

## CALIFORNIA

### **How Does California Define Environmental Justice and Environmental Justice Communities?**

#### Environmental Justice Definitions:

According to the State, “environmental justice” is defined as

... the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the location of public facilities and the provision of public services, to ensure a healthy environment for all people such that the effects of pollution are not disproportionately borne by any particular populations or communities.<sup>1</sup>

Recent legislation in California references Health and Safety Code § 39711 and its definition of “disadvantaged communities” as:

1. Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation.
2. Areas with concentrations of people that are of low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment.<sup>2</sup>

An alternative definition for “disadvantaged communities” comes from CalEPA which has designated four categories of geographic areas of disadvantaged communities as

1. Census tracts receiving the highest 25 percent of overall scores in CalEnviroScreen 4.0 (1,984 tracts).
2. Census tracts lacking overall scores in CalEnviroScreen 4.0 due to data gaps, but receiving the highest 5 percent of CalEnviroScreen 4.0 cumulative pollution burden scores (19 tracts).
3. Census tracts identified in the 2017 DAC designation as disadvantaged, regardless of their scores in CalEnviroScreen 4.0 (307 tracts).
4. Lands under the control of federally recognized Tribes. For purposes of this designation, a Tribe may establish that a particular area of land is under its control even if not represented as such on CalEPA’s DAC map and therefore should be considered a DAC by requesting a consultation....<sup>3</sup>

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<sup>1</sup> Gov’t Code, § 56668(p).

<sup>2</sup> 2014 Cal SB 862.

<sup>3</sup> OEHHA, *SB 535 Disadvantaged Communities*, <https://oehha.ca.gov/calenviroscreen/sb535> (last visited July 21, 2022).

### Environmental Justice Mapping Tools:

The California Office of Environmental Health Hazard Assessment (OEHHA) provides maps of potential environmental justice areas in the state. [CalEnviroScreen](#) was developed by OEHHA by request from the California Environmental Protection agency (CalEPA) “to identify communities suffering from cumulative impacts of multiple pollutants and people who are vulnerable to pollution’s effects.”<sup>4</sup> CalEnviroScreen is a mapping tool “used to help identify communities disproportionately burdened by multiple sources of pollution and with population characteristics that make them more sensitive to pollution.”<sup>5</sup> CalEnviroScreen “uses environmental, health, and socioeconomic information to produce scores for every census tract in the state.”<sup>6</sup> This tool also measures cumulative impacts. As per OEHHA’s CalEnviroScreen 4.0 report, “[c]umulative impacts means exposures, public health or environmental effects from the combined emissions and discharges, in a geographic area, including environmental pollution from all sources, whether single or multi-media, routinely, accidentally, or otherwise released. Impacts will take into account sensitive populations and socioeconomic factors, where applicable and to the extent data are available.”<sup>7</sup> Historically, the four indicators used in mapping communities were exposure indicators, environmental effects indicators, sensitive population indicators, and socioeconomic factor indicators.<sup>8</sup>

The latest version of OEHHA’s mapping tool, CalEnviroScreen 4.0<sup>9</sup>, has been released. Importantly, one new indicator has been adopted in the update: children’s lead risk from housing, an indicator which “accounts for possible lead exposure from paint and other sources in or around the home.”<sup>10</sup> Significantly, CalEnviroScreen permits the identification of environmental justice populations, to trigger actions such as governmental funding: e.g., SB 535 directs that 25% of proceeds of the state’s cap-and-trade program be devoted to projects benefiting “disadvantaged communities.” CalEPA used CalEnviroScreen to inform its designation of those communities.<sup>11</sup>

### **How Does California Consider Environmental Justice in its Substantive Actions<sup>12</sup>?**

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<sup>4</sup> OEHHA, *About CalEnviroScreen*, <https://oehha.ca.gov/calenviroscreen/about-calenviroscreen> (last visited June 28, 2022).

<sup>5</sup> OEHHA, SB 535 Disadvantaged Communities (2022 Update), <https://calepa.ca.gov/envjustice/ghginvest/> (last visited July 21, 2022).

<sup>6</sup> OEHHA, *About CalEnviroScreen*.

<sup>7</sup> OEHHA, CalEnviroScreen 4.0 (Oct. 2021), <https://oehha.ca.gov/media/downloads/calenviroscreen/report/calenviroscreen40reportf2021.pdf> (last visited July 21, 2022).

<sup>8</sup> *Id.*

<sup>9</sup> OEHHA, *CalEnviroScreen 4.0*, <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40> (last visited July 21, 2022).

<sup>10</sup> *Id.*

<sup>11</sup> CalEPA, “California Climate Investments to Benefit Disadvantaged Communities,” <https://calepa.ca.gov/envjustice/ghginvest/> (last visited June 28, 2022).

<sup>12</sup> Substantive is defined as governing the original rights and obligations of individuals. Cornell L. Sch., LII, *Wex Legal Encyclopedia*, [https://www.law.cornell.edu/wex/substantive\\_law](https://www.law.cornell.edu/wex/substantive_law) (last visited June 28, 2022).

*Environmental Justice as a Policy of the Environmental Agency or Across All Agencies:*

In 2002, SB 1542 required each board, department, and office within CalEPA to review its programs, policies, and activities to identify and address gaps that may impede the achievement of environmental justice.<sup>13</sup>

In 2016, AB 2616 clarified that the California Coastal Commission may consider environmental justice issues, or the equitable distribution of environmental benefits in communities throughout the state, when acting on a coastal development permit.<sup>14</sup> AB 2616 defined “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.”<sup>15</sup>

Despite the strong statutory cast to environmental justice in California, several California agencies have formulated environmental justice policies, congruent with their organic authority. For instance, the California State Lands Commission’s environmental justice policy seeks to help remediate the injustices visited upon Native Nations (both federally recognized tribes and tribes recognized by California): the Commission acknowledges “the critical connection California’s Native Nations have to the environment and acknowledges that the injustices they have endured over generations, including the destruction of natural resources.”<sup>16</sup> The policy aims to increase outreach and participation, as well as improve the substantive decisions made by the Commission.<sup>17</sup> In addition, the policy seeks to further climate equity, increasing sea-level rise preparedness and community adaptation, as well as prioritizing “disadvantaged communities in sea-level rise planning and adaptation strategies.”<sup>18</sup>

Similarly, in 2019 the California Coastal Commission adopted its first environmental justice policy on how the Coastal Commission will implement its new authority under AB 2616, and integrate environmental justice principles in its operations.<sup>19</sup> Specifically, the policy aims “to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone” through enhanced outreach, participation and staff training, among other things.<sup>20</sup> The policy makes special reference to environmental justice in the tribal context, atop the requirements of the Coastal Commission’s

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<sup>13</sup> 2002 Cal SB 1542 (codified at Pub. Res. Code §§ 40912, 41701, and 71114).

<sup>14</sup> 2016 Cal AB 2616 (codified at Pub. Res. Code § 30604(h)).

<sup>15</sup> 2016 Cal AB 2616 (codified at Pub. Res. Code § 30710.3).

<sup>16</sup> Cal. State Lands Comm’n, *Environmental Justice Policy* (2018) at p.1, <https://www.slc.ca.gov/wp-content/uploads/2018/11/EJPolicy.pdf> (last visited June 28, 2022).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at p.5.

<sup>19</sup> Cal. Coastal Comm’n, *Environmental Justice Policy* (2019), [https://documents.coastal.ca.gov/assets/env-justice/CCC\\_EJ\\_Policy\\_FINAL.pdf](https://documents.coastal.ca.gov/assets/env-justice/CCC_EJ_Policy_FINAL.pdf) (last visited June 28, 2022).

<sup>20</sup> *Id.* at p. 5, and pp. 14-17.

*Tribal Notification and Consultation Policy*.<sup>21</sup> One significant platform in the policy is the Coastal Commission’s signaling that local government failures to consider environmental justice in the development process may give rise to the basis for an appeal to the Coastal Commission, where the proposed development “has the potential to adversely or disproportionately affect a historically disadvantaged group’s ability to reach and enjoy the coast.”<sup>22</sup>

*Consideration of Environmental Justice in Permitting:*

One factor used in the review of a State proposal should include, “[t]he extent to which the proposal will promote environmental justice.”<sup>23</sup>

*Consideration of Environmental Justice in Enforcement:*

Like other states, California encourages environmental violators to redress environmental harms through funding environmentally beneficial projects in partial forgiveness of outstanding civil penalties.<sup>24</sup> Unlike other states, however, California’s SEP program has been enshrined in law.<sup>25</sup> AB 1071 defines a “supplemental environmental project” to mean “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.”<sup>26</sup> The statute requires CalEPA’s subordinate entities with enforcement authority to promulgate a policy on SEPs that “benefits disadvantaged communities,” including a provision on creating a “public process to solicit potential supplemental environmental projects from disadvantaged communities.”<sup>27</sup> Moreover, AB 1071 requires CalEPA to compile a list of SEPs developed by its boards, departments, and offices and post the list on its website.<sup>28</sup>

As discussed below, CalEPA’s Environmental Justice Task Force utilizes environmental justice considerations in compliance and enforcement across the many environmental components of CalEPA.<sup>29</sup>

Additionally, the Office of the Attorney General’s Bureau of Environmental Justice that focuses on the enforcement of environmental justice provisions in:

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<sup>21</sup> *Id.* at p. 6 (citing Cal. Coastal Comm’n, *Tribal Consultation Policy* (2018), <https://documents.coastal.ca.gov/assets/env-justice/tribal-consultation/CCC%20Tribal%20Consultation%20Policy%20Adopted%208.8.2018.pdf> (last visited June 28, 2022)).

<sup>22</sup> *Id.* at p. 7.

<sup>23</sup> Gov’t Code, § 65040.12, subd. (e).

<sup>24</sup> CalEPA, “Supplemental Environmental Projects Guidance,” [https://calepa.ca.gov/wp-content/uploads/sites/6/2018/06/CalEPA\\_SEP\\_Guidance-June-2018.pdf](https://calepa.ca.gov/wp-content/uploads/sites/6/2018/06/CalEPA_SEP_Guidance-June-2018.pdf) (last visited June 28, 2022).

<sup>25</sup> 2015 Cal AB 1071.

<sup>26</sup> Pub. Res. Code § 71118(a)(3).

<sup>27</sup> Pub. Res. Code § 71118(b).

<sup>28</sup> 2015 Cal AB 1071 (codified at Pub. Res. Code § 71118).

<sup>29</sup> CalEPA, *Environmental Justice Task Force*, <https://calepa.ca.gov/enforcement/environmental-justice-compliance-and-enforcement-task-force/> (last visited June 28, 2022).

- Penalizing and preventing illegal discharge to air and water from facilities located in communities already burdened disproportionately with pollution;
- Eliminating or reducing exposure to lead and other toxins in the environment and consumer products;
- Remediating contaminated drinking water; and
- Challenging the Federal Government’s actions that repeal or reduce public health and environmental protections.”<sup>30</sup>

Consideration of Environmental Justice in Land Use:

2002’s SB 1542 required that the California Integrated Waste Management Board provide environmental justice models and information to local jurisdictions for siting landfills.<sup>31</sup> The statute also expanded CalEPA’s Advisory Committee on Environmental Justice from a (13) thirteen member committee to a (17) seventeen member committee, with required representatives from federally recognized tribes, environmental justice organizations, and business.<sup>32</sup>

In 2003, AB 1497 required that a local solid waste enforcement agency (LEA) hold a hearing and provide notice of that hearing when the operator of a solid waste facility applies to make a change to the design or operation of the facility. It also required that the enforcement agency consider environmental justice issues when preparing and distributing the notice to ensure that the notice is concise and understandable for limited English-speaking populations.<sup>33</sup> This law requires the operator of a solid waste facility to receive regulatory approval before making “significant changes” to a solid waste facility’s design or operation beyond the scope of the original permit.<sup>34</sup> Before granting a revised permit, the enforcement agency must hold at least one public hearing on the proposed permit decision, and notify property owners within 300 feet of the waste facility of the upcoming hearing.<sup>35</sup> Further, the law requires the enforcement agency to consider “environmental justice issues when preparing and distributing the notice to ensure that the notice is concise and understandable for limited-English-speaking populations.”<sup>36</sup>

In 2013, AB 1329 found that hazardous waste facilities in California are located disproportionately in low-income communities and communities of color.<sup>37</sup> The bill directed the Department of Toxic Substances Control (DTSC) to prioritize enforcement of environmental laws at hazardous waste facilities in low-income communities and communities of color.<sup>38</sup>

<sup>30</sup> Off. of the Att’y Gen., *Environmental Justice*, <https://oag.ca.gov/environment/justice> (last visited June 28, 2022).

<sup>31</sup> 2002 Cal SB 1542 (codified at Pub. Res. Code § 40912).

<sup>32</sup> 2002 Cal SB 1542 (codified at Pub. Res. Code § 71114).

<sup>33</sup> 2003 Cal AB 1497 (codified at Pub. Res. Code § 44004(h)(1)(C)).

<sup>34</sup> Pub. Res. Code § 44004(a).

<sup>35</sup> Pub. Res. Code § 44004(h)(1)(A).

<sup>36</sup> Pub. Res. Code § 44004(h)(1)(C).

<sup>37</sup> 2013 Cal AB 1329 (Section 1).

<sup>38</sup> 2013 Cal AB 1329 (codified at Health & Safety Code § 25180.2).

2015's SB 673 requires DTSC to update its criteria for issuance or renewal of hazardous waste facilities to include: "community vulnerability, cumulative impact, and potential risks to health and well-being."<sup>39</sup> The law provides the DTSC with an opportunity to use tools such as CalEnviroScreen when making decisions on hazardous waste permitting.<sup>40</sup>

In 2016, SB 1000 required cities and counties to adopt an environmental justice element or to integrate environmental justice goals, policies, and objectives into other elements of their general plans.<sup>41</sup> A city or county must 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.<sup>42</sup> SB 1000 integrates environmental justice into statewide land use policy, requires cities and counties to consider and include environmental justice in their General Plans, requires environmental justice to be addressed in local government General Plan documents that planners use to engage with environmental justice communities, and that air quality analyses be completed.<sup>43</sup>

In 2018, SB 834 & AB 1775 prohibited the State Lands Commission from approving any new leases that would result in the increase of oil or gas production in federal waters.<sup>44</sup>

*State Environmental Policy Act "Mini-NEPA":*

The California Environmental Quality Act (CEQA) "generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those environmental impacts to the extent feasible."<sup>45</sup> Restated, CEQA "requires government agencies to consider the the environmental consequences of their actions before approving plans and policies or committing to a course of action on a project."<sup>46</sup>

The practical effect is that "CEQA requires that state and local agencies disclose and evaluate the significant environmental impacts of proposed projects and adopt all feasible mitigation measures to reduce or eliminate those impacts."<sup>47</sup> Further,

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<sup>39</sup> 2015 Cal SB 673 (codified at Health & Safety Code 25200.21(b)).

<sup>40</sup> Cal. Green Zones, A Cal. Env't Justice Alliance Initiative, *CALENVIROSCREEN: A Critical Tool For Achieving Environmental Justice In California*, at p.7, <https://calgreenzones.org/wp-content/uploads/2018/09/CEJA-CES-Report-Exec-summary.pdf> [hereinafter CA Green Zones].

<sup>41</sup> 2016 Cal SB 1000 (codified at Gov't Code § 65302).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> Pub. Res. Code § 6245 (see also 2018 Cal SB 834 and 2018 Cal AB 1775).

<sup>45</sup> Governor's Off. of Plan. & Rsch. (OPR), CEQA, *Getting Started With CEQA: CEQA Process Overview* (last visited July 14, 2022).

<sup>46</sup> OPR, CEQA 101 (Aug. 9, 2021), [https://opr.ca.gov/ceqa/docs/20210809-CEQA\\_101.pdf](https://opr.ca.gov/ceqa/docs/20210809-CEQA_101.pdf) (last visted July 14, 2022).

<sup>47</sup> Off. of the Att'y Gen., *California Environmental Quality Act (CEQA)*, <https://oag.ca.gov/environment/ceqa> (last visited June 28, 2022).

[e]very city and county must have a general plan, which is the local government’s long-term framework or ‘constitution’ for development. A general plan is a project under the California Environmental Quality Act (CEQA), so a local government must analyze – and where feasible mitigate – the plan’s significant impacts. Unlike project-by-project permitting, CEQA review for the general plan looks at the ‘big picture,’ allowing a community to align its long-term vision with important objectives, such as reducing greenhouse gas emissions and advancing environmental justice by avoiding additional impacts to communities already affected by pollution.<sup>48</sup>

While CEQA does not specifically refer to “environmental justice,” it provides ample opportunities to raise considerations of adverse impacts and cumulative impacts upon disadvantaged communities. Moreover, the Attorney General’s Bureau of Environmental Justice focuses on the furtherance of environmental justice in ensuring compliance with CEQA and land use planning laws.<sup>49</sup>

*Dedicated Funding to Environmental Justice Communities:*

N/A.

*Consideration of Cumulative Impacts:*

As noted above, CalEnviroScreen has as its mission the identification of communities adversely affected by cumulative impacts. For purposes of CalEnviroScreen, “cumulative impacts” means “exposures and public health or environmental effects from all sources of pollution in a geographic area,” and take into account sensitive groups, “such as young children and people with asthma, and socioeconomic factors, such as poverty, race and ethnicity, and education.”<sup>50</sup>

In 2016, AB 1937 requires that utilities’ energy procurement plans show the prioritization of gas-fired generation resources not located in disadvantaged communities suffering “from cumulative pollution burdens, including, but not limited to, high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gasses.”<sup>51</sup> Moreover, AB 1937 requires that utilities also show that they preferred “resources that are not gas-fired generating units” in those disadvantaged communities.<sup>52</sup>

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<sup>48</sup> Off. of the Att’y Gen., *CEQA and General Planning*, <https://oag.ca.gov/environment/ceqa/planning> (last visited June 28, 2022).

<sup>49</sup> Off. of the Att’y Gen., *Environmental Justice*, <https://oag.ca.gov/environment/justice> (last visited June 28, 2022).

<sup>50</sup> OEHHA, *About CalEnviroScreen*, <https://oehha.ca.gov/calenviroscreen/about-calenviroscreen> (last visited June 28, 2022).

<sup>51</sup> 2016 Cal AB 1937 (codified at Pub. Util Code § 454.5(b)(9)(D)(i)).

<sup>52</sup> 2016 Cal AB 1937 (codified at Pub. Util Code § 454.5(b)(9)(D)(ii)).

In 2018, SB 834 & AB 1775 prohibited the State Lands Commission from approving any new leases that would result in the increase of oil or gas production in federal waters.<sup>53</sup>

Prohibitions on Disparate Impact Discrimination:

N/A.

Established Environmental Rights:

N/A.

**How Does California Address Environmental Justice in its Procedures<sup>54</sup>?**

Environmental Justice as Part of Environmental Agency's Mission:

See section “*Environmental Justice as a Policy of the Environmental Agency or Across All Agencies*” for additional information.

Environmental Justice as Part of Other Agency's Mission:

Established in the Office of the Attorney General, “[t]he Bureau of Environmental Justice’s mission is to protect people and communities that endure a disproportionate share of environmental pollution and public health hazards.”<sup>55</sup>

Processes and Procedures (including Title VI):

- Non-Discrimination Policy:

Title VI complaints can be lodged through the Department of Toxic Substances Control (DTSC). Generally, the antidiscrimination law provides that

No person in the State of California shall, on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.<sup>56</sup>

- Grievance Procedures:

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<sup>53</sup> Pub. Res. Code § 6245 (see also 2018 Cal SB 834 and 2018 Cal AB 1775).

<sup>54</sup> Procedural is defined as rules and the methods used to ensure the rights of individuals. Cornell L. Sch., LII, *Wex Legal Encyclopedia*, [https://www.law.cornell.edu/wex/procedural\\_law](https://www.law.cornell.edu/wex/procedural_law) (last visited June 28, 2022).

<sup>55</sup> Off. of the Att’y Gen., *Environmental Justice*, <https://oag.ca.gov/environment/justice> (last visited June 28, 2022).

<sup>56</sup> Gov. Code § 11135.



DTSC has developed an Office of Civil Rights (OCR) and specific courses of action that can be taken with respect to grievances. As per DTSC’s OCR page, “[t]he Title VI Civil Rights and California Civil Rights Policy ensures that DTSC carries out all its duties and responsibilities in a non-discriminatory manner that complies with federal and state civil rights laws. The policy details the process for which to file a Civil Rights complaint with DTSC. The policy includes step-by-step instructions on filing as well as the Civil Rights Complaint form. The DTSC Civil Rights and Language Access Implementation Plan further details the complaint process.”<sup>57</sup>

- *Enhanced Public Participation and Information Access:*

2015’s SB 673 altered DTSC’s permit review process for hazardous waste facilities by requiring the “strengthening of environmental justice safeguards” and increasing public participation by “using procedures that provide for early identification and integration of public concerns into permitting decisions, including concerns of [disadvantaged] communities.”<sup>58</sup>

In 2019, AB 1628 strengthened California’s definition of environmental justice to ensure that state and local agencies will “meaningfully involve” environmental justice communities in decision-making, as well as reduce pollution in these communities.<sup>59</sup>

In 2019, SB 160 requires counties to engage communities when updating emergency plans to ensure that local disaster preparedness and response activities (e.g., alerts, communications, evacuations, and sheltering) are culturally competent and meet diverse needs.<sup>60</sup> This bill prioritizes reaching culturally diverse communities including immigrants and refugees and low-income communities of color, among other groups.<sup>61</sup>

- *Language Access:*

In 2016, AB 1787 provides at least twice the allotted time to non-English speakers during public comment during hearings to allow for translation.<sup>62</sup>

In compliance with federal mandates, Caltrans has issued a Language Access Plan, to facilitate meaningful access to its programs, services, and activities for limited English proficient persons.<sup>63</sup>

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<sup>57</sup> Dept. of Toxic Substances Control (DTSC), *Office of Civil Rights*, <https://dtsc.ca.gov/get-involved/office-of-civil-rights/> (last visited June 28, 2022).

<sup>58</sup> 2015 Cal SB 673 (codified at Health & Safety Code § 25200.23).

<sup>59</sup> 2019 Cal AB 1628 (amended Gov’t Code §§ 56668, 65040.12 and Pub. Res. Code § 30107.3).

<sup>60</sup> 2019 Cal SB 160 (codified at Gov’t Code § 8593.3.5).

<sup>61</sup> 2019 Cal SB 160 (codified at Gov’t Code § 8593.3.5).

<sup>62</sup> 2016 Cal AB 1787 (codified at Gov’t Code § 54954.).

<sup>63</sup> Caltrans, Language Access Plan (2020) at p.2,

<https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/ayy1/caltrans-language-access-plan-2020-allp.pdf> (last visited June 28, 2022).

- *Consultation with Indigenous Communities and Tribal Nations:*

In 2014, AB 52 amended the California Environmental Quality Act (CEQA) to add tribal cultural resources to the categories of cultural resources that must be considered under the environmental review process when a project is proposed by a public agency.<sup>64</sup> AB 52 requires the lead agency (the public agency that has the primary responsibility for approving a project that may have a significant impact upon the environment) to consult with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of a proposed project, if requested by the tribe.<sup>65</sup>

Additionally, DTSC has published a Tribal Consultation Policy to guide interactions with tribal nations in California.<sup>66</sup>

*Governmental Environmental Justice Structures, Positions, and Funding Streams;*

- *Environmental Justice Coordinating Agency:*

In 1999, the legislature passed California’s first environmental justice law, SB 115 (Solis), designating the Governor's Office of Planning and Research (“OPR”) as the lead agency for environmental justice programs and several of the state’s environmental and state planning programs.<sup>67</sup> OPR duties include recommending and implementing state policies with regard to land-use and growth planning, and involve issuing periodic General Plan Guidelines to aid local jurisdictions in creating general plans in keeping with state requirements.<sup>68</sup> These guidelines must include guidelines for addressing environmental justice matters in city and county general plans.<sup>69</sup>

- *Environmental Justice Coordinator:*

CalEPA has a Deputy Secretary for Environmental Justice, Tribal Affairs, & Border Relations.<sup>70</sup>

Additionally, the Bureau of Environmental Justice within the AG’s office has a mission to protect people and communities that endure a disproportionate share of

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<sup>64</sup> 2014 Cal AB 52 (codified at Pub. Res. Code § 21080.3.1).

<sup>65</sup> 2014 Cal AB 52 (codified at Pub. Res. Code § 21080.3.1).

<sup>66</sup> DTSC, Tribal Consultation Policy (Mar. 6, 2020), available at [https://dtsc.ca.gov/wp-content/uploads/sites/31/2020/06/DTSC-Tribal-Consultation-Policy-Final\\_040220-AB434.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2020/06/DTSC-Tribal-Consultation-Policy-Final_040220-AB434.pdf) (last visited July 7, 2022).

<sup>67</sup> 1999 Cal SB 115 (codified at Gov’t. Code § 65040.12).

<sup>68</sup> Gov’t Code § 65040.

<sup>69</sup> Gov’t Code § 65040.2(d).

<sup>70</sup> CalEPA, *Environmental Justice Program Contacts*, <https://calepa.ca.gov/envjustice/contacts/> (last visited June 28, 2022).

environmental pollution and public health hazards. This is accomplished through compliance actions, fines, pollution reduction, advocacy, and remediation.<sup>71</sup>

- *Environmental Justice Advisory Board:*

In 2000, SB89 called for a strategic path to advance environmental justice and required CalEPA to establish the Interagency Working Group on Environmental Justice to assist in developing a strategy for identifying and addressing gaps in existing programs, policies, or activities that may hinder the achievement of environmental justice in the state.<sup>72</sup> The Secretary of CalEPA was required to convene an advisory group of external stakeholders to assist the agency and the working group in developing the agency's strategy.<sup>73</sup> 2002's SB 1542 expanded CalEPA's Advisory Committee on Environmental Justice from a thirteen member committee to a seventeen member committee, with required representatives from federally recognized tribes, environmental justice organizations, and business.<sup>74</sup>

In 2001, SB 828 added deadlines for developing an interagency environmental justice strategy affecting boards, departments and offices within the CalEPA.<sup>75</sup> The bill required each of the CalEPA boards, departments, and offices, by December 31, 2003, to review, identify, and address program obstacles impeding environmental justice.<sup>76</sup> CalEPA provides a page setting out the 2004 CalEPA Intra-Agency Environmental Justice Strategy, as well as Environmental Justice Program Update Reports.<sup>77</sup>

The Budget Bill of 2016 established a permanent funding mechanism for CalEPA's Environmental Justice Task Force. The Task Force's mission is to "facilitate the use of environmental justice considerations in compliance and enforcement programs and enhance communications with community members to maximize benefits in disproportionately impacted areas."<sup>78</sup> The four primary goals of the Task Force are:

- (1) Increase compliance in areas disproportionately impacted by health and environmental factors to prevent and reduce burdens on those communities by targeting compliance assistance and enforcement in those areas.
- (2) Identify disproportionately impacted areas for targeted compliance assistance and enforcement efforts using the California

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<sup>71</sup> Off. of the Att'y Gen., *Environmental Justice*, <https://oag.ca.gov/environment/justice> (last visited June 28, 2022).

<sup>72</sup> Pub. Res. Code § 71113.

<sup>73</sup> Pub. Res. Code § 71113.

<sup>74</sup> 2002 Cal SB 1542 (codified at Pub. Res. Code § 71114).

<sup>75</sup> 2001 Cal SB 828 (codified as amended Pub. Res. Code §§ 72000 *et seq.*, 71110 *et seq.*).

<sup>76</sup> 2001 Cal SB 828 (codified as amended Pub. Res. Code § 71110 *et seq.*).

<sup>77</sup> CalEPA, *Environmental Justice Publications and Resources*, <https://calepa.ca.gov/envjustice/resources/> (last visited June 28, 2022).

<sup>78</sup> CalEPA, *Environmental Justice Task Force*, <https://calepa.ca.gov/enforcement/environmental-justice-compliance-and-enforcement-task-force/> (last visited June 28, 2022).

Communities Environmental Health Screening Tool (CalEnviroScreen) and other data sources. (3) Provide communities with meaningful opportunities for input on potential environmental justice concerns and the implementation of proposed remedies. (4) Increase coordination among CalEPA boards and departments and with local, state, and federal regulatory and law enforcement agencies to facilitate compliance and enforcement efforts across all media (air, water, toxics, solid waste, and pesticides) in disproportionately impacted areas.<sup>79</sup>

Further, there are several legislative enactments which have required that representatives from environmental justice communities are appointed to state boards and commissions and are involved in decision making processes.

In 2015, AB 1288 required two appointments on the California Air Resources Board who work directly with environmental justice communities.<sup>80</sup>

In 2016, AB 2616 required that one member of the California Coastal Commission resides in and works with environmental justice communities.<sup>81</sup>

Effective 2016, California Public Resources Code § 71358 created the Integrated Climate Adaptation and Resiliency Program within the Governor’s Office of Planning and Research (OPR) given that “the office is well-positioned to work with regional and local entities across the state, coordinating with state climate adaptation strategies.”<sup>82</sup> At the time, the legislation deemed that “[t]he advisory council shall be comprised of members from a range of disciplines, in order to provide scientific and technical support, and from regional and local governments and entities. The advisory council shall support the office’s goals, as identified in this part, to facilitate coordination among state, regional, and local agency efforts to adapt to the impacts of climate change. Members of the advisory council shall have expertise in the intersection of climate change and . . . environmental justice.”<sup>83</sup>

In 2019, AB 423 restructured the San Diego Air Pollution Control District Board so that it better reflects the diversity of San Diego County residents.<sup>84</sup> The board will include representation from additional San Diego cities and public members, including an environmental justice representative.<sup>85</sup>

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<sup>79</sup> *Id.*

<sup>80</sup> 2015 Cal AB 1288 (codified at Health & Safety Code § 39510).

<sup>81</sup> 2016 Cal AB 2616 (codified at Pub. Res. Code § 30301).

<sup>82</sup> California Pub. Res. Code § 71352(d).

<sup>83</sup> California Pub. Res. Code §§ 71358(a), 71358(b), 71358(b)(3).

<sup>84</sup> 2019 Cal AB 423 (codified at Health & Safety Code § 40100.5).

<sup>85</sup> 2019 Cal AB 423 (codified at Health & Safety Code § 40100.6).

Effective in its current form at the outset of 2020, Water Code § 10783(e) ensures that “[t]he state board shall also seek the advice of stakeholders representing the diverse interests of the oil- and gas-producing areas of the state. The stakeholders shall include the oil and gas industry, agriculture, environmental justice, and local government, among others, with regional representation commensurate with the intensity of oil and gas development in that area. The stakeholders shall also make recommendations to the state board regarding the development and implementation of groundwater monitoring criteria, including priority locations for implementation.”<sup>86</sup>

- *Funding for Environmental Justice:*

In 2002, AB 2312 established CalEPA's Environmental Justice Small Grant Program.<sup>87</sup> The program requires CalEPA to award grants on a competitive basis to nonprofit entities and federally recognized tribal governments.<sup>88</sup> Grants are awarded 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.<sup>89</sup> The maximum amount of a grant provided is \$50,000.<sup>90</sup> 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.

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<sup>86</sup> California Legislative Information – California Law, *Water Code – Wat Division 6. Conservation, Development, and Utilization of State Water Resources [10000 – 12999], Part 2.76. Groundwater Quality Monitoring [10780 – 10783]*, [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=WAT&sectionNum=10783#:~:text=10783.,water%2C%20is%20of%20paramount%20concern](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=WAT&sectionNum=10783#:~:text=10783.,water%2C%20is%20of%20paramount%20concern) (last visited June 28, 2022).

<sup>87</sup> 2002 Cal AB 2312 (codified at Pub. Res. Code § 71116).

<sup>88</sup> Pub. Res. Code § 71116 (f).

<sup>89</sup> Pub. Res. Code § 71116 (b).

<sup>90</sup> 2014 Cal SB 861 (codified at Pub. Res. Code § 71116) (SB 861 increased the maximum amount of the Environmental Justice Small Grant from \$20,000 to \$50,000 and authorized).

6. Present environmental data for the purposes of enhancing community understanding of environmental information systems and environmental information.<sup>91</sup>

In 2012, SB 535, required that California direct at least 25% of state cap-and-trade revenues to go to projects that benefit disadvantaged communities.<sup>92</sup>

In 2016, AB 1550 modified SB 535 (2012) regarding Greenhouse Gas Reduction Funds (GGRF) for disadvantaged communities (DAC).<sup>93</sup> AB 1550 required: (1) A minimum of 25 percent of GGRF moneys to be allocated to projects located within and benefiting individuals living in DACs; (2) An additional minimum of 5 percent of GGRF allocated to projects that benefit low-income households, or to benefiting individuals living in low-income communities; (3) An additional minimum of 5 percent of GGRF allocated to projects that benefit low-income households that are within a 1/2 mile of DACs, or to projects benefiting individuals living in low-income communities that are within a 1/2 mile of DACs.<sup>94</sup>

In 2014, AB 1179 authorized the Department of Resources Recycling and Recovery, when awarding grants pursuant to the tire recycling program, to award grants for public works projects to create parklets, greenways, or both, that use tire-derived products. It also required the department, if it awards those grants, to give priority for funding to those projects in disadvantaged communities.<sup>95</sup>

Public Resources Code § 71116 (2014) established the Environmental Justice Small Grant Program under the purview of CalEPA. Specifically, “[t]he Secretary for Environmental Protection may expend up to one million five hundred thousand dollars (\$1,500,000) [and the] . . . [b]oard, departments, and offices within the California Environmental Protection Agency may allocate money from various special funds, settlements, and penalties to implement this program.”<sup>96</sup>

In 2015, AB 693, the Multifamily Affordable Housing Solar Roofs Program, provided access and financing for solar, bring local jobs and reduced energy bills associated with solar panel installations on multifamily affordable housing units.<sup>97</sup> It also allocated \$100 million per year for 10 years to fund solar installations on multifamily affordable housing.<sup>98</sup> To qualify, a multifamily affordable housing property must be: (1)

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<sup>91</sup> Pub. Res. Code § 71116 (f).

<sup>92</sup> 2012 Cal SB 535 (codified at Health & Safety Code §§ 39711, 39713, 39715, 39721, and 39723).

<sup>93</sup> 2016 Cal AB 1550 (codified as amended Health & Safety Code § 39713).

<sup>94</sup> 2016 Cal AB 1550 (codified as amended Health & Safety Code § 39713).

<sup>95</sup> 2014 Cal AB 1179 (codified at Pub. Res. Code § 42872.6).

<sup>96</sup> Pub. Res. Code §§ 71116(k), 71116(l).

<sup>97</sup> 2015 Cal AB 693 (codified at Pub. Util. Code §§ 2870 *et seq.*).

<sup>98</sup> Pub. Util. Code § 2870(c).

located in a “disadvantaged community” as defined by SB 535; or (2) have at least 80% of tenants with incomes at or below 60% of area median income (AMI).<sup>99</sup>

In 2016, AB 2722, created the Transformative Climate Communities (TCC) program administered by the Strategic Growth Council (SGC), which funds large-scale climate projects in environmental justice communities.<sup>100</sup> The program is a GGRF-funded program that supports innovative, comprehensive, and community-led plans that reduce pollution and achieve multiple co-benefits at the neighborhood level.<sup>101</sup> TCC requires that at least 51% of a proposed plan’s geographic area overlaps with census tracts in the top 5% highest CES 3.0 scores.<sup>102</sup> The remaining 49% or less of the project’s geographic area must overlap with either a disadvantaged community or a low-income community as defined by AB 1550.<sup>103</sup> In 2019, SB 351 amended the TCC to require the SGC to consider applications for projects undertaken in unincorporated areas of a county.<sup>104</sup>

In 2017, AB 523 required that the California Energy Commission set aside up to 35% in the Electric Program Investment Charge Fund for technology demonstration and deployment at sites located in disadvantaged communities and low-income census tracts.<sup>105</sup> AB 523 allocates at least 25% of the Electric Program Investment Charge (EPIC) fund to support technology demonstration and deployment projects located in and benefiting “disadvantaged communities,” and dedicates at least 10% of the fund to activities located in and benefiting “low-income” communities as defined by AB 1550.<sup>106</sup>

In 2017, SB 5 created a \$4.1 billion bond measure, also known as Proposition 68, to fund parks and natural resources, including allocations specifically for disadvantaged communities.<sup>107</sup>

In 2018, SB 1072 established a regional climate collaborative program to be administered by the Strategic Growth Council (SGC) to assist disadvantaged and low-income communities in gaining access to state- wide public and other grants.<sup>108</sup>

Effective in its current form at the outset of 2021, Public Resources Code § 75241(d) provides that “[t]he California Environmental Protection Agency shall provide assistance in performing outreach to disadvantaged communities and assessing the environmental justice benefits of project awards.”<sup>109</sup>

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<sup>99</sup> Pub. Util. Code § 2870(a)(3).

<sup>100</sup> 2016 Cal AB 2722 (codified at Pub. Res. Code §§ 75240 *et seq.*).

<sup>101</sup> Pub. Res. Code § 75240.

<sup>102</sup> CA Green Zones, *supra* note 24, at 7.

<sup>103</sup> *Id.*

<sup>104</sup> 2019 Cal SB 351.

<sup>105</sup> 2017 Cal AB 523 (codified as amended Pub. Res. Code §§ 25711.5, 25711.6).

<sup>106</sup> CA Green Zones, *supra* note 24, at 7.

<sup>107</sup> 2017 Cal SB 5.

<sup>108</sup> 2018 Cal SB 1072 (codified as amended Pub. Res. Code §§ 71130 *et seq.*).

<sup>109</sup> Pub. Res. Code § 75421(d).

## Additional California Environmental Justice Provisions?

California has led the nation in legislation to address climate change. Climate change legislation addresses environmental justice because the effects of climate change disproportionately affect low income populations and communities of color,<sup>110</sup> and California's initiatives have reflected a consideration of environmental justice principles from the outset.

In 2000, SB 1771 established the California Climate Registry, which cataloged early greenhouse gas emission reductions and set reduction goals and standards for measurement and verification, as a precursor to AB 32, as well as other states' and international efforts.<sup>111</sup>

In 2006, California passed AB 32, The California Global Warming Solutions Act of 2006 (AB32), mandating that the California Air Resources Board ("CARB") adopt regulations requiring the reporting and verification of greenhouse gas emissions and achieve statewide greenhouse gas emissions limit equivalent to 1990 levels, by 2020.<sup>112</sup> AB 32 created the authority for CARB to establish market-based compliance mechanisms, e.g. a cap and trade program).<sup>113</sup> AB 32 required that "[t]he state board shall prepare and approve a scoping plan, as that term is understood by the state board, for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions from sources or categories of sources of greenhouse gases by 2020 under this division."<sup>114</sup> This section further outlines the required content for the plan:

The plan shall identify and make recommendations on direct emission reduction measures, alternative compliance mechanisms, market-based compliance mechanisms, and potential monetary and nonmonetary incentives for sources and categories of sources that the state board finds are necessary or desirable to facilitate the achievement of the maximum feasible and cost-effective reductions of greenhouse gas emissions by 2020.<sup>115</sup>

AB 32 requires that CARB provide opportunity for public comment on the development of the scoping plan.<sup>116</sup> In particular, CARB was required to conduct a portion of its public comment workshops in regions of the state that have the most significant exposure to air pollutants, including, but not limited to, communities with

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<sup>110</sup> NAACP, *Environmental & Climate Justice*, <https://naacp.org/issues/environmental-justice/> (last visited June 28, 2022).

<sup>111</sup> 2000 Cal SB 1771 (codified at Health & Safety Code §§ 42800 *et seq.* and Pub. Res. §§ 25730 *et seq.*).

<sup>112</sup> 2006 Cal AB 32, (*California Global Warming Solutions Act of 2006*) (codified as Health & Safety Code §§ 38500 – 38599).

<sup>113</sup> Health & Safety Code § 38561(b).

<sup>114</sup> Health & Safety Code § 38561(a).

<sup>115</sup> Health & Safety Code § 38561(b).

<sup>116</sup> Health & Safety Code § 38561(g).



minority populations, low-income populations, or both.<sup>117</sup> In addition, CARB was required to convene an environmental justice advisory committee to advise CARB in developing the scoping plan and any other pertinent matters in implementing AB 32.<sup>118</sup> AB 32 specifies that “[t]he advisory committee shall be comprised of representatives from communities in the state with the most significant exposure to air pollution, including, but not limited to, communities with minority populations or low-income populations, or both,” as nominated by environmental justice organizations and community groups.<sup>119</sup>

Besides these participatory mandates, other provisions of AB 32 require CARB to consider environmental justice objectives in the substance of its implementation of the statute. Section 38562(b)(2) requires that, to the extent feasible and in furtherance of reducing statewide greenhouse gas emissions, CARB must ensure that compliance activities do not disproportionately impact low-income communities.<sup>120</sup> Section 38570(b) further requires that, prior to implementation of a market-based system for greenhouse gas reduction compliance, CARB must consider the potential for direct, indirect, and cumulative emission impacts from these mechanisms, including localized impacts in communities that are already adversely impacted by air pollution.<sup>121</sup> It must also design any market-based compliance mechanism to prevent any increase in the emissions of toxic air contaminants or criteria air pollutants.<sup>122</sup>

Finally, section 38565 directs CARB to ensure that the greenhouse gas emission reduction rules, regulations, programs, mechanisms, and incentives under its jurisdiction, where applicable and to the extent feasible, direct public and private investment toward the most disadvantaged communities in California.<sup>123</sup>

Amendments to AB 32 also requires CARB to make available on its website information about GHG, criteria pollutant, and toxic air contaminant emissions—broken down into county and subcounty levels—and to make annual reports about emissions to the Joint Legislative Committee on Climate Change Policies.<sup>124</sup>

In 2008, SB 375, the Sustainable Communities and Climate Protection Act recognized the critical role of integrated transportation, land use, and housing decisions to meet state climate goals.<sup>125</sup> The law required each of California’s 18 regional Metropolitan Planning Organizations

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<sup>117</sup> Health & Safety Code § 38561(g).

<sup>118</sup> Health & Safety Code §38591(a).

<sup>119</sup> Health & Safety Code §38591(a) and (b).

<sup>120</sup> Health & Safety Code § 38562(b)(2).

<sup>121</sup> Health & Safety Code § 38570(b)(1).

<sup>122</sup> Health & Safety Code § 38570(b)(2).

<sup>123</sup> Health & Safety Code § 38565.

<sup>124</sup> Gov’t Code § 9147.10; Health & Safety Code § 38531 *et seq.*

<sup>125</sup> 2008 Cal SB 375.

(MPOs) to include a Sustainable Communities Strategy (SCS) in their long-range regional transportation plans.<sup>126</sup>

Following AB 32 and SB 375, California enacted several statutes and programs, which created incentives at the state and local levels to reduce the effect of GHG emissions and focus on transportation to address climate change and pollution. The most environmental justice-relevant statutes are below:

In 2014, SB 1204 created a new program, the California Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program, to be funded from cap and trade revenues, to fund zero- and near-zero emission truck, bus, and off-road vehicle and equipment technologies and related projects, with priority to be given to certain projects, including projects that benefit disadvantaged communities, the program to be administered by the State Air Resources Board, in conjunction with the State Energy Resources Conservation and Development Commission.<sup>127</sup>

In 2014, SB 1275 created a new program, the California Charge Ahead Initiative, to get 4 million electric vehicles on the road by 2023.<sup>128</sup> In 2018, AB 2006 updated the California Charge Ahead Initiative to require that CARB (in consultation with the California Energy Commission, air pollution control and air quality management districts, and the public) to require existing agricultural vanpool programs to serve disadvantaged and low-income communities, and to allocate a minimum of 25 percent of the moneys appropriated for agricultural vanpool programs to those programs servicing low-income communities.<sup>129</sup>

In 2015, SB 350 increased California's renewable electricity procurement goal from 33 percent by 2020 to 50 percent by 2030.<sup>130</sup> This objective will increase the use of Renewables Portfolio Standard (RPS) eligible resources, including solar, wind, biomass, geothermal and others. SB 350 also required California to double statewide energy efficiency savings in electricity and natural gas end uses by 2030.<sup>131</sup> To accomplish this goal, California mandated that large utilities to develop and submit integrated resource plans (IRPs), which detail how utilities will meet their customers' resource needs, reduce GHG emissions, and ramp up the use of clean energy resources.<sup>132</sup> Notably, this landmark legislation directed state agencies to undertake studies to identify and assess:

barriers for low-income customers to energy efficiency and weatherization investments, including those in disadvantaged communities; recommendations on how to increase access to energy efficiency and weatherization investments to low-income customers; barriers for

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<sup>126</sup> 2008 Cal SB 375 (codified at Gov't Code § 65584.01).

<sup>127</sup> 2014 Cal SB 1204 (codified at Health & Safety Code § 39719.2).

<sup>128</sup> 2014 Cal SB 1275 (codified at Health & Safety Code §§ 44258–44258.5).

<sup>129</sup> 2018 Cal AB 2006 (codified at Health & Safety Code §§ 44258–44258.5).

<sup>130</sup> 2015 Cal SB 350 (codified at Pub. Util. Code § 399.11).

<sup>131</sup> 2015 Cal SB 350 (codified at Pub. Util. Code § 399.11).

<sup>132</sup> 2015 Cal SB 350 (codified at Pub. Util. Code § 9621).

low-income customers to zero-emission and near-zero-emission transportation options, including those in disadvantaged communities; and recommendations on how to increase access to zero-emission and near-zero-emission transportation options to low-income customers, including those in disadvantaged communities.<sup>133</sup>

In 2015 and 2016, AB 1482 (2015), SB 246 (2015), SB 279 (2016), and AB 2800 (2016) called for the preparation of state climate adaptation strategy, establishing OPR's Integrated Climate Adaptation and Resiliency Program, requiring local governments to include adaptation and resiliency strategies in general plans, and requiring state agencies to account for climate change when planning new infrastructure, respectively.<sup>134</sup>

In 2017, SB 720 required state entities develop environmental principles and concepts for elementary and secondary school pupils and update the principles and concepts every 4 years.<sup>135</sup> The environmental principles and concepts shall include, but not be limited to, concepts relating to air, climate change, energy, environmental justice, environmental sustainability, fish and wildlife resources, forestry, integrated pest management, oceans, pollution prevention, public health and the environment, resource conservation, waste reduction, and recycling, toxics and hazardous waste, and water.<sup>136</sup> The legislature found that “[d]eveloping an environmentally literate population will enhance our ability to develop and implement solutions to our environmental literacy and environmental justice challenges, and will provide a critical foundation of skills and knowledge to help pupils compete in a growing job market where science, mathematics, engineering, technology, and language arts proficiency are highly sought after.”<sup>137</sup>

In 2017, SB 100, the California 100% Clean Energy Act sets a goal to power with 100% clean, carbon-free electricity by 2045.<sup>138</sup> SB 100 will improve health in communities that have borne the burden of fossil fuel dependence for too long.<sup>139</sup>

Also in 2017, AB 617 required California Air Review Board (CARB) to deploy community air monitoring systems for criteria air pollutants and toxic air contaminants in “highest priority locations” including disadvantaged communities.<sup>140</sup> CARB has since created the Community Air Protection Program to reduce exposure in communities most impacted by air pollution.<sup>141</sup> Moreover, AB 617 requires that CARB prepare (in consultation with environmental justice organizations, inter alia) a statewide strategy every five years to reduce emissions of toxic

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<sup>133</sup> 2015 Cal SB 350 (codified at Pub. Util. Code § 25327).

<sup>134</sup> 2015 Cal AB 1482; 2015 Cal SB 246; 2016 Cal SB 279; 2016 Cal AB 2800.

<sup>135</sup> 2017 Cal SB 720 (amended Pub. Res. Code § 71301).

<sup>136</sup> Pub. Res. Code § 71301.

<sup>137</sup> 2017 Cal SB 720, Section 2.

<sup>138</sup> 2017 Cal SB 100 (codified at Pub Util. Code §§ 399.11, 399.15, 399.30, 454.53).

<sup>139</sup> 2017 Cal SB 100 (codified at Pub Util. Code § 399.11).

<sup>140</sup> 2017 Cal AB 617 (codified at Health & Safety Code § 42705.5(c)).

<sup>141</sup> CARB, *Community Air Protection Program*, <https://ww2.arb.ca.gov/capp/about> (last visited July 14, 2022).

air contaminants and criteria air pollutants in communities affected by a high cumulative exposure burden.<sup>142</sup> The strategy must include the “assessment and identification of communities with high cumulative exposure burdens for toxic air contaminants and criteria air pollutants,” prioritizing disadvantaged communities based on modeling and existing data, including the recently imposed community air monitoring systems.<sup>143</sup>

In 2019, AB 285 created the California Transportation Plan, which requires the department to consider environmental justice for the movement of people and freight in its plan to address how the state will achieve maximum feasible emissions reductions in order to attain a statewide reduction of greenhouse gas emissions of 40% below 1990 levels by the end of 2030 and how the plan is consistent with, and supports attaining, all state ambient air quality standards and national ambient air quality standards in all areas of the state as described in California’s state implementation plans required by the federal Clean Air Act.<sup>144</sup>

More recently, SB 1320 passed, requiring that “[t]he California Climate Change Assessment [under the Office of Planning and Research] shall provide an integrated suite of products that report the impacts and risks of climate change, based on the best available science, and identify potential solutions to inform legislative policy.” Further, “[r]eports on issues of statewide significance, including, but not limited to, environmental justice considerations, impacts on the systems identified in paragraph (1) of subdivision (b), and the unique risks posed to, and research and monitoring approaches used by, tribal communities” are to be included.<sup>145</sup> Finally, Public Resources Code § 71342 requires that OPR “engage with regional and local governments, tribes, vulnerable communities, businesses, and members of the public, as necessary, in determining the scope of the assessment.”<sup>146</sup>

## California Environmental Justice Contacts?

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<sup>142</sup> Health & Safety Code § 44391.2(b).

<sup>143</sup> *Id.*

<sup>144</sup> 2019 Cal AB 285 (codified at Gov’t Code §§ 14000.6, 65071, 65072.1, 65072.2, 65070.5).

<sup>145</sup> Pub. Res. Code §§ 71341, 71341(d). *Also see* § 71341(b): “How climate change will affect built systems, natural systems, and social systems, including the welfare of vulnerable communities, and the potential fiscal and economic impacts of these effects in California.”

<sup>146</sup> Pub. Res. Code § 71342(a).

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**Where to Find California Environmental Justice Laws, Policies, and Tools?**

Constitutional Provisions:

N/A.

Executive Orders:

N/A.

Legislation and Statutes:

- California Environmental Quality Act (CEQA) (Pub. Res. Code §21000 *et seq.*).
- California Global Warming Solutions Act of 2006 (AB 32 (2006)) (Health & Safety Code §§38500-38599).
- The California Coastal Act of 1976 (Pub. Res. Code §30000 *et seq.*).
- Hazardous Waste Control Act of 1973 (HWCA) (Health & Safety Code §25100 *et seq.*)
- Carpenter-Presley-Tanner Hazardous Substance Account Act (HSAA) (Health & Safety Code §25300 *et seq.*).

- Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) (Health & Safety Code 25249.5-25249.14).
- Human Right to Water (Water Code § 106.3)("every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes").

Regulations:

- 17 CCR § 95483(c)(6)(a)(vii) implementing the low carbon fuel standard (Electrical Distribution Utilities “may develop and implement other projects that promote transportation electrification in disadvantaged and/or low-income communities and/or rural areas or for low-income individuals,” in coordination with environmental justice advocates, local community-based organizations, and local municipalities).

Policies/Guidance:

- California State Lands Commission, *Environmental Justice Policy*, <https://www.slc.ca.gov/wp-content/uploads/2018/11/EJPolicy.pdf>.
- California Coastal Commission, *Environmental Justice Policy* (2019), [https://documents.coastal.ca.gov/assets/env-justice/CCC\\_EJ\\_Policy\\_FINAL.pdf](https://documents.coastal.ca.gov/assets/env-justice/CCC_EJ_Policy_FINAL.pdf).

Mapping Tools:

- CalEnviroScreen, <https://oehha.ca.gov/calenviroscreen/about-calenviroscreen>.

Other:

N/A.