



# Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group Meeting #7

Thursday, November 20, 2008  
SCAQMD, GB, 10:00 am – 12:00 pm

## 1. Welcome and Introductions

Dr. Elaine Chang, Deputy Executive Officer, Planning, Rule Development and Area Sources (PRDAS), called the meeting to order at 10:15 a.m. and led the introductions of the working group members and SCAQMD staff.

## 2. Working Group Comment Letters

After the introductions, Dr. Steve Smith, Program Supervisor of the SCAQMD's CEQA section, summarized the general comments expressed in four comment letters that were received from the Working Group members. General topics in the comment letters are summarized as follows:

- *GHG Significance Threshold*
  - Statewide GHG significance thresholds are necessary for consistency; SCAQMD should wait until CARB, OPR, or CEC establish threshold;
  - An interim GHG significance threshold may be legally challenged;
  - Sector based standards should also be evaluated as a GHG significance threshold option;
  - Emissions from vehicle traffic, energy consumption, and water usage should be included in deriving the GHG significance threshold.
- *Business As Usual (BAU)*
  - Potential artificial inflation (gaming) of BAU in order to meet the 30 percent GHG emission reduction compliance option is a concern;
  - Insufficient scientific evidence has been presented to demonstrate that 30 percent reduction from BAU would achieve environmental objectives;
  - Evolving definition of BAU may be unfair and discourage long-term compliance planning;
  - Unclear whether a 30 percent reduction in BAU may be inconsistent with CEQA requirements.
- *AB32 / SB 375 Compliance*
  - Interim guidance does not clearly specify what constitutes early compliance with AB 32;
  - Compliance with AB 32 / SB 375 will result in a reduction in sector emissions from all sources; if compliant, a project should not require further analysis or mitigation under CEQA.
- *Tiered Model*
  - Specific examples of CEQA exemptions should be clearly outlined in the tiered model approach; and

- If a project is not screened out in Tiers 1 through 4, it should not be labeled as “significant,” rather “potentially significant,” and further evaluation is needed.
- *Mitigation / Offsets*
  - Potential mitigation measures should include any combination of reducing emissions, providing carbon offsets, voluntary payment of fees to a validated GHG mitigation program (i.e. SCAQMD GHG Reduction Program), and making net improvements in energy efficiency or overall reduction of the state’s carbon footprint;
  - Cap and trade facilities should be treated as “less than significant.”
- *Performance Standards / Energy Efficiency*
  - Rather than using a mass emissions level, a project should be considered “less than significant” if a project results in a net increase in energy efficiency, a decrease in carbon intensity, or a decrease in the state’s overall carbon footprint;
  - Performance standards are the most practical method of evaluating large facility projects under CEQA.

### **3. SCAQMD Recommended GHG Significance Threshold Proposal / Schedule**

Dr. Chang provided an overview of the staff’s recommended proposal of the SCAQMD’s Interim GHG CEQA Significance Threshold to the Governing Board and a brief update on the intended adoption and post adoption schedule. Dr. Chang stated that the interim GHG proposal will be presented to the Governing Board at the December 5, 2008 public hearing. The interim GHG proposal will only consist of the proposed GHG significance threshold for industrial projects (e.g., stationary source permit projects, rules, plans, etc.) in which the SCAQMD is the lead agency. Staff is proposing to defer adoption of the Tier 4 efficiency standards and the residential/commercial GHG significance threshold proposal. Staff will continue to work on the Tier 4 efficiency standards and the residential/commercial GHG significance threshold proposal and report back to the governing board on the status of these proposals in March 2009. Staff will also monitor CARB’s GHG significance threshold proposal and report back to the governing board in March 2009.

#### **Comments/Questions Regarding GHG Significance Threshold Proposal / Schedule**

- a. A working group member questioned why the SCAQMD was considering an interim threshold for such a short period of time, as CARB is currently developing a GHG significance threshold that would apply statewide. A suggestion was made that implementing GHG significance thresholds should be deferred until the state completes its GHG significance threshold process early in 2009.
- b. A working group member did not see the necessity for SCAQMD to implement a separate interim GHG significance threshold. Dr. Chang responded that the SCAQMD still is required to make a significance determination for projects within the SCAQMD’s jurisdiction. Dr. Chang emphasized that the proposed interim GHG significance threshold is intended to be used only for SCAQMD lead agency projects. Further, a GHG significance determination for projects where the SCAQMD is the lead agency is currently made on a case-by-case basis, therefore, it would be more prudent to determine significance using a GHG threshold that has undergone a public process and adopted by resolution by the governing board. One working group member noted that using an adopted GHG significance threshold may be more legally defensible than making significance determinations on a case-by-case basis.

- c. A question was raised regarding how the SCAQMD generated the 10,000 metric tons per year (MTY) threshold level? Dr. Chang responded that it was derived using a 90 percent capture rate of natural gas usage and associated GHG emissions at a large sampling of industrial facilities in SCAQMD's Annual Emissions Reporting (AER) database. This approach is considered to be a conservative approach and may capture greater than 90 percent of the facility-wide emissions.
- d. A comment was made that if GHGs are a global problem, a significance threshold is needed on a global level and that GHGs should be left out of the analysis until a consistent threshold is established. Dr. Smith responded that GHGs cannot be ignored in analyses because the Attorney General's Office and OPR's technical advisory clearly states that GHG emissions contribute to climate change and, therefore, must be evaluated as part of the CEQA process.
- e. A working group member commented that it should be clarified in the proposal that any lead agency may choose to adopt and utilize the significance threshold presented in the SCAQMD's proposal.
- f. A comment was made that the SCAQMD's proposal should not be delayed. Even with the absence of the SCAQMD significance threshold, a project is not relieved of analyzing for GHG emission impacts. Furthermore, stakeholders cannot rely with certainty on CARB to issue a comprehensive recommendation in the first quarter of 2009.
- g. A request was made to have "off-line" meetings with businesses to find out what approach with regard to an interim GHG significance threshold would be most applicable. The adoption of an interim "patchwork quilt" style approach doesn't seem to be productive and may cause more confusion.
- h. A question was raised on how other agencies would be affected if the SCAQMD GHG significance threshold proposal is adopted in December? Dr. Chang responded that the board agenda item would clearly state that the interim GHG significance threshold for industrial projects should only applied to projects where the SCAQMD is the lead agency. SCAQMD, however, would provide guidance and technical assistance to other agencies relative to analyzing GHG emissions. One working group member stated that, if adopted, staff's interim GHG significance threshold proposal would likely be perceived as guidance and used by other lead agencies.
- i. A working group member commented, in addition to adopting the interim GHG significance threshold for SCAQMD lead agency projects, there are two other courses of action that may be taken:
  - 1. Delay adoption of a GHG significance threshold;
  - 2. Continue making GHG significance determinations for projects on a case-by-case basis.Dr. Chang and Dr. Smith both responded that neither option is considered a viable approach as determining significance using an adopted GHG significance threshold is potentially more legally defensible than making a significance determination on a case-by-case basis.
- j. A working group member pointed out that the California Energy Commission (CEC) has also established a GHG significance threshold process related to power generating equipment. With the CEC's and CARB's GHG significance threshold process currently ongoing, adoption of a GHG significance threshold by the SCAQMD may be confusing for lead agencies when deciding which GHG significance threshold to implement.
- k. A suggestion was made that all of the agencies involved with developing GHG significance thresholds should coordinate their processes to avoid conflicting requirements.

- l. A comment was made that should provide additional information demonstrating that staff's proposed interim GHG significance threshold proposal is scientifically based and, therefore, defensible.
- m. A working group member stated that CARB's interim GHG significance threshold proposal may include sector-based thresholds. It was noted that this approach would be very difficult to implement for project consisting of a number of different sector types and subject to different sector-based GHG significance thresholds.
- n. A question was asked whether staff's proposal included analyzing life-cycle GHG emissions (e.g., GHG emissions from production and transport of materials, equipment, etc. to California) should be included in the evaluation of a project. Dr. Smith responded that staff had received comments indicating that it may not be legally defensible to exclude life-cycle emissions from the evaluation of a project's GHG impacts. However, life-cycle emissions should only be analyzed to the extent information is available that is scientifically supported.
- o. A question was asked regarding where to draw the line for analyzing life-cycle emissions? Ms. Barbara Baird, District Counsel, responded that whatever is "reasonable" should be evaluated. A comment was made that analyzing whatever is "reasonable" is vague and will likely cause much confusion.
- p. A comment was made that the staff proposal is inconsistent with the GHG proposal staff's Guidance Document. Dr. Chang clarified that the SCAQMD is not requesting the Governing Board to approve the draft guidance document, just the GHG interim significance threshold.
- q. It was questioned if the SCAQMD resolution will clearly state that the SCAQMD will adopt CARB's interim GHG significance threshold after it is adopted by the CARB board? Dr. Chang responded that this matter would be decided by the governing board. Dr. Chang added that the entire GHG significance threshold proposal agenda item will be available one week prior to the Board Hearing, and that comment received from the working group will be addressed in a comment/response section.

#### **Comments/Questions Regarding Tiered Decision Tree Approach**

- a. A working group member questioned why the Tier 4 efficiency standards were being deferred until March 2009? A comment was also made that the whole proposal should be deferred until March 2009, so stakeholders can focus on, and participate in CARB's GHG significance threshold proposal process. Dr. Chang responded that the SCAQMD cannot delay the proposal because the SCAQMD needs a GHG significant threshold for projects in which the SCAQMD is the lead agency and is preparing a CEQA document.
- b. It was suggested that more focus needs to be placed on regional plans and inventories in Tier 2. By doing so, it would show an increase in strategy for a community's plan to reduce GHGs.

#### **4. Closing Remarks/ Future Action**

Dr. Chang presented the future SCAQMD activities that are planned upon implementation of the interim GHG significance threshold:

1. Report back in March 2009 on Tier 4 and recommendation for residential and commercial GHG significance thresholds, if not already approved by CARB by February 2009;
2. Compile GHG emission factors and mitigation measures;

3. Continue working group process in coordination with CARB effort.

**5. Other Business – None**

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**ATTENDANCE**

**MEMBERS PRESENT (8)**

Jonathan Evans – Center for Biological Diversity – *on conference call*  
Doug Feremenga – San Bernardino County Land Use Planning Department  
Michael Hendrix – Chambers Group, Association of Environmental Professionals (AEP)  
Daniel McGivney – Eastern Municipal Water District  
Clayton Miller – Construction Industry Air Quality Coalition (CIAQC)  
Janill L. Richards – California Department of Justice, Attorney General’s Office – *on conference call*  
Cindy Thielman-Braun for Mike Harrod - Riverside County Planning Department  
Michael Wang for Cathy Reheis-Boyd - Western States Petroleum Association (WSPA)

**OTHERS PRESENT (29)**

Lysa Aposhian – Los Angeles County Sanitation District (LACSD)  
Leila Barker – Los Angeles Department of Water and Power (LADWP)  
Curtis Coleman – Law Offices of Curtis L. Coleman  
Diane DeFelice – Brownstein Hyatt Farber & Schreck, LLP  
Khalila Duvias – AAGIE  
Andy Henderson – Building Industry Association of Southern California (BIASC)  
Patrick Griffith – Los Angeles County Sanitation District (LACSD)  
Vijaya Jammalamadaka – Santa Barbara Air Pollution Control District – *on conference call*  
Steve Jenkins – Michael Brandman Associates (MBA)  
Darrel Johnson – Sempra Energy Utility  
Frances Keeler – Law Offices Keesal, Young & Logan – *on conference call*  
Richard Lambrose – Building Industry Association of Southern California (BIASC)  
Julia Lester – Environ  
Michael Litschi – Orange County Transportation Authority  
Vlad Kogan – Orange County Sanitation District (OCSD)  
Sun Key Ma – Riverside County Waste Management Department  
Rus Miller – Enertech  
Kristine Leathers Murray – Orange County Business Council  
John Pastore – Southern California Alliance of Public Owned Treatment Works (SCAP)  
Rupal Patel – Renewable Resources Group  
Todd Priest – CBPA  
Haseeb Qureshi – Urban Crossroads  
Leonard Scandura – San Joaquin Valley Air Pollution Control District  
Sam Silverman – Terry A. Hayes Associates LLC  
Charles St. John – Vulcan Materials Company  
Darren Stroud – Valero – *on conference call*  
Greg Tholen – Bay Area Air Quality Management District (BAAQMD) – *on conference call*  
Charanya Varadarajan – ENSR/AECOM

David Weaver – Environ

A. L. Wilson – Southern California Edison (SCE)

**AQMD STAFF (7)**

Barbara Baird, District Counsel

Elaine Chang, DrPH, Deputy Executive Officer

Daniel Garcia, Air Quality Specialist

Jeff Inabinet, Air Quality Specialist

James Koizumi, Air Quality Specialist

Barbara Radlein, Air Quality Specialist

Steve Smith, Ph.D., Program Supervisor