



California Council for Environmental and Economic Balance

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September 16, 2013

Alexander Mitchell
Air Pollution Specialist, ARB
1001 "I" Street
Sacramento, CA 95814

Jim Aguila, Manager
Substance Evaluation Section
1001 "I" Street
Sacramento, CA 95814

RE: Alternative Diesel Fuels (ADF) Rulemaking, Proposed Regulation

Dear Mr. Mitchell and Mr. Aguila,

On behalf of the members of the California Council for Environmental and Economic Balance (CCEEB), we wish to offer our comments on the ADF proposed regulation. CCEEB is a coalition of business, labor, and public leaders that works together to advance strategies to achieve a sound economy and a healthy environment. Founded in 1973, CCEEB is a non-profit and non-partisan organization.

Unfortunately, CCEEB must express surprise and grave concern about the misuse of CalEnviroScreen in the proposed regulation. It appears on page nine among a list of items that must be submitted as part of any Stage 1 application package, and then more explicitly on page ten under the subheading "(3) Public Comment and Final Action on Stage 1 Application":

"(C) The Executive Officer shall disapprove a proposed pilot program if he/she determines the use of the ADF, under the terms and conditions of the pilot program as proposed, **poses an unacceptable risk to the community** in which the pilot program is proposed to be conducted, or its risks substantially outweigh the putative benefits of using the ADF.

"(D) **In determining whether a risk is unreasonable**, the Executive Officer shall include, but not be limited to, consideration of whether the community(ies) involved in the proposed pilot program is within the top 10 percent of State zip codes that are deemed as "disproportionately burdened communities" using the California Communities Environmental Health Screening Tool, Version 1 (CalEnviroScreen 1.0)." [Emphasis added]

This exact language and process is then repeated on page thirteen in relation to “(3) Public Comment and Final Action on a Stage 2 Application.”

CCEEB believes this is an unacceptable use of a *screening* tool, and CalEnviroScreen in particular, since screening tools are not risk assessment and are not appropriate for application in rulemaking or evaluating impacts at the project-level. Cal/EPA and the Office of Health Hazard Assessment (OEHHA) have made these limitations clear in all documentation of CalEnviroScreen:¹

“CalEnviroScreen was developed for Cal/EPA and its boards, departments, and office. Its publication does not create any new programs, regulatory requirements or legal obligations.”

“[A]s a comparative screening tool, the results do not provide a basis for determining when differences between scores are significant in relation to public health or the environment. Accordingly, the tool is not intended to be used as a health or ecological risk assessment for a specific area or site.”

“Moreover, CalEnviroScreen assesses environmental factors and effects on a regional or community-wide basis and cannot be used in lieu of performing an analysis of the potentially significant impacts of any specific project.”

“[T]he tool’s output should not be used as a focused risk assessment of a given community or site. It cannot predict or quantify specific health risks or effects associated with cumulative exposures identified for a given community or individual.”

In a report describing a previous version of CalEnviroScreen, OEHHA further discussed the limitations of its model: “This screening methodology is not designed to serve as a quantitative assessment of community health impacts, **nor is it intended to support ‘redlining’ of communities.**”² CCEEB believes this last point is of particular significance. As currently written, the ADF rule proposal applies CalEnviroScreen results in such a manner as to effectively redline communities and block project development in 177 ZIP codes across California. This would affect large portions of Los Angeles County, Riverside County, and most of the Central Valley along Highway 99. Setting aside scientific and legal concerns with such precedence, the practical effect would be to render many vehicle fleets ineligible for the program. This is because CalEnviroScreen is a coarse, statewide screening tool and does not have the granularity needed for regulatory rulemaking or project-level analysis, i.e., ZIP code level analysis is too large a lens to support regulatory decision-making.

We further note that, while the rule allows the Executive Officer to consider information other than CalEnviroScreen, the screening tool is the only analysis or data described for determining whether a risk is unreasonable. Again, we must stress that CalEnviroScreen should not be used *at all* for risk

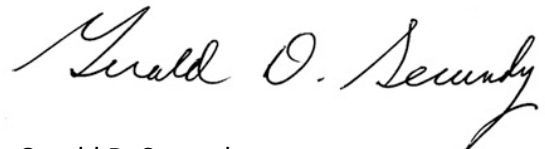
¹ Cal/EPA and OEHHA report, *California Communities Environmental Health Screening Tool, Version 1*, April 2013. Pages iii and iv.

² Cal/EPA and OEHHA report, *Cumulative Impacts: Building a Scientific Foundation*, December 2010. Page ix.

assessment, whether alone or in conjunction with other evaluations. As such, we respectfully ask ARB staff to strike all reference to CalEnviroScreen in the proposed rulemaking.

Thank you for the opportunity to comment. Should you have further questions, please contact CCEEB staff Janet Whittick at (415) 512-7890 ext. 111 or janetw@cceb.org.

Sincerely,

A handwritten signature in black ink that reads "Gerald D. Secundy". The signature is written in a cursive style with a large initial 'G' and a long, sweeping tail on the 'y'.

Gerald D. Secundy
CCEEB President

cc: Secretary Matthew Rodriguez, Cal/EPA
Director George Alexeef, OEHHA
Assistant Secretary Arsenio Mataka, Cal/EPA
Dr. John Faust, OEHHA