



## Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group Meeting #2

Wednesday, May 28, 2008  
SCAQMD, GB, 10:00 am – 12 pm

### **1. Welcome / Introduction Working Group**

Dr. Elaine Chang, Deputy Executive Officer, Planning, Rule Development and Area Sources (PRDAS), called the meeting to order at 10:02 p.m., led the introductions of the working group members and informed the group that the policy objectives and design criteria in developing the Greenhouse Gas (GHG) California Environmental Quality Act (CEQA) significance threshold discussed at the last meeting will be revisited again before offering a possible significance threshold approach. Discussion of the possible threshold options in the California Air Pollution Control Officers Association (CAPCOA) white paper would be deferred, unless time permits discussion after other topics have been covered. Dr. Chang noted that detailed minutes from the last meeting were now available and a comment letter received yesterday from the Center of Biological Diversity will be posted after the meeting on the GHG webpage at <http://www.aqmd.gov/ceqa/handbook/GHG/GHG.html>.

### **2. Policy Objectives**

#### **a. Direct GHG Emissions or Life Cycle**

Dr. Steve Smith, Program Supervisor, CEQA Section, PRDAS, explained that staff recommends analyzing direct and indirect project emissions generated within California and not life-cycle emissions because the life-cycle effects from a project could occur outside of California, might not be very well understood or documented, and would be challenging to mitigate. Mitigation would most likely be imposed on direct emissions. Because the science to calculate life cycle emissions is not yet established or well defined, staff is not recommending requiring life cycle emissions at this time. One working group member stated that CEQA requires analysis of impacts from a project in its entirety, regardless of whether they occur outside of California. Therefore, if the life cycle process (e.g., emissions from construction materials generated in Asia) from an affected project occurs outside of California, it should be included in the GHG analysis. If life cycle analyses are not well established, they would be considered speculative. CEQA already includes a provision that if impacts are speculative, no further analysis is required. Another working group member agreed and reminded the working group that CEQA requires analysis of indirect impacts and that the life cycle process is an indirect impact. Further, climate change and effects from GHG emissions is a global issue so impacts from outside of California should be a concern because they could ultimately adversely affect California through higher sea levels, warmer temperatures, etc.. Specific recommendations for analyzing impacts from power generation outside of California were requested. Dr Chang confirmed that staff would not want to categorically exempt projects from potentially analyzing life cycle emissions, if and when the information was available, but did not want to require every project to get bogged down if life cycle information is unavailable.

**b. Complement Assembly Bill (AB) 32 Efforts**

Dr. Smith reiterated staff's recommendation that the significance threshold should not be used as a means to implement AB32, but should be consistent with the goals of AB32. At a minimum, the significance threshold should be consistent with the CEQA intent to prevent or minimize environmental degradation. AB32 may be used as a guideline to achieve reductions from non-regulated sources. Complying with AB32 requirements should not automatically deem a project to be insignificance, especially if mitigation measures are not implemented for some time. One working group member questioned if the reductions from implementing AB32 requirement be surplus. Dr. Chang clarified that in implementing early AB32 measures it would not necessary be surplus, but with regard to offsets, they need to be generated as a surplus to AB32. Another working group member questioned whether a design element in a project could serve as mitigation. A third working group member noted that getting credit from a project's design features or mitigation is a legal question and does not need to be answered in this forum. The representative from OPR raised concern using AB32 as a goal since AB32 contains aggregate and variable reductions for all sectors, thus, not necessarily a proportional emission reduction from all sectors. It was agreed that AB32 is not being enforced through CEQA but the science exists that calls for a lower carbon future. Long-range planning at all levels is necessary and CEQA requires consistency with local plans, which provides the tie-in with GHG reductions through CEQA. Commitments made through CEQA mitigation could possibly assist project proponents in complying with future AB32 requirements. Alternatively, if additional requirements are created under AB32 implementation as the project progresses, the project proponent may have change the project to comply with new requirements. An additional CEQA document, such as an Addendum, might need to be prepared to outline and discuss changes and corresponding potential impacts.

**4. Design Criteria Considerations**

**a. Resource Impacts**

Dr. Smith explained that staff did not support a threshold that would require Environmental Impact Reports (EIRs) be prepared for all projects, creating a large resource burden (e.g., staffing, costs, etc.) on local jurisdictions. Mitigation measures should be encouraged to obtain the maximum GHG reductions to the extent feasible. If the GHG significance threshold is too low, the project proponent will conclude that the reduction expectation is too burdensome, go through the EIR process and have the lead agency prepare a Statement of Overriding Considerations to avoid implementing mitigation. One working group member noted that local agencies have some control over the implementation of a project and the over-reliance on Statements of Overriding Considerations to avoid implementing mitigation.

**b. Short-Term vs. Long-Term**

Another consideration is whether to establish thresholds over the short-term (2008 through 2020) in conjunction with AB 32 requirements or long-term (2021 through 2050) in connection with the Governor's Executive Order (EO), which sets a goal of reducing GHG emissions by approximately 80 percent below 1990 levels by 2050. Staff supports a short-term significance threshold since the threshold is intended to be an interim threshold until the state establishes a significance threshold and/or guidance. Long-term goals will be evaluated a later date, but prior to 2020. One working group member noted that city or county general plans are prepared well in advance and a 2050 goal is not

unrealistic in a general plan document. Another member added that there could be a “fair argument” that the long-term goal affects the development of the general plan document. Since cities and counties are lead agencies responsible for land use decisions, incorporating appropriate design features into the general plan makes the most sense. Another working group member offered the argument that both AB32 and the EO targets are based on sound science and should be provided as a guidance significance threshold to achieve both short-term and long-term goals. Another member concluded that, technology currently does not exist that could obtain an 80 percent GHG emission reduction. Further, although the 2050 goal is not available at this point in time, but could be used as a guideline in creating targets.

**c. GHG Pollutants**

Staff recommends considering the six Kyoto pollutants in a GHG pollutant analyses to the extent that GHG emission factors are available. As the science matures and more information becomes available, other GHGs would be added to the list. Similarly, staff is not recommending that carbon black be evaluated at this time, but be include as appropriate information becomes available.

**d. Mitigation Considerations**

Dr. Smith outlined staff’s recommendation for project proponents to incorporate GHG reduction strategies into the project design first, then provide feasible onsite mitigation before obtaining offsite mitigation measures and/or emission offsets. Consistent with San Joaquin’s indirect source rule, staff recommended that the life of the operational emission offset should be at least ten years, which is the time frame where projects subject the San Joaquin’s indirect source rule are required to provided emission offsets. Mitigation would have to be feasible in accordance with the CEQA Guidelines, including cost considerations, although a cost threshold is not being proposed. Offsite mitigation or purchase of offsets are acceptable options to mitigate GHG emissions identified in a CEQA analysis. A working group member stated that because a carbon offset bank is not currently established, a zero threshold is not recommended. A zero threshold is only possible if there is a reliable and robust offset market. Further, he recommended against establishing a zero threshold because most proposed projects would not be able to mitigate to zero. As a result, there would be little incentive for project proponents to voluntarily implement GHG reduction strategies. This working group member also advocated that, in addition to implementing a broad spectrum of mitigation measures that are cost effective and provide the most overall environmental benefits, priority should be given to those GHG reduction measures that also reduce air toxics emissions and promote water conservation. A different member disagreed, stating that mitigation should focus only on GHG impacts because encouraging measures that have other potentially beneficial effects may result in eliminating the most effective GHG emission reduction projects. Further, air toxics, for example, are already heavily regulated.

**e. Time Frame of Analysis**

Mitigation would apply to both construction and operation, and because of the 100-year half-life of carbon dioxide (CO<sub>2</sub>) emissions, the potentially short-term construction GHG emissions, would not necessarily need to contemporaneous. Understandably, there are different mitigation measures for construction equipment and operational activities from a project, so credit would be provided if reductions are made. One working group member expressed support for flexibility in mitigating GHG emissions, but questioned the appropriateness of implementing mitigation measures after the impacts have commenced. Further, how does a practitioner comply with CEQA reporting requirements when

the emission reductions are not happening some time in the future? Further, discussion is needed to balance the need for timely reductions, while recognizing the difference in air quality effects between criteria pollutants and GHGs.

## **5. Staff Threshold Proposal**

Staff introduced a threshold proposal in the form of a tiered approach rather than advocating a “bright line” approach. If the project proponent is able to fully comply with one of the tiers, then the GHG emission impacts from the proposed project would be considered not significant. If not, the GHG emission impacts would be deemed significant.

### **a. Tiers I and II – Exemptions and General Plan Compliance**

The first tier is to determine if any appropriate exemption (e.g., SB97) apply. If so, no further action is required. If not, consider the project relative to tier II, that is, whether or not the project is consistent with the GHG reduction component of an approved general plan or an equivalent regional approach that is consistent with AB32 reduction targets and includes an emission inventory, tracking, reduction concepts, compliance remedies, etc.. This concept is similar to federal Conformity and may provide a placeholder if the California Air Resource Board (CARB) decides to put subregional GHG emission reduction targets into its scoping plan. The lead agency would have to provide a strong and robust demonstration of complying with the GHG reduction commitment of the general plan’s GHG reduction component in order to make a non-significance determination of the GHG impacts.

### **b. Tier III – Predetermined Mitigation/Design Feature Compliance**

If the local general plan does not have a component for GHG reduction commitments, then go to the third tier. Tier III would require the project proponent to implement a prescribed list of mitigation measures (or design features) by sector, for both the construction and operation of a project. The discussion opened with a question of how to define baseline. One working group member indicated that new developments do not necessarily produce new impacts because the new occupants were generating similar impacts in a different location. Dr. Smith noted that SCAQMD policy is that CEQA analyses for all new projects should account for the impacts they generate. Further, to a certain extent new projects accommodate growth and that the old residences, for example, would be occupied by new residents, so new projects do not necessarily represent a shift in the location of existing impacts. Dr. Smith noted that a possible threshold proposal could be to evaluate the proposed project under a business-as-usual approach compared to a “smart growth” approach. Another working group member stated that the baseline issue is a legal issue, not necessarily to be determined by the working group. The third tier list of sector-based mitigation measures would not require quantification by the lead agency, which could make it easier for the project proponents to expedite projects and avoid significant GHG emission impacts. A working group member raised a concern that by not quantifying or identifying the reduction goal expected from the third tier, then there could be a “fair argument” that the GHG impacts are significant even after implementation of the prescribed list of design features/mitigation measures. Thus, without the evidence in the record demonstrating emission reduction, the CEQA analysis is vulnerable if challenged in court. Another working group member emphasized the importance of quantifying emissions, providing a performance objective for the third tier, and not being inflexible regarding a fixed list of mitigation measures. The list should be flexible enough to encourage future innovation by allowing the implementation of emerging technologies where equivalent emission reductions can be demonstrated. Under the draft proposal, staff expects a

project proponent to implement all feasible measures to maximize GHG emission reductions. A number of working group members expressed concern in not knowing details of the actual mitigation measures to be included on the list and whether implementation of all measures is feasible for all projects. In emphasizing the need for flexibility, one member suggested assigning points to the value of an emission reduction measure based on its control efficiency and the project proponent can then choose the measures that best suit the particular project. The points of the mitigation measures would then be added up and the total would dictate whether the GHG impact is determined to be significant or not.

The application of carbon best available control technology (C-BACT), or equivalent, for stationary source equipment in the context of this proposal is not intended to be the same as for criteria pollutants, but represents the maximum control feasible control with cost considerations. The SCAQMD would work with CARB and CAPCOA in developing C-BACT/C-BARCT.

**c. Tier IV – Offsite Mitigation or Offsets, Tier V – Significance Determination**

If the project proponent is unable to implement all measures on the mitigation list, then go to the fourth tier. Tier IV includes mitigating GHG emissions through implementing offsite emission reduction projects and/or purchasing credits to offset emission. Under tier IV, GHG emissions must be reduced to zero. If the project proponent has implemented some of the measures on the mitigation list, then only the remaining GHG emissions would have to be offset to zero. Working group members were informed that only project proponents choosing to use offsite reductions or purchase offsets would be required to offset to zero because it is likely that credits are currently cheaper than mitigating a project's GHG emissions and the SCAQMD wants to encourage sources to reduce onsite GHG emissions first. If the project proponent is unable to implement all mitigation measures or purchase offsets to reduce GHG impacts to zero, then the GHG emission impacts from the project would be deemed significant. In addition, the proponent is obliged to purchase offsets for the entire project life or a minimum of 10 years of the project operation.

In response to an inquiry by a working group member, the representative from OPR noted that the requirement to submit proposed CEQA Guidelines amendments to the Resources Agency would be accelerated by approximately six months, from July 1, 2009 to January 2009. As part of this mandate, OPR is considering many questions similar to those discussed by this working group. However, OPR does not interpret SB 97 to mandate that a state threshold of significance for GHG be included in the state CEQA Guidelines.

**6. Future Action/Meeting**

Dr. Smith stated that a list of proposed future meeting dates will be posted online at the GHG webpage (<http://www.aqmd.gov/ceqa/handbook/GHG/GHG.html>) along with minutes from the last meeting and agendas and presentations for the next meeting scheduled for Thursday, June 19, 2008, at 10:00 a.m. in conference room GB.

**SUMMARY OF ACTION ITEMS:**

- Contact CARB with regard to their progress in developing a statewide recommended GHG significance threshold.
- Update the flowchart to reflect the suggestions from the working group or other proposals.

**ATTENDANCE**

May 28, 2008

GHG CEQA Significance Threshold Stakeholders Working Group Meeting #2

**MEMBERS PRESENT (27)**

Greg Adams - Los Angeles County Sanitation District (LACSD)  
James Arnone - Latham and Watkins, LLP  
Marcia Baverman, P.E. for Debbie Stevens - Refineries  
Jonathan C. Evans - Center for Biological Diversity  
Doug Feremenga – San Bernardino County Land Use Planning Department  
Gretchen Hardison – City of Los Angeles, Environmental Affairs  
Michael Hendrix – Association of Environmental Professionals  
Julia C. Lester, Ph.D. - Dairies/California Farm Bureau  
Shari B. Libicki, Ph. D. - Green Developers Coalition  
Ruby Maldonado – Orange County Planning Department  
Lena Maun-DeSantis – Port of Los Angeles – *on conference call*  
Daniel R. McGivney – Southern California Alliance of Public Owned Treatment Works (SCAP)  
Clayton Miller - Construction Industry Air Quality Coalition (CIAQC)  
Jonathan Nadler – Southern California Association of Governments (SCAG)  
John Pastore, P.E. – SCAP  
Bill Piazza - Los Angeles Unified School District (LAUSD)  
Bill Quinn - California Council for Environmental and Economic Balance  
Janill L. Richards – California Department of Justice, Attorney General’s Office  
Terry Roberts – Office of Planning and Research (OPR)  
Jamesine Rogers – CARB – *on conference call*  
David Somers - City of Los Angeles, Planning  
Allyson Teramoto for Thomas Jelenic - Port of Long Beach  
Jocelyn Thompson – Weston, Benshoof, Rochefort, Rubalcava, MacCuish, Attorneys at Law  
Matthew Vespa, Center for Biological Diversity  
Carla Walecka - Realtors Committee on Air Quality  
Lee Wallace – Southern California Gas Company/Sempra Utilities  
Mike Wang for Cathy Reheis-Boyd - Western States Petroleum Association (WSPA)

**OTHERS PRESENT (23)**

Michael Choi – Environmental Audit, Inc.  
Keith Cooper, ICF, Jones and Stokes  
Patrick Griffith – LACSD  
Tony Held – ICF, Jones and Stokes  
Jonathan Hershey – City of Los Angeles, Planning  
Steven W. Highter, P.E. - LACSD  
Marvin Holmes - LACSD  
Bob Jenne – CARB – *on conference call*  
Sung Key Ma - Riverside County Waste Management Department

Michael Litschi – Orange County Transportation Authority (OCTA)  
Vince Mirabella - Michael Brandman Associates  
Pang Mueller – Tesoro Corporation  
Krishna Nand, Ph.D. – City of Vernon  
Jan Nguyen – ExxonMobil  
Haseeb Qureshi - Urban Crossroads  
Tracy Sato – City of Anaheim Planning Department  
Andrew M. Skanchy - Latham and Watkins, LLP  
Darren Stroud – Valero Energy Corporation – *on conference call*  
Ryan Taylor – Brian F. Smith Associates  
Mark Thompson – TRS Consultants, Inc.  
Michael Tirohn – Urban Crossroads  
Gregory Tonkovich – Vista Environmental  
Greg Wolffe – ENSR/aecom

**AQMD STAFF (9)**

Barry Wallerstein D.Env., Executive Officer  
Elaine Chang, DrPH, Deputy Executive Officer  
Susan Nakamura, Planning and Rules Manager  
Steve Smith, Ph.D., Program Supervisor  
Barbara Baird, Principal District Counsel  
James Koizumi, Air Quality Specialist  
Michael Krause, Air Quality Specialist  
Angela Kim, Senior Office Assistant  
Patti Whiting, Staff Specialist