

# Environmental Justice Policy

REVISED PUBLIC REVIEW DRAFT – JANUARY 2019

California Coastal Commission

## Introduction

The goal of the Commission’s Environmental Justice Policy is to provide guidance and clarity for Commissioners, staff, and the public on how the Commission will effectively implement its environmental justice authority<sup>1</sup>. The adoption and implementation of this policy is intended to integrate the principles of environmental justice, equality, and social equity into the foundation of the Commission’s program and operations, and to ensure public confidence in the Commission’s mission, process, and commitment to coastal equity.

The California Coastal Commission’s mission statement declares:

***“The Commission is committed to protecting and enhancing California’s coast and ocean for present and future generations. It does so through careful planning and regulation of environmentally-sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination.”***

Section 30006 of the Coastal Act also states that *“the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.”*

Since 1977, the Commission has worked to uphold the Coastal Act, a statute grounded in the principles of public inclusion and equity. However, despite numerous victories, the statute’s vision of coastal protection and access for all people has not been fully realized. Concern remains that historically, much of the Commission’s work has been largely shaped by coastal residential, commercial and industrial landowners, without adequate consideration of those whose lives and livelihoods are connected to our coasts through their labor, recreation, and cultural practices but cannot afford to live on the coast.<sup>2</sup>

Generations of injustices towards California’s Native American communities, people of color, and other marginalized populations through forms of discriminatory land use policies, desecration of sacred lands and cultural resources, and concentration of environmental pollution has resulted inequitable distribution of environmental benefits and burdens that still disproportionately burden these communities today. The concept of environmental justice emerged out of the civil rights movement to describe the application of civil rights and social justice to environmental contexts.<sup>3</sup> The term “environmental

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<sup>1</sup> AB 2616 (Burke) (Ch. 578, Stats. 2016) amended the Coastal Act to give the Commission authority to specifically consider environmental justice when making permit decisions. This legislation also cross-references existing non-discrimination and civil rights law in the government code and requires the governor to appoint an environmental justice Commissioner.

<sup>2</sup> Morales, M. Central Coast Alliance United for a Sustainable Economy (CAUSE). July 12, 2018 comment letter re: proposed environmental justice policy.

<sup>3</sup> Environmental Justice for All: A Fifty State Survey of Legislation, Policy and Cases, fourth edition (2010).

justice” is currently understood to include both substantive and procedural rights,<sup>4</sup> meaning that in addition to the equitable distribution of environmental benefits, underserved communities also deserve equitable access to the process where significant environmental and land use decisions are made.

Taking an environmental justice approach to coastal policy requires a fundamental re-thinking of who is connected to the coast, and how. For instance, tribal and indigenous communities with cultural ties to the coast depend on access to ancestral lands and sacred sites to maintain traditional practices, yet their unique perspectives are frequently overlooked or undervalued. Environmental justice stakeholders across the country who have been working in this policy arena for decades have noted that wherever people of color are predominantly concentrated in coastal regions, they are frequently disconnected from the coast itself, by both social and physical barriers. Countless people commute to the coast for work every day, to labor in homes, businesses, ports and fields. Others come to the coast for free outdoor recreation and fresh air. For them, the coast is an accessible refuge from neighborhoods lacking parks and greenspace. Statistics show a startling lack of diversity among those who live on the California coast, and yet millions of inland residents visit and work there every day, without the means to access affordable accommodations.

Historic inequalities, as well as California’s growing population, changing demographics, socio-economic forces, judicial decisions, and policy choices have and continue to shape development patterns and population shifts that widen the disparity gap. Not only is equitable access to the coast for all Californians essential, so is protecting coastal natural resources for future generations.<sup>5</sup> To fulfill the agency’s mission of protecting and preserving coastal resources the Commission adopts the following Environmental Justice Policy to inform its decisions, policies, and programs to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone.



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<sup>4</sup> *Ibid.*

<sup>5</sup> Government Code 11135 is the state analog to the federal Civil Rights Act of 1964.

## Draft Environmental Justice Policy

*“The California Coastal Commission’s commitment to diversity, equality and environmental justice recognizes that equity is at the heart of the Coastal Act, a law designed to protect California’s coast and ocean commons for the benefit of all the people. In keeping with that visionary mandate, but recognizing the agency has not always extended this mission to many marginalized communities throughout California’s history, the Commission as an agency is committed to protecting coastal natural resources and providing public access and lower-cost recreation opportunities for everyone, and ensuring that those opportunities not be denied on the basis of background, culture, race, color, religions, national origin, ethnic group, age, disability status, sexual orientation, and gender identity.*

*The Commission will use its legal authority to advance clean, healthy, and accessible coastal environments for communities who have been disproportionately overburdened by pollution. Coastal development should be inclusive for all who work, live, and recreate on California’s coast and provides equitable benefits for communities that have historically been excluded, marginalized, or harmed by coastal development.*

*The Commission recognizes that all aspects of our mission are best advanced with the participation and leadership of people from diverse backgrounds, cultures, races, color, religions, national origin, ethnic groups, ages, disability status, sexual orientation, and gender identity. The Commission is committed to compliance and enforcement of Government Code Section 11135, as well as consideration of environmental justice principles as defined in Government Code Section 65040.12, consistent with Coastal Act policies, during the planning, decision-making, and implementation of Commission actions, programs, policies, and activities. It is also the California Coastal Commission’s goal, consistent with Public Resources Code Section 30013<sup>6</sup> and Government Code Section 11135, to recruit, build, and maintain a highly qualified, professional staff that reflects our state’s diversity. Further, the Commission is committed to compliance with Title VI of the Civil Rights Act of 1964 and its regulations.”*

This policy uses the terms “disadvantaged,” “marginalized,” and “underserved” interchangeably; it intends to encompass not only the definitions contemplated by SB 1000,<sup>7</sup> but also to include other low-income and minority populations that are disproportionately burdened by or less able to prevent, respond, and recover from adverse environmental impacts. This policy uses the term “equity” as defined in the context of social and racial equity,<sup>8</sup> where “equity” refers to the fairness of achieving outcomes for all groups and no one factor, such as race, can be used to predict outcomes.

<sup>6</sup> AB 2616 (Ch. 578, Stats.2016) added Coastal Act Section 30013 findings to advance the principles of environmental justice and civil rights.

<sup>7</sup> SB 1000 (Leyva) (Ch. 587, Stats. 2016) added Government Code Section 65302(h)(4)(A), expanding the definition of “disadvantaged communities” for the purpose of General Plans to mean “an area identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation.”

<sup>8</sup> The Local & Regional Government Alliance on Race and Equity. Advancing Racial Equity and Transforming Government: A Resource Guide to Put Ideas into Action (2015)



## Statement of Environmental Justice Principles

*The Environmental Justice Policy is designed to achieve more meaningful engagement, equitable process, effective communication, and stronger coastal protection benefits that are accessible to everyone, and incorporates and is further implemented by the following Statement of Principles.*

## Respecting Tribal Concerns

The Commission respectfully acknowledges the painful history of genocide against Native American Tribes honors the efforts of California’s coastal tribes to rebuild thriving, living cultures based on traditional knowledge, languages, and practices. The Commission commits to regular and meaningful partnership to ensure that tribes are valued and respected contributors to the management of California’s coast. In addition to the requirements of the Commission’s formal tribal notification and consultation policy, the Commission will work collaboratively with tribes to better understand the significance of local and regional cultural concerns. This includes the application of traditional ecological knowledge, as well as access to and protection of areas of cultural significance, ethnobotanical resources, traditional fishing and gathering areas, and sacred sites.

## Meaningful Engagement

The Commission acknowledges the critical need to communicate consistently, clearly, and appropriately with environmental justice groups and underserved communities. Because of their historic under-representation in coastal land use planning and permitting decisions, it is important to make additional, efforts to inform these communities about projects with environmental justice findings. To reach the goal of full engagement, Commission staff will work to obtain and dedicate meaningful resources to reach out early and often to these communities, in language that is understandable and accessible to local communities that face limited English proficiency, lack access to formal education, and experience other obstacles to engagement. They will also augment outreach with non-traditional communication methods, for example, the use of social media, flyers, community meetings, town halls, surveys, and focus groups targeted at populations who face barriers to participation. To ensure that outreach efforts are effective, staff will ask community groups and organizations for their suggestions and preferences for adjusting these techniques.





## Coastal Access

Article X of the California Constitution guarantees the right of access to navigable waters for all people. The Coastal Act's mandates to provide maximum access and recreational opportunities for all, and to protect, encourage, and provide lower cost visitor and recreational opportunities embody fundamental principles of environmental justice. The Commission reaffirms its long-standing commitment to identifying and eliminating barriers in order to provide for those who may be otherwise deterred from going to the beach or coastal zone. The coast belongs to everyone, and access cannot be denied or diminished on the basis of race, ethnicity, socio-economic status, place of residence or other factors listed in the Policy Statement.

Understanding that even nominal costs can be barriers to access, preserving and providing for lower-cost recreational facilities is also an environmental justice imperative. This includes recreational opportunities such as parks, trails, surf spots, beach barbecue and fire pits, safe swimming beaches, fishing piers, campgrounds, and associated free or low-cost parking areas. The conversion of lower-cost visitor-serving facilities to high-cost facilities is also a barrier to access for those with limited income, and contributes to increased coastal inequality. The Commission will strive for a no-net-loss of lower-cost facilities in the coastal zone, while implementing a longer-term strategy to increase the number and variety of new lower-cost opportunities.

Where a local government fails to consider environmental justice when evaluating a proposed development that has the potential to adversely or disproportionately affect a historically disadvantaged group's ability to reach and enjoy the coast, that failure may be the basis for an appeal to the Coastal Commission. Similarly, where a local coastal program includes policies that implement environmental justice principles, a local government's failure to consider those principles may also be the basis of an appeal to the Coastal Commission.

## Housing

The Commission recognizes the elimination of affordable residential neighborhoods has pushed low-income Californians and communities of color further from the coast, limiting access for communities already facing environmental health disparities.

Although the Legislature removed the Coastal Act mandate to protect and provide affordable housing in 1981, the Commission retained the authority to encourage affordable housing. The Commission will increase these efforts with project applicants, appellants and local governments, by analyzing the cumulative impacts of incremental housing stock loss, and by working with local government to adopt local coastal program policies that protect affordable housing and promote a range of affordable new residential development types. The Commission will continue to seek legislative action to regain its previous authority.

The agency will also support measures that increase affordable housing options, but also protect coastal resources. If it is reasonably alleged that a proposed project, or permit on appeal, is or would be in violation of another state or federal law, the Commission will utilize its discretion to contact the appropriate agency to resolve the issue.

## Local Government

Local governments implement Coastal Act policies at the local level through planning documents certified by the Commission. The Commission will strongly encourage local governments to amend their local coastal programs, port master plans, public works plans and long range development plans to address environmental justice issues. Staff will develop a list of best practices to help local government develop policies that reduce impacts on vulnerable communities resulting from new development.

The Commission also recognizes the harm in allowing communities to engage in punitive practices such as hiring security guards who have been known to enlist law enforcement to exclude communities of color from certain coastal recreation areas. The Commission will consider the historic role of such enforcement measures when reviewing local policies that may have discriminatory intent or impact.

The Commission understands that regional transportation policies can discourage inland communities from visiting the coast, burdening both workers and families. The Commission will work with local governments and regional transit agencies on local coastal program policies to decrease vehicle miles travelled and increase public transportation from inland areas to the coast.



### **Participation in the Process**

Achieving the Coastal Act’s mandate for coastal protection depends on full public participation that reflects California’s diversity. The Commission is committed to identifying and eliminating barriers to its public process in order to provide a more welcoming, understandable and respectful atmosphere for those who may be otherwise intimidated or deterred from taking part in government proceedings. This includes making an effort to schedule items with significant environmental justice implications in close proximity to affected underserved communities, at locations and times accessible to those who work during the day or lack access to private vehicles, when legal deadlines allow, and providing language translation services as needed and time extensions for translators. The Commission will not engage the services of private security or law enforcement unless a credible threat to public safety has been clearly demonstrated.

The Commission will conduct a review of equitable access to and utilization of its existing programs and funding sources to ensure that disadvantaged populations are included in the its efforts. The Commission will also acknowledge and include environmental justice and equity principles in its educational programs, job announcements and other communication materials whenever possible.

### **Accountability and Transparency**

Creating a measure of accountability is critical to building and maintaining trust and respect with communities who have become skeptical of government’s motives or relevance to their lives. When evaluating projects, programs and activities, the Commission will consider whether and how proposed development will positively or negatively affect underserved communities, and will be fully transparent in that analysis in staff reports and presentations. The Commission will make use of CalEnviroScreen, U.S. EPA, EJSCREEN, U.S. Census data and/or similar tools and data to identify disadvantaged communities. And where consistent with the Coastal Act, civil rights and environmental justice laws, the Commission will propose permit conditions to avoid or mitigate impacts to underserved

communities. Analysis of mitigation measures will include consideration of the technical knowledge and lived experiences of affected communities.

Any third party studies, reports or analyses will be evaluated to ensure they have been conducted by reputable, independent parties, using the best available science. Analysis will assess meaningful alternatives beyond mitigation measures to re-siting projects with negative environmental health impacts in disadvantaged communities, to minimize or avoid adverse impacts to those communities. If viable alternatives are available, consider those in permitting decisions. The Commission will use the powers within its authority to examine the level of inclusive access to public recreation and affordable housing in any new coastal development, as well be a voice for maximizing these benefits for disadvantaged communities during review of projects.

## **Climate Change**

Climate change and sea level rise hazards will have disproportionate impacts on communities with the least capacity to adapt and may exacerbate existing environmental injustices and cumulative impacts from other environmental hazards. For example, underserved communities that may rely on public access for indigenous gathering activities, subsistence fishing, recreational opportunities, jobs and other economic benefits of the coastal economy will face greater impacts.

Access to cooler coastal temperatures will increasingly become a public health imperative for inland residents as the climate warms. Some sea level rise, coastal erosion and climate adaptation measures, such as sea walls, may further reduce access to public trust resources and coastal recreation areas for all residents, particularly lower income residents living inland.

Lower-income residents and those who live in rental units are also more likely to be displaced by flooding or related impacts as compared to property owners because they lack the funds and/or abilities to rebuild, have less control over their safety, and often have limited access to insurance. The expense of sea level rise adaptation measures for coastal communities could also heighten displacement of disadvantaged populations by increasing living expenses for sewer and water services.

Low-income communities are more vulnerable to climate-driven water quality and supply issues that can result from seawater intrusion, contamination from extreme storm events, and drought. Within its existing authority, the Commission will prioritize the cleanup and avoidance of hazardous facilities in flood-prone areas and will work to advance buffering measures like wetlands restoration that prevent seawater intrusion into groundwater supplies.

The Commission will take this reality into consideration when analyzing the effectiveness and the impacts of sea level rise adaptation and mitigation measures as well as implementation of these measures. The Commission will also continue to recommend considering environmental justice when analyzing sea level rise impacts in planning and permitting as stated in its adopted Sea Level Rise Policy Guidance.

## Habitat and Public Health

Understanding that public health and the health of natural ecosystems are inextricably intertwined, ecological impacts are felt first by vulnerable and at-risk communities, and that there is no environmental justice without a healthy environment, the Commission will continue to prioritize the protection of coastal resources. This includes sensitive habitats, watersheds, water quality, marine biodiversity, and biological productivity. Heavy industrialization and environmental contamination of concentrated sections of California's coast has effectively eliminated much of the public coastal use in these areas. The Commission will also work with the relevant public agencies to consider project impacts to air quality and soil health in disadvantaged communities which reduce the positive health and recreational benefits associated with coastal access for pollution-burdened communities.

The Commission's environmental justice policy will be implemented in a manner that is fully consistent with the standards in, and furthers the goals of, [Chapter 3](#) of the Coastal Act, and certified local coastal programs, to ensure that low-income communities are not disproportionately affected by water contamination or overuse, or diminished environmental services such as those provided by healthy ecosystems, fully-functioning wetlands, and clean waters and lands in the coastal zone.





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## Implementation

*In order to implement the environmental justice policy, including the statement of principles, the Coastal Commission commits to the following actions, which will be largely accomplished over the course of the next five years. These actions will be included in the 2019 update of agency's Strategic Plan, which establishes the agency's top priorities for the near-term.*

Putting environmental justice and equity goals into the agency's Strategic Plan will provide the public with ongoing accountability and transparency of the Commission's efforts to incorporate environmental justice into its program. Stakeholders will have the opportunity to participate in regular reviews and updates on Strategic Plan progress at both the state and federal level to ensure the policy remains relevant, accessible and an active component of the statewide coastal program.

The following actions are not meant to be an exhaustive list but are examples of how the Commission advances its policy goals during the initial implementation. These themes will be further explored with ample opportunities for public review during multiple hearings on the Strategic Plan Update in 2019.

### **Engagement with Affected Communities**

1. To better balance the historic inequities surrounding disadvantaged communities' access to the planning process, the Executive Director will host a quarterly teleconference between the executive director and environmental justice leaders and stakeholders.
2. Partner with environmental justice leaders and groups to educate their communities about coastal issues that intersect with environmental justice. Use listservs, social media, the Commission's website and other technology to communicate with environmental justice communities. Create and maintain an environmental justice listserv of groups and individuals who have expressed an interest in getting more involved. Continuously update and enhance contacts and relationships with local, regional and statewide environmental justice advocates.
3. Establish a protocol for disseminating informational material that can be easily understood by disadvantaged communities identifying projects with environmental justice findings.
4. Expand the Commission's communication methods to include flyers, community meetings, town halls, and surveys and partner with community groups to reach out early and often.
5. Develop educational materials explaining the Coastal Act and the Commission through an environmental justice lens that can be easily adapted by staff or Commissioners for community meetings and other public speaking events.
6. Conduct outreach and develop relationships with community-based organizations and seek their input on identifying marginalized and disadvantaged communities that live, work and recreate near a proposed project.
7. As spelled out in the Tribal Consultation Policy the Commission will work collaboratively with Native American Tribes to better understand the significance of local and regional cultural concerns. The Commission will seek out and learn from

indigenous peoples' unique historical, cultural and ecological knowledge of California's land and resources.

8. Staff will regularly analyze barriers to implementation to environmental justice policies in conjunction with local partners and community based organizations for the purpose of compiling a report on how best to support implementation of this policy.

## **Environmental Justice Staff Training and Support**

1. Develop a team of environmental justice and equity champions across the Coastal Commission in every major department including management. Integrate environmental justice and equity considerations throughout the agency.
2. Pursue budget change proposals to add an environmental justice staff positions that will focus on policy implementation, community outreach and issue identification. This will include at least one senior level staff position.
3. Designate staff in every district office of the Coastal Commission, who can be the point of local contact for environmental justice groups and stakeholders. These staff members will provide more effective and personalized responses to issues and facilitate ongoing communication among staff and environmental justice communities.
4. Provide a base level of training on equity and environmental justice issues for the entire staff. Video tape the training for future staff.
5. Work with experts to develop an internal, required training program for all staff and Commissioners to address unconscious bias and related issues.
6. Provide training and financial support for staff members who are willing to serve as interpreters at community meetings and local events. Include such work in duty statements.
7. Include environmental justice concepts and issues in the agency's relevant planning and guidance documents, including the Commission's Public Education curricula.

## **Coastal Development and Environmental Justice**

1. Encourage and teach staff to incorporate environmental justice issue identification, research and analysis into their work. Develop internal criteria for early identification of project proposals that could raise environmental justice issues.
2. Develop an internal checklist for staff to help analyze the level of potential environmental justice impacts associated with a proposed project. Have staff

identify environmental justice communities in the area and potential impacts of the projects on those communities

3. Include an analysis of environmental justice issues in applicable staff reports, and proposed mitigation measures to avoid or fully mitigate identified impacts, in a manner that is fully consistent with Chapter 3 or LCP policies.
4. Strongly encourage local governments to amend their local coastal programs to address environmental justice issues. Develop a guidance memo for local governments to assist with the incorporation of environmental justice policies and develop a list of best practices to help reduce disparate impacts on vulnerable communities resulting from new development.
5. Seek additional local assistance grant funding from the Legislature to encourage local government partners to include environmental justice policies in local coastal programs.
6. Seek legislation to restore Coastal Act policies protecting affordable housing.
7. Staff will continue to work collaboratively with partner agencies, the public, and commissioners to ensure that coastal management decisions at all levels appropriately consider environmental justice concepts and values.

## Public Participation

1. Make Commission meetings more geographically accessible and affordable to underserved communities by adopting an annual meeting calendar that includes at least three Commission meetings per year in more inland areas accessible by public transit. Explore ways to increase meeting accessibility through technology.
2. Whenever possible, agendize hearings that are relevant to disadvantaged communities at times and locations that are convenient for working families. Explore ways to expand public comment opportunities for these communities to encourage input.
3. Provide language-appropriate training materials describing available online resources, how commission meetings work, how to fill out comment cards, how to report violations and file appeals, and how to apply for Whale Tail grants.
4. Encourage broader participation by creating materials and supporting community workshops to show residents how to participate at Commission meetings.
5. Host a public workshop with the Commission and Environmental Justice leaders to discuss coastal justice concepts, priorities and challenges within two years of adopting the policy.

6. To track and measure success, the Commission shall conduct a bi-annual public review on the effectiveness and progress of this policy, and amend the policy as appropriate.

### Immediate Next Steps

1. Commission staff will continue to evaluate public and Commissioner feedback on this Revised Public Review Draft policy, conduct additional outreach to stakeholder groups and affected communities, and revise the above statement accordingly for final consideration and adoption at the March, 2019 Coastal Commission meeting in Los Angeles.
2. Following the policy's adoption, Commission staff will begin the implementation phase of the environmental justice policy. The implementation phase will include specific program objectives, implementing actions and goals, as identified above. These will be included as a new section in the Commission's Five-Year Strategic Plan Update, which will begin in 2019. Stakeholders and environmental justice groups will have multiple opportunities over the course of the year to provide additional input on these actions at public hearings, in letters and emails or through meetings with staff. All future updates to the Strategic Plan will include an update to the Environmental Justice section.
3. Commission staff will release a public engagement plan outlining the timeline, outreach tools and other details related to gathering feedback on the Strategic Plan Update and the implementation phase of the policy
4. The Commission's Environmental Justice Team will continue to gather ideas and identify opportunities for the agency to implement environmental justice issues on an ongoing basis across the agency and throughout the districts.
5. The Commission's GARE (Government Alliance on Race and Equity) Team, in collaboration with the Environmental Justice Team and senior staff, will complete an Agency Racial Equity Action Plan in 2019 to inform and inspire greater inclusivity and diversity in all of the Commission's internal processes and functions.