



**California Environmental
Protection Agency**

**OCTOBER 2004
ENVIRONMENTAL JUSTICE
ACTION PLAN**

TABLE OF CONTENTS

| | |
|--|-----------|
| 1. INTRODUCTION..... | 2 |
| 1.1 Purpose..... | 2 |
| 1.2 Development and Update..... | 3 |
| 2. OBJECTIVES | 4 |
| 2.1 Develop Guidance on Precautionary Approaches | 4 |
| 2.2 Develop Guidance on Cumulative Impacts | 4 |
| 2.3 Improve Tools for Public Participation and Community Capacity-Building | 5 |
| 2.4 Ensure EJ Considerations within the Governor’s Environmental Action Plan | 5 |
| 3. IMPLEMENTATION | 6 |
| 3.1 ChERRP Pilot Projects | 6 |
| 3.2 Organization and Assignments | 6 |
| 3.3 Public Participation..... | 7 |
| 3.4 Implementation Phases | 8 |
| 3.5 EJ Interagency Working Group and Advisory Committee..... | 9 |
| 3.6 Important Considerations..... | 9 |
| 4. MILESTONES | 10 |
| 5. CONCLUSION..... | 11 |

1. INTRODUCTION

The California Environmental Protection Agency (Cal/EPA) and its Boards, Departments, and Office (BDOs) are conducting a strategic planning process that includes reviewing programs, policies, and activities to identify and address any gaps that may impede the achievement of environmental justice. Environmental justice (EJ) is defined in California law (Government Code section 65040.12) as “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws and policies.”

As part of the strategic planning process, Cal/EPA’s BDOs are developing specific EJ strategies and work plans to reflect their respective programmatic responsibilities and priorities. To supplement the strategic planning process, Secretary Terry Tamminen has directed Cal/EPA’s BDOs to implement an EJ Action Plan to:

- Develop guidance on precautionary approaches;
- Develop guidance on cumulative impacts analysis;
- Improve tools for public participation and community capacity-building; and
- Ensure EJ considerations within the Governor’s Environmental Action Plan.

Secretary Tamminen has also directed that the EJ Action Plan be implemented with meaningful stakeholder input. The Secretary’s leadership in directing the development and implementation of the EJ Action Plan is consistent with Cal/EPA’s overall EJ responsibilities under the law (Public Resources Code Section 71110).

1.1 Purpose

The EJ Action Plan provides opportunities for Cal/EPA and its BDOs to take the initial steps toward addressing complex EJ issues such as precautionary approaches and cumulative impacts. Cal/EPA will explore options for addressing these issues and examine various ideas, concepts, and approaches – in a structured and focused manner. Cal/EPA will expand the current knowledge base regarding critical EJ topics, and develop tools and guidance to help us address EJ challenges. Additionally, Cal/EPA will develop implementation options, including proposals for policy, regulatory, and statutory changes, to advance the integration of EJ into its environmental programs.

The EJ Action Plan should not be viewed as a mechanism to provide direct solutions to EJ problems in a particular community. Instead, the EJ Action Plan is intended for Cal/EPA and its BDOs to assess different environmental scenarios, identify challenges and opportunities, explore practical application of strategies, and develop recommendations to address environmental justice issues.

Cal/EPA recognizes the challenges in addressing environmental justice and acknowledges the necessity to seek opportunities to make EJ a tangible and consistent part of regulatory functions. The activities in the EJ Action Plan are the initial steps toward achieving that objective.

1.2 Development and Update

Cal/EPA released for public comment proposed concepts and activities for the EJ Action Plan as a draft working document on May 12, 2004. Staff conducted a public workshop on June 28, 2004, to obtain stakeholder input on the activities proposed in the draft working document. Written comments on the draft working document were accepted through July 1, 2004.

Cal/EPA refined the proposals and concepts in the May draft working document and released a revised draft EJ Action Plan on August 13, 2004, for a 30-day public comment period. The comments received were reviewed by Cal/EPA and incorporated, as appropriate, into this October 2004 EJ Action Plan. Public comments received to date, as well as Cal/EPA's *Responses to Major Comments on the August 2004 Draft Environmental Justice Action Plan*, are available at www.calepa.ca.gov/EnvJustice.

The activities in the EJ Action Plan are starting points that will take Cal/EPA into new territory on complex EJ issues, developing and testing new concepts and approaches. Thus, the EJ Action Plan is an evolving document that will be updated by Cal/EPA during the course of its implementation, in response to new, significant and relevant information, opportunities, needs, or constraints.

Cal/EPA continues to welcome comments on efforts to integrate environmental justice into its programs, policies, and activities. Comments should be directed to:

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2. OBJECTIVES

There is much to be done to integrate EJ into Cal/EPA's environmental quality programs. These efforts must be conducted in a thoughtful and deliberate manner; however, this should not prevent Cal/EPA from exploring new ideas for implementing EJ concepts and addressing critical EJ issues. The activities in the EJ Action Plan provide opportunities for Cal/EPA and its BDOs to explore concepts and develop tools in moving forward on specific priorities identified by the Secretary – precautionary approaches, cumulative impacts, public participation, and community capacity-building.

Under the direction of the Secretary and the Cal/EPA Interagency Working Group on Environmental Justice¹, Cal/EPA's BDOs will accomplish the following agency-wide objectives.

2.1 Develop Guidance on Precautionary Approaches

- Develop a common, objective working definition for precautionary approaches.
- Inventory where/how precautionary approaches are used in Cal/EPA's environmental programs, and any obstacles to limit precautionary actions.
- Evaluate whether additional precaution may be warranted in Cal/EPA's environmental programs to address or prevent environmental justice problems.
- Identify reasonable, cost-effective approaches that could be used to prevent or minimize adverse environmental impacts.
- Develop guidance on precautionary approaches and recommend implementation options, including proposals for policy, regulatory, and statutory changes.

2.2 Develop Guidance on Cumulative Impacts

- Develop a common, objective working definition for multi-media cumulative impacts.
- Inventory current science-based cumulative impacts studies, protocols, and tools, and determine where gaps exist in current methodologies.
- Develop criteria and protocols for identifying and addressing environmental justice gaps in standard risk assessment.
- Develop guidance on multi-media cumulative impacts analysis, prevention and reduction; and recommend implementation options, including proposals for policy, regulatory, and statutory changes.

¹ The Interagency 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 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 the Governor's Office of Planning and Research.

2.3 Improve Tools for Public Participation and Community Capacity-Building

- Develop common public participation guidelines.
- Secure funds and implement Cal/EPA's EJ Small Grants Program.
- Identify opportunities to address EJ in existing loan and grant programs conducted by Cal/EPA's BDOs.
- Establish an agency-wide verbal and written translation contract.
- Develop EJ complaint resolution protocols.
- Update the Cal/EPA EJ Web page on an on-going basis to provide information and tools to facilitate public participation and community capacity-building.

2.4 Ensure EJ Considerations within the Governor's Environmental Action Plan

The Governor's Environmental Action Plan outlines initiatives to protect and restore California's air, water and landscapes. Several of these initiatives have significant EJ implication. Cal/EPA will ensure that the following efforts in the Governor's Environmental Action Plan incorporate, as appropriate, EJ considerations:

- Focus on children's health.
- Reduce air pollution by up to 50%.
- Get gross-polluting vehicles off the road now.
- Protect California's water supply and water quality.
- Restore our urban environments.
- Ensure tough enforcement of existing laws.

3. IMPLEMENTATION

To accomplish the objectives of the EJ Action Plan – in a methodical and focused manner – Cal/EPA will develop and conduct pilot projects as the primary mechanism for exploring the complex issues of cumulative impacts and precautionary approaches, and for implementing tools developed for public participation and community capacity-building.

3.1 ChERRP Pilot Projects

Cal/EPA will develop and conduct pilot projects that incorporate some of the themes in the Governor's Environmental Action Plan and focus on environmental risk factors (including emissions/discharge, exposure, and health risk) that impact children's health. Each pilot project will include the development of a Children's Environmental Risk Reduction Plan (ChERRP) to explore application of practical strategies for reducing children's environmental risk. Specific tasks for each pilot project are outlined below:

- Identify pilot project location and define parameters.
- Collect environmental emissions/discharge, exposure, and health risk data, and identify data gaps.
- Inventory current science-based cumulative impacts studies, protocols, and tools, and determine where gaps exist in current methodologies; conduct preliminary cumulative impacts analysis, as appropriate.
- Inventory precautionary approaches in current programs, and evaluate whether additional precaution may be warranted; identify reasonable, cost-effective approaches and mitigation strategies.
- Develop and implement a ChERRP.
- Evaluate pilot project and prepare a report with findings, to be used in developing the guidance on precautionary approaches and cumulative impacts.

3.2 Organization and Assignments

Cal/EPA's BDOs will lead specific efforts for implementing the EJ Action Plan, as assigned below, and the BDO lead staffs will work together on the following tasks:

- The Air Resources Board (ARB) staff will lead a pilot project in Southern California, focusing on mobile and stationary source emissions, particularly emissions near highways and industrial sources, in an urban community.
- The Department of Pesticide Regulation (DPR) staff will lead a pilot project in the Central Valley, focusing on pesticide issues in a rural, farming community.
- The Department of Toxic Substances Control (DTSC) staff will lead a pilot project in Northern California, focusing on Brownfield and site remediation issues in an urban community.

- The State Water Resources Control Board (SWRCB) staff will lead a pilot project in North Central California, focusing on water resources management and related environmental issues in a tribal or rural community.
- The California Integrated Waste Management Board (CIWMB) staff will lead the precautionary approaches effort discussed in Section 2.1, and will focus on precaution-related activities for the pilot projects.
- The Office of Environmental Health Hazard Assessment (OEHHA) staff will lead the cumulative impacts effort discussed in Section 2.2, and will focus on science-based cumulative impacts tools and analysis for the pilot projects.
- Cal/EPA's Children Environmental Health Center staff will coordinate BDO activities to develop ChERRPs for the pilot projects.
- DTSC's Public Participation Program staff will lead the public participation and community capacity-building effort discussed in Section 2.3, and will focus on facilitating public participation for the pilot projects.

3.3 Public Participation

DTSC's Public Participation Program will work with the BDO leads for the other efforts to ensure meaningful public participation in implementation of the EJ Action Plan². Public participation activities will include, but are not limited, to the following:

- Conduct stakeholder meetings and workshops early in and throughout the process to solicit relevant information, data, suggestions, and feedback for the development and implementation of EJ efforts.
- Establish local advisory groups (LAGs) specific to the EJ pilot projects. Each LAG will provide recommendations and input to the lead BDO staffs involved in that pilot project. DTSC's public participation program will assist in the development of the LAGs and facilitate communication between the LAGs and BDO staffs, as necessary. To be effective, each LAG should provide for a diversity of viewpoints and be balanced in its representation of local agencies, the business community, community representatives, and other stakeholders.
- Establish a Stakeholders Forum for on-going feedback and dialogue as the BDO leads proceed with their assigned tasks. The Stakeholder Forum will supplement the stakeholder meetings and workshops, utilizing the Internet as its primary interface for interested parties to efficiently exchange information and ideas, and teleconferences or meetings as back-up mechanisms.

² In addition to public participation activities directly relating to the EJ Action Plan, Cal/EPA will continue its on-going activities to engage stakeholders on general EJ issues. These activities include: meet and teleconference with community groups and other stakeholders; participate in EJ toxic tours; and provide updates to the Legislature and other stakeholders on EJ implementation progress.

3.4 Implementation Phases

Cal/EPA anticipates that the activities in the EJ Action Plan will be conducted in five phases, as generally outlined below. However, progress and timing of activities may vary for individual pilot projects due to their specific circumstances. Activities and timeframes are also subject to change depending on the progress and outcome of staff's efforts during the preceding phase(s).

Phase 1: (projected to be completed in early-2005)

- Identify pilot project locations and define project parameters.
- Develop working definitions for precautionary approaches and cumulative impacts.
- Inventory Cal/EPA's current public participation efforts and processes.

Phase 2: (projected to be completed in mid-2005)

- Establish LAGs.
- Collect environmental emissions/discharge, exposure, and health risk data, and identifying data gaps for pilot projects.
- Inventory current precautionary approaches and identify obstacles.
- Inventory current science-based cumulative impact studies, protocols, and tools, and determine where gaps exist in current methodologies.
- Develop common public participation guidelines.

Phase 3: (projected to be completed in late-2005)

- Develop criteria and protocols for identifying and addressing EJ gaps in standard risk assessment.
- Conduct preliminary cumulative impacts analysis for pilot projects.
- Evaluate whether additional precaution may be warranted.
- Identify reasonable, cost-effective approaches and mitigation strategies.
- Develop ChERRPs.
- Complete other activities to improve public participation and community capacity-building.

Phase 4: (projected to be conducted in 2006)

- Implement ChERRPs as appropriate and feasible.

Phase 5: (projected to be completed in late-2006)

- Evaluate pilot projects and prepare a written report.
- Develop guidance/recommendations on precautionary approaches and cumulative impacts analysis.
- Explore implementation options

3.5 EJ Interagency Working Group and Advisory Committee

Senate Bill 89 (Escutia, statutes of 2000) established the Cal/EPA Interagency Working Group on Environmental Justice (IWG) to assist the Secretary with developing an EJ strategy, and the Cal/EPA Advisory Committee on Environmental Justice (Advisory Committee) to assist and advise the IWG in making recommendations to the Secretary on the strategy. Cal/EPA will continue to utilize this framework in implementing the EJ Action Plan.

The IWG, chaired by Cal/EPA's Secretary, will provide direction to the BDO leads on activities and timelines for EJ Action Plan implementation, taking into account comments from the Advisory Committee, as well as other factors such as legal jurisdiction and resource availability. Staff findings and recommendations for each implementation phase will be presented to the IWG for consideration, with input from the Advisory Committee. The activities and milestones for EJ activities are subject to change depending on the outcome of staff's efforts and the IWG's direction to the BDOs.

The Advisory Committee, as a whole, represents EJ stakeholders statewide, providing Cal/EPA their synthesized concerns and varied perspectives, based on their representation of various sectors and organizations, as prescribed in statute. Advisory Committee members will provide public input to the IWG on staff's findings and recommendations during each of the five implementation phases.

Meetings of the IWG and Advisory Committee are subject to the Bagley-Keene Open Meeting Act and will include opportunities for public testimony. The IWG and Advisory Committee are expected to meet once during each of the implementation phases outlined in Section 3.4, with additional meetings to be conducted at the Secretary's discretion.

3.6 Important Considerations

In conducting the activities in the EJ Action Plan, Cal/EPA and its BDOs will take steps to make decision-making processes more available and responsive to community concerns, pursue options that meet the business community's need for fair and predictable processes, and develop recommendations that are feasible both technically and on the basis of cost. This is consistent with the objectives in seeking environmentally-just solutions as described in the October 2003 *Final Recommendations Report of the Cal/EPA Advisory Committee on Environmental Justice*.

Also in concert with the Advisory Committee's recommendations, Cal/EPA and its BDOs will strive to avoid extreme interpretations and seek options that do not have an adverse economic impact on the community, jobs, and rural and local governments. Within its legal authority to do so and as resources allow, Cal/EPA and its BDOs will incorporate stakeholder recommendations that the Agency and its BDOs determine to be reasonable and feasible. Cal/EPA and its BDOs will conduct EJ activities in the spirit recommended by the Advisory Committee: "with a genuine desire to identify real environmental justice problems, including circumstances of disproportionate, cumulative impacts, and to make real and measurable improvements in those situations."

4. MILESTONES

The efforts in the EJ Action Plan are starting points that will take Cal/EPA into new territory on complex EJ issues. Thus, it is difficult to predict with any degree of certainty the timeframe for specific milestones. Below is Cal/EPA's projected schedule for the near term, based on current understanding of activities and constraints. Cal/EPA will update the EJ Action Plan during the course of its implementation, in response to new, significant and relevant information, opportunities, or needs.

As discussed in Section 3.4, Cal/EPA anticipates that the activities in the EJ Action Plan will be accomplished in five phases. At this time, Cal/EPA staff will focus on completing the activities in Phase 1:

- Identify pilot project locations and define project parameters.
- Develop working definitions for precautionary approaches and cumulative impacts.
- Inventory Cal/EPA's current public participation efforts and processes.

Cal/EPA will conduct a series of public workshops in October-November 2004 to solicit initial input and, after the workshops, will utilize the Stakeholders Forum (described in Section 3.3) for on-going feedback and dialogue on Phase 1 activities. Draft staff findings and recommendations for Phase 1 are expected to be available in December 2004 for public comment, and be discussed in January 2005 at a public meeting of the IWG and Advisory Committee. At this meeting, BDO staffs will also report on their progress on the EJ strategic planning process (discussed in Section 5) and present any draft products (*e.g.*, BDO-specific EJ strategies, policies, work plans, implementation plans, and similar documents) to the IWG for consideration, with input from the Advisory Committee.

Should the IWG endorse staff's Phase 1 findings and recommendations, the BDO leads will proceed to work on the activities in Phase 2. Additional meetings and public workshops will be scheduled, the Stakeholder Forum will be utilized, and LAGs will be formed to ensure continued stakeholder involvement in Phase 2 activities:

- Collect environmental emissions/discharge, exposure, and health risk data, and identifying data gaps for pilot projects.
- Inventory current precautionary approaches and identify obstacles.
- Inventory current science-based cumulative impact studies, protocols, and tools, and determine where gaps exist in current methodologies.
- Develop common public participation guidelines.

Staff findings and recommendations for Phase 2 activities are expected to be discussed at a public meeting of the IWG and Advisory Committee in July 2005, or as otherwise directed by the Secretary or the IWG. Specific timeframes for the remaining phases will be developed as Cal/EPA proceeds further in its implementation efforts and will be incorporated into future updates of the EJ Action Plan.

5. CONCLUSION

The EJ Action Plan provides opportunities for Cal/EPA and its boards, departments and office (BDOs) to take the initial steps toward addressing complex EJ issues such as precautionary approaches and cumulative impacts. Cal/EPA will explore approaches for addressing EJ issues and develop implementation options, including proposals for policy, regulatory, and statutory changes, to advance the integration of EJ into its environmental programs.

The activities in the EJ Action Plan will feed back into Cal/EPA's EJ strategic planning process, and vice versa. Finalized in August 2004, the Cal/EPA intra-agency EJ strategy (available at www.calepa.ca.gov/EnvJustice) provides a comprehensive, long-term overarching vision to guide BDOs in the development of BDO-specific environmental justice strategies and implementation plans, with specific and measurable targets adapted to BDO-specific responsibilities and priorities. The efforts of this strategic planning process and the activities in the EJ Action Plan form an integrated EJ implementation mechanism for Cal/EPA.

Together, the strategic planning process and the EJ Action Plan form the "Two-Pathway Approach" that Cal/EPA is taking to implement environmental justice. By utilizing both pathways, Cal/EPA ensures a comprehensive, multi-faceted approach to EJ integration as the Agency and its BDOs move forward on key environmental justice concepts and challenges.