



COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

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Ms. Elaine Chang, Dr. P.H.
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765-4182

Dear Elaine:

Comments Following the August 27, 2008, Meeting of the SCAQMD Greenhouse Gas Significance Threshold Working Group

The Sanitation Districts of Los Angeles County (Sanitation Districts) appreciate this opportunity to comment on the SCAQMD's efforts to incorporate climate change concerns into the CEQA process. We also appreciate your invitation to participate in the GHG CEQA Significance Threshold Working Group, and commend your efforts to provide interim guidance to local lead agencies on determining significance of GHG emissions in their CEQA documents.

In a few cases, we are re-submitting our earlier comments because we have not received a response, and we hardly think consensus has been reached on them. We have also added new comments on your proposed "decision tree" and on the proposed outline for the staff report. We believe that one fundamental problem with the approach taken by SCAQMD that still remains thus far is that none of the proposed tiers or options connect emissions thresholds with their associated environmental impacts. We believe this demonstration is necessary as science should enter into and validate the process.

Our more detailed comments are as follows:

1) Treatment of Carbon-Neutral Renewable Fuels and Biogenic Emissions

We ask that the SCAQMD, in developing their threshold(s) make it clear that the thresholds apply only to *anthropogenic* emissions by the simple addition of the word anthropogenic in their documentation.

As we stated in our previous letter on July 23, 2008, emissions from carbon-neutral fuel combustion are part of the natural "short-term" carbon cycle that do not add new carbon to the atmosphere but rather just return to where they originated. The biogenic emissions of CO₂ from wastewater treatment activities, composting and other biogenic emissions sources, are carbon-neutral as well, for the same reason.

Emissions of CO₂ from carbon-neutral fuels like landfill gas and wastewater derived digester gas should not be included in any significance determination because these emissions are automatically “netted-out” by nature. As such, these emissions cause no direct or indirect physical change to the environment; hence their effects should not be considered significant under CEQA¹. This treatment is also consistent with the emissions inventories developed by the IPCC², U.S. EPA³, California’s 1990 baseline emissions inventory⁴, and, most recently, the California Climate Action Registry’s (CCAR) Local Government Operations Protocol⁵.

2) The Existing Set of Categorical Exemptions Should Be Retained

The existing set of statutory and categorical exemptions in Article 19 (§§15300 to 15333) of the CEQA Guidelines should be retained to populate Tier 1 of SCAQMD’s proposal. Thus far, there has been little discussion of what kind of projects would be included here. We suggest as a starting point to bring those projects already granted categorical exemptions for criteria pollutants into Tier 1, given that these projects serve the public interest, meet critical societal needs and are already exempted by law. Later, the Tier 1 list might be updated, if warranted, when the pending OPR/RA guidelines become available. Certainly, more discussion is needed regarding Tier 1 projects to prevent important public works from being unnecessarily delayed. The SCAQMD should affirm that the existing set of statutory and categorical exemptions are retained.

3) Mitigation Measures and Design Options Need Discussion

a) We again question how GHG emissions reductions are to occur if there are no mitigation measures or design options being discussed hand-in-hand. Establishing an interim threshold without this guidance is not productive. The measures offered in the CAPCOA White Paper and the Attorney General’s Office could be raised for initial discussions of this topic. Project managers need to know the magnitude of the reductions possible with those proposed mitigations. There is also a need for guidance for planners to assure that mitigations are properly implemented and sustained. SCAQMD should begin the process of supplementing the list of mitigation measures in the CAPCOA Guidance document and the Attorney General’s list, as examples, as those measures are highly generalized and represent the first wave of feasible options. Assuming that an industry-specific mitigation measure was not sufficient to meet Tier 4 performance standards, a project proponent should be allowed to also choose from the SCAQMD recommended list of mitigation options.

b) *We sincerely hope the SCAQMD will consider non-quantified, non-numerical mitigations such as, in the case of commercial development, complying with LEEDS building standards and CEC building energy efficiency standards as the principal, unquantified, mitigation mechanisms.*

¹ See §15604(d) CEQA Guidelines.

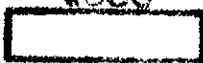
² See 2006 IPCC Guidelines for National Greenhouse Gas Inventories, Volume 5: Waste, Chapter 6, page 6. http://www.ipcc-nggip.iges.or.jp/public/2006gl/pdf/5_Volume5/V5_6_Ch6_Wastewater.pdf.

³ See Inventory Of U.S. Greenhouse Gas Emissions And Sinks: 1990-2006, (April 2008), Executive Summary, page 1. http://epa.gov/climatechange/emissions/downloads/08_ES.pdf.

⁴ See Staff Report, California 1990 Greenhouse Gas Emissions Level and 2020 Emissions Limit, page 5. http://www.arb.ca.gov/cc/inventory/pubs/reports/staff_report_1990_level.pdf, and http://www.arb.ca.gov/cc/inventory/doc/doc_index.php.

⁵ See Draft Local Government Operations Protocol, p. 27.

<http://www.climateactionregistry.org/resources/docs/protocols/progress/local-government/draft-lgo-protocol-061908.pdf>



c) Finally, as we have stated many times in the past, SCAQMD should recognize that in certain situations, mitigations for greenhouse gas emissions may exacerbate criteria pollutant emissions and visa versa. This inverse relationship was recently acknowledged in SCAQMD's environmental assessments for proposed rules 1146 and 1146.1 where it acknowledged that tightening NOx controls could decrease boiler efficiency and increase CO₂ emissions. *SCAQMD should prepare guidelines for project managers when competing environmental concerns need to be balanced.* This consideration, consistent with the recent GHG policy that was approved by the SCAQMD Board on September 5, 2008, needs to be addressed in the Staff Report Outline.

Given the importance of these mitigations, we believe that a second workgroup needs to be convened to work on these issues. Not clearly identifying the means to reduce emissions will create problems for planners since they may adopt ineffective measures. This will also create problems for SCAQMD staff in its role as a responsible agency since they will also be unaware of which efforts to suggest, support or oppose.

4) Significance Threshold Tiers

The discussion thus far seems to have been focused on determining what is a significant emission without first making the determination of what is a significant impact. Please consider the following:

a) It is premature to begin discussion of defining a threshold without establishing first which climate change impacts are significant and which are speculative. SCAQMD should first define what is a significant impact before implementing a numeric threshold.

b) Deriving the "placeholder" threshold from projects deemed significant for NOx emissions does not make that choice less arbitrary, and, more importantly, does not properly define a global warming impact threshold. The connection between localized, health impacts from criteria pollutant emissions to global climate impacts from extremely well-mixed greenhouse gas emissions⁶ with widely divergent origins has not been adequately demonstrated by SCAQMD. Decision makers cannot understand how their actions will impact the climate with a threshold unrelated to a global warming impact. We ask that SCAQMD either justify the proposed threshold in terms of its environmental and climatological significance or adopt a new threshold based on these lines.

c) We question why Tier 3 calls for "x percent beyond Title 24 and y percent reduction in water use" *in addition to* the "placeholder" screening threshold? There is no scientific reason to group these requirements together in Tier 3. This effectively piles one arbitrary standard on top of others to achieve an undefined goal. Finally, for many projects, such as for sewer construction, the Tier 3 water reduction or energy efficiency targets are not applicable because there are, for example, no building HVAC needs or landscaping.

d) In Tier 4, Option 1, regardless of how SCAQMD defines business as usual (BAU), projects should not have to perform better than the requirements of the AB 32 Scoping Plan or any of the regulations put forward by the climate action teams. If an agency opts to pursue goals beyond those of

⁶ The July 30, 2008 ANPRM Regulating Greenhouse Gas Emissions under the Clean Air Act mentions several times the completely mixed nature of greenhouse gases around the globe.

the Scoping Plan, etc., it should do so after balancing economic, technological and other considerations as per §15021(b) of the CEQA Guidelines.

5) Comments on the Proposed Outline for the Staff Report

- a. *Introduction and Executive Summary*: Although actions such as Massachusetts v. U.S. EPA, the Attorney General's comments and OPR's Technical Advisory set the stage for further action by EPA on climate change, none of these expressly nor indirectly mandate that SCAQMD take action independently or before state/federal government. There should be a policy statement in the Executive Summary reflecting the SCAQMD GHG policy that was adopted on September 5, 2008, that health effects should trump GHGs if push comes to shove.
- b. *Purpose*: The SCAQMD should delineate the reasons for wanting to develop its own threshold knowing that OPR/RA will shortly release its own guidelines meant to be uniformly applied statewide and that a statewide mechanism for reducing greenhouse gas emissions (AB 32's Scoping Plan) is imminent.
- c. *Legislative History-International*: Please add that although the United States is signatory to the United Nations Framework Convention on Climate Change and the Kyoto Protocol, the latter was not submitted for ratification to the U.S. Senate.
- d. Under *Legislative History – California, Ongoing Efforts*: The report should detail those proposed Scoping Plan measures that may overlap with projects covered under CEQA like E-1 and CR-1 (building efficiency), etc.
- e. Under *SCAQMD GHG CEQA Threshold Working Group*: §15064.7 of the CEQA Guidelines states that any thresholds of significance must be "supported by substantial evidence." This "substantial evidence" should be spelled out in detail in the report.
- f. *SCAQMD GHG CEQA Threshold Working Group-Objectives*: The SCAQMD should recognize that cap and trade systems can effect emissions reductions from non-regulated sources without the need for CEQA mitigations.
- g. *SCAQMD GHG CEQA Threshold Working Group-Design Criteria*: Although long-term targets were mentioned in the Governor's Executive Order, S-3-05, the legislature did not set a long-term target in either AB 32 or SB 97. There is no mandate for SCAQMD to undertake this effort.
- h. *SCAQMD GHG CEQA Threshold Working Group-Design Criteria, Mitigation Considerations*: Whether the emissions reductions occur on or off site is but one decision that should be afforded the lead agency if it decides mitigations are necessary. §15021 of the Guidelines allows an agency to consider economic and technological factors as well as environmental and social ones in their ultimate decision. SCAQMD should not mandate that emissions reductions occur onsite or prohibit offsite reductions, as offsets given the universality of GHG pollutants.

- i. Under *SCAQMD GHG CEQA Threshold Working Group-GHG Significance Threshold*: the proposed threshold in Tier 3 does not refer to BAU. BAU is only referred to in Tier 4, Performance Standards.
- j. Under *SCAQMD GHG CEQA Threshold Working Group-GHG Significance Threshold*: the SCAQMD should discuss the different tiers in their proposal. The proposed tier "decision tree" is not mentioned in the current outline.

6) Thresholds for Other Air Districts

Regarding the meeting minutes for July 30th, 2008, page 2, item (f), SCAQMD should not hypothesize what other air districts might do with SCAQMD's proposals. The example was given of small districts that may not have any projects that approach the August 27, 2008 placeholder threshold of 6500 MTCO₂/yr. The conclusion was then reached that this would justify a lower screening level. Do we really care here in the South Coast what Amador County does?

This speculation is unproven and is irrelevant anyway if the threshold is indeed crafted on a scientific basis. Additionally, there is the presumption that other districts are also pre-empting OPR/RA's efforts which may not be true; these air districts may be content with whatever OPR/RA puts out. If SCAQMD develops scientifically defensible thresholds, they needn't worry that other air districts won't follow.

7) Construction Phase Emissions Should be Amortized over the Project's Life-Span

We concur with the SCAQMD's conclusion mentioned in the August 27, 2008 meeting and in previous workgroup meetings that emission estimates from the project's construction phase should be uniformly divided (amortized) over the project's lifespan. To be absolutely clear on this, if 30,000 MT CO₂ are emitted during the construction phase of a project, and the project is expected to have a thirty-year life-span, the "amortized" construction emissions from that project would be 1,000 MT CO₂ per year (30,000 MT CO₂/30 years). Some larger projects, however, may have vastly longer life-spans such as sewers and ocean discharge outfalls. The actual life-span of those projects should be considered in this calculation.

8) Projects Satisfying Any of the Decision Tree Tiers Should Not Have to Perform an EIR

Stating the obvious, projects satisfying any single one of the tiers that fall below significance for greenhouse gas emissions should not be compelled to perform an EIR by any other tier, for GHGs.

Thank you for the opportunity to make these comments.

If you have any questions regarding these comments, please do not hesitate to contact Mr. Patrick Griffith at (562) 908-4288, extension 2117.

Very truly yours,
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