such as grants or 100% principal forgiveness loans. Because the BIL does not define the term "eligible recipients," using EPA's guidance may not lead to correctly tracking which communities, whether disadvantaged or not, receive the federal funding.

Further inconsistencies exist between federal statutes and state definitions that would make tracking federal investments and their impact on local communities difficult to follow under the CEQ Scorecard. As an example, the CEQ Scorecard could not simply rely on the Safe Drinking Water Act (SDWA) definition of a "disadvantaged community" and related state definitions of "disadvantaged community" when identifying water systems, and the communities they serve, that benefit from this additional Drinking Water SRF subsidy. The SDWA section 1452(d)(3) definition of "disadvantaged community" is limited to "the service area of a public water system that meets affordability criteria established ... by the State in which the public water system is located." In practice, many states apply this definition in such a way as to focus on small and

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rural water systems with relatively uniform income demographics, as opposed to metropolitan utilities whose service area includes both low-income neighborhoods and more affluent areas. This means that the metropolitan water systems in many states, despite serving significant numbers of minority and low-income households, are not considered “disadvantaged” and are ineligible for additionally subsidized drinking water SRF funds targeted to such communities. Therefore, using the SDWA definition and states’ definitions of disadvantaged communities in the CEQ Scorecard may not lead to fully assessing the EPA’s effects on vulnerable communities.

Furthermore, the abundance of federal screening tools for identifying vulnerable communities may also complicate tracking federal impacts on communities. Using an incomplete screening tool, like the CEQ Climate and Environmental Justice Screening Tool, which does not incorporate race and ethnicity of communities, may lead to not fully capturing all the ways federal agency programs provide benefits to – or omit – vulnerable communities.

Finally, AMWA also believes it would be useful if the framework could track specific benefits from federal investment and programs to communities in a linear fashion to understand how the impacts are distributed. As metropolitan water agencies, AMWA members would appreciate if the scorecard could have a one-to-one tracking of federal grant programs and end results of interest, like lead service line replacement or other grant funding. For example, it would be interesting if the scorecard could be used to create information on the total amount of funds and their direct impact, such as a table showing billions of dollars in one type of EPA grant leading to a total specific number of lead pipes removed in low income, communities of color across the country.

*3. Centering justice in decision making* – AMWA believes that procedural justice, or justice in decision making, is essential to achieving environmental justice. AMWA believes the federal government should incentivize local project planners to offer a forum or platform that allows community engagement and input on capital projects. As such, any scorecard could evaluate the effects of these efforts. This effort should include targeted outreach when the project is being considered in a vulnerable, disadvantaged, or overburdened community.

## **Conclusion**

AMWA thanks CEQ for the opportunity to comment on its Environmental Justice Scorecard and appreciates the agency’s efforts toward advancing environmental justice. If you have questions, please contact Jessica Evans ([evans@amwa.net](mailto:evans@amwa.net)), AMWA’s Government Affairs Associate.

Sincerely,



Thomas Dobbins  
Chief Executive Officer

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