

Comments to National Environmental Justice Advisory Council
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I am Dr. Neenah Estrella-Luna. I am here on behalf of Alternatives for Community and Environment, also known as ACE. We will be celebrating our 25th anniversary this year making us, I believe, the oldest environmental justice (EJ) organization in the state of Massachusetts. I previously sat on ACE's Board of Directors, serving as Board Chair for four years. I have a Masters of Public Health and a PhD in Law and Social Policy with a specific focus on race and social justice.

The three recommendations I will make today assume that federal direct action on environmental justice will not be very vigorous under the current administration. I assume that the current administration expects, or at least will allow, states to take the lead on these efforts. The state's rights rhetoric coming from all corners of this administration, including the previous EPA Administrator, demonstrate nothing less than an abdication of responsibility for environmental justice to the states.

With that said, there is much the federal government can do to provide support for states, as well as organizations and communities working with – or in some cases pressuring – their state governments to move towards environmental justice. These recommendations are provided in that spirit.

First, states need guidance on defining environmental justice populations. Here in Massachusetts, we have a policy that defines EJ populations, but it is just a policy, not even a regulation with the force of law. We were very close to passing a very modest EJ bill that essentially codified existing policy, but were thwarted in the end by objections to the criteria used to define those communities. As a member of ACE, I participated in the statewide advisory group working with the state agencies on reviewing and revising the definition of EJ communities as required by Executive Order. I either personally conducted or oversaw with colleagues at Salem State University two studies on this specific issue. While the state ultimately did not adopt all of our recommendations, they did improve on the previous definitions. These criteria were based on standard demographic characteristics that are well known to characterize EJ communities – race or ethnicity, income, language isolation. However, members of our state legislature, pressured by those embracing an All Lives Matter form of thinking, objected to these criteria, particularly the race criteria. Their argument that EJ bill be colorblind disregards the well documented history and contemporary reality of race based prejudice and discrimination that creates environmental injustice.

EPA guidance that explicitly states that at minimum, EJ communities are defined by race or ethnicity, income, and language isolation characteristics would help in countering the absolutely ridiculous arguments that prevented the EJ legislation from passing.

In addition to that, however, I would be remiss if I did not take this opportunity to argue that good guidance on defining EJ populations should also include public health criteria. As we know, the primary goal of the EPA and of environmental policy generally is to protect the public's health. Defining an EJ population is all about identifying those most at risk for poor health outcomes if subjected to polluted or degraded environmental conditions. Including public health criteria in defining EJ communities would strengthen the ability of states to effectively regulate environmental conditions.

I am sure that, working with HHS through the interagency working group, EPA would be able to come up with public health risk indicators that could be used to identify EJ communities. Based on much health research, I recommend that asthma, elevated blood lead levels, low birth weight, hospitalizations due to heart attacks, and hospitalizations and deaths due to stroke be used as indicators of health risk.

The strongest definition of an EJ community would also include some measure of cumulative environmental burden. I suspect others will speak more eloquently than I can on that issue, so I will leave to them to describe what such a measure would look like.

In summary, the EPA would provide significant help to states, organizations like ACE, and EJ communities generally if they came up with guidance on defining EJ communities that included measures of cumulative environmental burden and public health in addition to the widely accepted demographic criteria.

Second, one of the most important EJ issues we deal with at ACE relates to public transportation. Access to affordable and reliable public transit has significant impacts on the health and well-being of our communities. One of the most persistent problems with achieving transit equity, however, is the lack of a consistent definition of equity. In fact, currently, states are allowed to develop their own definition. Given the state's rights orientation of this administration, I do not expect that to change. However, some direction or boundaries on what constitutes equity would help strengthen the ability of states, EJ organizations, and EJ communities to ensure that equity is in fact secured – or at least inequity avoided – when making or implementing public policy.

Currently in MA, our state's public transit agency, the Massachusetts Bay Transportation Authority (MBTA), defines inequity as a 20% or greater difference in experience between majority populations and minority populations.

What does this mean on the ground? It means, for example, that for every 10 late busses serving predominantly White or higher income communities, 12 busses serving predominantly non-White or low income communities must be late in order for it to be counted as inequity. Those extra two busses are anywhere from 80-110 people. Eighty to 110 non-White and low income people who are significantly more likely to work in low wage and insecure jobs. Eighty to 110 people who are more likely to be late to appointments where tardiness has material costs that they already cannot afford. I have personally collected stories from teenagers who were punished for being 5 minutes late to school because of the inadequate bus service that is tolerated by inadequate definitions of inequity.

In addition to creating a better floor by which equity is measured, I would also recommend that any such guidance include standards for data collection before equity studies are accepted by federal agencies. Again, here in MA, the MBTA relies on studies that almost entirely exclude non-English speaking populations. As we all know, English isolation is a standard characteristic marking vulnerability to environmental injustice. Equity studies that exclude non-English speaking populations should be rejected. Without such guidance, the transit agencies get away with allowing significant inequity to persist.

So, I recommend that the EJ interagency working group develop guidance for non-EPA agencies – but specifically the Department of Transportation – on defining equity.

Finally, I would like to speak to the recent proposal to remove California's historic authority to regulate its air quality by adopting fuel efficiency standards that are stricter than federal requirements. There are good legal and environmental arguments against this proposal. Unsurprisingly, I recommend that the proposal to remove California's authority to adopt strict fuel efficiency standards be rejected. But not just because there are solid environmental and legal arguments that others will make better than I can. It should be rejected because it is contrary to the state's rights orientation embraced by this Administration. If this Administration is serious about letting states take care of their own, if the state's rights arguments are not a cynical and arbitrary posture or a dog whistle for insidious belief systems, then this proposal should be rejected immediately.

Thank you for the opportunity to share these modest recommendations. I am happy to be available for any questions.