



June 2, 2014

**John Faust, Chief, Community Assessment & Research Section  
Office of Environmental Health Hazard Assessment  
1515 Clay Street, Suite 1600  
Oakland, CA 94612**

**Subject: Comments April 201 Cal/EPA California Communities Environmental Health Screening Tool Version 2.0 (CalEnviroScreen)**

Dear Chief Faust,

The undersigned organizations respectfully submit the following comments on the April 2014 Cal/EPA and OEHHA draft California Communities Environmental Health Screening Tool Version 2.0 (CalEnviroScreen). Many of the undersigned organizations have participated with Cal/EPA and OEHHA over the years as CalEnviroScreen has been developed. Additionally they have participated in workshops and meetings on the tool, and also submitted comments in September 2010, October 2012 and again in February 2013. Throughout the process, these business and industry organizations have expressed concern with the lack of scientific rigor of CalEnviroScreen in its fundamental aim to derive a scientifically-sound value that would clearly distinguish levels of cumulative impact for each community. While the 2014 draft has improved by using census tracts which are a more accurate reflection of true receptors; rather than the arbitrary use of zip codes, we still continue to believe the tool lacks scientific rigor in a number of ways that may muddle the outcome, and is likely to lead to results that will be ripe for misuse and open to judicial challenge.

Although the tool includes revisions to several of the weighting and scoring methods of the indicators, and includes the addition of new indicators composed of drinking water and unemployment, we continue to believe the methodology and assumptions used to evaluate cumulative impact to communities is still inappropriate and continues to muddy the distinction between health outcomes driven by socio-economic status and those caused by chemical pollution exposure. We continue to have concerns with the following:

- The multiplicative methodology that multiplies the population characteristics with the potential pollution burden dilutes and confuses the impact of pollution versus socio-economic status of communities.
- Using percentile scores for indicators, rather than normalized actual values, leads to the perverse outcomes of the tool, and warps the relative importance of certain indicators.
- Up to triple counting of certain indicators – for example particulate matter and diesel particulate matter are also included by the use of PM2.5, traffic counts, and DPM in the indicator data. We also believe that there is double or triple counting in the population socio-economic indicator data– low birth weight, asthma emergency room visits, linguistic isolation, and educational attainment are all directly tied to poverty, yet each is its own factor. This triple counting is further exacerbated by the multiplicative methodology described above.

In addition to the above concerns, we suggest OEHHA should base the drinking water indicator on Maximum Contaminant Levels (MCLs) rather than Public Health Goals, because MCLs are more consistent within regulatory permitting programs. We remain concerned with the lack of scientific rigor still present in the tool. It is therefore imperative that

CalEnviroScreen not be used for CEQA, permitting, regulatory or land use planning decisions. CEQA, permitting and regulatory actions must necessarily be site specific actions that CalEnviroScreen as a screening tool is not equipped to address. In addition, as Cal/EPA has acknowledged, the CEQA definition of "cumulative impact" and the definition used in developing CalEnviroScreen are very different. Yet Cal/EPA's guidance remains ambiguous and confusing on the potential applications of the tool. For these and other reasons, Cal/EPA must clearly explain that the CalEnviroScreen cannot be used for any part of the CEQA, permitting, regulatory processes, or land use at the state, regional or local level. Otherwise, Cal/EPA will create the perverse incentive to essentially "redline" communities – discouraging investment in the low socio-economic status communities that the tool is intended to help.

Further we encourage Cal/EPA to delete the multiplicative approach and simplify the methodology to keep the pollution burden separate from the socio-economic factors. Such an approach will better describe the impacts in a community and also give a better picture of what policies will help a community the most. OEHHA presents 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 census tract using statewide databases that show the existence of highly regulated activities and entities. Mere existence of a solid waste facility, or chemical use at a facility or pesticide use on a farm does not equate to exposure. CalEnviroScreen 2.0 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 maps incorrectly portray that the adverse health conditions in a community are a result of direct exposure from pollution.

The word "exposure" is used 141 times in 134 pages. The words "potential exposure" or "potential human exposure" is used 4 times. If the state's intention is not to equate the results of this screening tool as direct exposure then this should 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 and legal debates that will occur with this tool.

A longstanding concern of industry is the potential misuse of this tool. Ironically, the cautions contained in the introductory letter within the CalEnviroScreen 2.0 draft foresee the general issue. While it may be appropriate for state incentive programs, other programs aiming to target State resources, or grant funding to aid disadvantaged communities, utilization of this tool and its integrated scoring system for other purposes raises concern. While in the introductory comments note the inappropriate use of this tool with respect to CEQA, there needs to be more specifics on what the tool can and cannot be used for. Over the past year, there has been Legislation which has targeted industries located in the most disadvantaged communities as well as campaigns to stop projects by identifying disadvantaged communities through the CalEnviroScreen. This continues to be a fundamental concern of industry and could result in the inappropriate use by parties to bring legal challenges on projects.

The potential for this tool to be misapplied by regulatory agencies or in civil litigation relating to compliance with environmental statutes is further compromised by the underlying technical questions described above. We are concerned the misuse of the tool will undermine the intended effect of supporting and invigorating the impacted communities, by creating a disincentive for industry to locate or expand in those areas and, thereby, undermining their economic viability rather than strengthening it.

Thank you for considering our comments.

Sincerely,

California Chamber of Commerce  
Agricultural Council of California  
American Chemistry Council  
American Council of Engineering Companies – California  
American Forest & Paper Association  
California Building Industry Association  
California Business Properties Association  
California Construction and Industrial Materials Association  
California Cotton Ginners Association

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California Cotton Growers Association  
California Farm Bureau Federation  
Chemical Industry Council of California  
California League of Food Processors  
California Manufacturers & Technology Association  
California Trucking Association  
Consumer Specialty Products Association  
Kern County Taxpayers Association  
Los Angeles Area Chamber of Commerce  
Los Angeles County Business Federation  
NAIOP SoCal - Commercial Real Estate Development Association  
Orange County Business Council  
Western Agricultural Processors Association  
Western Growers Association  
Western Plant Health Association  
Western States Petroleum Association