

Ms. Terry Roberts
State Clearinghouse Director and CEQA-GHG Project Manager
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BY E-MAIL: CEQA.GHG@opr.ca.gov

Feb. 2, 2009

RE: SMAQMD comments on Preliminary Draft CEQA Guideline Amendments for Greenhouse Gas Emissions

Dear Ms. Roberts,

The Sacramento Metropolitan Air Quality Management District is one of 35 local air districts in the state of California. The District has a very active Land Use and Transportation section and works closely with the 7 cities and the County of Sacramento on their land use projects, helping them to identify and mitigate air quality impacts. As a CEQA "commenting" agency, we comment on hundreds of land use projects each year and increasingly, have worked with local lead agencies on their analyses of climate change in CEQA documents. We have closely followed the development of OPR's Preliminary Draft CEQA Guideline Amendments for Greenhouse Gas Emissions and appreciate the opportunity to comment. We offer the following comments on the draft document:

I. Section 15064.4- Determining the Significance of Impacts from Greenhouse Gas Emissions

In the absence of a state-adopted or recommended threshold of significance for greenhouse gas (GHG) emissions, we have seen numerous local agencies struggle with a determination of significance. Their analyses vary greatly according to wishes of the lead agency. While one lead agency may readily come to a determination of "cumulatively considerable" for the GHG impact of a given project and require appropriate mitigation, another agency may doggedly insist on calling all such determinations "speculative" and abdicate responsibility for requiring any mitigation for a similar project. Because local lead agencies have discretion to create their own thresholds, these CEQA Guidelines will be very important to creating some consistency in approach and for leading local agencies to appropriate conclusions.

The District believes GHG Thresholds of Significance need to be grounded in defensible principles; something which “substantial evidence” could support. We would like to see the Guidelines insist on this defensibility. Greenhouse gasses have a global, cumulative, environmental impact on climate change and admittedly, it’s difficult to assess an individual project’s impact on that global impact. However, with AB32, the state of California has a specific, mandated goal which is now the law - the achievement of 1990 GHG emission levels by 2020. Therefore, **we applaud your inclusion of reference to AB 32 in section 15064.4(1) and certainly hope it stays in the final version of the document:**

(a) A lead agency should consider the following, where applicable, in assessing the significance of impacts from greenhouse gas emissions, if any on the environment:

(1) The extent to which the project could help or hinder attainment of the state’s goals of reducing greenhouse gas emissions to 1990 levels by the year 2020 as stated in the Global Warming Solutions Act of 2006. A project may be considered to help attainment of the state’s goals by being consistent with an adopted statewide 2020 greenhouse gas emissions limit or the plans, programs, and regulations adopted to implement the Global Warming Solutions Act of 2006:

We have some concerns about the next part of the section, however. We believe the section is somewhat confusing and its relationship to AB32 is unclear. It seems to be talking about how to conduct a GHG inventory and then it mentions two other types of thresholds- qualitative and performance-based.

Section 15064.4 goes on to say:

(b) A lead agency should make a good-faith effort, based on available information, to describe, calculate or estimate the amount of greenhouse gas emissions associated with a project, including emissions associated with energy consumption and vehicular traffic. Because the methodologies for performing this assessment are anticipated to evolve over time, a lead agency shall have discretion to determine, in the context of a particular project, whether to: ...

(1) Use a model...

(2) Rely on qualitative or other performance based standards for estimating the significance of greenhouse gas emissions.

The section states it’s acceptable to have qualitative or other performance-based standards. **We suggest there be a statement that these types of standards again need to be tied to the goals of AB32 and have “substantial evidence” to show that they would help attain the state’s goals of being consistent with an adopted statewide 2020 greenhouse gas limit.** Without this clear requirement, lead agencies or other agencies could adopt qualitative standards or performance standards that perhaps would grossly undershoot the level of reduction necessary for the state to achieve their goal. We believe section 15064.4b2 should, at minimum, be rewritten as:

(2) Rely on qualitative or other performance-based standards for estimating the significance of greenhouse gas emissions. These standards would be based on “substantial evidence” that they are consistent with actions necessary for

attainment of the state's goals of reducing greenhouse gas emissions to 1990 levels by the year 2020 as stated in the Global Warming Solutions Act of 2006.

II Section 15064.7- Thresholds of Significance

This section states each public agency is encouraged to develop thresholds of significance. The part that was added to this section states:

(c) When adopting thresholds of significance, a lead agency may consider thresholds of significance adopted by other public agencies and recommendations of others, provided such thresholds or recommendations are supported by substantial evidence, including expert opinion based on facts.

To the extent that the thresholds adopted by a lead agency represent performance standards which have been calibrated to be effective in that particular geography, these thresholds may not be appropriate for adoption by a different lead agency. For example, if the City of Truckee were to adopt a performance standard for energy efficiency, that same standard may not be as effective for the City of Santa Monica. Triple-paned windows would be very effective in increasing energy efficiency in Truckee, but rather pointless in Santa Monica. The City of Santa Monica would be ill advised to adopt the performance standards of the City of Truckee in this case. The same comment is true of water efficiency performance standards which have differing effectiveness in different parts of California. Hence, the “substantial evidence” test needs to be sensitive to the differences in California geography.

III Section 1512 Tiering

We understand the usefulness of tiering of CEQA documents and believe it's appropriate for the discussion of impacts such as this that are cumulative. As General Plans are updated to include robust GHG sections, and as Climate Action Plans and Greenhouse Reduction Plans are created and their CEQA documents certified, we will certainly see justifiable tiering of CEQA documents. At the moment, however, these master documents are very rare in the state of California. Therefore, CEQA guidance about the use of tiering is very important and should be specific. We have a concern about the following policy description which we believe is unclear:

(i) Project level CEQA documents need not provide additional project-level greenhouse gas emissions analysis or mitigation measures, if the proposed project is consistent with an applicable regional or local plan that adequately addresses greenhouse gas emissions, and the plan is one for which an EIR has previously been certified.

The question we have and we believe lead agencies will have is what does “adequately addresses” mean? Does it mean the applicable regional or master plan identified the impact and, if found cumulatively considerable, reduced it to less than significant with all feasible mitigation? Does it mean the mitigation called out in the regional or master plan

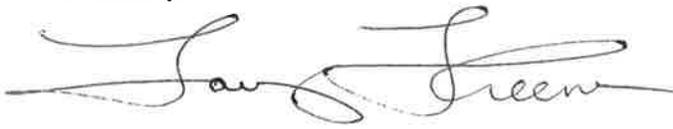
was somehow tied to the goals of AB32? We suggest there be some elaboration on “adequately addressed.” We also believe there should be a reference again to the goals of AB32.

III Guidance on Adaptation to Climate Change

There does not appear to be any guidance on how to discuss climate change’s impact on individual projects. Lead agencies are beginning to deal with this topic in their CEQA document and will be looking to OPR for guidance.

Thank you for the opportunity to comment on the Preliminary Draft CEQA Guideline Amendments for Greenhouse Gas Emissions.

Sincerely,

A handwritten signature in cursive script that reads "Larry Greene". The signature is written in black ink and is positioned above the typed name.

Larry Greene
Air Pollution Control Officer