



SOUTHERN CALIFORNIA



ASSOCIATION of GOVERNMENTS



February 1, 2013

Mr. Arsenio Mataka
Assistant Secretary for Environmental Justice and Tribal Affairs
California Environmental Protection Agency (Cal/EPA)
1001 I Street
P.O. Box 2815
Sacramento, CA 95812-2815

Mr. John Faust
Chief, Community Health Hazard Assessment
1515 Clay Street, Suite 1600
Oakland, CA 94612

SUBJECT: LOCAL GOVERNMENT COMMENTS ON THE SECOND PUBLIC REVIEW DRAFT OF CALENVIROSCREEN

Dear Mr. Mataka:

On behalf of the local government organizations represented at the December 12th meeting in Los Angeles, we want to provide these comments on the Second Public Review Draft of CalEnviroScreen. We also would like to extend our appreciation for the time you and the staff

working on the CalEnviroScreen Tool took to explain the proposed tool and hear our concerns. As you can derive from the over 80 officials in attendance, there is considerable interest in what Cal/EPA will use the proposed tool for and how it may positively or negatively impact our communities. We also want to thank you for taking the time to meet with the small contingency of local government representatives on January 7th and January 23rd as follow-up to the December 12th meeting. Your openness to our suggestions for clarifying the intended use of the tool is truly appreciated.

As you know, local governments are attempting to comply with further mandates with more limited resources, and it is appropriate that our organizations should have significant influence in matters that will impact local decision making authority. To that end, you heard from various officials about how the misuse or misapplication of the proposed tool could create additional burdens, including impeding the ability of local governments to promote job growth, discouraging redevelopment of blighted areas, and reducing in-fill housing opportunities. The local government representatives at the January 7th meeting reiterated these concerns.

We were encouraged with your statement at the Los Angeles meeting that:

“The output that this tool generates is not properly placed in CEQA. The definition of cumulative impacts for CEQA does not match our definition that the tool was sort of based upon. So therefore, we think it would be inappropriate to use the output of this tool to try to screen for significant impacts or, even a step further, even do some analysis on significant impacts.”

However, we want to emphasize some key points related to CEQA and the concerns of local governments. First, it must be noted that CEQA and the CEQA Guidelines contain no provisions requiring special treatment of environmental justice communities and do not treat socioeconomic factors as environmental impacts. If a proposed project is located on the border between two adjacent communities and would result in the same project-specific and cumulative impacts on both communities, nothing in CEQA provides authority for the lead agency to bias its analysis of impacts or selection of alternatives and mitigation measures based on the socioeconomic characteristics of the communities. Indeed, it would be a violation of CEQA to disregard a significant environmental impact, or fail to consider feasible alternatives or mitigation measures, because the affected community is not an environmental justice community.

Second, the datasets used by the tool were selected based on availability of comprehensive information on the chosen indicators throughout the state, rather than a science-based determination that these indicators, and not others, are the sole or predominant determinants of environmental health of communities. There are many factors that have an effect on the health of a community, including lifestyle and personal environment. Accordingly, the scores do not provide a scientifically supportable assessment of environmental health burdens experienced by residents of a zip code due to technical flaws (i.e. multiple counting of non-independent factors) and the

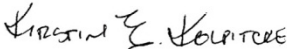
disproportionate influence of socioeconomic factors. In short, the score for any individual zip code, by itself, does not have any clear meaning in that regard.

Lastly, the inappropriate use of CalEnviroScreen scores, whether within CEQA or in other local government circumstances, would tend to over-estimate environmental impacts in areas with high scores, with unintended consequences. The most direct consequence could be actual or de facto “red-lining” of the high-scoring zip codes. Actual red-lining could occur in some locations, if municipal and county governments come under political pressure to amend general plans, zoning ordinances, and/or land use policies to exclude from the high-scoring areas any new projects, or categories of projects. Zoning and land use requirements could also be amended to preclude utilization of CEQA exemptions for projects that otherwise would be exempt, but are located in high-scoring zip codes.

De facto red-lining is likely to be more widespread in high-scoring areas, where obtaining permits or other approvals becomes more difficult, costly, and time-consuming. This could easily occur through Cal/EPA not providing clear and substantial guidance on why CalEnviroScreen is NOT appropriate and scientifically robust enough for use under CEQA or within other local planning processes. If Cal/EPA adopts the proposed tool and provides the endorsement of the agency for other uses at the local level, it will create a bias towards such uses even when the underlying data is not sufficient for the purpose.

Given these concerns, the organizations represented request that you combine the Draft Guidance and the Screening Tool’s Preface and Introduction as drafted in the attached streamlined tool and comments from local government to: specifically state for what purposes the tool will be used, remove references to use of the tool by local governments, specify that the tool should not be used for purposes of CEQA and, if possible, replace the term cumulative impact with another term. We also request that Cal/EPA and OEHHA consider a more specific and targeted formula for the tool so that entire jurisdictions or broad areas of cities and counties are not subject to perceived red-lining. Lastly, we urge you to provide the opportunity for local government representatives to obtain a review draft of the proposed changes to the Draft Guidance and the proposed tool, any suggested uses for the tool and the language around CEQA before further versions are released, or any additional implementation or approval of this proposed tool occurs. Local governments have a disproportionate stake in this effort and should be a full partner in helping to craft the design of the tool and any guidance in its use. We look forward to continuing to work with you on the proposed CalEnviroScreen Tool. Thank you again for your time and availability in meeting with our organizations and the members we serve.

Sincerely,

 Virginia E. Kolpitzke

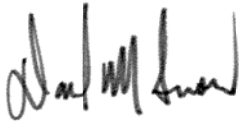
Kirstin Kolpitcke, Legislative Representative
League of California Cities



Karen Keene, Senior Legislative Representative
California State Association of Counties



Mary Pitto, Regulatory Affairs Advocate
Regional Council of Rural Counties



David Snow, AICP, Vice President
Policy and Legislation
American Planning Association, California Chapter



Glen Becerra, President
Southern California Association of Governments



Steven Diels, Council Member, City of Redondo Beach; President
Los Angeles Division of the League of California Cities



Lisa Bartlett, Mayor Pro Tem, City of Dana Point; President
Association of California Cities – Orange County



Sam Olivito, Executive Director
California Contract Cities Association



Kyle Packham, Advocacy & Public Affairs Director

California Special Districts Association

cc: Miriam Ingenito, Deputy Secretary, Cal EPA
George Alexeeff, Director, OEHHA

**LOCAL GOVERNMENT RECOMMENDATION FOR COMBINING THE
CalEnviroScreen GUIDANCE DOCUMENT AND TOOL DOCUMENT**

February 1, 2013 - FINAL

BLACK: FROM THE SECOND REVIEW DRAFT CalEnviroScreen

BLUE: FROM GUIDANCE DOCUMENT

PREFACE

~~The California Environmental Protection Agency (Cal/EPA) recognizes that many Californians live among multiple sources of pollution and that some people and communities are more vulnerable to the effects of pollution than others. It is important to identify disadvantaged communities that face multiple pollution burdens so programs and funding can be targeted appropriately toward raising the economic and environmental status of the most affected communities. For this reason, Cal/EPA's Office of Environmental Health Hazard Assessment (OEHHA) developed a science-based tool for evaluating multiple pollutants and stressors in communities, the California Communities Environmental Health Screening Tool (CalEnviroScreen). This document describes CalEnviroScreen.~~

In October 2004, the California Environmental Protection Agency (Cal/EPA) adopted its Environmental Justice Action Plan as part of its compliance with Public Resources Code Section 71110 which requires the Agency to, among other things, "conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races cultures, and income levels, including minority populations and low-income populations of the state;" and "improve research and data collection for programs within the agency relating to the health of, and environment of, people of all races, cultures, and income levels, including minority populations and low-income populations of the state." For purposes of this work, "environmental justice" means "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations and policies."

The Environmental Justice Plan provides opportunities for Cal/EPA and its Boards, Directors, and Offices (BDOs) to take the initial steps toward addressing complex environmental justice issues and calls for Cal/EPA to develop guidance to analyze the impacts of multiple pollution sources in California communities. The Plan includes several action steps. Section 2.2 is "Develop Guidance on Cumulative Impacts."3 Section 3.2 explains that Section 2.2 will be carried out by the Office of Environmental Health and Hazard Assessment (OEHHA).

This document describes the California Communities Environmental Health Screening Tool, or CalEnviroScreen. This tool was developed by Cal/EPAs OEHHA as a data-based tool for the state to use in prioritizing communities using specified multiple pollutants and stressors in communities and is the next step in the implementation of the Agency's 2004 Environmental Justice Action Plan. *(Note: Taken from various sections of Second Review Draft.)*

PURPOSE AND USE OF CalEnviroScreen

The CalEnviroScreen tool will be used, pursuant to the EJ Action Plan, to help the Agency comply with statutory mandates to conduct its activities in a manner that ensures the fair treatment of all Californians, including minority and low-income populations. CalEnviroScreen ~~provides a broad environmental snapshot of a given region and~~ shows which zip codes ~~portions~~ of the state may have higher vulnerabilities and burdens as compared to other areas, and therefore are most in need of assistance. In a time of limited resources, this tool will provide significant insight into how state decision makers can focus and prioritize available time, resources, and programs to improve the environmental health of Californians, particularly those ~~most burdened by pollution.~~ **portions of the state that are in greater need of assistance because they may have higher environmental burdens and greater vulnerability to, or reduced ability to withstand, these burdens as compared to other areas.**

~~Potential uses of the tool at the state level include:~~

Specifically, the tool is designed to be used by the state to:

1. Assist Cal/EPA in complying with SB 535 (DeLeon), Chapter 830, Statutes of 2012), which requires the Agency to identify disadvantaged communities, in accordance with factors identified by the bill, in California for purposes of allocating revenue to those communities from the Greenhouse Gas Reduction Fund.
2. Administer the administering **Agency's Environmental Justice Small Grant Program, and may guide other grant programs as well as and environmental educational and community programs throughout the state.**
3. ~~Promoting greater compliance with environmental laws.~~ Assist **Agency boards or departments when they are budgeting to prioritize and budget for scarce resources for cleanup and abatement projects.**
4. ~~prioritizing site cleanup activities.~~ **Guide boards or departments in the Agency when planning their community engagement and outreach efforts.**
5. ~~Identify identifying~~ opportunities for sustainable economic development in heavily impacted neighborhoods.

~~Other government entities and interested parties may identify other uses of this tool and the information it provides. However, the screening tool is not intended to create a legal obligation to conduct additional detailed cumulative analyses for the staff reports written for individual rulemaking.~~

(Note: Taken from various sections of Second Review Draft except as underlined.)

As stated, the CalEPA Action Plan adopted definitions specifically for the purposes of the Environmental Justice Plan. It is important to note the limitations of this version of CalEnviroScreen. The tool only provides ~~only~~ a relative ranking of communities by consolidating a selected group of available datasets influenced by socioeconomic factors into a simplified summary score by zip code., ~~and as~~ As such the tool's output reflects a blend of socioeconomic and environmental information, so is not applicable to CEQA analysis. ~~is neither a science-based risk assessment, or site-specific cumulative impacts assessment.~~ Accordingly, the tool is not a substitute for ~~intended to be and may and should not~~ be used ~~as~~ for a focused risk assessment for a specific area or site, or as the basis for any regulatory, permitting or land use decisions or studies (including but not limited to ~~the cumulative impacts analysis required under the California Environmental Quality Act (CEQA).~~)."

In addition, the CalEPA Action Plan Pilot Project adopted a definition of "cumulative impacts" for the purpose of the Environmental Justice Plan on February 16, 2005. It should be noted that this definition is different from, and bears no relationship or relevancy to, the definition of "cumulative impacts" under CEQA. (This is footnote 3 from the first draft CalEnviroScreen.)

HOW IT WORKS

The CalEnviroScreen uses existing environmental, health, demographic, and socioeconomic data to create a screening score for communities across the state. Specific indicators are described, data representing the indicators for the different areas of the state were obtained and analyzed and are presented here as statewide maps. All the indicators for a locale are then combined to score communities. ***(NOTE: Taken from other portions of the Second Draft.)*** An area with a high score may ~~would~~ be expected to experience greater pollution-related impacts (because of pollution burden combined with vulnerability), as compared to areas with low scores.

However, the tool presents a broad picture of the burdens and vulnerabilities different areas may face from environmental pollutants. It is not ~~intended to be~~ 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.~~

HOW THE TOOL WAS DEVELOPED

Transparency and public input into government decision-making and policy development are the cornerstones of environmental justice. In that spirit, the framework for the CalEnviroScreen was developed with the assistance of the Cumulative Impacts and Precautionary Approaches (CIPA) Work Group, consisting of representatives of business and non-governmental organizations, academia and government. The CIPA Work Group ~~will also review this report and provide~~ reviewed the report and provided critical feedback and input that will continue to guide the development of this living document and tool. While there was not consensus among the Work Group, we appreciate the considerable time and effort that the Work Group has devoted to this project since 2008, and ~~we~~ look forward to continuing our productive dialogue with the Work group and all interested parties as we look to further revise the tool.

In addition to the contribution made by the CIPA Work Group, Cal/EPA received input on a previous draft of this document at a series of regional and stakeholder-specific public workshops as well as a day-long academic workshop. (Additional information on these workshops as well as the CIPA Work Group meetings and the development of the tool are available at www.oehha.ca.gov/ej/index.html.) Input from California communities, businesses, local government, California tribes, community-based organizations, and other stakeholders as well as academia was critical in the development of this project and is reflected in changes in the current document. Changes include:

- **The public health effect component was removed. Two proposed health indicators from this group, asthma emergency department visits and rate of low birth weight infants, were incorporated into the sensitive population component;**
- **Indicators from the exposure and environmental effects components are now evaluated together as Pollution Burden, while population sensitivity and socioeconomic factors are evaluated together as Population Characteristics;**
- **A diesel particulate matter concentration indicator and a linguistic isolation indicator were added;**

- **The pesticide use indicator was modified by removing data that were only available at the county level;**
- **Solid waste facilities and hazardous waste facilities were updated to reflect changes to the tool's weighting scheme.**

THE TOOL IS A LIVING DOCUMENT

Cal/EPA remains committed to an open and public process as future revisions to the tool are considered. To that end, we additionally ~~We expect to finalize a version of the CalEnviroScreen in the near future. As that same time,~~ we acknowledge that work in this field continues and refinements of the CalEnviroScreen tool will also be needed. Thus, over the next several years we plan to continually update the tool and consider improvement of ~~improvements~~ the indicators used, the geographic scale, the methodology employed, and the accessibility of the tool to the public.

INTRODUCTION

~~Californians are burdened by environmental problems and sources of pollution in ways that vary across the state. Some Californians are more vulnerable to the effects of pollution than others.~~

This document describes a data-science-based method for identifying ~~evaluating~~ multiple pollution sources in a community, while accounting for a community's vulnerability to environmental factors ~~pollution's adverse effects~~. Factors that may contribute to a community's pollution burden or vulnerability are often referred to as stressors. The CalEnviroScreen method can be used by the state to provide a relative ranking of ~~identify~~ California's most burdened and vulnerable communities based upon the stressors utilized in the development of the tool. This can help inform state decisions at Cal/EPA's boards and departments by prioritizing ~~identifying~~ places that may most benefit from state investment ~~most in need of assistance.~~ This document is a follow-up to Cal/EPA's and OEHHA's 2010 report, *Cumulative Impacts: Building a Scientific Foundation*.

Purpose of the Statewide Evaluation

A statewide analysis was ~~is being~~ conducted:

- To demonstrate the application of a practical ~~and scientifically justified~~ methodology for evaluating ranking communities based upon specific, multiple pollution sources and stressors that takes into account a community's potential vulnerability to pollution.

- To provide a baseline assessment and methodology, which can be expanded upon, ~~and updated~~ and improved periodically as important additional information becomes available.
- To rank ~~identify~~ communities in California according to ~~most burdened by~~ pollution from specific multiple sources and those that may be most vulnerable to its effects, taking to account their socioeconomic characteristics and underlying health status.
- To provide as final output a *relative*, rather than absolute, ranking ~~measure of the impact~~ combination of the specific factors considered.

Community impact assessment from multiple sources and stressors is a complex problem that is difficult to approach with traditional risk assessment practices. Chemical-by-chemical, source-by-source, route-by-route risk assessment approaches are not best suited to the assessment of community-scale impacts, especially for identifying the most impacted places across all of California. Also, while traditional risk assessment may account for the heightened sensitivities of some groups, such as children and the elderly, it has not considered other community characteristics that may also ~~have been shown to~~ affect vulnerability to pollution, such as socioeconomic factors or underlying health status.

Given the limits of traditional risk assessment, OEHHA developed a workable approach to conduct a statewide ranking evaluation of community impacts. The method emerges from basic risk assessment concepts and is sufficiently expansive to incorporate the multiple factors that may reflect community impacts that have not been included in traditional risk assessments. The tool presents a broad picture of the burdens and vulnerabilities different areas potentially face from environmental pollutants. It is not ~~intended to be~~ 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 CEQA, is substantially different than the working definition of "cumulative impacts" adopted by Cal/EPA and used to guide the development of this tool. Therefore, the scores 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.~~

This report provides an overall description of the methodological approach used in CalEnviroScreen. It also describes the criteria for the selections of scale of analysis and the selection of indicators. Specific indicators are described, data representing the indicators for the different areas of the state were obtained and analyzed and are presented here as statewide maps. All the indicators for a locale are then combined to score communities. The report concludes by providing scores for the different areas of the state, presented in maps, as well as highlighting communities scoring in the top 5, 10 and 15 percent.

