

4.17 Environmental Justice

4.17.1 Background

The State of California first codified environmental justice into law in 1999, empowering the Office of Planning and Research (OPR) to coordinate the state's environmental justice programs and directing the CalEPA to take into account environmental justice in "designing its mission for programs, policies, and standards," adding a new section to the Public Resources Code entitled "Environmental Justice" (1999 Cal SB 115; codified at Section 65040.12 of the California Government Code and Section 72000 of the Public Resources Code [now Section 71110 et seq.]). Section 65040.12(e) defines environmental justice and provides further detail regarding the scope of environmental justice principles:

- (e) (1) *For purposes of this section, "environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.*
- (2) *Environmental justice" includes, but is not limited to, all of the following:+*
 - (A) *The availability of a healthy environment for all people.*
 - (B) *The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.*
 - (C) *Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decision making process.*
 - (D) *At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.*

The OPR is also responsible for including environmental justice matters in the General Plan Guidelines pursuant to Section 65040.12(e) of the California Government Code. In 2016, the California Legislature adopted SB 1000, which required that general plans include an environmental justice element for disadvantaged communities within the general plan area. With the passage of SB 1000, the OPR prepared *Guidelines for the Environmental Justice Element* in Chapter 4 of the General Plan Guidelines, and the county is in the process of updating its general plan, including an environmental justice element.

The analysis of environmental justice refers to the assessment of environmental impacts, primarily from the perspective of federal law, focused on the potential for projects to create adverse impacts that might be disproportionately borne by under-served or disadvantaged (minority and low-impact) communities. Impact analysis required under CEQA identifies and assesses environmental impacts to the public at large and does not distinguish between differing populations and communities that may be adversely affected. California state law recommends an environmental justice analysis under certain conditions, and CEQA generally does not include specific environmental justice analysis in the CEQA Guidelines.

Although not expressly listed in the Appendix G, Environmental Checklist Form, set forth in the CEQA Guidelines, Contra Costa County is addressing environmental justice in this EIR to provide the public and decision makers a better understanding of the environmental justice communities adjacent to the Project and the implications of the Project on those communities.

4.17.2 Regulatory Setting

4.17.2.1 **Federal Authority**

Executive Order 12898

The basis for environmental justice lies in the Equal Protection Clause of the US Constitution. The Fourteenth Amendment expressly provides that the states may not *deny to any person within [their] jurisdiction the equal protection of the laws* (US Constitution, amend. XIV, §1). On February 11, 1994, President Clinton signed EO 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*. The EO followed a 1992 report by the US Environmental Protection Agency indicating that *[r]acial minority and low-income populations experience higher than average exposures to selected air pollutants, hazardous waste facilities, and other forms of environmental pollution*.

4.17.2.2 **State Authority**

Senate Bill 1000/California Government Code 65302

SB 1000, the *Planning for Healthy Communities Act*, passed in 2016, requires that general plans includes an environmental justice element for disadvantaged communities within the area covered by the general plan. SB 1000 is codified in California Government Code Section 65302(h), which states the following:

65302. *The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:*

- (h) (1) *An environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. The environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, shall do all of the following:*
 - (A) *Identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities by means that include, but are not limited to, the reduction of pollution exposure, including the improvement of air quality, and the promotion of public facilities, food access, safe and sanitary homes, and physical activity.*
 - (B) *Identify objectives and policies to promote civic engagement in the public decision making process.*
 - (C) *Identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities.*
- (2) *A city, county, or city and county subject to this subdivision shall 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.*
- (3) *By adding this subdivision, the Legislature does not intend to require a city, county, or city and county to take any action prohibited by the United States Constitution or the California Constitution.*
- (4) *For purposes of this subdivision, the following terms shall apply:*
 - (A) *“Disadvantaged communities” means an area identified by the CalEPA 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.

(B) *“Public facilities” includes public improvements, public services, and community amenities, as defined in subdivision (d) of Section 66000.*

(C) *“Low-income area” means an area with household incomes at or below 80 percent of the statewide median income or with household incomes at or below the threshold designated as low income by the Department of Housing and Community Development’s list of state income limits adopted pursuant to Section 50093 of the Health and Safety Code.*

With the passage of SB 1000, the OPR prepared guidelines for the Environmental Justice Element Section in Chapter 4 of the General Plan Guidelines. Section VI of Chapter 4 addresses the Statutory Requirements in Section 65302 and describes the requirements in the “Completeness Checklist” chart (copied below):

Completeness Checklist

Statutory Citation	Brief Description of Requirement
Gov. Code § 65302(h)(1)	Identify disadvantaged communities within the area covered by the general plan. (Note: see guidance provided earlier under Step 1)
Gov. Code § 65302(h)(1)(A)	Identify objectives and policies to reduce exposure to pollution including improving air quality in disadvantaged communities.
Gov. Code § 65302 (h)(1)(A)	Identify objectives and policies to promote public facilities in disadvantaged communities.
Gov. Code § 65302(h)(1)(A)	Identify objectives and policies to promote food access in disadvantaged communities.
Gov. Code § 65302(h)(1)(A)	Identify objectives and policies to promote safe and sanitary homes in disadvantaged communities.
Gov. Code § 65302(h)(1)(A)	Identify objectives and policies to promote physical activity in disadvantaged communities.
Gov. Code § 65302(h)(1)(A)	Identify objectives and policies to reduce any unique or compounded health risks in disadvantaged communities not otherwise addressed above.
Gov. Code § 65302(h)(1)(B)	Identify objectives and policies to promote civic engagement in the public decision-making process in disadvantaged communities.
Gov. Code § 65302(h)(1)(C)	Identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities.

4.17.2.3 Local Authority

Recognizing that planning officials throughout the state can influence health and equity outcomes across communities, SB 1000 includes guidance to integrate environmental justice principles into the general plan process and improve public participation.

Contra Costa County General Plan

Contra Costa County defines environmental justice as the *fair treatment of people of all races, cultures and incomes with respect to the development, adoption, implementation, and enforcement of all environmental laws, regulations, and polices.* This policy was adopted by the Board of Supervisors in 2003.

To meet the requirements of SB 1000, Contra Costa County is currently updating its general plan to address environmental justice in unincorporated areas of the county. Based on community outreach effort

to obtain input on policy guidance, the County prepared the Revised Draft Environmental Justice Policy Guidance document (Contra Costa County 2021). The following draft policies apply to the Project:

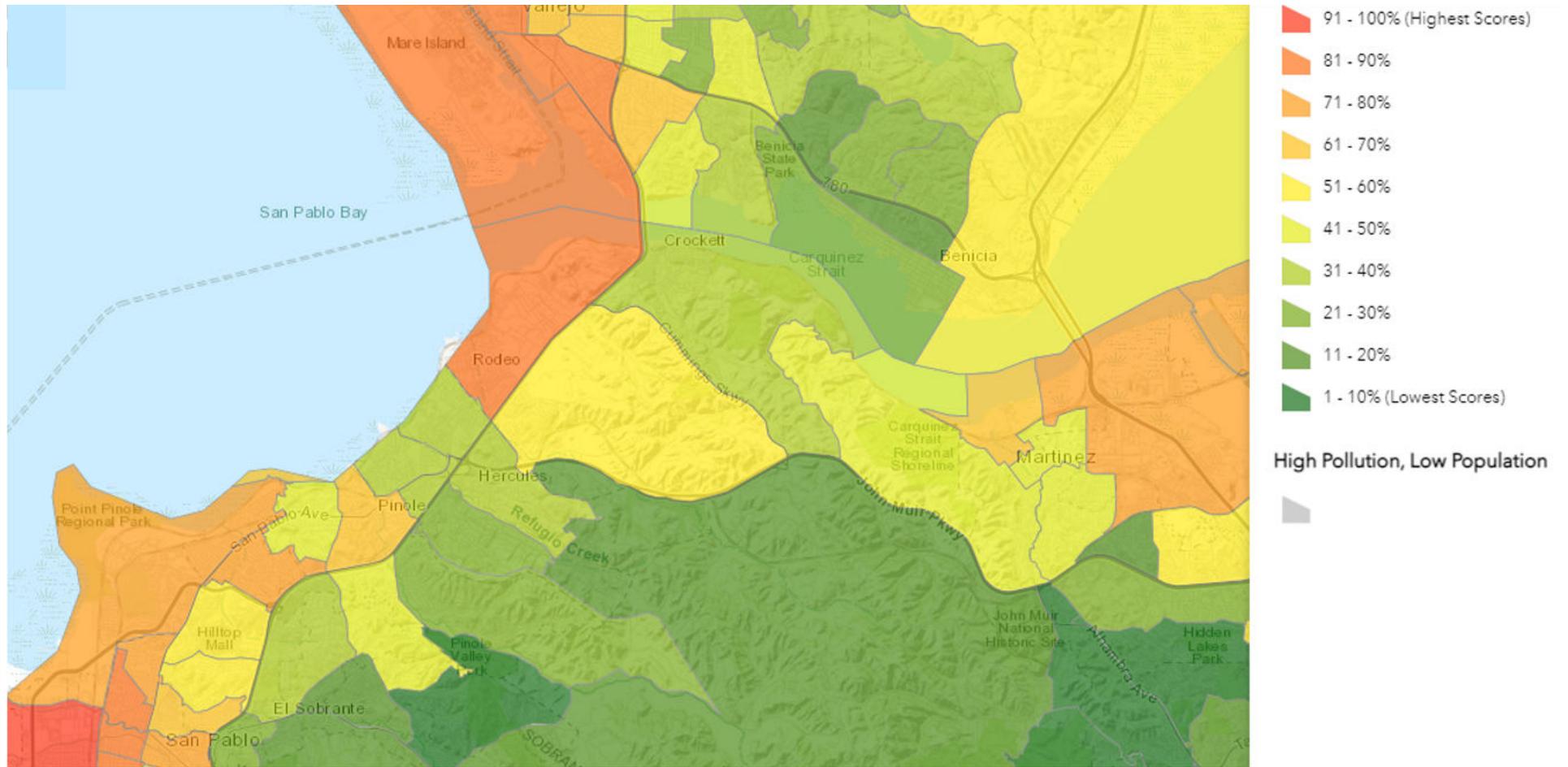
- **SC-P1.1:** In coordination with residents of Impacted Communities, workers, and business/industry, environmental and environmental justice stakeholders, community colleges, workforce development and training entities, local government, and other appropriate agencies, support transition from petroleum-refining industries to just, equitable, and clean renewable and sustainable industries that offer provide living-wage jobs.
- **SC-P1.5:** For projects negatively affecting an Impacted Community, pursue community benefits agreements (CBAs) negotiated with the community and project applicant. The primary objective of these CBAs is to mitigate project impacts to the greatest extent possible, which could include mitigations exceeding the requirements of CEQA. Secondly, to compensate for impacts that cannot be fully mitigated, these CBAs should secure community benefits that exceed that go beyond the inherent project benefits and achieve support the community goals identified in the community profile, as negotiated with the community.
- **SC-P1.6:** To support the findings necessary to approve large-scale Prior to approval of a major developments project in or adjacent to an Impacted Communities, require applicants for such projects to submit documentation demonstrating how the project will promote environmental justice and health, including how the project will ensure the following: (a) It will not adversely impact the community; (b) It will provide benefits that support the community goals, as identified in the community profile and/or otherwise expressed by negotiated with the community; (c) It will provide economic opportunities for the community; (d) It will neither not directly nor indirectly cause unwelcome, permanent displacement of existing residents or businesses in the community; and (e) It will avoid either direct or and indirect negative impacts on health and the quality of life and health of residents within the community.

At this time, Contra Costa County does not provide its own definition of a disadvantaged community or standards in determining when an impact to a minority and/or low income population would occur. As a result, this analysis relies on data compiled by CalEPA's OEHHA as described below.

Environmental Justice Communities

The California Communities Environmental Health Screening Tool (CalEnviroScreen) is a data tool developed by CalEPA's OEHHA pursuant to Health and Safety Code Section 39711 and other statutory requirements. CalEnviroScreen provides statewide data that can be used to identify communities disproportionately impacted by, or vulnerable to, environmental pollution and contaminants. The mapping tool contains 12 indicators related to pollution burden and 8 indicators that track population characteristics and other vulnerabilities based by the 2020 Census. Census tracts rated in the highest quartile of scores (75 to 100) are considered to be disadvantaged as defined under SB 1000 (OEHHA 2021). CalEnviroScreen is used by CalEPA and its boards and departments to aid in administering environmental justice grants, promote compliance with environmental laws, prioritize site-cleanup activities and identify opportunities for sustainable economic development.

As shown in Figure 4.17-1, in Contra Costa County CalEnviroScreen identifies Rodeo (scores 81 to 90) as a disadvantaged communities in the vicinity of the Project. This high vulnerability ranking indicates a need to reduce overall emissions and exposures. Figure 4.17-2 shows that the area surrounding the Santa Maria Site is not considered a disadvantaged community with a score of 21 to 30 (OEHHA 2021). The Pipeline Sites are not addressed since the Project would not result in any changes that could negatively affect disadvantaged communities.



Source: California Office of Environmental Health Hazard Assessment, 2021

Figure 4.17-1. Disadvantaged Communities Surrounding the Rodeo Refinery

Rodeo Renewed Project
Contra Costa County, CA

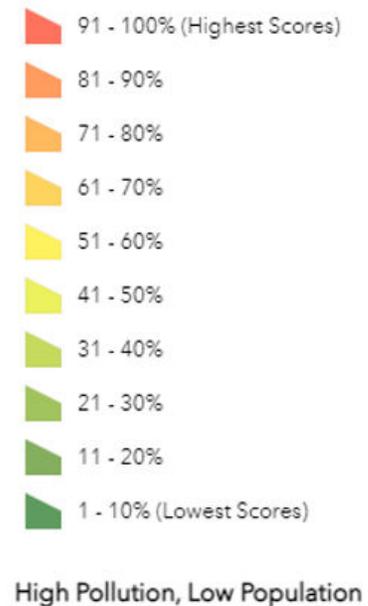
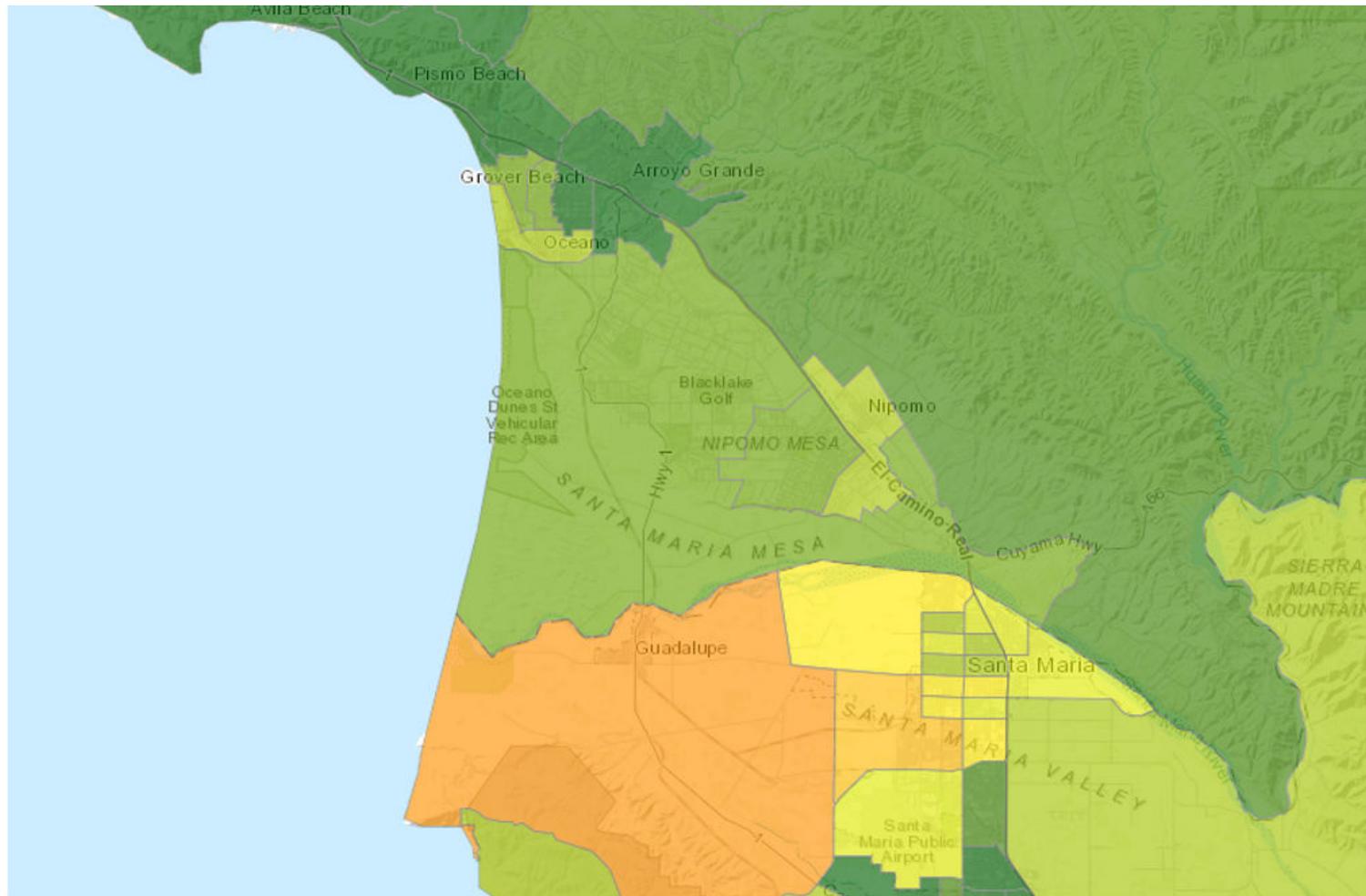


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Source: California Office of Environmental Health Hazard Assessment, 2021

Figure 4.17-2. Disadvantaged Communities Surrounding the Santa Maria Site

**Rodeo Renewed Project
Contra Costa County, CA**



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Envision Contra Costa 2040

Contra Costa County is developing its General Plan update Envision Contra Costa 2040, which contains new sustainability and environmental justice elements. A requirement for the General Plan update is compliance with SB 1000, the Planning for Healthy Communities Act of 2016. SB 1000 requires that city and county general plans address environmental justice in Impacted Communities. The County prepared the initial draft of the General Plan environmental justice goals, policies, and actions in October 2020. Between November 2020 and February 2021, the County solicited and incorporated input from the community and several County departments on the draft environmental justice policy guidance. These efforts produced the Draft Stronger Communities Element that contains overall thematic Goal SC-1, which calls for *Equitable distribution of social and economic resources among all communities in the county so that Impacted Communities are not disproportionately burdened by environmental pollution or other hazards* (Contra Costa County 2021a, 2021b).

Consistent with draft Goal SC-1, the County will be developing a plan-level approach to reduce emissions and improve community health in the Project area. Concurrent with the Project and with assistance from the Bay Area Air Quality Management, the County plans to develop a community risk-reduction plan as part of the Stronger Communities Element of the Envision Contra Costa 2040 General Plan.

4.17.3 Significance Criteria

Contra Costa County is in process of developing an Environmental Justice Element of the Contra Costa County General Plan, and does not at this time provide any standards in determining when an impact to a minority and/or low income population would occur.

In the absence of local thresholds, the EIR evaluates the Project based on the definition of environmental justice in Section 65040.12(e) and the relevant statutory requirements in Section 65302(h) for the environmental justice element required in the general plan (also set forth in the Completeness Checklist in Chapter 4 of the OPR's General Plan Guidelines).

Section 65040.12(e)(1)(B) defines environmental justice to include:

“The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.”

Section 65302(h) requires that the environmental justice element of the general plan:

Identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities by means that include, but are not limited to, the reduction of pollution exposure, including the improvement of air quality, and the promotion of public facilities, food access, safe and sanitary homes, and physical activity.

While the requirements in Section 65302(h) to identify objectives and policies are directed to local agencies in the development of the general plan, they can be used to determine whether the Project would impede or support the preparation and implementation of the county's environmental justice element. Specifically, this EIR focuses on “the reduction of pollution exposure, including improvement of air quality” and not on “the promotion of public facilities, food access, safe and sanitary homes, and physical activity.”

Thus, this analysis consists of whether the Project is consistent with these statutory provisions to reduce pollution exposure, including air quality, in disadvantaged communities and to consider whether or not the effects of pollution are disproportionately borne by disadvantaged communities.

4.17.4 Methodology

The methodology for conducting the impact analysis for environmental justice included reviewing Project impact conclusions for each of the resources in Chapter 4, as well as the cumulative analysis in Chapter 5. If the EIR identified that the Project could result in potentially significant impacts or that the Project's incremental effect is cumulatively considerable, after the application of mitigation, an evaluation was conducted to determine if those impacts would result in disproportionate effect on disadvantaged communities.

For impacts that were less than significant and also less than cumulatively considerable, or classified as "No Impact" (and therefore also not cumulatively considerable), further evaluation of the potential for disproportionately high and adverse effects on minority and low-income populations was not needed.

4.17.5 Evaluation of Reduction of Pollution Exposure

The proposed Project's construction and operations at the Rodeo Refinery result in less-than-significant impacts, or less-than-significant impacts with mitigation, that could disproportionately affect disadvantaged communities as identified in Section 4.3, *Air Quality* (criteria pollutants, toxics, health risk, odor); Section 4.4, *Biological Resources* (terrestrial); Section 4.8, *Greenhouse Gas Emissions*; Section 4.9, *Hazards and Hazardous Materials* (terrestrial); 4.12, *Noise and Vibration*; and 4.13, *Transportation and Traffic*. With respect to air quality and GHGs in particular, there is a net reduction in criteria air pollutant emissions and GHGs as compared to baseline conditions (existing operations), resulting in a reduction of criteria air pollution exposure to the public, including disadvantaged communities. This reduction occurs in part as a result of the conversion of the Rodeo Refinery to a renewable fuels facility, the termination of Carbon Plant operations and significantly reduced truck traffic.

As shown in Figure 4.17-2, the area surrounding the Santa Maria Site is not identified as containing disadvantaged communities. However, with demolition of the Santa Maria Refinery, the communities surrounding the Project site would experience beneficial effects related to visual quality, local air quality, noise, and traffic.

4.17.6 Evaluation of Potential Disproportionate Effect of Significant Impacts on Disadvantaged Communities

The proposed Project would have potentially significant impacts that would remain significant after mitigation with respect to marine biological resources, hazardous materials, and water quality based on an increased risk of hazards associated with marine vessel spills.

As described in Sections 4.4, *Biological Resources*, 4.9, *Hazards and Hazardous Materials*, and 4.10, *Hydrology and Water Quality*, these potentially significant impacts occur due to the increased risk of accidents resulting from increased vessel traffic, where any increase in risk, regardless of its magnitude or statistical significance (e.g. risk associated with just one additional vessel over baseline) is considered to be a significant impact. In addition, however, as explained in Section 4.9, the effects of any such incident would not result in a corresponding public health or safety impact based on the separation distance between the Marine Terminal and public receptor locations and the comprehensive regulatory programs and mitigation measures to address any such accidents. Therefore, these remaining significant impacts would not impact public health and safety in general and would not disproportionately affect disadvantaged communities.

4.17.6.1 No Impact

The following resource areas were found to have no Project impact and/or the cumulatively considerable contribution would not affect human populations or target a specific group or area considered to be a disadvantaged community.

- Agriculture and Forest Resources
- Mineral Resources
- Air Quality – Conflict with or obstruct implementation of an applicable air quality plan.
- Historical Resources
- Population and Housing
- Public Services
- Recreation
- Utilities and Service Systems

4.17.7 References

Contra Costa County. 2021. Revised Draft Environmental Justice Policy Guidance. June 2021. Available at: https://envisioncontracosta2040.org/wp-content/uploads/2021/07/EJ_GOPA_Revised.pdf. Accessed September 6, 2021.

———. 2021a. Envision Contra Costa 2040. Available at: <https://envisioncontracosta2040.org/>. Accessed September 13, 2021.

———. 2021b. Environmental Justice Documents. Available at: <https://envisioncontracosta2040.org/environmental-justice-documents/>. Accessed September 13, 2021.

OEHHA (California Office of Environmental Health Hazard Assessment). 2021. CalEnviroScreen 4.0 Updated February 2021. Available at: <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>. Accessed July 14, 2021.