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States' Environmental Justice Statutes: California



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

A National Agricultural Law Center Research Publication

States' Environmental Justice Statutes: California

CA GOVT §§ [65040](#); [65040.12](#); [65302](#)

CA Health & Safety Code §§ [44391.2](#); [116765 – 116772](#)

CA PUB RES §§ [30107.3](#); [40912](#); [71110 – 71118](#)

Current with urgency legislation through Ch. 19 of 2022 Reg. Sess.

§ 65040. Governor's staff for long-range planning and research; comprehensive state planning agency; duties.

The Office of Planning and Research shall serve the Governor and his or her Cabinet as staff for long-range planning and research, and constitute the comprehensive state planning agency. In this capacity the office shall:

- (a) Assisted by the Planning Advisory and Assistance Council established pursuant to subdivision (a) of Section 65040.6, engage in the formulation, evaluation and updating of long-range goals and policies for land use, population growth and distribution, urban expansion, development, open space, resource preservation and utilization, air and water quality, and other factors which shape statewide development patterns and significantly influence the quality of the state's environment.
- (b) Assist in the orderly preparation by appropriate state departments and agencies of intermediate- and short-range functional plans to guide programs of transportation, water management, open space, recreation and other functions which relate to the protection and enhancement of the state's environment.
- (c) In conjunction with the council, evaluate plans and programs of departments and agencies of state government, identify conflicts or omissions, and recommend to the Governor and the Legislature new state policies, programs and actions, or amendments of existing programs, as required, to resolve conflicts, advance statewide environmental goals to respond to emerging environmental problems and opportunities, and to assure that all state policies and programs conform to the adopted land use planning goals and programs.
- (d) Assist the Department of Finance in preparing, as part of the annual state budget, an integrated program of priority actions to implement state functional plans and to achieve statewide environmental goals and objectives and take other actions to assure that the program budget, submitted annually to the Legislature, contains information reporting the achievement of state goals and objectives by departments and agencies of state government.



- (e) Coordinate the development of policies and criteria to ensure the federal grants-in-aid administered or directly expended by state government advance statewide environmental goals and objectives.
- (f) Coordinate the development and operation of a statewide environmental monitoring system to assess the implications of present growth and development trends on the environment and to identify at an early time, potential threats to public health, natural resources and environmental quality.
- (g) Coordinate, in conjunction with appropriate state, regional, and local agencies, the development of objectives, criteria and procedures for the orderly evaluation and report of the impact of public and private actions on the environmental quality of the state and as a guide to the preparation of environmental impact reports required of state and local agencies in Sections 21102 and 21150 of the Public Resources Code.
- (h) Coordinate research activities of state government directed to the growth and development of the state and the preservation of environmental quality, render advice to the Governor, his or her Cabinet, to the Legislature, and any agency or department of state government, and provide information to, and cooperate with, the Legislature or any of its committees or officers.
- (i) Coordinate the technical assistance provided by state departments and agencies in regional and local planning to assure that such plans are consistent with statewide environmental goals and objectives.
- (j) Accept and allocate or expend grants and gifts from any source, public or private, for the purpose of state planning and undertake other planning and coordinating activities as will implement the policy and intent of the Legislature as set forth herein.
- (k) Develop long-range policies to assist the state and local agencies in meeting the problems presented by the growth and development of urban areas and defining the complementary roles of the state, cities, counties, school districts, and special districts with respect to such growth.
- (l) Encourage the formation and proper functioning of, and provide planning assistance to, city, county, district, and regional planning agencies.
- (m) Assist local government in land use planning.

§ 65040.12. Coordinating agency for environmental justice programs; duties of director.

- (a) The office shall be the coordinating agency in state government for environmental justice programs.
- (b) The director shall do all of the following:
 - (1) Consult with all of the following:
 - (A) The Secretary for Environmental Protection.
 - (B) The Secretary of the Natural Resources Agency.



(C) The Secretary of Transportation.

(D) The Secretary of Business, Consumer Services, and Housing.

(E) The Working Group on Environmental Justice established pursuant to Section 71113 of the Public Resources Code.

(F) Any other appropriate state agencies and all other interested members of the public and private sectors in this state.

(2) Coordinate the office's efforts and share information regarding environmental justice programs with the Council on Environmental Quality, the United States Environmental Protection Agency, the General Accounting Office, the Office of Management and Budget, and other federal agencies.

(3) Review and evaluate any information from federal agencies that is obtained as a result of their respective regulatory activities under federal Executive Order 12898, and from the Working Group on Environmental Justice established pursuant to Section 71113 of the Public Resources Code.

(c) When it adopts its next edition of the general plan guidelines pursuant to Section 65040.2, but in no case later than July 1, 2003, the office shall include guidelines for addressing environmental justice matters in city and county general plans. The office shall hold at least one public hearing before the release of any draft guidelines, and at least one public hearing after the release of the draft guidelines. The hearings may be held at the regular meetings of the Planning Advisory and Assistance Council.

(d) The guidelines developed by the office pursuant to subdivision (c) shall recommend provisions for general plans to do all of the following:

(1) Propose methods for planning for the equitable distribution of new public facilities and services that increase and enhance community quality of life throughout the community, given the fiscal and legal constraints that restrict the siting of these facilities.

(2) Propose methods for providing for the location, if any, of industrial facilities and uses that, even with the best available technology, will contain or produce material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant hazard to human health and safety, in a manner that seeks to avoid overconcentrating these uses in proximity to schools or residential dwellings.

(3) Propose methods for providing for the location of new schools and residential dwellings in a manner that seeks to avoid locating these uses in proximity to industrial facilities and uses that will contain or produce material that because of its quantity, concentration, or physical or chemical characteristics, poses a significant hazard to human health and safety.

(4) Propose methods for promoting more livable communities by expanding opportunities for transit-oriented development so that residents minimize traffic and pollution impacts from traveling for purposes of work, shopping, schools, and recreation.



(e)

(1) For purposes of this section, “environmental justice” means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

(2) “Environmental justice” includes, but is not limited to, all of the following:

(A) The availability of a healthy environment for all people.

(B) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.

(C) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decisionmaking process.

(D) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.

§ 65302. Elements required to be included in plan.

The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, greenways, as defined in Section 816.52 of the Civil Code, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5).



(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) "Military readiness activities" mean all of the following:

(I) Training, support, and operations that prepare the members of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (g) of Section 2687 of Title 10 of the United States Code.

(b)

(1) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(2)

(A) Commencing January 1, 2011, upon any substantive revision of the circulation element, the legislative body shall modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel in a manner that is suitable to the rural, suburban, or urban context of the general plan.

(B) For purposes of this paragraph, "users of streets, roads, and highways" mean bicyclists, children, persons with disabilities, motorists, movers of commercial goods, pedestrians, users of public transportation, and seniors.



(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d)

(1) A conservation element for the conservation, development, and utilization of natural resources, including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies, including flood management, water conservation, or groundwater agencies that have developed, served, controlled, managed, or conserved water of any type for any purpose in the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

(2) The conservation element may also cover all of the following:

(A) The reclamation of land and waters.

(B) Prevention and control of the pollution of streams and other waters.

(C) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(D) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(E) Protection of watersheds.

(F) The location, quantity, and quality of the rock, sand, and gravel resources.

(3) Upon the next revision of the housing element on or after January 1, 2009, the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f)

(1) A noise element that shall identify and appraise noise problems in the community. The noise element shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(A) Highways and freeways.



(B) Primary arterials and major local streets.

(C) Passenger and freight online railroad operations and ground rapid transit systems.

(D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(E) Local industrial plants, including, but not limited to, railroad classification yards.

(F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average sound level (Ldn). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g)

(1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:



(i) Flood hazard zones. As used in this subdivision, “flood hazard zone” means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by FEMA. The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.

(ii) National Flood Insurance Program maps published by FEMA.

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers.

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board.

(v) Dam failure inundation maps prepared pursuant to Section 6161 of the Water Code that are available from the Department of Water Resources.

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.

(vii) Maps of levee protection zones.

(viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

(i) Avoiding or minimizing the risks of flooding to new development.



(ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.

(iii) Maintaining the structural and operational integrity of essential public facilities during flooding.

(iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.

(v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.

(C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).

(3) Upon the next revision of the housing element on or after January 1, 2014, the safety element shall be reviewed and updated as necessary to address the risk of fire for land classified as state responsibility areas, as defined in Section 4102 of the Public Resources Code, and land classified as very high fire hazard severity zones, as defined in Section 51177. This review shall consider the advice included in the Office of Planning and Research's most recent publication of "Fire Hazard Planning, General Plan Technical Advice Series" and shall also include all of the following:

(A) Information regarding fire hazards, including, but not limited to, all of the following:

(i) Fire hazard severity zone maps available from the Office of the State Fire Marshal.

(ii) Any historical data on wildfires available from local agencies or a reference to where the data can be found.

(iii) Information about wildfire hazard areas that may be available from the United States Geological Survey.

(iv) General location and distribution of existing and planned uses of land in very high fire hazard severity zones and in state responsibility areas, including structures, roads, utilities, and essential public facilities. The location and distribution of planned uses of land shall not require defensible space compliance measures required by state law or local ordinance to occur



on publicly owned lands or open space designations of homeowner associations.

(v) Local, state, and federal agencies with responsibility for fire protection, including special districts and local offices of emergency services.

(B) A set of goals, policies, and objectives based on the information identified pursuant to subparagraph (A) for the protection of the community from the unreasonable risk of wildfire.

(C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives based on the information identified pursuant to subparagraph (B), including, but not limited to, all of the following:

(i) Avoiding or minimizing the wildfire hazards associated with new uses of land.

(ii) Locating, when feasible, new essential public facilities outside of high fire risk areas, including, but not limited to, hospitals and health care facilities, emergency shelters, emergency command centers, and emergency communications facilities, or identifying construction methods or other methods to minimize damage if these facilities are located in a state responsibility area or very high fire hazard severity zone.

(iii) Designing adequate infrastructure if a new development is located in a state responsibility area or in a very high fire hazard severity zone, including safe access for emergency response vehicles, visible street signs, and water supplies for structural fire suppression.

(iv) Working cooperatively with public agencies with responsibility for fire protection.

(D) If a city or county has adopted a fire safety plan or document separate from the general plan, an attachment of, or reference to, a city or county's adopted fire safety plan or document that fulfills commensurate goals and objectives and contains information required pursuant to this paragraph.

(4) Upon the next revision of a local hazard mitigation plan, adopted in accordance with the federal Disaster Mitigation Act of 2000 (Public Law 106-390), on or after January 1, 2017, or, if a local jurisdiction has not adopted a local hazard mitigation plan, beginning on or before January 1, 2022, the safety element shall be reviewed and updated as necessary to address climate adaptation and resiliency strategies applicable to the city or county. This review shall consider advice provided in the Office of Planning and Research's General Plan Guidelines and shall include all of the following:



(A)

(i) A vulnerability assessment that identifies the risks that climate change poses to the local jurisdiction and the geographic areas at risk from climate change impacts, including, but not limited to, an assessment of how climate change may affect the risks addressed pursuant to paragraphs (2) and (3).

(ii) Information that may be available from federal, state, regional, and local agencies that will assist in developing the vulnerability assessment and the adaptation policies and strategies required pursuant to subparagraph (B), including, but not limited to, all of the following:

(I) Information from the internet-based Cal-Adapt tool.

(II) Information from the most recent version of the California Adaptation Planning Guide.

(III) Information from local agencies on the types of assets, resources, and populations that will be sensitive to various climate change exposures.

(IV) Information from local agencies on their current ability to deal with the impacts of climate change.

(V) Historical data on natural events and hazards, including locally prepared maps of areas subject to previous risk, areas that are vulnerable, and sites that have been repeatedly damaged.

(VI) Existing and planned development in identified at-risk areas, including structures, roads, utilities, and essential public facilities.

(VII) Federal, state, regional, and local agencies with responsibility for the protection of public health and safety and the environment, including special districts and local offices of emergency services.

(B) A set of adaptation and resilience goals, policies, and objectives based on the information specified in subparagraph (A) for the protection of the community.

(C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives identified pursuant to subparagraph (B), including, but not limited to, all of the following:

(i) Feasible methods to avoid or minimize climate change impacts associated with new uses of land.



(ii) The location, when feasible, of new essential public facilities outside of at-risk areas, including, but not limited to, hospitals and health care facilities, emergency shelters, emergency command centers, and emergency communications facilities, or identifying construction methods or other methods to minimize damage if these facilities are located in at-risk areas.

(iii) The designation of adequate and feasible infrastructure located in an at-risk area.

(iv) Guidelines for working cooperatively with relevant local, regional, state, and federal agencies.

(v) The identification of natural infrastructure that may be used in adaptation projects, where feasible. Where feasible, the plan shall use existing natural features and ecosystem processes, or the restoration of natural features and ecosystem processes, when developing alternatives for consideration. For purposes of this clause, “natural infrastructure” means using natural ecological systems or processes to reduce vulnerability to climate change related hazards, or other related climate change effects, while increasing the long-term adaptive capacity of coastal and inland areas by perpetuating or restoring ecosystem services. This includes, but is not limited to, the conservation, preservation, or sustainable management of any form of aquatic or terrestrial vegetated open space, such as beaches, dunes, tidal marshes, reefs, seagrass, parks, rain gardens, and urban tree canopies. It also includes systems and practices that use or mimic natural processes, such as permeable pavements, bioswales, and other engineered systems, such as levees that are combined with restored natural systems, to provide clean water, conserve ecosystem values and functions, and provide a wide array of benefits to people and wildlife.

(D)

(i) If a city or county has adopted the local hazard mitigation plan, or other climate adaptation plan or document that fulfills commensurate goals and objectives and contains the information required pursuant to this paragraph, separate from the general plan, an attachment of, or reference to, the local hazard mitigation plan or other climate adaptation plan or document.

(ii) Cities or counties that have an adopted hazard mitigation plan, or other climate adaptation plan or document that substantially complies with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions, climate



adaptation plan or document, specifically showing how each requirement of this subdivision has been met.

(5) Upon the next revision of the housing element on or after January 1, 2020, the safety element shall be reviewed and updated as necessary to identify residential developments in any hazard area identified in the safety element that do not have at least two emergency evacuation routes.

(6) After the initial revision of the safety element pursuant to paragraphs (2), (3), (4), and (5), the planning agency shall review and, if necessary, revise the safety element upon each revision of the housing element or local hazard mitigation plan, but not less than once every eight years, to identify new information relating to flood and fire hazards and climate adaptation and resiliency strategies applicable to the city or county that was not available during the previous revision of the safety element.

(7) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain ordinance, specifically showing how each requirement of this subdivision has been met.

(8) Before the periodic review of its general plan and before preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the Office of Emergency Services for the purpose of including information known by and available to the department, the agency, and the board required by this subdivision.

(9) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

(h)

(1) An environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. The environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, shall do all of the following:

(A) Identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities by means that include, but are not limited to, the reduction of pollution exposure, including



the improvement of air quality, and the promotion of public facilities, food access, safe and sanitary homes, and physical activity.

(B) Identify objectives and policies to promote civic engagement in the public decision-making process.

(C) Identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities.

(2) A city, county, or city and county subject to this subdivision shall adopt or review the environmental justice element, or the environmental justice goals, policies, and objectives in other elements, upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018.

(3) By adding this subdivision, the Legislature does not intend to require a city, county, or city and county to take any action prohibited by the United States Constitution or the California Constitution.

(4) For purposes of this subdivision, the following terms shall apply:

(A) “Disadvantaged communities” means an area identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation.

(B) “Public facilities” includes public improvements, public services, and community amenities, as defined in subdivision (d) of Section 66000.

(C) “Low-income area” means an area with household incomes at or below 80 percent of the statewide median income or with household incomes at or below the threshold designated as low income by the Department of Housing and Community Development’s list of state income limits adopted pursuant to Section 50093 of the Health and Safety Code.

§ 44391.2. Preparation of statewide strategy to reduce emissions of toxic air contaminants and criteria air pollutants in communities affected by a high cumulative exposure burden; strategy update; criteria; selection of locations for community emissions reduction programs.

(a) For purposes of this section, the following provisions shall apply:

(1) “Disadvantaged community” means a community identified as disadvantaged pursuant to Section 39711.



(2) "Sensitive receptors" includes the same locations as specified in subdivision (a) of Section 42705.5.

(b) On or before October 1, 2018, the state board shall prepare, in consultation with the Scientific Review Panel on Toxic Air Contaminants, the districts, the Office of Environmental Health Hazard Assessment, environmental justice organizations, affected industry, and other interested stakeholders, a statewide strategy to reduce emissions of toxic air contaminants and criteria air pollutants in communities affected by a high cumulative exposure burden. The state board shall update the strategy at least once every five years. In preparing the strategy, the state board shall conduct at least one public workshop in each of the northern, central, and southern parts of the state. The strategy shall include criteria for the development of community emission reduction programs. The criteria presented in the state strategy shall include, but are not limited to, all of the following:

(1) An assessment and identification of communities with high cumulative exposure burdens for toxic air contaminants and criteria air pollutants. The assessment shall prioritize disadvantaged communities and sensitive receptor locations based on one or more of the following: best available modeling information, existing air quality monitoring information, existing public health data based on consultation with the Office of Environmental Health Hazard Assessment, and the monitoring results obtained pursuant to Section 42705.5.

(2) A methodology for assessing and identifying the contributing sources or categories of sources, including, but not limited to, stationary and mobile sources, and an estimate of their relative contribution to elevated exposure to air pollution in impacted communities identified pursuant to paragraph (1).

(3) An assessment of whether a district should update and implement the risk reduction audit and emissions reduction plan developed pursuant to Section 44391 for any facility to achieve emission reductions commensurate with its relative contribution, if the facility's emissions either cause or significantly contribute to a material impact on a sensitive receptor location or disadvantaged community, based on any data available for assessment pursuant to paragraph (1) of subdivision (b) or other relevant data.

(4) An assessment of the existing and available measures for reducing emissions from the contributing sources or categories of sources identified pursuant to paragraph (2), including, but not limited to, best available control technology, as defined in Section 40405, best available retrofit control technology, as defined in Section 40406, and best available control technology for toxic air contaminants, as defined in Section 39666.

(c)

(1) Based on the assessment and identification pursuant to paragraph (1) of subdivision (b), the state board shall select, concurrent with the strategy, locations around the state for preparation of community emissions reduction programs. The state board shall select additional locations annually thereafter, as appropriate.



(2) Within one year of the state board's selection, the district encompassing any location selected pursuant to this subdivision shall adopt, in consultation with the state board, individuals, community-based organizations, affected sources, and local governmental bodies in the affected community, a community emissions reduction program to achieve emissions reductions for the location selected using cost-effective measures identified pursuant to paragraph (4) of subdivision (b).

(3) The community emissions reduction programs shall be consistent with the state strategy and include emissions reduction targets, specific reduction measures, a schedule for the implementation of measures, and an enforcement plan.

(4) The community emissions reduction programs shall be submitted to the state board for review and approval within 60 days of the receipt of the program. Programs that are rejected shall be resubmitted within 30 days. To the extent that a program, in whole or in part, is not approvable, the state board shall initiate a public process to discuss options for achievement of an approvable program. Concurrent with the public process to achieve an approvable program, the state board shall develop and implement the applicable mobile source elements in the draft program to commence achievement of emission reductions.

(5) The programs shall result in emissions reductions in the community, based on monitoring or other data.

(6) In implementing the program, the district and the state board shall be responsible for measures consistent with their respective authorities.

(7) A district encompassing a location selected pursuant to this subdivision shall prepare an annual report summarizing the results and actions taken to further reduce emissions pursuant to the community emissions reduction program.

(8) Compliance with the community emissions reduction program prepared pursuant to this section, including its implementation, shall be enforceable by the district and state board, as applicable.

(d) The state board shall provide grants to community-based organizations for technical assistance and to support community participation in the implementation of this section and Section 42705.5.

§ 116765. Legislative findings and declarations.

The Legislature finds and declares all of the following:

(a) Every Californian should enjoy the same degree of protection from environmental and health hazards. Every community should be a healthy environment in which to live, work, play, and learn.



- (b) No single group of people should bear a disproportionate share of the negative environmental consequences and adverse health impacts arising from industrial, governmental, or commercial operations or policies.
- (c) Concentrated environmental contamination in water creates cumulative health burdens resulting in communities with higher rates of disease such as asthma, heart disease, cancer, neurological and reproductive health effects, birth defects, and obesity.
- (d) Despite significant improvements in environmental protection over the past several decades, millions of Californians continue to live, work, play, and go to school in unhealthy environments.
- (e) California was one of the first states in the nation to put environmental justice considerations into law and defines environmental justice as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
- (f) California law also declares that it is the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.
- (g) Yet, still more than 1,000,000 Californians do not have access to safe drinking water. In communities where the sole water supply is contaminated with substances like arsenic, manganese, nitrates, or hexavalent chromium, families are often left without safe water. The central valley and central coast regions, where more than 90% of the communities rely on groundwater as a primary source of drinking water, are particularly at risk, but other communities around the state are also at risk. More than 250,000 people in the central valley alone lack access to a consistent source of safe, affordable water.
- (h) The Safe Drinking Water and Toxic Enforcement Act of 1986 lists lead, arsenic, and hexavalent chromium as substances that can cause cancer and reproductive toxicity.
- (i) Established state environmental justice laws and policies are only effective insofar as they result in true parity.
- (j) It is the intent of the Legislature that the State of California bring true environmental justice to our state and begin to address the continuing disproportionate environmental burdens in the state by creating a fund to provide safe drinking water in every California community, for every Californian.
- (k) Climate change is exacerbating the water impacts on disadvantaged and environmentally burdened communities by reducing surface water flows, accelerating declining groundwater basins, and contributing to increasing concentrations of environmental contamination.
- (l) Enhancing the long-term sustainability of drinking water systems in disadvantaged and environmentally burdened communities increases those communities' resilience to climate change.



(m) Funding for safe and affordable drinking water under this chapter promotes investments in disadvantaged communities, provides important contributions to those communities in adapting to climate change, and is an appropriate expenditure from the Greenhouse Gas Reduction Fund created pursuant to Section 16428.8 of the Government Code.

(n) It is the intent of the Legislature that the state board, in developing the fund expenditure plan pursuant to Article 4 (commencing with Section 116768), strive to ensure all regions of the state receive the same level of consideration for funding pursuant to this chapter, to the extent practicable.

§ 116767. Definitions.

For purposes of this chapter:

- (a) “Adequate supply” has the same meaning as defined in Section 116681.
- (b) “Administrator” has the same meaning as defined in Section 116686.
- (c) “Board” means the State Water Resources Control Board.
- (d) “Community water system” has the same meaning as defined in Section 116275.
- (e) “Consistently fails” has the same meaning as defined in Section 116681.
- (f) “Disadvantaged community” has the same meaning as defined in Section 79505.5 of the Water Code.
- (g) “Domestic well” has the same meaning as defined in Section 116681.
- (h) “Fund” means the Safe and Affordable Drinking Water Fund established pursuant to Section 116766.
- (i) “Fund expenditure plan” means the fund expenditure plan adopted by the board pursuant to Article 4 (commencing with Section 116768).
- (j) “Groundwater sustainability agency” has the same meaning as defined in Section 10721 of the Water Code.
- (k) “Low-income household” means a single household with an income that is less than 200 percent of the federal poverty level, as updated periodically in the Federal Register by the United States Department of Health and Human Services under authority of Section 9902(2) of Title 42 of the United States Code.
- (l) “Mutual water company” means a mutual water company, as described in Section 14300 of the Corporations Code, that operates a public water system or a state small water system.



(m) “Nonprofit organization” means an organization qualified to do business in California and qualified under Section 501(c)(3) of Title 26 of the United States Code.

(n) “Public agency” means a state agency or department, special district, joint powers authority, city, county, city and county, or other political subdivision of the state.

(o) “Public utility” has the same meaning as defined in Section 216 of the Public Utilities Code.

(p) “Public water system” has the same meaning as defined in Section 116275.

(q) “Replacement water” includes, but is not limited to, bottled water, vended water, point-of-use, or point-of-entry treatment units.

(r) “Safe drinking water” has the same meaning as defined in Section 116681.

(s) “Service connection” has the same meaning as defined in Section 116275.

(t) “State small water system” has the same meaning as defined in Section 116275.

(u) “Technical assistance provider” means a person whom the state board has determined is competent to assist a water system by providing administrative, technical, operational, legal, or managerial services to meet the purposes of this section, pursuant to criteria set forth in the policy adopted by the state board pursuant to Section 116768.5 and the fund expenditure plan. A privately owned public utility may serve as a technical assistance provider for purposes of this section.

(v) “Vended water” has the same meaning as defined in Section 111070.

§ 116768.5. Policy for developing plan; requirements; annual plan; provision of plan to Joint Legislative Budget Committee and Legislature.

(a) On or before July 1, 2020, the board shall develop and adopt a policy for developing the fund expenditure plan that includes all of the following elements:

(1) A requirement that the board consult with an advisory group to aid in meeting the purposes of the fund expenditure plan as established in Section 116768. The advisory group shall include representatives of the following:

(A) Public water systems.

(B) Technical assistance providers.

(C) Local agencies.

(D) Nongovernmental organizations.

(E) Residents served by community water systems in disadvantaged communities, state small water systems, and domestic wells.



(F) The public.

(2) Identification of key terms, criteria, and metrics, and their definitions.

(3) A description of how proposed remedies will be identified, evaluated, prioritized, and included in the fund expenditure plan.

(4) The establishment of a process by which members of a disadvantaged community may petition the board to consider ordering consolidation.

(5) A requirement that the board hold at least one public hearing before adopting a fund expenditure plan.

(b) The board, in consultation with the Department of Finance, shall annually adopt a fund expenditure plan. The board shall adopt a handbook and may update it at least once every three years.

(c) On or before March 1, 2021, and every March 1 thereafter, the board shall provide to the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house of the Legislature the most recently adopted fund expenditure plan. The board may submit the fund expenditure plan as required by this subdivision either in the Governor's Budget documents or as a separate report.

§ 116769. Contents; assessment; prioritization of funds.

(a) The fund expenditure plan shall contain the following:

(1) A report of expenditures from the fund for the prior fiscal year and planned expenditures for the current fiscal year.

(2) A list of systems that consistently fail to provide an adequate supply of safe drinking water. The list shall include, but is not limited to, all of the following:

(A) Any public water system that consistently fails to provide an adequate supply of safe drinking water.

(B) Any community water system that serves a disadvantaged community that must charge fees that exceed the affordability threshold established by the board in order to supply, treat, and distribute potable water that complies with federal and state drinking water standards.

(C) Any state small water system that consistently fails to provide an adequate supply of safe drinking water.

(3) A list of public water systems, community water systems, and state small water systems that may be at risk of failing to provide an adequate supply of safe drinking water.



(4) An estimate of the number of households that are served by domestic wells or state small water systems in high-risk areas identified pursuant to Article 6 (commencing with Section 116772). The estimate shall identify approximate locations of households, without identifying exact addresses or other personal information, in order to identify potential target areas for outreach and assistance programs.

(5) An estimate of the funding needed for the next fiscal year based on the amount available in the fund, anticipated funding needs, other existing funding sources, and other relevant data and information.

(6) A list of programs to be funded that assist or will assist households supplied by a domestic well that consistently fails to provide an adequate supply of safe drinking water. This list shall include the number and approximate location of households served by each program without identifying exact addresses or other personal information.

(7) A list of programs to be funded that assist or will assist households and schools whose tap water contains contaminants, such as lead or secondary contaminants, at levels that exceed recommended standards.

(b) The fund expenditure plan shall be based on data and analysis drawn from the drinking water needs assessment funded by Chapter 449 of the Statutes of 2018 as that assessment may be updated and as information is developed pursuant to Article 6 (commencing with Section 116772).

(c) The fund expenditure plan shall prioritize funding for all of the following:

(1) Assisting disadvantaged communities served by a public water system, and low-income households served by a state small water system or a domestic well.

(2) The consolidation or extension of service, when feasible, and administrative and managerial contracts or grants entered into pursuant to Section 116686 where applicable.

(3) Funding costs other than those related to capital construction costs, except for capital construction costs associated with consolidation and service extension to reduce the ongoing unit cost of service and to increase sustainability of drinking water infrastructure and service delivery.

§ 116770. Fund expenditures; provision of replacement water; development, implementation, and sustainability of long-term drinking water solutions; outreach to eligible recipients; testing of domestic wells; service to designated public water system.

The fund expenditure plan may include expenditures for the following:

(a) The provision of replacement water, as needed, to ensure immediate protection of health and safety as a short-term solution.



(b) The development, implementation, and sustainability of long-term drinking water solutions, including, but not limited to, the following:

(1)

(A) Technical assistance, planning, construction, repair, and operation and maintenance costs associated with any of the following:

(i) Replacing, blending, or treating contaminated drinking water.

(ii) Repairing or replacing failing water system equipment, pipes, or fixtures.

(iii) Operation and maintenance costs associated with consolidated water systems, extended drinking water services, or reliance on a substituted drinking water source.

(B) Technical assistance and planning costs may include, but are not limited to, analyses to identify and efforts to further opportunities to reduce the unit cost of providing drinking water through organizational and operational efficiency improvements, and other options and approaches to reduce costs.

(2) Creating and maintaining natural means and green infrastructure solutions that contribute to sustainable drinking water.

(3) Consolidating water systems.

(4) Extending drinking water services to other public water systems, community water systems, state small water systems, or domestic wells.

(5) Satisfying outstanding long-term debt obligations of public water systems, community water systems, and state small water systems where the board determines that a system's lack of access to capital markets renders this solution the most cost effective for removing a financial barrier to the system's sustainable, long-term provision of drinking water.

(c) Identifying and providing outreach to persons who are eligible to receive assistance from the fund.

(d) Testing the drinking water quality of domestic wells serving low-income households, prioritizing those in high-risk areas identified pursuant to Article 6 (commencing with Section 116772).

(e) Providing services under Section 116686.

§ 116771. Implementation of fund.

(a) The board may undertake any of the following actions to implement the fund:

(1) Provide for the deposit of any of the following moneys into the fund:



(A) Federal contributions.

(B) Voluntary contributions, gifts, grants, or bequests.

(C) Financial participation by a public agency in an activity authorized for funding from the fund.

(2) Enter into agreements for contributions to the fund from the federal government, local or state agencies, and private corporations or nonprofit organizations.

(3) Direct portions of the fund to a subset of eligible applicants as required or appropriate based on funding source and consistent with the annual fund expenditure plan.

(4) Direct moneys described in subparagraph (B) of paragraph (1) towards a specific project, program, or study.

(5) Take additional action as may be appropriate for adequate administration and operation of the fund.

(b) The board may set appropriate requirements as a condition of funding, including, but not limited to, the following:

(1) A system technical, managerial, or financial capacity audit.

(2) Improvements to reduce costs and increase efficiencies.

(3) An evaluation of alternative treatment technologies.

(4) A consolidation or service extension feasibility study.

(5) Requirements for a domestic well with nitrate contamination where ongoing septic system failure may be causing or contributing to contamination of a drinking water source to have conducted an investigation and project to address the septic system failure, if adequate funding sources are identified and accessible.

(c) Actions taken to implement, interpret, or make specific this chapter, including, but not limited to, the adoption or development of any plan, handbook, or map, are not subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

§ 116771.5. State provision of resources or expenditure of funds; legislative findings and declarations.

(a) This chapter does not expand any obligation of the state to provide resources for the provisions of this article or to require the expenditure of additional resources beyond the amount of moneys deposited in the fund.

(b) The Legislature finds and declares that participation in an activity authorized for funding from the fund or a contribution to the fund by a federal, state, or local agency



serves a public purpose and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

§ 116772. Map of aquifers at high risk of containing contaminants; results and data from water quality testing by accredited or certified laboratory.

(a)

(1) By January 1, 2021, the board, in consultation with local health officers and other relevant stakeholders, shall use available data to make available a map of aquifers that are at high risk of containing contaminants that exceed safe drinking water standards that are used or likely to be used as a source of drinking water for a state small water system or a domestic well. The board shall update the map annually based on new and relevant data.

(2) The board shall make the map of high-risk areas, as well as the data used to make the map, publicly accessible on its internet website in a manner that complies with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The board shall notify local health officers and county planning agencies of high-risk areas within their jurisdictions.

(b)

(1) By January 1, 2021, a local health officer or other relevant local agency shall provide to the board all results of, and data associated with, water quality testing performed by a laboratory that has accreditation or certification pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 for a state small water system or domestic well that was collected after January 1, 2014, and that is in the possession of the local health officer or other relevant local agency.

(2) By January 1, 2022, and by January 1 of each year thereafter, all results of, and data associated with, water quality testing performed by a laboratory that has accreditation or certification pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 for a state small water system or domestic well that is submitted to a local health officer or other relevant local agency shall also be submitted directly to the board in electronic format.

§ 30107.3. Environmental justice.

(a) “Environmental justice” means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

(b) “Environmental justice” includes, but is not limited to, all of the following:

(1) The availability of a healthy environment for all people.

(2) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects



of the pollution are not disproportionately borne by those populations and communities.

(3) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decision-making process.

(4) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.

§ 40912. Siting element and integrated waste management plans; source reduction and recycling element; assistance to local jurisdictions and private businesses; information and models relating to environmental justice concerns.

(a) The board shall develop a model countywide or regional siting element and a model countywide or regional agency integrated waste management plan that will establish prototypes of the content and format that counties or regional agencies may use in meeting the requirements of this part.

(b) On or before July 1, 2001, the board shall develop a model revised source reduction and recycling element that will establish prototypes of the content and format of that element that cities, counties, regional agencies, or a city and county may use in meeting the requirements of this part.

(c) The board shall adopt a program to provide assistance to cities, counties, regional agencies, or a city and county in the development and implementation of source reduction programs. The program shall include, but not be limited to, the following:

(1) The development of model source reduction programs and strategies that may be used at the local and regional level.

(2) Ongoing analysis of public and private sector source reduction programs that may be provided to cities, counties, regional agencies, and a city and county in order to assist them in complying with Article 3 (commencing with Section 41050) of Chapter 2 and Article 3 (commencing with Section 41350) of Chapter 3.

(3) Assistance to cities, counties, regional agencies, and a city and county in the development of source reduction programs for commercial and industrial generators of solid waste that include the development of source reduction strategies designed for specific types of commercial and industrial generators.

(d) The board shall, to the maximum extent feasible, utilizing existing resources, provide local jurisdictions and private businesses with information, tools, and mathematical models to assist with meeting or exceeding the 50-percent diversion requirement pursuant to Section 41780. The board shall act as a solid waste information clearinghouse.

(e)

(1) On or before April 1, 2003, and using existing resources, the board shall provide local jurisdictions and private businesses with information and models to



assist with consideration of environmental justice concerns when complying with Section 41701.

(2) For the purposes of this subdivision, “environmental justice” has the meaning defined in subdivision (e) of Section 65040.12 of the Government Code.

§ 71110. Duties of California Environmental Protection Agency.

The California Environmental Protection Agency, in designing its mission for programs, policies, and standards, shall do all of the following:

(a) Conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state.

(b) Promote enforcement of all health and environmental statutes within its jurisdiction in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations in the state.

(c) Ensure greater public participation in the agency's development, adoption, and implementation of environmental regulations and policies.

(d) Improve research and data collection for programs within the agency relating to the health of, and environment of, people of all races, cultures, and income levels, including minority populations and low-income populations of the state.

(e) Coordinate its efforts and share information with the United States Environmental Protection Agency.

(f) Identify differential patterns of consumption of natural resources among people of different socioeconomic classifications for programs within the agency.

(g) Consult with and review any information received from the Working Group on Environmental Justice established to assist the California Environmental Protection Agency in developing an agencywide strategy pursuant to Section 71113 that meets the requirements of this section.

§ 71111. Model environmental justice mission statement.

On or before January 1, 2001, the California Environmental Protection Agency shall develop a model environmental justice mission statement for boards, departments, and offices within the agency. For purposes of this section, environmental justice has the same meaning as defined in subdivision (e) of Section 65040.12 of the Government Code.



§ 71112. Consultation, review, and evaluation of information from the Working Group on Environmental Justice.

In developing the model environmental justice mission statement pursuant to Section 71111, the California Environmental Protection Agency shall consult with, review, and evaluate any information received from the Working Group on Environmental Justice established pursuant to Section 71113.

§ 71113. Working group on environmental justice; working group members; duties.

(a) On or before January 1, 2002, the Secretary for Environmental Protection shall convene a Working Group on Environmental Justice to assist the California Environmental Protection Agency in developing, on or before July 1, 2002, an agencywide strategy for identifying and addressing any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice.

(b) The working group shall be composed of the Secretary for Environmental Protection, the Chairs of the State Air Resources Board, the California Integrated Waste Management Board, and the State Water Resources Control Board, the Director of Toxic Substances Control, the Director of Pesticide Regulation, the Director of Environmental Health Hazard Assessment, and the Director of Planning and Research.

(c) The working group shall do all of the following on or before April 1, 2002:

(1) Examine existing data and studies on environmental justice, and consult with state, federal, and local agencies and affected communities.

(2) Recommend criteria to the Secretary for Environmental Protection for identifying and addressing any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice.

(3) Recommend procedures and provide guidance to the California Environmental Protection Agency for the coordination and implementation of intraagency environmental justice strategies.

(4) Recommend procedures for collecting, maintaining, analyzing, and coordinating information relating to an environmental justice strategy.

(5) Recommend procedures to ensure that public documents, notices, and public hearings relating to human health or the environment are concise, understandable, and readily accessible to the public. The recommendation shall include guidance for determining when it is appropriate for the California Environmental Protection Agency to translate crucial public documents, notices, and hearings relating to human health or the environment for limited-English-speaking populations.

(6) Hold public meetings to receive and respond to public comments regarding recommendations required pursuant to this section, prior to the finalization of the



recommendations. The California Environmental Protection Agency shall provide public notice of the availability of draft recommendations at least one month prior to the public meetings.

(7) Make recommendations on other matters needed to assist the agency in developing an intraagency environmental justice strategy.

§ 71114. Advisory group to assist working group; appointments; composition.

(a) The Secretary for Environmental Protection shall, on or before January 1, 2002, convene an advisory group to assist the working group described in Section 71113 by providing recommendations and information to, and serving as a resource for, the working group. The Secretary for Environmental Protection shall appoint members to the advisory group according to the following categories:

- (1) Two representatives of local or regional land use planning agencies.
- (2) Two representatives from air pollution control districts or air quality management districts.
- (3) Two representatives from certified unified program agencies (CUPAs).
- (4) Two representatives from environmental organizations.
- (5) Four representatives from the business community, two from a small business and two from a large business, except that three of these representatives may be from an association that represents small or large businesses, and at least one of the small business representatives shall be from an association that represents small businesses. As used in this paragraph, "small business" has the meaning given that term by subdivision (c) of Section 1028.5 of the Code of Civil Procedure, and a large business is any business other than a small business.
- (6) Two representatives from community organizations.
- (7) One representative from a federally recognized Indian tribe.
- (8) Two representatives from environmental justice organizations.

(b) The advisory group may form subcommittees to address specific types of environmental program areas. The California Environmental Protection Agency shall provide a reasonable per diem for attendance at advisory committee meetings by advisory committee members from nonprofit organizations.

§ 71114.1. Review of programs, policies and activities to identify impediments to the achievement of environmental justice.

After the California Environmental Protection Agency develops the strategy pursuant to Section 71113 and before December 31, 2003, each board, department, and office within



the agency shall, in coordination with the Secretary for Environmental Protection and the Director of the Office of Planning and Research, review its programs, policies, and activities and identify and address any gaps in its existing programs, policies, or activities that may impede the achievement of environmental justice.

§ 71115. Report prepared and submitted by secretary.

The Secretary for Environmental Protection shall, not later than January 1, 2004, and every three years thereafter, prepare and submit to the Governor and the Legislature a report on the implementation of this part.

§ 71116. Environmental Justice Small Grant Program.

(a) The Environmental Justice Small Grant Program is hereby established under the jurisdiction of the California Environmental Protection Agency. The California Environmental Protection Agency shall adopt regulations for the implementation of this section. These regulations shall include, but need not be limited to, all of the following:

- (1) Specific criteria and procedures for the implementation of the program.
- (2) A requirement that each grant recipient submit a written report to the agency documenting its expenditures of the grant funds and the results of the funded project.
- (3) Provisions promoting the equitable distribution of grant funds in a variety of areas throughout the state, with the goal of making grants available to organizations that will attempt to address environmental justice issues.

(b) The purpose of the program is to provide grants to eligible community groups, including, but not limited to, community-based, grassroots nonprofit organizations, that are located in areas adversely affected by environmental pollution and hazards and that are involved in work to address environmental justice issues.

(c)

(1) Both of the following are eligible to receive moneys from the fund:

- (A) A nonprofit entity.
- (B) A federally recognized tribal government.

(2) For purposes of this section, “nonprofit entity” means any corporation, trust, association, cooperative, or other organization that meets all of the following criteria:

- (A) Is operated primarily for scientific, educational, service, charitable, or other similar purposes in the public interest.
- (B) Is not organized primarily for profit.



(C) Uses its net proceeds to maintain, improve, or expand, or any combination thereof, its operations.

(D) Is a tax-exempt organization under Section 501(c)(3) of the federal Internal Revenue Code,¹ or is able to provide evidence to the agency that the state recognizes the organization as a nonprofit entity.

(3) For purposes of this section, “nonprofit entity” specifically excludes an organization that is a tax-exempt organization under Section 501(c)(4) of the federal Internal Revenue Code.

(d) Individuals may not receive grant moneys from the fund.

(e) Grant recipients shall use the grant award to fund only the project described in the recipient's application. Recipients shall not use the grant funding to shift moneys from existing or proposed projects to activities for which grant funding is prohibited under subdivision (g).

(f) Grants shall be awarded on a competitive basis for projects that are based in communities with the most significant exposure to pollution. Grants shall be limited to any of the following purposes and no other:

(1) Resolve environmental problems through distribution of information.

(2) Identify improvements in communication and coordination among agencies and stakeholders in order to address the most significant exposure to pollution.

(3) Expand the understanding of a community about the environmental issues that affect their community.

(4) Develop guidance on the relative significance of various environmental risks.

(5) Promote community involvement in the decision-making process that affects the environment of the community.

(6) Present environmental data for the purposes of enhancing community understanding of environmental information systems and environmental information.

(g)

(1) The agency shall not award grants for, and grant funding shall not be used for, any of the following:

(A) Other state grant programs.

(B) Lobbying or advocacy activities relating to any federal, state, regional, or local legislative, quasi-legislative, adjudicatory, or quasi-judicial proceeding involving development or adoption of statutes, guidelines, rules, regulations, plans or any other governmental proposal, or involving decisions concerning siting, permitting, licensing, or any other governmental action.



(C) Litigation, administrative challenges, enforcement action, or any type of adjudicatory proceeding.

(D) Funding of a lawsuit against any governmental entity.

(E) Funding of a lawsuit against a business or a project owned by a business.

(F) Matching state or federal funding.

(G) Performance of any technical assessment for purposes of opposing or contradicting a technical assessment prepared by a public agency.

(2) An organization's use of funds from a grant awarded under this section to educate a community regarding an environmental justice issue or a governmental process does not preclude that organization from subsequent lobbying or advocacy concerning that same issue or governmental process, as long as the lobbying or advocacy is not funded by a grant awarded under this section.

(h) The agency shall review, evaluate, and select grant recipients, and screen grant applications to ensure that they meet the requirements of this section.

(i) The maximum amount of a grant provided pursuant to this section may not exceed fifty thousand dollars (\$50,000).

(j) For purposes of this section, "environmental justice" has the same meaning as defined in Section 65040.12 of the Government Code.

(k)

(1) The Secretary for Environmental Protection may expend up to two million dollars (\$2,000,000) per year for the purposes of this section.

(2)

(A) Of the amount described in paragraph (1), up to five hundred thousand dollars (\$500,000) shall be expended by the Secretary for Environmental Protection for grants to organizations working to address and mitigate the effects of sea level rise in disadvantaged communities impacted by sea level rise.

(B) For purposes of this section, "disadvantaged community" shall have the same meaning as defined in Section 71118.

(l) Board, departments, and offices within the California Environmental Protection Agency may allocate funds from various special funds, settlements, and penalties to implement this program.

§ 71118. Supplemental environmental projects; bodies with enforcement authority to establish policies that benefit disadvantaged communities; contents; list of projects.

(a) For purposes of this section, the following terms have the following meanings:



(1) "Agency" means the California Environmental Protection Agency.

(2) "Disadvantaged community" means a community identified pursuant to Section 39711 of the Health and Safety Code.

(3) "Supplemental environmental project" means an environmentally beneficial project that a person subject to an enforcement action voluntarily agrees to undertake in settlement of the action and to offset a portion of a civil penalty.

(b) Each board, department, and office within the agency that has enforcement authority shall establish a policy on supplemental environmental projects that benefits disadvantaged communities. The policy shall include, but need not be limited to, all of the following:

(1) A public process to solicit potential supplemental environmental projects from disadvantaged communities.

(2) Allowing the amount of a supplemental environmental project to be up to 50 percent of the enforcement action brought under the jurisdiction of a board, department, or office within the agency.

(3) An annual list of supplemental environmental projects that may be selected to settle a portion of an enforcement action under the jurisdiction of a board, department, or office within the agency.

(4) A consideration of the relationship between the location of the violation and the location of the proposed supplemental environmental project.

(c) The Secretary for Environmental Protection shall consolidate the projects compiled pursuant to subdivision (b) into one list and post that list on the agency's Internet Web site.

