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Comments on Preliminary Draft CEQA Guideline Amendments for Greenhouse Gas Emissions

The California Department of Transportation (Department) first wishes to recognize all the hard work and careful thought that is clearly evident in the Governor's Office of Planning and Research (OPR) Preliminary Draft CEQA Guideline Amendments for Greenhouse Gas Emissions dated January 8, 2009 (Draft Amendments). We want to thank OPR for the opportunity to provide comments at this early stage and we look forward to our continued involvement with OPR, the California Air Resources Board (CARB), and the Natural Resources Agency as the Draft Amendments proceed through the formal rulemaking process.

General Comments:

We commend OPR on its "less-is-more approach" to the Draft Amendments. In particular, we appreciate the recognition that the principles of CEQA do not need to be changed in order to effectively deal with greenhouse gas (GHG) emissions. The Draft Amendments provide a solid foundation for analysis while clearly maintaining the discretion of the lead agency to determine the appropriate method of impact analysis, the significance of impacts and the appropriateness of mitigation measures. We also appreciate that OPR has approached the Draft Amendments by incorporating the changes into the body of the CEQA Guidelines; doing so does strengthen the point that GHG should be incorporated throughout the CEQA process and should be something more than an afterthought.

Section-by-Section Comments

15064. Determining the Significance of Environmental Effects Caused by a Project

Comment: In subsection 15064(h)(3), we would like to see the addition of "statewide transportation plan."

15064.4. Determining the Significance of Impacts from Greenhouse Gas Emissions

Comment: The Department again appreciates the flexibility that is given in this section. The factors that a lead agency should consider are concise and well articulated. While the Department has been doing quantitative assessments for many projects, we appreciate the ability to rely on other methodologies, including qualitative analysis, when the project and its setting warrant such an approach. We also believe the use of the 2020 targets in subsection (a)(1) is more appropriate than the 2050 targets given the many uncertainties we currently face and OPR's stated intent to revisit the GHG provisions in the CEQA Guidelines as climate change science and policy change over time.

15093. Statement of Overriding Considerations

Comment: While we support the addition of subsection (d), we would like to state that we believe subsection (a) does already provide the means to consider regional and statewide benefits. Perhaps the content of subsection (d) could be incorporated into subsection (a) as clarification.

15125. Environmental Setting

Comment: We encourage OPR to maintain consistency between the plans listed in subsection (d) of this section and section 15064(h)(3) as well as section 15130(b)(1)(A) and 15130(d). Again, we would like to see "statewide transportation plan" in the text of this section.

15126.4. Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects.

Comment: We believe this section strikes an appropriate balance and the specific inclusion of purchasing carbon offsets provides us with another valuable means of protecting the environment while meeting other important public goals.

15130. Discussion of Cumulative Impacts

Comment: The Department would like to see recognition of the potential for a statewide inventory approach to cumulative impacts. Subsection (b)(1)(B) discusses projections based on local or regional plans; however, it does not discuss the potential to use statewide projections. It is widely recognized that climate change is a global issue; as such, provisions should be made available to deal with climate change on a statewide scale at the very least. Specifically, as was raised by one commenter at the January 26, 2009 workshop in Sacramento, it would be difficult, if not impossible, for lead agencies to track GHG emissions for past, present and future projects given the state of the science and the nature of GHG emissions. We would like to suggest that lead agencies could make use of statewide GHG projections contained in state level documents, such as CARB's Scoping Plan or the Energy Commission's GHG inventory.

15152. Tiering

Comment: Subsection (h)(7), again the Department would like to see the recognition that tiering could be done off of a statewide plan that adequately addresses GHG emissions.

Appendix G Environmental Checklist Form

Comment: We hope that the preamble language on the checklist form becomes a permanent part of the form. We feel this language provides useful clarification regarding the intent and use of the checklist. We particularly wish to express our support of the statement regarding the fact that the questions “do not necessarily represent threshold of significance.”

To be consistent with the wording of other questions on the checklist, we suggest that for Section VII (a) the following text be deleted: “that may have a significant impact on the environment, based on any applicable threshold of significance.”

XVI. Transportation/Traffic. While we are aware that OPR has received many favorable comments with respect to the switch from level of service to vehicle miles traveled, we would like to express two concerns with the proposed change. First, it is our belief that while VMT is an important factor to consider when analyzing GHG, its use as *the* indicator for transportation-related GHG emissions is limited. The core of the analyses should remain whether GHG emissions increase or decrease with the project; we believe that congestion relief and decreases in vehicle hours delayed, as well as the fuels and the vehicles used are equally as important in the GHG analysis. The inclusion of question (a) is appropriate as one factor, but as a stand-alone question, we believe that it does not capture many of the important aspects of transportation performance and climate change. That said, we will continue to work actively with statewide, regional and local governments to better link transportation and land-use while addressing mobility or accessibility.

Second, we feel believe the checklist still needs a question which captures the performance of the transportation system. There are multiple important facility performance measures; however, there is only one quality-of-service stratification scheme in the Transportation Research Board Highway Capacity Manual (HCM), and that is level of service (LOS). The Highway Capacity Manual is considered the 'national directive' that we refer to for improvements or to define impacts to federal facilities; LOS is the primary unit to describe thresholds of change. We anticipate that a new HCM will be published in 2010; the new HCM will be substantially revised to address multi-modal evaluations, using modal specific LOS performance measures. Accordingly, we suggest the following question be added to the checklist:

Will either the regional or site-specific multi-modal performance of the highway and/or street transportation facilities, in terms of structural, operational, or perception-based measures of effectiveness, be affected?

We would also like to suggest the revisions of questions (c) and (d) to read:

Substantially decrease safety due to a design feature (e.g. sharp curves, additional and/or inadequate intersections) or incompatible uses (e.g farm equipment)?

Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks to vehicles, bicycles, or pedestrians?

Lastly, we would like to offer these additional questions for purposes of better addressing alternative modes of transportation:

In the Recreation section of the checklist:

Would the project reduce, sever, or eliminate recreational or multi-use trails, bike paths or equestrian trails?

In the Transportation/Traffic section of the checklist:

Reduce, sever, or eliminate pedestrian or bicycle circulation or access, or preclude future planned and approved bicycle or pedestrian circulation?

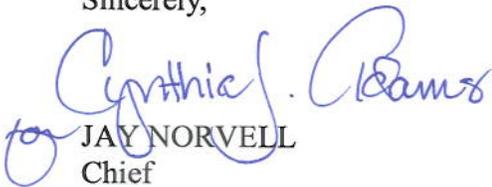
Conflict with adopted policies, plans, or programs supporting or expanding public transit or non-motorized transportation?

Cause a degradation of the performance or availability of light or heavy rail for people or goods movement?

XVIII. Mandatory Findings of Significance. We would like to see subsection (a) changed to be consistent with Section 15065(a)(1). Specifically, we recommend that the word "substantially" be added in front of "reduce the number or restrict the range of a rare or endangered plant or animal."

Again, the Department appreciates the opportunity to comment on the preliminary Draft Amendments. If the Department can be of any further assistance or provide any additional information please do not hesitate to contact Kelly Dunlap, Chief, Environmental Management Office, at (916) 651-8164.

Sincerely,



JAY NORVELL
Chief

Division of Environmental Analysis