



Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group Meeting #3

Thursday, June 19, 2008
SCAQMD, GB, 10:00 am – 12 pm

1. Welcome and Introductions

Dr. Steve Smith, Program Supervisor, Planning, Rule Development and Area Sources (PRDAS), called the meeting to order and led the introductions of the working group members. After the introductions, Dr. Smith immediately began the staff presentation.

2. Further Discussion of Proposed Significance Threshold #1

Dr. Smith revisited the previously presented staff proposal #1 – tiered approach, from working group meeting #2. He summarized comments received on staff proposal #1 –tiered – approach from working group meeting #2 and comments received subsequent to the meeting. In response to the comments received, the tiered approach was further refined and a decision tree component was added. In addition, a de minimis level was added to identify small projects that would be considered insignificant for GHG impacts.

3. SCAQMD Proposed Threshold Approach #2 - Revised Staff Proposal #1-Tiered Decision Tree Approach

Dr. Smith gave an overview of the revised staff proposal which consists of three tiers. Tier 1 would be to determine if a proposed project is exempt from CEQA. This means that if a project qualifies for an exemption, no further CEQA analysis would be required and a Notice of Exemption could be prepared.

Tier 2 focuses on the incremental project emissions increase of GHGs and whether the emissions would be less than a prescribed de minimis level (yet to be established). If the GHG emissions are not less than the de minimis level, but the project incorporates mitigation measures such that the emissions could be reduced to less than the de minimis thresholds, then the preparation of an EIR would not be required. Instead, either a Negative Declaration or Mitigated Negative Declaration could be prepared, provided that the remainder of the CEQA analysis for all other environmental topic areas is also not significant, less than significant or can be mitigated to less than significant.

Tier 3 would be the next step if the project does not qualify for a Tier 1 or Tier 2 approaches. Tier 3 is comprised of one or a combination of four compliance options that the lead agency could pursue to determine whether GHG impacts from a project are significant. Option #1 would require the lead agency to demonstrate that the proposed project can achieve uniform target objective emission reductions compared to “business as usual” operations; Option #2 would require the lead agency to demonstrate that the proposed project can achieve early compliance with CARB’s Scoping Plan measures as these are expected to consist of the maximum feasible reductions for the regulated sector. Option #3 would require the lead agency to demonstrate that the proposed project can employ emission offsets (either alone or in combination with the other options in Tier 3) achieve the same target objective as defined for compliance option #1. Finally, Option #4 would require the lead agency to demonstrate that the proposed project’s GHG emissions are within budgets approved in regional plans. Again, either a Negative Declaration or Mitigated Negative Declaration could be prepared, provided that the remainder of the CEQA analysis (i.e., criteria pollutants) is also not significant, less than significant or can be mitigated to less than significant.

Lastly, if the project proponent is unable to fully comply with one of the tiers, then the GHG emission impacts from the proposed project would be considered significant and an EIR would need to be prepared for the proposed project.

Dr. Smith then identified a series of five pros and three cons relative to the tiered/decision tree approach.

Comments/Questions Regarding Revised Staff Proposal #1-Tiered/Decision Tree Approach:

- a. It is unclear how a project would qualify for an exemption under Tier 1. Dr. Smith responded by saying that it would be similar to the current process for determining exemptions, but Tier 1 may require some quantification of GHG emissions to demonstrate that the proposed project does not create impacts, which means it would no longer qualify for the exemption.
- b. One person raised a concern that it appears that SCAQMD staff appears to be establishing at least two different thresholds, the Tier 2 de minimis level and the Tier 3 compliance options. This means that a project that exceeds the Tier 2 de minimis level would have a second chance to demonstrate insignificance at some higher level. This approach could be problematic because it is not consistent with current approaches to determining significance. As a result, it may be vulnerable to legal challenge. Dr. Smith responded that the intent of the Tier 2 de minimis level is to reduce the administrative burden for small projects where it could be concluded that they do not contribute to global climate change.
- c. A comment was made that Tiers 2 and 3 are not that different because each option has either an implied threshold or mitigation measure or both. Since these two tiers can be “mixed and matched,” they should be combined into one tier with five options.
- d. Tier 3 is labeled Mitigation Options. What if GHG reduction components are part of the design features? Dr. Smith responded that either GHG reduction mitigation measures or design features could be used to achieve the target objective.
- e. A suggestion was made to rename the title of Tier 3 should be renamed from Mitigation Options to Compliance Options since some of the mitigation measures could be incorporated into the project as design features.
- f. Any thresholds that are established need to be supported by scientific evidence.
- g. The Tier 2 threshold of 900 MT/year of CO₂ eq. is too low. Dr. Smith responded that the 900 MT/yr of CO₂ eq. is a placeholder until such time as staff can develop a more appropriate de minimis level.
- h. Tier 2 should be clarified to say that it is the incremental GHG emissions increase from the project, not total, GHG emissions that need to be below the de minimis level in order to qualify for a less than significant CEQA determination. Staff agrees.
- i. One participant asked how the 40 percent BAU emission reduction target was determined. AB 32 requires a 30 percent reduction from new developments, but it is not clear what the reduction target should be for existing sources in order to meet the 2020 deadline. Right now, only a 14 percent reduction is required. Dr. Smith responded by saying that the GHG significance thresholds would only apply to new or modified projects requiring discretionary approval by public agencies. Existing sources that are not undergoing any changes would not be subject to CEQA. Requiring a reduction of GHGs from existing sources would likely require some type of regulatory action. One working group member suggested that the 40

percent target objective is just a place holder that still needs to be analyzed and supported by substantial evidence. Further, instead of a percent reduction threshold, has the SCAQMD explored some type of efficiency standard, which could be useful for both building homes and industrial applications (i.e., efficiency per square foot, etc.)? Dr. Smith agreed that such an efficiency standard would be a very supportable approach, but would require substantial staff resources to develop. As a result, it would more likely be a long-term approach. Until such time as an efficiency standard is developed, some type of interim threshold is necessary.

- j. One participant stated that a fair argument could be made that the quantity of GHG emissions are a sign that some projects would be significant, even after implementing mitigation measures. However if the mitigation measures are not quantified, the adequacy of the CEQA document could be challenged.
- k. One working group member stated that Options 1, 2 and 3 are just place holders and will ultimately be subsumed into Option 4, consistency with a regional plan. Dr. Smith responded that it is likely that Option 4 would eventually be the preferred approach. However, as noted in the CAPCOA White Paper, consistency with a GHG reduction plan is a long-term strategy because of the time it will take to develop inventories, target objectives, goals, policies, etc. As a result, there is still a need for interim approaches.
- l. A comment was made that projects consisting of stationary sources may not necessarily fit within a general plan consistency structure. It was noted that CARB's Scoping Plan measures may address this issue depending upon the amount of detail they contain and the anticipated reductions achieved.
- m. One working group member stated that CEQA does not require a quantitative threshold. The threshold can be based on qualitative, numerical or performance standards. Establishing rigorous GHG thresholds will encourage the use of mitigation measures and plans.
- n. A comment was made that the options in the CAPCOA White Paper should be re-evaluated because an argument could be made that the options in the CAPCOA White Paper are based on substantial evidence to support proposals. Further, because of the magnitude of the global climate change problem, even projects with a de minimis level of 900 MT/year CO₂ eq. should have to implement mitigation measures, although the number and type of mitigation measures should be based on size of project. As a result, performance standards need to be established.
- o. Another comment was made that Tier 2 is really another type of compliance option and, therefore, should be incorporated into Tier 3. In addition, defining BAU will be a challenge and that there should be some generalized and uniform approach to deriving BAU for different types of projects so that progressive projects are not penalized that have already incorporated very strict or advanced building standards. Dr. Smith responded that establishing uniform BAU should be done at the state level and in the absence of state guidance at the local level. Further, everyone needs to keep in mind that BAU changes over time as technology advances.
- p. In response one member noted that statewide BAU levels may be problematic due to climatic differences and different stages of progressiveness towards complying with AB32.
- q. One member noted that he uses the URBEMIS model to determine BAU for his projects as it is based on current technologies.
- r. Another member raised a concern that using URBEMIS as baseline for establishing BAU is problematic because of concerns associated with the traffic module, which may be overly conservative.

- s. A comment was made that thresholds need to be based on scientific data. The CAPCOA White Paper states that a zero threshold or 900 MT/year CO₂ eq. are the only thresholds that can achieve the targeted reductions in GHGs by 2050. This effort should be focused on achieving the long-term 2050 objectives, not the short-term 2020 objective. If BAU is the baseline, then the incremental effect of a new project has to achieve equivalent reductions at 90 percent below BAU in order to meet 2050 targets. This would be a good opportunity to combine onsite mitigations with offsite mitigations. Dr. Smith responded by posing the question: “If the technology is not there to get to 2050, why would you establish a threshold that no one can achieve and, therefore, what do you do in the meantime?” Dr. Smith suggested that the next best thing to do is set 2020 as the interim, immediate goal, since the science is already there. Notwithstanding, the numbers are just placeholders; we are trying to establish significance thresholds knowing that they may need to be changed in the future as technology develops and more data becomes available. In response, the member noted that technology is not the only way to achieve insignificance with a 2050 target objective. A combination of technology and offsets can achieve the necessary emission reductions without resulting in every project going through the EIR process.
- t. One member responded that it is possible to get to the 2020 objective primarily through energy conservation, which is currently feasible. To achieve the 2050 goals will require fundamental changes in how energy is produced and distributed.
- u. One working group member suggested that GHG thresholds for construction should be different than for operation because they occur over the short-term.
- v. A second working group member agreed that construction emissions need to be treated differently; perhaps they should be amortized over years of construction. Dr. Smith requested that any relevant and useful information on this topic be submitted before the next working group meeting.
- w. It may be worthwhile for this group to pursue energy efficiency standards for industrial, commercial and residential applications. Whatever number is chosen, the efficiency standards will mainly focus on combustion sources. Some efficiency standards are under AB 32 scoping measures, and others may be generated elsewhere. Significance thresholds can be based on substantial evidence. Perhaps the development of thresholds for criteria pollutants can be used as a guide. For nonattainment criteria pollutants, for example, there are no zero thresholds, so there is no reason why a GHG significance threshold should be established. Finally, it should be noted that CEQA is only one tool that can be used to reduce GHG emissions. The bulk of GHG emissions reductions will occur through regulatory processes such as CARB’s scoping plan.
- x. One member briefly mentioned that he is in the process of developing a two-tiered screening table to determine the appropriate design features or mitigation measures, required for implementation. Instead of focusing on the 900 metric tons per year number because it is a low, greater consideration should be given to an efficiency standard that every project, big or small, needs to attain. BAU could be defined as a project that would be calculated in URBEMIS without any mitigation. URBEMIS has trip rates and VMT. Determining efficiency for BAU could be the same as what is calculated by URBEMIS.

4. Other Threshold Recommendations Including CAPCOA White Paper Options and A Bright Line Approach

Dr. Smith then discussed the possibility of establishing a bright line (numerical) GHG threshold. Of the possible ways to establish a bright line threshold, one approach could be to tie a GHG threshold to an existing criteria pollutant significance threshold such as the operational threshold for NO_x of 55 pounds per day. Using the URBEMIS2007 model for example, it is possible to calculate emissions for a project that has the potential to generate approximately 55 pounds of NO_x per day. Since the model currently calculates CO₂ emissions, it is possible to obtain an equivalent CO₂ significance threshold. Dr. Smith ran the URBEMIS2007 model for a mixed-use project consisting of 200 single-family homes, a low-rise apartment building with 100 units, and an office park sized at 150,000 square feet. By applying the same daily threshold for NO₂ (55 pounds per day or 10 tons per year) to CO₂ emissions, the equivalent CO₂ emissions for a medium-to-large mixed use project would be approximately 8,100 tons per year (which is equivalent to 7,350 metric tons per year).

Other examples of bright line approaches could be: 1) 900 MT CO₂ eq. per year which represents 90 percent capture of residential CEQA projects; 2) 10,000 MT CO₂ eq. per year which is the Market Advisory Committee's recommendation for the GHG cap and trade system for California; or, 3) 25,000 MT CO₂ eq. per year which is CARB's AB32 reporting threshold, which is based on a capture rate of 90 percent of CEQA industrial projects.

Comments/Questions Regarding Other Threshold Recommendations Including CAPCOA White Paper Options and A Bright Line Approach:

- a. One member stated that even if a lead agency can demonstrate that the proposed project's GHGs would be less than 900 MT/year CO₂ eq., because of the magnitude of the global climate change problem the project should still be required to do something to reduce emissions further, through design features, for example.
- b. Another member responded by saying that the Supreme Court recently ruled that there is a need to distinguish between what is the degraded environment and what is baseline for a specific project. Further, the purpose of CEQA, not necessarily to improve the degraded environment that is not caused by the proposed project under evaluation, but to reduce impacts caused by the proposed project. In addition, the group should keep in mind that the AB 32 target objective for 2020 is not only based on science, it also takes into consideration policy and economic implications.
- c. The bright line approach is too arbitrary; a tiered approach is preferred as long as it is performance based, and on an interim basis until the state plan is adopted.
- d. One working group member raised a concern that because CARB's technical advisory document is expected to be available within the week; he was concerned that there will be conflicting information between the GHG significance threshold being developed and the technical advisory document. Further, he recommended that there be coordinated efforts between agencies so that there is consistency with the work being done by the state. Dr. Smith responded that at least one staff person from CARB (and usually several) has been participating via conference call at each meeting so that they are apprised of all discussions and concerns. Further, other air agencies have been sent e-mails about the working group and are free to attend.
- e. There needs to be a focus on quantifying mitigation measures, especially for transportation in relations to project location. Currently, there is not a lot of information available that affects VMT, either increasing it or reducing it. The City of Los Angeles is considering hiring a consultant to quantify mitigation measures. So, if the SCAQMD could provide the framework

and come up with a toolbox to apply that everyone can rely on, that would be extremely helpful. Dr. Smith responded that it is likely that SCAQMD staff would develop lists of mitigation measures to add reducing GHGs, including VMT reduction, similar to the mitigation measure tables that are currently available on the SCAQMD's CEQA webpages. However, it may take a substantial amount of time before such mitigation measures become available.

- f. One member asked what is the status of the offset program that SCAQMD is developing? If the program is developed in tandem with the GHG significance threshold approach, perhaps the two programs can be merged to be consistent with the science. Dr. Elaine Chang responded by saying that a broad outline of the SoCal Climate Solutions Exchange went to the Board at the June 6, 2008 Board hearing. The Board approved the initial concepts so that the first rules, protocols, etc., are expected to be brought back for Board consideration in October. However, it is likely that it will take another year before the first exchange in the market is expected to occur.
- g. One member noted that a bright line might be appropriated for some types of projects, like residential. For more complex industrial facilities and projects, considerations should be given for energy efficiency or performance standard, such as a carbon efficiency standard.
- h. Building efficiency should be left up to Title 24 since everyone has to comply with Title 24 for new buildings. As a result, it may not be appropriate to consider building efficiency when attempting to mitigate GHG emission impacts.
- i. One member asked how a GHG inventory for construction equipment can be created since the equipment is manufactured per USEPA standards for minimizing criteria pollutants and not necessarily geared toward reducing GHGs. What would be the mitigation measures for construction equipment? Whatever we decide, we need to be consistent throughout the state, since construction equipment moves throughout the state from project-to-project.
- j. One member stated that the GHG threshold should be based on science; however, some methodologies may result in huge baselines that contribute little in reducing GHG emissions. CEQA only addresses new projects or modifications to existing facilities. Further, perhaps projects that generate GHG emissions, but result in benefits statewide (e.g., refinery modifications to produce low carbon fuel), should be considered differently than other projects. It may not be good policy to penalize those industries that are producing GHG reduction benefits, especially if required by state or federal regulations. Similar consideration should be given to gas production companies and electrical production companies that are contributing to reducing GHGs compared to BAU. It may be too early to decide, but if we establish a bright line threshold, then we have to determine which CO₂ emissions count towards that threshold. Biogenic emissions should not count towards threshold.
- k. Regarding efficiency standards and the 2020/2050 timelines, there are a number of these set in the EU and UK regulatory frameworks. There may be some that have been vetted by government agencies that could be appropriate for use here. There are more efficiency standards outside of California than one might expect (i.e., Kyoto protocol). Dr. Smith requested that any relevant and useful information on this topic be submitted before the next working group meeting.
- l. Relying on the URBEMIS model is problematic because the CO₂ equivalents do not include other indirect sources such as electricity and water use. Dr. Smith agreed and noted that the model currently does not calculate emissions for all relevant GHG pollutants. Further, an upgrade is in the early planning stages that will likely address these potential shortcomings.

5. Closing Remarks – None

6. Other Business – None

Future Action/Meeting

The next meeting is scheduled for Wednesday, July 30, 2008, at 10:00 a.m. in conference room GB.

ATTENDANCE

MEMBERS PRESENT (25)

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

OTHERS PRESENT (15)

Steven Schuyler - Western States Petroleum Association (WSPA)
Frank Caponi - Los Angeles County Sanitation District (LACSD)
Patrick Griffith - Los Angeles County Sanitation District (LACSD)
Steve Highter - Los Angeles County Sanitation District (LACSD)
Denise Michelson – BP West Coast Products
Ron Ricks – BP West Coast Products
Danielle K. Morone – Gatzke Dillon & Balance, Attorneys at Law
Haseeb Qureshi - Urban Crossroads
Suzanne Wilson – City of Anaheim, Public Utilities Department

Tracy Sato – City of Anaheim, Public Utilities Department
Sung Key Ma - Riverside County Waste Management Department
Pang Mueller – Tesoro Corporation
Steve Jenkins – Michael Brandman Associates
Darren Stroud – Valero Energy Corporation – *on conference call*
Bob Jenne – CARB – *on conference call*

AQMD STAFF (6)

Elaine Chang, DrPH, Deputy Executive Officer
Susan Nakamura, Planning and Rules Manager
Steve Smith, Ph.D., Program Supervisor
Barbara Baird, Principal District Counsel
Barbara Radlein, Air Quality Specialist
Angela Kim, Senior Office Assistant