



Assembly Speaker Toni G. Atkins, 78th Assembly District and Assemblymember Eduardo Garcia, 56th Assembly District

AB 1071 – Environmental Justice SEPs

IN BRIEF

AB 1071 requires each board, department, and office (BDO) within the California Environmental Protection Agency (CalEPA) to establish a Supplemental Environmental Projects (SEP) policy to benefit environmental justice communities.

BACKGROUND

In 2003, the California Environmental Protection Agency (CalEPA) drafted a Recommended Guidance on Supplemental Environmental Projects document which outlines the legal, administrative, and procedural requirements for the use of SEPs in administrative orders and civil judgments.

SEPs allow entities that are in violation of environmental laws to undertake environmental projects that exceed regulatory requirements (e.g. watershed or wetland restoration projects) as part of an enforcement action or settlement. SEPs are not a required component of environmental settlements and environmental regulatory agencies have broad discretion whether or not to include a SEP as part of a settlement.

Since the release of the SEP recommended guidance policy, various CalEPA boards, departments, and offices, including the State Water Resources Control Board and the Department of Toxic Substances Control, have adopted their own SEP policies.

Recently, the Central Valley Regional Water Quality Control Board (CVRWQ) established a specific “disadvantaged communities” SEP process which could be implemented by other regional water boards. The CVRWQ Board model includes a solicitation for SEP projects located specifically in disadvantaged communities, creating a dedicated Disadvantaged Community SEP list. The projects on the list can be included in the settlement to fund up to 50% of the total amount of the penalty.

THE ISSUE

Many communities across California are located in areas disproportionately subjected to multiple sources of pollution. As a result, these communities are more vulnerable to and impacted by the harmful effects of pollution than others. These environmentally impacted communities, also known as environmental justice communities, need resources to appropriately address environmental health impacts and to implement community led solutions. Unfortunately, there is no strong mechanism to ensure communities disproportionately impacted receive any mitigation from pollution.

One way that environmental justice communities might see direct environmental or public health investments in their neighborhoods is through the creation of an Environmental Justice Supplemental Environmental Projects (SEP) policy.

SEP policies can play an important role in securing direct environmental and public health investments that benefit disadvantage communities, however, the policies currently lack a focus on how best to do so. SEP policies are currently not a mandatory policy across environmental boards, departments, and offices, is used sporadically where a policy does exist.

Additionally, there is not an adequate public process and/or publicly available information for community- based organizations that want to participate in or submit projects for SEP consideration. Finally, under existing law, SEPs are limited to no more than 25 percent of the total environmental enforcement settlement.

THE SOLUTION

AB 1071 will ensure that all CalEPA boards, departments, and offices (BDOs) establish a SEP policy specifically for environmental justice communities.

AB 1071:

- Requires all CalEPA boards, departments, and offices to develop an environmental justice SEP policy;
- Gives broad discretion to each BDO to design a policy that best fits their needs and regulatory procedures but requires them to:
 1. Convene a public process to solicit SEP projects from environmental justice communities;
 2. Allows up to 50% of the final settlement amount for SEPs; and
 3. Creates an annual list of environmental justice projects that may be funded through a SEP.
- Requires CalEPA to compile a list of all the SEP eligible projects and post the list on their website.

SUPPORT

California Environmental Justice Alliance (CEJA)

OPPOSITION

None

FOR MORE INFORMATION

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