



**Minutes for the GHG CEQA Significance Threshold
Stakeholder Working Group #13
Wednesday, August 26, 2009
SCAQMD, Room GB, 10:00 AM – 12:00 PM**

1. Welcome and Introductions

Dr. Elaine Chang, Deputy Executive Officer of SCAQMD's Planning Rule Development and Area Sources Division, called the meeting to order at 10:10 A.M. and asked for self introductions of the working group members and SCAQMD staff. Dr. Chang then presented an overview of the meeting agenda.

2. Updated GHG Threshold Analysis for Residential/Commercial/Mixed Use Development Projects

Dr. Steve Smith, Program Supervisor of the CEQA section in SCAQMD's Planning Rule Development and Area Sources Division, provided a summary of the July 29, 2009 GHG Working Group meeting. On June 15, 2009, SCAQMD staff received a database from the Office of Planning and Research (OPR) of 798 projects with environmental impact reports (EIRs) and mitigated negative declarations (MNDs) prepared and submitted to OPR in the years 2007 and 2008. Staff reviewed the database and eliminated 60 projects because: they did not provide sufficiently detailed project descriptions (e.g., square footage, units, etc.) were zone changes or modifications, were CEQA documents for redundant projects (i.e., subsequent CEQA documents for the same project), and/or were regional general/master/specific plans. General/master/specific plans documents were specifically excluded because they are comprised of large regional multiuse projects as opposed to individual projects undertaken at the local level.

Direct carbon dioxide (CO₂) emissions from the remaining 738 projects were calculated using the Urban Emissions 2007 (URBEMIS2007) model and presented in an Excel spreadsheet. Separate URBEMIS2007 analyses were performed for residential and commercial projects using the model's default factors except that the default trip rate factor was modified to include weighted trip rates to reflect trips during the week days and weekends according to land use type. Mixed use projects were divided into their component parts, either residential or commercial and then incorporated into the appropriate dataset. The analysis did not include office projects. Indirect CO₂ equivalent (CO₂e) emissions generated from electricity usage and water-related electricity usage were then calculated for each project in the residential and commercial databases. Natural gas usage is already included in the direct emissions from area sources calculated in the URBEMIS2007 model. Electricity and water-related electricity usage emission factors for the residential sector were specific for the southern California region, but only statewide emission factors were available for the commercial sector. The direct and indirect CO₂e emissions were then summed for all projects in both the residential and commercial databases to obtain total annual CO₂e emissions. The 90 percent capture rate for residential projects ranged from 8,580 metric tons (MT)CO₂e/year (210 units) to 9,151 MTCO₂e/year (224 units). The 90 percent capture rate for commercial projects ranged from 2,427 MTCO₂e/year (126,705 sq. ft.) to 3,041

MTCO₂e/year (158,930 sq. ft.). Staff and the working group concurred that the analysis should be based only on the OPR database.

Based on feedback from the working group, additional analysis was conducted. Further review of the OPR database resulted in removing 27 additional general plan/master plan/specific plan projects. Therefore, the additional analysis was conducted on the remaining 711 projects. The first scenario analysis consisted of combining all projects into a single database. The same assumptions as the first analysis were used, including:

- Construction GHG emissions amortized over 30 years
- Direct GHG emissions calculated using URBEMIS
- Indirect electricity/water use GHG emissions calculated
- Direct and indirect emissions assumed and 90th percentile identified.

The 90 percent capture rate for residential/commercial projects ranged from 2,983 MTCO₂e/year to 3,143 MTCO₂e/year. A second scenario analysis was conducted using a residential only plus mixed use residential database:

- Same assumptions as first analysis were used
- Activated double counting and pass by functions.

The 90 percent capture rate for residential/mixed use residential projects ranged from 3,310 MTCO₂e/year to 3,596 MTCO₂e/year. A third scenario analysis was conducted using a commercial only plus mixed use commercial database:

- Same assumptions as first analysis were used
- Activated double counting and pass by functions.

The 90 percent capture rate for commercial/mixed use commercial projects ranged from 1,390 MTCO₂e/year to 1,481 MTCO₂e/year.

The working group was then asked for comments and considerations regarding the development of a significance threshold for commercial, residential and mixed use projects, and was provided with the following possible scenarios:

- Develop a single GHG significance threshold based on the 90 percent capture rate from the combined database
- Develop separate thresholds for residential and commercial
- Develop separate residential and commercial GHG significance thresholds, which could be used to develop a weighted GHG significance threshold for mixed use projects based on the GHG contributions from each project.

Comments/Questions on the Residential/Commercial GHG Significance Threshold Survey

- A comment was made that we should not refer to the number as a threshold, but as a screening level.
- A working group member commented that a mixed use approach technically makes sense, however, when working on a General Plan level, a percent reduction approach may be more appropriate.

3. Recent Attorney General's Comments on GHGs for General Plans

On July 13, 2009, the California Attorney General's (AG) Office submitted a comment letter to the County of Sacramento (County) regarding its General Plan. The comment letter noted that the CEQA document analyzed the impacts of future growth using the assumption that future growth would be twice as much as would be necessary to meet projected future demand. However, the AG's comment letter noted that the County needs to more aggressively mitigate impacts through: feasible alternatives, adoption of a phased development approach, and city-county coordination to optimize growth and reduce GHG emissions. With regard to mitigation measures, efficiency-based performance standards are acceptable as long as the lead agency is able to show that those performance standards, together with all other measures and strategies, are likely to achieve the emission reduction targets in the General Plan. In addition, the AG's letter recommended that the GHG mitigation measures in the Climate Action Plan to be developed should be included in the General Plan and should demonstrate a reduction in vehicle miles traveled (VMT).

Comments on Attorney General's Comment Letter

- One working group member noted that the General Plan update is a good time to include a GHG emission reduction element.
- A second working group member agreed stating, "substantial evidence" required by CEQA is best proven through General Plan compliance.
- A comment was made that if the current results of the analysis are used to establish numerical thresholds, they do not fulfill the "substantial evidence" test. Further, if the current results are used as numerical thresholds a large number of projects would fall under such thresholds and would not be required to implement measures to reduce GHG emissions. All projects should be subject to some kind of GHG reduction requirement (or performance standard). Staff responded that one option could be similar to an option being considered by Bay Area AQMD that requires all projects to comply with a GHG reduction performance standard based on the size of the projects, with projects below a certain size being required to reduce GHG emissions by five percent. However, if all projects must incorporate GHG reduction measures to reduce GHG emissions by a certain percent, it would be more appropriate to establish a rule, regulation or state law similar to Title 24 requirements, which would be applied to existing and new projects over time.

4. General Comments

- A question was asked regarding whether or not the SCAQMD is coordinating its GHG significance threshold development process with similar efforts by other air districts. Staff is monitoring GHG significance threshold proposals currently in progress by other air districts through CAPCOA and directly with some of the other air districts. However, it is not necessarily expected that SCAQMD staff will develop the same or similar thresholds as other districts or use the same methodologies to develop thresholds. Staff reiterated, however, that the best approach would be statewide GHG threshold(s) developed at the state level.
- A working group member asked when staff anticipates taking a GHG significance threshold proposal for residential and commercial projects to the Governing Board for adoption. Staff responded that the tentative schedule is to take significance threshold(s) for residential and commercial projects to the Board for consideration in fall 2009.
- A follow-up question was asked regarding what the GHG significance threshold would “look like?” Although there was initial reluctance on staff’s part to develop a numerical GHG significance threshold, SCAQMD’s staff’s tiered approach recommendation, which includes a numerical threshold (Tier 3) appeared to be an acceptable proposal by most stakeholders because it requires a quantitative GHG analysis for all nonexempt projects in order to justify the significance determination, which may then trigger mitigation requirements, consistent with current CEQA requirements.
- A second follow-up question was asked regarding whether or not those projects below the numerical significance threshold would still be required to comply with some kind of performance standard (e.g., percent reduction.). Staff responded that staff’s currently recommended tiered approach does not include a requirement for all projects to reduce GHG emissions by a certain percent and reiterated that a rule, regulation, or statewide law would be more appropriate to obtain GHG emission reductions from all projects.
- From a “legal perspective,” one working group member expressed the concern that a numerical threshold could be construed as a de minimus level, which is not allowed under CEQA. Any numerical GHG significance threshold must be legally defensible. In response, a second working group member suggested that staff perform a review and develop criteria for what would be a legally defensible approach for developing a numerical GHG significance threshold.
- A working group member believed a 90 percent emission capture rate was not an appropriate cut-off because projects below that level (e.g., 210 residential units) are still large projects that should be required to reduce GHG emissions “given the context of the GHG problem.” A possible solution was suggested that using a higher emissions capture rate or, alternatively, using a project size capture rate could be the basis for establishing a lower numerical threshold. This approach may be more legally defensible and less vulnerable to a “fair argument” legal standard.

- One working group member reminded the working group of the importance in accurately calculating GHG emissions (i.e., what sources should be considered when quantifying GHG emissions from a project). Further, since the URBEMIS model is currently the primary tool used to quantify GHG emissions (and construction and operational emissions), it needs to be updated to provide the most accurate method of quantifying GHG emissions. Staff agreed that the model needs to be updated to more accurately quantify GHG emissions. A scope of work has been drafted to revise the GHG component to more accurately quantify GHG emissions. There are, however, some issues that need to be resolved before the model can be updated. Another working group member agreed that more accurate quantification of GHG emissions is necessary, noting that if GHG emissions are not accurately calculated there may be problems determining when mitigation measures should be imposed.
- A follow-up concern was expressed that the assumption that all trips are new trips does not accurately reflect the real world situation. For example, trips associated with new residential units are not necessarily new trips, but may actually be displaced trips that existed somewhere else. In this situation, staff recommends that projects should to be evaluated on a case-by-case basis and, if there is enough evidence to support the assumption that trips generated by a new projects are displaced, then this assumption could be used in the analysis.

5. Other Topics

None.

6. Closing Remarks

The next meeting is scheduled for August 26, 2009 in meeting room GB at 10:00 AM.

7. Other Business

None.

MEMBERS PRESENT (14)

James Arnone – Latham & Watkins – *on conference call*

Debbie Stevens – Refineries

Doug Feremenga – San Bernardino County Land Use Planning Department

Patrick Griffith for Greg Adams – City of Los Angeles Bureau of Sanitation

Michael Hendrix – Association of Environmental Professionals (AEP)

Shari Libicki – Green Developers Coalition

Clayton Miller – Construction Industry Air Quality Coalition (CIAQC)

Peter Okurowski – Pillsbury Law– *on conference call*

Bill Piazza – Los Angeles Unified School District (LAUSD)

Janill Richards –Attorney General’s Office – *on conference call*

Matt Vespa – Center for Biological Diversity (CBD) – *on conference call*

Carla Walecka – Realtors Committee on Air Quality (RCAQ)

Lee Wallace – Sempra Energy Utilities

Michael Wang for Cathy Reheis-Boyd – Western State Petroleum Association (WSPA)

OTHERS PRESENT (8)

Lilia Barker – LADWP - - *on conference call*

Marcia Baverman for Debbie Stevens – Environmental Audit, Inc.

Adam Moke – City of Los Angeles Bureau of Sanitation

Danielle Morone – Gatzke, Dillon & Balance, LLP – *on conference call*

Haseeb Qureshi – Urban Crossroads

Greg Tholen – Bay Area Air Quality Management District – *on conference call*

Christina Tran – LA County Planning – *on conference call*

Suzanne Wilson – Public Utilities Department

AQMD STAFF PRESENT (8)

Elaine Chang – Deputy Executive Officer

Steve Smith – Program Supervisor

Daniel Garcia – Air Quality Specialist

Jeff Inabinet – Air Quality Specialist

James Koizumi – Air Quality Specialist

Mike Krause – Air Quality Specialist

Gordon Mize – Air Quality Specialist

Barbara Radlein – Air Quality Specialist