

**SUMMARY OF PUBLIC COMMENTS RECEIVED AT THE
PUBLIC WORKSHOPS HELD IN SEPTMEBER 2002**

**DRAFT ENVIRONMENTAL JUSTICE STRATEGY FRAMEWORK RECOMMENDATIONS
FOR THE CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

(Prepared in November 2002 - Revised in March 2003)

Environmental Justice: “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” (Government Code Section 65040.12).

INTRODUCTION

ABOUT THE CAL/EPA ENVIRONMENTAL JUSTICE ADVISORY COMMITTEE:

Established in December 2001, the EJ Advisory Committee is a Cal/EPA-sponsored committee whose mission, as set out in Public Resources Code § 71114, is to provide information, advice and recommendations to the Secretary of Cal/EPA and the Interagency Working Group on Environmental Justice and how to improve the direction and implementation of environmental justice programs and initiatives at Cal/EPA. The EJ Advisory Committee provides a forum for public input into the development of advice and consultation for the Secretary of Cal/EPA and the Interagency Working Group on Environmental Justice (IWG).¹ Utilizing the respective strengths and perspectives of representatives from business and industry, local government, environmental advocacy organizations, community groups, air districts, certified unified program agencies involved in environmental justice issues. The Committee also assists the IWG and the Secretary of Cal/EPA on environmental justice issues involving Cal/EPA programs.

To date, the EJ Advisory Committee has met as a group three times. The first meeting was an orientation for committee members, the following two meetings were more formal information gathering and discussion meetings. In May 2002 the Committee met jointly with the Interagency Working Group and was asked to develop initial recommendations for the IWG to use as it develops the Intra-agency EJ Strategy (*See Appendix A & B*). The Committee was also asked to record and organize the public comments it received at it's meeting for the IWG's consideration.

¹ Pursuant to the Public Resources Code Section 71113, the Interagency Working Group will assist the California Environmental Protection Agency in developing an agency-wide strategy for identifying and addressing any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice. The working group is 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 Office of Planning and Research.

PURPOSE AND DEVELOPMENT PROCESS OF THE ENVIRONMENTAL JUSTICE STRATEGY FRAMEWORK:

This draft **Environmental Justice Strategy Framework (EJ Strategy Framework)** serves as a set of **recommendations and advice from the Cal/EPA Environmental Justice Advisory Committee (Advisory Committee) to communicate and frame key issues and concerns related to the process and development of the Cal/EPA Intra-agency Environmental Justice Strategy.** The draft EJ Strategy Framework is document that reflects a concerted effort to engage early and on-going public input.

During the first two public meetings of the EJ Advisory Committee (May 2002 in Los Angeles, and June 2002 in Oakland), the EJ Advisory Committee and the Interagency Working Group heard from various environmental justice stakeholders regarding issues and concerns affecting the delivery of environmental protection and public health services in communities throughout the state. The EJ Advisory Committee discussed during both meetings the most appropriate way to ensure that community and stakeholder issues/concerns are reflected in the ultimate development of an Intra-agency Environmental Justice Strategy for Cal/EPA.

The EJ Advisory Committee asked Cal/EPA staff, in consultation with the Co-Chairs of the Committee, to develop a document that captured and organized the information received at the Advisory Committee meetings and related public meetings. Following review of the first draft of the potential EJ Strategic Elements that were presented at the June 2002 meeting, the Advisory Committee instructed Cal/EPA staff to refine, clarify, and make more workable the EJ Strategic Elements, which were subsequently renamed the EJ Strategy Framework.

Through a series of public workshops² convened by Cal/EPA staff, public input and stakeholder comments (oral and written) were received to further inform the EJ Advisory Committee as it develops its set of recommendations and advice to the IWG and the Secretary of Cal/EPA on the Cal/EPA Environmental Justice Strategy.

SUMMARY OF PUBLIC INPUT ON THE DRAFT EJ FRAMEWORK

- a. ELEMENT 1: Ensure environmental justice is integrated into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.**
 - (i) Summary of Perceived and/or Reported Gaps/Issues related to Environmental Justice from the public input processes (workshops and written comments) Related to Element 1:**

² Cal/EPA staff convened a series of public workshops throughout the state during the month of September 2002 to gain additional public input into the preliminary draft Environmental Justice Strategy Framework. Approximately 200 people attended the public workshops, representing community organizations, nonprofit groups, residents, business and industry groups and public agencies. The workshops were held in Oakland, CA – September 12, 2002; Fort Ord, CA (Monterrey) – September 13, 2002; Fresno, CA – September 16, 2002; Los Angeles, CA – September 20, 2002; San Diego, CA – September 24, 2002

- (1) *Discretionary authority within current environmental statutes and regulations are not leveraged to address environmental justice issues.*
 - Develop a clear understanding of current environmental statutes and regulations and identify where discretionary authority can be exercised to address environmental justice concerns
 - Apply the California Environmental Quality Act (CEQA) process to address environmental justice concerns and issues in communities
 - CEQA has inherent environmental justice elements that are not being leveraged
 - Cal/EPA and its BDO's need to clarify their respective roles in the CEQA process and identify ways in which to encourage the integration of environmental justice into that process.
- (2) *The need to incorporate environmental justice into permitting processes – develop guidance on EJ considerations in permitting*
 - Permitting decision-makers must consider environmental justice.
- (3) *A need for full disclosure of the effects of environmental pollution sources in impacted communities*
 - Environmental information and data needs to be made available and accessible to all populations in a manner that communicates realistic and factual environmental and public health conditions in neighborhoods.
- (4) *A need for fair and equal environmental enforcement across all communities in the state*
 - Communities are not experiencing the same level of environmental enforcement with respect to polluting facilities
- (5) *Consider exercising a “precautionary principle” approach in decision-making*
 - Pro: Cal/EPA should develop a model for how to incorporate a precautionary principle approach to environmental issues – some local agencies are beginning to address this issue and a state model could be useful for local agencies.
 - Con: Decisions should be made on the best available science and should promote a level of certainty in decision-making processes
- (6) *Environmental justice considerations need to be integrated into in local agency decision-making processes*

- Environmental justice issues often begin at the local level where land use decisions are made, and where some permitting decisions occur with respect to new and/or existing facilities.
 - Local agencies need some clear guidance as to how to address environmental justice issues early in the decision-making process.
- (7) *Risk-based clean-up standards may not always be protective of communities impacted with multiple sources of environmental pollution*
- Risk-based approaches do not take into account the burden of cumulative environmental exposures in many communities, and do not consider the totality of environmental risk in communities.
- b. Element 2: Ensure Meaningful Public Participation and Promote Community Capacity Building to allow communities to be effective participants in environmental decision-making processes.**
- (i) **Summary of Perceived and/or Reported Gaps/Issues related to Environmental Justice from the public input processes (workshops and written comments) Related to Element 2:**
- (1) *Process for Effective Community Outreach and Meaningful Public Participation*
- Outreach efforts should target affected populations and communities that are impacted by decisions that affect their respective communities
 - Solicitation of input should be conducted early and on-going input mechanisms need to be clearly laid out at the beginning of the process
 - Information from public participation and input processes should be ‘tracked’ to measure how the public input influenced the final decision.
 - Outreach efforts should emphasize collaborating with residents and community based organizations on environmental issues, and building and sustaining productive working relationships with communities
- (2) *Need for a consistent Cal/EPA model or protocol for conducting effective and meaningful public participation*
- Develop model guidelines for Cal/EPA to promote consistency in conducting public outreach and public participation on environmental justice issues.
 - Communities are often asked to participate in multiple and separate environmental processes and decisions in their communities. In order to maximize the limited time

for resident participation, coordinated outreach efforts among environmental agencies should be explored.

- Cal/EPA should consider developing a public participation guidebook on how communities can affect the decision-making process.
- (3) *The need to recognize and tailor outreach efforts and programs appropriately to the culture of the community (e.g., migrant, rural, urban, etc.) to improve community input and feedback.*
- Public meeting notices should identify the public health and environmental health relevancy of the meeting, and not the technical aspect, such as a notice for a permit application. Each community throughout the state is different and issues and priorities vary from region to region from community-to-community.
 - Public notices for meetings need to be relevant to communities and less technical so as to increase the participation of communities – (e.g. public)
- (4) *Need for Cal/EPA and BDO presence in communities*
- Decisions should be made in the area where projects and/or activities are conducted
- (5) *The lack of Cal/EPA and BDO staff/office in certain areas of the state make it difficult for communities and other stakeholders to access information in a timely manner*
- Public agencies should explore opportunities to establish community affairs offices and to recruit community residents for these positions.
- (6) *Need for staff-level understanding of environmental justice concepts and application*
- Environmental professionals in government have varied understanding and sensitivity to community issues and environmental justice
 - Environmental justice training should be mandatory – and training programs should include community residents and the tribal community trainers
- (7) *Need for enhanced translation and interpretation services for community outreach and public participation activities*
- Translation in multiple languages of public announcements and notices are not consistent – community based organizations often translate the information for residents, a role that government entities should play
 - Interpretation services should be provided at all meetings – while Spanish translation is often the norm, services in other languages should also be made available.
 - Accessibility of information and documents at the community level

- (8) *Need to ensure that documents and information are available to communities at locations within a community that is accessible – such as libraries.*
- Websites should be enhanced with relevant information and documents of interest for communities. Information on current websites is difficult to obtain and require extensive searching for documents and information. A centralized clearinghouse for environmental information is needed.
 - ‘Low-tech’ means of providing information should be enhanced for residents and stakeholders who do not have access to computers and the internet.
- (9) *Lack of resources and technical assistance at the community level to participate in the decision-making process*
- Resources (i.e. grants) should be made available to communities and other nonprofit entities to promote effective participation
 - Agencies need to provide technical assistance to communities and stakeholders to increase their understanding of issues related to the environmental decision-making process
 - Agencies should support a community’s ability to hire their own technical experts to challenge or support technical documents produced by government entities.
 - Process for making and responding to community complaints needs to be improved
 - Follow-up to complaints made by community residents on environmental issues needs to be enhanced – current complaint resolution protocols often lack resolution.
 - Community residents do not know how and where to file complaint regarding polluting facilities – various agencies at different levels of government have varying authorities which make it difficult to navigate the process
- (10) *Public participation and Input processes in Border communities*
- Environmental pollution crosses geographic (international) borders, and communities on the other side of the U.S. Border are not consulted during the environmental decision-making processes
- (11) *Cross-jurisdictional and cross-agency coordination on public outreach efforts*
- Public participation and outreach efforts between and amongst multiple agencies related to decisions on one facility should coordinate efforts.
 - Multiple public meetings are held by different agencies for one project

c. ELEMENT 3: Improve research and data collection to promote and address environmental justice related to the health and environment of communities of color and low-income populations.

(i) Summary of Perceived and/or Reported Gaps/Issues related to Environmental Justice from the public input processes (workshops and written comments) Related to Element 3:

- (1) *Lack of clear identification of ‘what is an environmental justice community’ and how protocols by which to access environmental justice issues in communities*
 - Agencies should invest resources in determining how to assess environmental justice concerns and issues – including clear definitions of ‘environmental justice communities’, methods to assess ‘environmental risks’, assessment of cultural impacts, and protocols by which incorporate environmental justice in the decision-making process
- (2) *Utilizing and valuing community-based driven and community-produced research on environmental and public health*
 - Need to incorporate and articulate how public agencies can and will utilize research produced by communities, community based organizations, non-profit organizations, and universities. There does not exist to funnel the information to agencies.
 - Need to develop ways in which to incorporate community-based knowledge in setting a research agenda.
- (3) *Lack of available resources for Community based Research*
 - There are limited resources available to conduct research in communities by communities – resources dictate and influence the scope of research.
 - Opportunity to promote community-university partnerships for environmental justice research projects.
 - Funding for research projects could be done through the penalties and fines levied on facilities that are out of compliance with environmental laws.
- (4) *Development of alternative research methods/models – qualitative research vs. quantitative research*
 - More resources should be dedicated to research projects that explore alternative means to reduce pollution and protect the environment.
 - Science is constantly changing, and resources should be dedicated to finding the most appropriate means to have to ensure ‘good science’

- Resources dedicated to ‘cause-and-effect’ studies do not often lead to effectively addressing the issues affecting communities – preventative models utilizing the ‘precautionary principle’ may yield more effective strategies for pollution reduction and protection of public health.

(5) *Utilizing the Precautionary Principle in Research*

- Pro – need to promote a precautionary approach because science cannot answer all of the questions and address the issues affecting environmental justice communities
- Con – research should be based on the best available science

(6) *Lack of cumulative impact assessments/analyses and other cumulative impact models to influence environmental decisions*

- Pro: Research on cumulative impacts of pollutants and facilities are required since many communities experience environmental pollution are located in areas where many sources contribute to the pollution.
- Pro: Environmental decisions (e.g. permitting, facility siting, etc) should incorporate a cumulative impact analysis.
- Con: Concern that a cumulative approach may steer away from a risk based approach (risk assessments and science based approach)

(7) *Lack of Consistent data collection of environmental and public health information*

- Environmental and public health related information are collected in various ways, and by various agencies (local, state and federal) – information may not be readily available or collected in a consistent manner.
- Need to develop a protocol for consistent data collection and coordination
- How does one investigate ‘cancer clusters’, and other environmental health and public health issues

(8) *Improved research on new environmental technologies on pollution reduction*

- Technology is constantly evolving and new technologies for pollution reduction can be utilized in improving environmental health in communities.

(9) *Lack of a clear process or role for community input in agency driven research*

- Community residents can play a significant role in meaningful value to the process and outcome of research. However, communities that are being studied are not always encouraged to participate, nor are given the opportunity to provide input.

d. ELEMENT 4: Ensure effective cross-media Coordination and Accountability in addressing environmental justice issues.

(i) Summary of Perceived and/or Reported Gaps/Issues related to Environmental Justice from the public input processes (workshops and written comments) Related to Element 4:

(1) Lack of Coordination with non-environmental regulatory state agencies on environmental justice issues

- Environmental justice issues also involve other areas affecting the quality of life in impacted communities – issues such as housing, economic development, education, transportation, public health, etc.
- Need to develop a strategy for how to engage with other agencies who have various authorities and resources to promote a comprehensive approach to environmental justice

(2) Lack of compliance with Title VI of the Civil Rights Act

- Entities receiving federal dollars should have articulated protocols for complying with Title VI of the Civil Rights Act as to avoid disparate impact in environmental decision-making.

(3) A need to clarify Cal/EPA and BDO authority and role in Federal agency environmental decision-making processes

- Federal entities such as the Department of Defense make environmental decisions that affect communities, and while the state plays a role in that decision, it is unclear to impacted communities as to which entities have what responsibilities

(4) A need to develop measurements of progress for implementing environmental justice goals and objectives

- Cal/EPA and its BDO's need to develop an on-going process for to measure progress on environmental justice, with stakeholder input – and have the ability to make necessary changes to the EJ Strategy.
- Periodic check-points need to be built into the implementation of an EJ Strategy

- (5) *A need to have more and on-going communication between communities and the executives of environmental agencies (e.g. the Secretary of Cal/EPA and the heads of the BDOs)*
- Access to key decision makers should be encouraged and promoted so that issues affecting communities are made 'real' and 'relevant'.

APPENDIX A

ABOUT THE CAL/EPA INTRA-AGENCY ENVIRONMENTAL JUSTICE STRATEGY

Cal/EPA is in the initial stages of data collection and recommendation development by the Advisory Committee on Environmental Justice (EJ Advisory Committee) to frame issues, identify potential areas for criteria development, and identify elements to be considered by the Interagency Working Group and the Secretary in their development of the Cal/EPA Intra-agency Environmental Justice Strategy. As required in Public Resources Code Section 71113, the Interagency Working Group on Environmental Justice and the Agency Secretary for Cal/EPA, in consultation with the EJ Advisory Committee, are charged with crafting an Intra-agency Environmental Justice Strategy that will lay the foundation for integrating environmental justice into Cal/EPA and its boards, departments, and office (BDO) activities.

California law lays out broad responsibilities for Cal/EPA's environmental justice program and outlines a process by which Cal/EPA is to incorporate environmental justice into its policies and programs. The law required the formation of an Interagency Working Group on EJ (IWG) made up of the Cal/EPA Secretary; the heads of the Boards, Departments, and Offices (BDO's) within Cal/EPA and the Director of the Governor's Office of Planning and Research (OPR); and the formation of the external EJ Advisory Committee to provide advice to the Working Group. It is the function of these two groups to assist Cal/EPA in developing an agency-wide environmental justice strategy and to provide procedural recommendations to Cal/EPA to ensure meaningful public participation in the activities of Cal/EPA and its BDOs.

Cal/EPA is specifically required by statute to do the following:

1. 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.
2. 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.
3. Ensure greater public participation in the agency's development, adoption, and implementation of environmental regulations and policies.
4. 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.
5. Coordinate its efforts and share information with the United States Environmental Protection Agency.
6. Identify differential patterns of consumption of natural resources among people of different socioeconomic classifications for programs within the agency.
7. Consult with and review any information received from the Working Group on Environmental Justice established to assist the California Environmental Protection Agency (Agency) in developing an agency-wide strategy meets the above requirements.

Development of the Cal/EPA Environmental Justice Strategy must include the following activities, as required by Public Resources Code § 71113:

1. Examining existing data and studies on environmental justice and consulting with state, federal, and local agencies and affected communities.
2. Identifying and addressing any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice.
3. Developing procedures for the coordination and implementation of intra-agency environmental justice strategies.
4. Collecting, maintaining, analyzing, and coordinating information relating to environmental justice.
5. Developing 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. Developing guidance for determining when it is appropriate for Cal/EPA or its BDOs to translate crucial public documents, notices, and hearings relating to human health or the environment for limited-English-speaking populations.
6. Making a draft available to the public and holding public meetings to receive and respond to public comment prior to the finalization of the strategy.