



# CALIFORNIA FARM BUREAU FEDERATION

GOVERNMENTAL AFFAIRS DIVISION

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February 1, 2013

CalEnviroScreen  
c/o John Faust Chief, Community Assessment & Research Section  
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Dr. Faust,

Thank you for the opportunity to articulate our concerns at the January 11, 2013 CIPA workgroup meeting, in discussions with Cal-EPA staff and in the following written comments.

## **POLLUTION BURDEN IS BEING INCORRECTLY PORTRAYED AS DIRECT EXPOSURE**

OEHHA wants to present CalEnviroScreen as a statewide evaluation of community vulnerability that does not assign responsibility for the socio-economic issues or pollution burdens confronting a particular area. However, the color-coded maps and verbiage do not align with this goal. The maps depict pollution burden by zip code using statewide databases that show the existence of highly regulated activities and entities. Whenever the 65 identified pesticides (not 66 as the tool misstates) are used in a square mile, the map shows that use as 100% exposure. There is no other way to interpret these maps except as direct exposure. The maps do not show method of application which could involve an impermeable tarp which helps prevent volatilization. The maps do not show at what time of the day the pesticides were applied or if they were granular or liquid applications. All these factors weigh heavily on their interaction with the air.

These pesticides have the strictest application and use regulations (buffer zones, worker safety clothing requirements, restricted entry intervals, etc.) of any pesticide applications nationwide. A number of these chemicals are required to be used as dictated by state quarantine laws to prevent the spread of invasive pests that can destroy food production, backyard gardens, parks and wildlife habitat. These are very controlled, contained applications, but these state maps make it look like there are no application restrictions and the public is being directly exposed whenever these pesticides are applied.

The same can be said for many of the exposure and environmental effect indicators. Mere existence of a solid waste facility does not mean there is exposure. Mere existence of chemical use at facilities does not mean exposure. If the purpose is truly as stated *"To provide as final output a relative, rather than absolute, measure of impact"* then there needs to much more emphasis placed on the fact that this tool portrays "potential" pollution burden from "potential" exposures and environmental effects.

CalEnviroScreen and the guidance memorandum states throughout that there is uncertainty and lack of sufficient data to use the tool to make direct cause and effect assumptions. The following excerpts (*with minor grammatical suggestions*) repeatedly illustrate that statewide data does not exist that shows actual human exposure.

- *The results generated by CalEnviroScreen represent a confluence of a large number of environmental, economic, social and health related factors. They do not and are not intended to assign responsibility for the issues or burdens confronting a particular area. Indeed, in some instances factors or influences arising from outside area boundaries may contribute to the results. (Guidance Memo Page 1)*

- *Exposure Indicators: People may be exposed to a pollutant if they come in direct contact with it, by breathing contaminated air for example. No data are available statewide that provide direct information on exposures. (Tool Page 10)*
- *Uncertainty and Error: There are several types of uncertainty that ~~to~~ **are** likely to be introduced in the development of any screening method for evaluating pollution burden and population vulnerability in different geographic areas. Several important ones include:*
  - *The degree to which the data that are included in the model are correct.*
  - *The degree to which the data and the indicator metric selected reflect meaningful contributions in the context of identifying areas that are impacted by multiple sources of pollution and may be especially vulnerable to their effects.*
  - *The degree to which data gaps or omissions influence the results.*

*Other types of uncertainty are more difficult to measure quantitatively, such as those related to how well indicators measure what they are intended to represent in the model. For example:*

- *How well data on chemical uses or emission data reflect potential contact with pollution.*
- *How well vulnerability of a community is characterized by demographic data. (Tool Page 13)*
- *Complete statewide data on actual human exposures to pesticides do not exist. (Tool Page 28)*
- *Statewide information directly measuring exposures to toxic releases has not been identified. (Tool Page 33)*
- *TRI data do not, however, provide information on the extent of public exposure to these chemicals. (Tool Page 34)*
- *While data are not available that describe environmental effects from the siting and operation of all types of solid waste facilities, the California Department of Resources Recycling and Recovery maintains data on facilities that operate with the state, as well as sites that are no longer in operation, abandoned or otherwise illegal. (Tool Page 52)*

CalEnviroScreen and its maps incorrectly portray that the adverse health conditions in a community are a result of direct exposure from pollution. While you state that the data does not support these conclusions and that is not your intention, anyone using your tool will look at the maps and quickly assume their cancer or asthma is a direct result of traffic density, solid waste storage, pesticide use, etc. The statements above verify that these statewide databases are being misconstrued for a purpose they were not intended.

The word exposure is used 124 times in 110 pages. The word “potential” is used 31 times. *For purposes of the CalEnviroScreen, data relating to pollution sources, releases, and environmental concentrations are used as indicators of potential human exposures to pollutants (Tool, Page 10).* If the state’s intention is not to equate the results of this screening tool as direct exposure then this must be addressed. Every time the word “exposure” and “pollution burden” is used in the guidance memo and screening tool it should be preceded by the word “potential”. While stressing “potential exposure” will not prevent people from making the assumptions they will derive from these maps, it at least creates the possibility for better informed public dialogues that will occur with this tool.

#### **STATE DEVELOPED TOOL NEEDS CLARIFICATION REGARDING USE IN PUBLIC POLICY DEVELOPMENT**

We believe that a screening tool developed and published by the State of California delineating by color coded maps the state’s cumulative pollution burden must include clear direction on how the tool should and should not be used in the public policy arena. We appreciate the changes made in the 1/1/13 memo and January 2013 screening tool that state the screening tool cannot be used as a *substitute* for focused risk assessment for specific projects or as a

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*substitute* for cumulative impact analysis required by the California Environmental Quality Act. However, we believe the wording is still too nebulous and could lead to ambiguity about the intended purpose of CalEnviroScreen. We recommend the following changes in the memo and screening tool:

**Memo:**

**SECOND WORKING DRAFT**

*It is important to note the limitations of this version of CalEnviroScreen. The tool is not ~~intended~~ to be ~~a substitute~~ **used** for focused risk assessment for a specific area or site. Additionally, the results generated by CalEnviroScreen are not ~~intended~~ to be used for California Environmental Quality Act (CEQA) purposes. (Page 2, last paragraph):*

*Therefore, the information provided by this tool cannot be used ~~as a substitute~~ for an analysis of the cumulative impact of any specific project for which an environmental review is required by CEQA. Moreover, CalEnviroScreen assesses environmental factors and effects on a regional or communitywide basis and should not be used in lieu of **or in** performing an analysis of the potentially significant impacts of any specific project. Accordingly, a lead agency must determine independently whether a proposed project's impacts may be significant under CEQA based on the evidence before it, using its own discretion and judgment; the tool's results are not ~~a substitute to be used~~ for this required analysis. (Page 3, top paragraph):*

**GUIDANCE FOR POTENTIAL USES OF RESULTS**

*CalEnviroScreen does not propose any new programs, **permitting, mitigation** or regulatory requirements **and is not to be used for that purpose**. (Page 3, second paragraph):*

**CalEnviroScreen:**

**PREFACE**

*However, the screening tool is not ~~intended to be used~~ to create a legal obligation to conduct additional detailed cumulative analyses for the staff reports written for individual rulemaking. **CalEnviroScreen also does not propose any new programs, permitting, mitigation or regulatory requirements and is not to be used for that purpose**. (First page of the preface, third paragraph, last sentence):*

*The tool presents a broad picture of the burdens and vulnerabilities different areas face from environmental pollutants. It is not ~~intended~~ to be **used a substitute** for a focused risk assessment for a given community or site, and it cannot predict or quantify specific health risks or effects associated with cumulative exposures identified for a given community or individual. It should be noted that the statutory definition of "cumulative impacts" contained in the California Environmental Quality Act (CEQA), is substantially different than the definition of "cumulative impacts" used to guide the development of this tool. Therefore, the maps generated by this tool cannot be used ~~as a substitute~~ for an analysis of the cumulative impact of any specific project for which an environmental review is required by CEQA. (First page of the preface, fourth paragraph that continues onto second page of the preface)*

**INTRODUCTION**

*It is not ~~intended~~ to be **used a substitute** for a focused risk assessment for a given community or site, and it cannot precisely predict or quantify specific health risks or effects associated with cumulative exposures identified for a given community or individual. It should be noted that the statutory definition of "cumulative impacts" contained **in** CEQA, is substantially different than the working definition of "cumulative impacts" adopted by Cal/EPA and used to guide the development of the this tool. Therefore, the scores generated by this tool cannot be used ~~as a substitute~~ for an analysis of the cumulative impacts of any specific project for which an environmental review is required by CEQA. (Page 1, last paragraph, Page 2, first paragraph):*

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## **METHOD**

### **CalEnviroScreen Model**

- *The model is place-based and provides information for the entire State of California on a geographic basis. The geographic scale selected is intended to be useful for a wide range of decisions **except it is not to be used for regulatory, permitting or mitigation purposes.** (Page 3, first bullet point)*

*For example, the data and ranking generated by this tool cannot be used ~~as a substitute~~ for a cumulative impacts analysis in a CEQA document. (Page 3, footnote <sup>1</sup>)*

The importance of these specific wording changes cannot be overstated. OEHHA repeatedly states that the statewide databases used in CalEnviroScreen to determine (potential) pollution burden are insufficient, lack certainty and are inadequate to assign responsibility for the socio-economic issues or pollution burdens confronting a particular area. It is the state's responsibility to insure the tool they have created is not misrepresented and misused in local and state planning and public policy decisions. There are no words that will prevent someone from attempting to misuse the CalEnviroScreen in local permitting, regulatory, mitigation or CEQA decisions. But, we do believe that unequivocal direction from the state on the use for which Cal/EPA developed CalEnviroScreen will allow that purpose to be defended in any public dialogue.

Unless precaution is taken to prevent the misuse of CalEnviroScreen it could prevent instead of enhance economic opportunities in disadvantaged communities. Instead CalEnviroScreen should be used to target and utilize incentive funding that could provide significant benefit to these disadvantaged communities by getting resources where they are needed most as required by SB 535 and AB 1532.

## **REPLACE PUR WITH AMN**

We continue to request that you use the Department of Pesticide Regulation Air Monitoring Network (AMN) data [http://www.cdpr.ca.gov/docs/emon/airinit/amn\\_draft\\_vol1.pdf](http://www.cdpr.ca.gov/docs/emon/airinit/amn_draft_vol1.pdf) instead of the Pesticide Use Report (PUR) database. AMN was developed specifically when Cal/EPA directed each department, as part of the 2004 Environmental Justice Action Plan, to take steps that would inform evaluation of regulatory actions and policies that would better protect disadvantaged communities. After numerous community stakeholder meetings and pilot projects in the San Joaquin Valley, AMN was developed to provide data that assists in assessing potential health risks, developing measures to mitigate risks, and measuring the effectiveness of regulatory requirements. It is the first of its kind in the nation and was established to expand DPR's knowledge of the potential health risks of long-term exposure to pesticides and it is not being used for the express purpose that it was developed. Instead, you are using a database that reports pesticide use when applied under mandatory restrictions to prevent any human exposure.

The need for more precise pesticide exposure data was recognized and developed as part of the Cal/EPA EJ Action Plan because it was known that the PUR data does not provide information on exposure. AMN data would reflect pesticide exceedances which are not the case with PUR data. In the short term quest for statewide data to meet cumulative impact needs, OEHHA is not using the AMN which is young in comparison to the PUR. It leads the public to make unwarranted and alarming assumptions that are not based on sound scientific interpretation. Use is not exposure, pure and simple.

It is a great disservice to the agricultural community to have their highly regulated and restricted pesticide use misconstrued as 100% human exposure. On a national basis, California Farm Bureau Federation has urged other states to report their pesticide use to help inform the public. No other state has a pesticide reporting system and now they will be glad they did not follow our lead. This misuse of this data will impact the willingness of farmers inside and outside of California to provide any further information about their agricultural practices.

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**TERMINOLOGY**

A picture is worth a thousand words. We have shared our significant concerns about how the color-coded maps depicting (potential) pollution burden will be interpreted, especially if they are separated from any written explanation. The only defense is to provide the correct terminology in CalEnviroScreen and the guidance memo that can be cited and included in public dialogues if misrepresentations are made. With this in mind, we have requested a number of wording changes.

Our last terminology request is that “Groundwater Threats” which is an environmental effects indicator be changed to “Groundwater Impacts.” An impact can be either good or bad while a threat is only negative. Dairies in California are highly regulated and dairy farms are constantly striving to reduce and improve their environmental impact. But the number one dairy state in the nation should not list dairies as unequivocal groundwater threats. At minimum it sends a broad, one-size fits all negative message in a state created document that should be encouraging economic enterprises to come, stay and thrive in California.

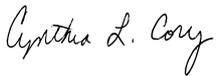
**LIVING DOCUMENT**

We support Cal/EPA’s commitment that CalEnviroScreen will be updated and reviewed on a regular basis. While public workshops have been held, the vast majority of the public and local government officials are completely unaware of this effort and their reactions and experiences will be important to consider as this document enters the public arena.

The California Farm Bureau Federation stands ready to continue working with Cal/EPA and OEHHA on the CalEnviroScreen to make it a tool that enhances communities statewide and does not instead become an impediment to the state’s economic growth and environmental improvement.

Please contact me if I can provide further information. I appreciate your time and interest in our comments.

Sincerely,



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