

Inside Energy & Environment

Developments in law and policy of energy, commodities and environment

FROM COVINGTON & BURLING LLP



HOME > AMERICAN JOBS PLAN > ENDING ENVIRONMENTAL INJUSTICE WITH INFRASTRUCTURE INVESTMENT

Ending Environmental Injustice with Infrastructure Investment

By [Kevin Poloncarz](#) on May 3, 2021

POSTED IN [AMERICAN JOBS PLAN](#), [CLIMATE CHANGE](#), [ENVIRONMENTAL JUSTICE](#), [ESG](#), [INFRASTRUCTURE](#), [SUSTAINABILITY](#)

This blog is the fifth in a series, “The ABCs of the AJP.”

President Biden’s [American Jobs Plan](#) (AJP) would mobilize \$2.2 trillion in investment to address climate change and create jobs for Americans. According to the White House, “unlike past major investments, the plan prioritizes addressing long-standing and persistent racial injustice,” in part by “target[ing] 40 percent of the benefits of climate and clean infrastructure investments to disadvantaged communities.” These investments would give life to the President’s “Justice40 Initiative,” established by his January 27, 2021, [Executive Order on Tackling the Climate Crisis at Home and Abroad](#) (EO).

To fulfill the Justice40 pledge, the January 27 EO ordered the Chair of the White House Council on Environmental Quality (CEQ) to develop a geospatial Climate and Economic Justice Screening Tool for the purpose of identifying disadvantaged communities. It also ordered the Chair of CEQ, the Director of the Office of Management and Budget and the National Climate Advisor, in consultation with the newly established White House Environmental Justice Advisory Council, to publish recommendations by the end of this month on how to achieve the 40-percent goal through a broad range of investments.

The AJP describes how past infrastructure investments, such as construction of Interstate 81 in Syracuse, New York, literally split communities apart, often in the name of “urban renewal.” In the case of Syracuse, an elevated freeway was erected through the middle of a predominantly African American neighborhood, displacing residents and corroding the sense of community. The AJP would spend \$20 billion to reconnect such neighborhoods through community development and infrastructure projects, such as one favored in Syracuse to replace the aging I-81 viaduct with a street-level “[community grid](#).”

The AJP also includes \$5 billion to remediate and redevelop idle industrial sites that add to blight and pollution in rural and urban communities. It would also provide a source of dedicated funding for community-driven environmental justice efforts, including capacity-building and project grants to address legacy pollution and the cumulative impacts experienced by communities on the front line of pollution sources.

These targeted investments would all be in service of the Administration’s

Stay Connected



Subscribe By Email

SUBMIT

Topics

Archives

Recent Updates

[Ending Environmental Injustice with Infrastructure Investment](#)

[Distributed Energy Resources](#)

[The Climate Crisis and China](#)

[Building Back Better with Batteries](#)

[A Week of Climate Action](#)

Resources

[Law360 Names Covington’s Energy Practice One of Year’s Best](#)

commitment to ensure that efforts to address climate change also advance environmental justice. That commitment was first formalized by the President's Day One **Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis**, which places protection of disproportionately burdened low-income communities and communities of color at the center of the Administration's climate agenda.

President Clinton issued **Executive Order 12898** (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) in 1994, ordering federal agencies to evaluate and address the impacts of their actions on minority and low-income communities. Since then, agencies' consideration of environmental justice rarely moved the needle on federal decision-making and with only modest results. So how is it that, after more than a quarter century on the books, EJ has become an animating principle of this Administration's agenda?

COVID-19 laid bare the profound impact that racial and economic inequality has on public health.

- The U.S. Centers for Disease Control and Prevention (CDC) has found that racial and ethnic minorities are disproportionately represented among COVID-19 **hospitalizations** and **deaths**, with the disparities in deaths most pronounced when adjusted for age.
- Consistent with decades of research documenting racial-ethnic and socioeconomic disparities in exposure to air pollution, a **study** released just last week concludes that sources of fine particle pollution "disproportionately and systemically affect people of color in the United States."
- **Prior studies** have highlighted potential links between exposure to air pollution and COVID-19 severity, with one study **postulating** that "disparate exposure to air pollution is one of the factors that contributes to the disproportionate impact COVID-19 is having on inner-city racial minorities."

While **research is ongoing** to investigate the link between air pollution exposure and disproportionate COVID-19 outcomes for communities of color, the trend lines emerging amplify the need to address historic environmental injustice.

Catalyzed by the racial justice movement that arose in response to the 2020 murder of George Floyd, environmental justice is now coming into the mainstream. With the proliferation of **tools** that identify impacts on disadvantaged communities at the census tract-level, companies with facilities located in or near such communities are facing increasing scrutiny from community groups, researchers and lawmakers.

Although physical proximity to impacted communities is a poor proxy for impacts on those communities, both the Global Reporting Initiative (GRI) and Sustainability Accounting Standards Board (SASB) already require companies in particular sectors to report on the percentage of criteria and hazardous air pollutants in or near areas of dense population. As performance metrics on diversity and inclusion and racial justice become more prominent within sustainability reporting, it may only be a matter of time before companies are also called upon to disclose impacts of their operations on communities of color and low-income communities, using publicly available data or screening tools such as the one under development by CEQ.

Indeed, California's **CalEnviroScreen** was first developed (like CEQ's Screening Tool) for the purpose of targeting investments to disproportionately impacted communities; California law **requires** that at least 25 percent of the revenue from California's cap-and-trade auction fund projects within and benefitting disadvantaged communities, and at least an additional 10 percent for low-income households or communities. With that 35 percent funding threshold, California's climate investments have cumulatively **amounted** to more than \$3 billion dollars,

representing 57 percent of total revenue, in the targeted communities. The President's Justice40 Initiative is in many ways modeled on California's success.

But a census tract's reported CalEnviroScreen score has found its way into policymaking far beyond the initial purpose of directing investment, from utility **procurement** of electric generating capacity needed to maintain reliability, to local land use **planning**. It is conceivable that CEQ's Screening Tool will attain similar stature beyond targeting government spending, and companies should pay close attention to its development and implementation, as the results could someday influence even the flows of private capital.



TAGS: AMERICAN JOBS PLAN, ENVIRONMENTAL JUSTICE, ESG, INFRASTRUCTURE, SUSTAINABILITY

COVINGTON

Inside Energy & Environment



Our website uses cookies

We and the third parties that provide content, functionality, or business services on our website may use cookies to collect information about your browsing activities in order to provide you with more relevant content and promotional materials, on and off the Website, and help us understand your interests and improve the Website.

[Allow all cookies](#)

[Show details](#)