

GENERAL ENVIRONMENTAL JUSTICE RELATED PROVISIONS OF CALIFORNIA LAW

CALIFORNIA GOVERNMENT CODE SECTION 65040.12

The Definition of Environmental Justice and the Designation of the California Office of Planning and Research as Coordinating Agency for Environmental Justice

65040.12. (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 the Secretaries of the California Environmental Protection Agency, the Resources Agency, and the Business, Transportation and Housing Agency, the Working Group on Environmental Justice established pursuant to Section 72002 of the Public Resources Code, 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 72002 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 prior to 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 over-concentrating 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) For the purposes of this section, "environmental justice" means 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.

California Government Code
Section 65040.2

Requirement for the California Office of Planning and Research to Develop Environmental Justice Guidance in the General Plan

65040.2. (a) In connection with its responsibilities under subdivision (l) of Section 65040, the office shall develop and adopt guidelines for the preparation of and the content of the mandatory elements required in city and county general plans by Article 5 (commencing with Section 65300) of Chapter 3. For purposes of this section, the guidelines prepared pursuant to Section 50459 of the Health and Safety Code shall be the guidelines for the housing element required by Section 65302. In the event that additional elements are hereafter required in city and county general plans by Article 5 (commencing with Section 65300) of Chapter 3, the office shall adopt guidelines for those elements within six months of the effective date of the legislation requiring those additional elements.

(b) The office may request from each state department and agency, as it deems appropriate, and the department or agency shall provide, technical assistance in readopting, amending, or repealing the guidelines.

(c) The guidelines shall be advisory to each city and county in order to provide assistance in preparing and maintaining their respective general plans.

(d) The guidelines shall contain the guidelines for addressing environmental justice matters developed pursuant to Section 65040.12.

(e) The guidelines shall contain advice including recommendations for best practices to allow for collaborative land use planning of adjacent civilian and military lands and facilities. The guidelines shall encourage enhanced land use compatibility between civilian lands and any adjacent or nearby military facilities through the examination of potential impacts upon one another.

(f) The guidelines shall contain advice for addressing the effects of civilian development on military readiness activities carried out on all of the following:

- (1) Military installations.
- (2) Military operating areas.
- (3) Military training areas.
- (4) Military training routes.
- (5) Military airspace.

- (6) Other territory adjacent to those installations and areas.
 - (g) By March 1, 2005, the guidelines shall contain advice, developed in consultation with the Native American Heritage Commission, for consulting with California Native American tribes for all of the following:
 - (1) The preservation of, or the mitigation of impacts to, places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.
 - (2) Procedures for identifying through the Native American Heritage Commission the appropriate California Native American tribes.
 - (3) Procedures for continuing to protect the confidentiality of information concerning the specific identity, location, character, and use of those places, features, and objects.
 - (4) Procedures to facilitate voluntary landowner participation to preserve and protect the specific identity, location, character, and use of those places, features, and objects.
 - (h) The office shall provide for regular review and revision of the guidelines established pursuant to this section.
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CALIFORNIA PUBLIC RESOURCES CODE
SECTION 71110-71116

Duties of California Environmental Protection Agency¹

71110. 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

¹ Annotations for Sections 71110-71116 drawn from Dwyer and Bergsund's California Environmental Laws, Annotated. Thompson/West, copyright 2007.

Agency in developing an agencywide strategy pursuant to Section 71113 that meets the requirements of this section.

Model Environmental Justice Mission Statement

71111. 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.

Consultation, Review, and Evaluation of Information from the Working Group on Environmental Justice

71112. 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.

Working Group on Environmental Justice; Working Group Members; Duties

71113. (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.

Advisory Group to Assist Working Group; Appointments; Composition

71114. (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.

Review of Programs, Policies and Activities to Identify Impediments to the Achievement of Environmental Justice

71114.1. 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.

Report Prepared and Submitted to Secretary

71115. 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.

Environmental Justice Small Grants Program

71116. (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 the 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, or is able to provide evidence to the agency that the state recognizes the organization as a nonprofit entity.
 - (3) For the 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 decisionmaking 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 twenty thousand dollars (\$20,000).

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

(k) This section shall be implemented only during fiscal years for which an appropriation is provided for the purposes of this section in the annual Budget Act or in another statute.

PUBLIC RESOURCES CODE
SECTION 40912

Solid Waste Siting Element – Public Participation

40912. (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.

41701. Each county-wide siting element and revision thereto shall include, but is not limited to, all of the following:

(a) A statement of goals and policies for the environmentally safe transformation or disposal of solid waste that cannot be reduced, recycled, or composted.

(b) An estimate of the total transformation or disposal capacity in cubic yards that will be needed for a 15-year period to safely handle solid wastes generated with the county that cannot be reduced, recycled, or composted.

(c) The remaining combined capacity of existing solid waste transformation or disposal facilities existing at the time of the preparation of the siting element, or revision thereto, in cubic yards and years.

(d) The identification of an area or areas for the location of new solid waste transformation or disposal facilities, or the expansion of existing facilities, that are consistent with the applicable city or county general plan, if the county determines that existing capacity will be exhausted within 15 years or additional capacity is desired.

(e) For countywide elements submitted or revised on or after January 1, 2003, a description of the actions taken by the city or county to solicit public participation by the affected communities, including, but not limited to, minority and low-income populations.