

I. INTRODUCTION

America's transportation system emits more greenhouse gases than any other sector¹. While the resultant climate crisis impacts all of us, America's LMI and BIPOC communities have suffered the ill effects of transportation emissions longer and more acutely than anyone else. Racist housing discrimination and redlining practices created community disinvestment, setting the stage for the siting of transportation and industrial infrastructure through and alongside these predominantly minority and immigrant communities. Increased exposure to toxic emissions – especially particulate matter pollution and chemical emissions from diesel-fueled vehicles, power generation, and petrochemical industries – has resulted in disproportionately high rates of asthma, birth complications, cancer, and premature deaths. This infrastructure makes disadvantaged communities more vulnerable to climate change, which manifests itself through increased flooding, thermal heat island effects, and other extreme weather impacts.

In response to America's climate crisis and racial justice reckoning, including in the realm of transportation, the Biden Administration has put forth the Justice40 Initiative. This directive commits the federal government to combatting environmental and socio-economic injustices by guiding investments from covered federal programs² such that disadvantaged communities receive at least 40% of their benefits³.

Justice40 intends to focus in the following areas:

- Clean energy and energy efficiency;
- Clean transit;
- Affordable and sustainable housing;
- Training and workforce development;
- Remediation and reduction of legacy pollution, and;
- Critical clean water infrastructure development⁴.

¹ U.S. Environmental Protection Agency. (2021). Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990-2020. <https://www.epa.gov/system/files/documents/2022-04/us-ghg-inventory-2022-main-text.pdf> . p. ES-7

² Young, S., Mallory, B., & McCarthy, G. (2021). Interim Implementation Guidance for the Justice40 Initiative. Executive Office of the President, <https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf>. p. 3

³ Disadvantaged communities are defined by: low income, high and/or persistent poverty; high unemployment and underemployment; racial and ethnic segregation; high transportation cost burden; disproportionate impacts from climate change; unequal access to healthcare

⁴Office of President Joseph R. Biden Jr. (2021). Executive Order on Tackling the Climate Crisis at Home and Abroad. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>.

Relevant agencies are directed to identify the benefits of each program, develop methods to calculate and report reaching the 40% goal, and create community engagement plans.⁵ They are also charged with working in tandem with state and local agencies to derive the benefits and create the methodology. Additionally, agencies are expected to ensure accountability and transparency by complying with OMB requirements for financial assistance programs and provide public access to program information. An interim guidance has been released which creates an outline of the steps needed to meet the initiative's goals.⁶

This brief investigates Justice40's possible impact on transportation. We begin with a background on environmental and social equity issues in the US transportation system, with a specific focus on how emissions disproportionately affected BIPOC and LMI communities. Then, the details of this initiative will be explored, including the way disadvantaged communities will be identified, examples of programs, and how funding will be disbursed. Afterward, Mobilify will provide an analysis of the initiative, including a discussion of how Justice40 may benefit communities and the challenges that it may face.

II. TRANSPORTATION POLICY DETAILS

The interim guidance has provided examples of covered investments that are to be considered when determining the benefits of covered programs. Those pertaining to transportation include:

- Improvement in public transportation, accessibility, reliability, and options;
- Reduction of exposure to harmful transportation-related emissions;
- Access to clean, high-frequency transportation;
- Access to affordable electric vehicles, charging stations, and vehicle purchase programs, and;
- Increased bicycle and pedestrian infrastructure availability.

⁵ Young, S., Mallory, B., & McCarthy, G. (2021). Interim Implementation Guidance for the Justice40 Initiative. Executive Office of the President, <https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf>.

⁶ Ibid

In response to the Interim Guidance, the US Department of Transportation (DOT) has also created an interim definition for disadvantaged communities⁷. Some of these variables include:

- Percent of total population with a drive time to employment greater than or equal to 30 minutes;
- Percent of total population with no vehicle(s) available;
- An area's general walkability;
- Percentage of income directed to covering transportation costs;
- EJ indices for airborne diesel particulate matter and PM2.5, traffic proximity and volume, and;
- Income and poverty levels.

A recently-launched Justice40 pilot includes two US Department of Transportation (DOT) administered programs: Bus and Bus Facilities Infrastructure Investment and Low or No Emissions Vehicles⁸. Agencies with covered programs, including Pennsylvania Department of Transportation (PennDOT), are instructed to begin examining policies, practices, and procedures to implement Justice40 goals⁹. These priority pilot programs will then provide the blueprint for other programs and agencies to follow.

III. ANALYSIS AND DISCUSSION

Investing in clean transportation and disadvantaged communities is an important step towards addressing the climate crisis and the disproportionate emissions impacts on LMI and BIPOC communities. The federal pilot program is meant to be an example for non-federal agencies to follow. This is somewhat concerning, since administering agencies will vary widely based on their state and region. The execution of Justice40 will be heavily dependent on collaboration; as such, federal, state, and local agencies must work closely with each other. However, there is no structured support or communication between federal agencies and the localities administering covered programs.

It is also important to note that the White House's Climate and Economic Justice Screening Tool – which is used to identify disadvantaged communities – currently excludes race as a factor in

⁷ U.S. Department of Transportation. (2022). Justice40 Initiative. <https://www.transportation.gov/equity-Justice40>.

⁸ Young, S., Mallory, B., & McCarthy, G. (2021). Interim Implementation Guidance for the Justice40 Initiative. Executive Office of the President, <https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf>. p. 12

⁹ Ibid, p. 13

its calculations¹⁰. This could potentially limit Justice40's impact on BIPOC communities, who are often most affected by environmental and infrastructural injustices.

Additionally, the DOT pilot programs outlined in the initiative fall under direct the control of the federal agency and operate (to different extents) under some form of justice framework. This may pose a problem for state DOTs, as state/local hurdles not considered at the federal level may hinder a smooth replication process.

Currently, the Low or No Emissions Vehicles program defines such buses as passenger vehicles that "sufficiently" reduce energy consumption or harmful emissions,¹¹ but provides no metric to determine what reduced quantity is sufficient. Subsequently, fossil fuel vehicles may be supported under this program, defeating the initiative's purpose to deliver clean energy to underserved communities.

Lastly, the language utilized in the initiative (such as "should/may") merely encourages state agencies to follow the Justice40 guidelines provided through the DOT pilot programs. There are no mandatory regulations imposed on state agencies to ensure that the intended results are met, which enables their historic hesitance to follow said guidelines.

IV. CONCLUSION

Since the Justice40 Initiative is not enacted legislation, there is very limited information on how it will be implemented. Regarding clean transportation, there is currently no distinction between the impact of single-occupancy vehicles versus medium-to-heavy duty fleets. As such, the plan does not differentiate electrification and decarbonization between vehicle classes. Furthermore, the following questions need to be answered to determine the true impact Justice40 might have:

- Will the DOT **require** state and local actors to follow the guidance, or will it remain suggestive?
- Will the White House and federal government require a Justice40 lens to be applied to DOT funds and highways?
- Will Justice40 be applied to highway funding and worked into planning and engineering regulations like NEPA?

¹⁰ Lee, S. (2022). White House Advisers Denounce Race Exclusion From Equity Tool. Bloomberg Law, <https://news.bloomberglaw.com/environment-and-energy/white-house-advisers-denounce-race-exclusion-from-equity-tool>.

¹¹ <https://www.govinfo.gov/content/pkg/FR-2022-03-04/pdf/2022-04621.pdf>

- Will zero-emission vehicles be favored over hydrogen or natural gas in transit and ports?

While more information is needed to ensure this initiative is implemented equitably, we hope that state and local grantees will be required to use the Justice40 lens to receive discretionary funding. Making the initiative a requirement rather than a recommendation increases the likelihood that it will have a lasting impact on disadvantaged communities.