



# SAN FRANCISCO PLANNING DEPARTMENT

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Subject: California Air Resources Board Preliminary Staff Proposal for Recommended Approaches for Setting Interim Significance Thresholds for Greenhouse Gases Under the California Environmental Quality Act.

Dear Mr. Ito,

The scope and complexity of issues presented by greenhouse gas ("GHG") regulation can be daunting and the San Francisco Planning Department (the "Department") would like to commend the California Air Resources Board ("CARB") for its work on this difficult task. As San Francisco's designated lead agency for environmental review under the California Environmental Quality Act ("CEQA"), the Department has extensive experience concerning the application of CEQA to infill development and land use planning initiatives in a densely populated urban environment. With that perspective in mind, the Department has reviewed CARB's draft Recommended Approaches for Setting Interim Significance Thresholds for Greenhouse Gases under CEQA and offers the following comments.

The Department's primary comments relate to the scope of the applicability of CARB's proposed thresholds, consistency with use of certain exemptions under CEQA, the need for a standard methodology for calculating GHG emissions, and the challenge of defining acceptable mitigation measures/performance standards.

## **APPLICABILITY OF PROPOSED SIGNIFICANCE THRESHOLDS**

CARB proposes significance thresholds for industrial projects and commercial and residential projects. The Department's experience with infill development projects is that the guidelines may raise questions about how to apply them to projects involving a mix of uses, such as projects that may include institutional uses along with a mix of residential and commercial uses of variable amounts. Further, it is unclear how to treat infrastructure upgrade projects (rebuilding aging sewer systems, adding bus rapid transit systems to existing roadways, for example). Clear definitions of the project types that serve as the basis for the proposal would assist. More critically, the Department is concerned that the CARB proposal will become the de facto standard that jurisdictions must use, or undertake significant effort to justify a deviation from the CARB proposal. The Department suggests adding text that provides flexibility to the proposed thresholds to tailor the thresholds to fit projects within the lead agency's jurisdiction as necessary.

## **CEQA EXEMPTIONS**

Although the CARB proposal indicates that projects that are currently exempt would remain exempt, the Department is concerned that issues remain regarding the ability to continue to rely on categorical exemptions and general rule exclusions for projects with minimal environmental effects. Our concerns are two fold. First, all categorical exemptions are subject to the provisions of CEQA Guidelines Section 15300.2, which provides, among other issues, that categorical exemptions may not be used when a project contributes significantly to a cumulative impact. The CARB proposal does not make sufficiently clear that any project that otherwise qualifies for a categorical exemption will continue to do so, notwithstanding its potential contribution to cumulative greenhouse gas emissions. Further, certain categorical exemptions specifically require an affirmative determination that a project does not significantly contribute to air quality impacts, for example, the categorical exemption for infill development. The CARB proposal does not specifically clarify whether projects that otherwise qualify for the infill exemption will still qualify for an exemption under the CARB proposal.

Finally, it is unclear how to apply the proposed CARB guidance to a project that is otherwise exempt from CEQA under CEQA Guidelines Section 15061(b), the general rule exclusion. If it is CARB's intent to allow the use of a general rule exclusion for projects that otherwise qualify for the exclusion and have less-than-significant greenhouse gas emissions under CARB's proposed thresholds, this should be explicitly stated.

### **COMPREHENSIVE LAND USE PLANNING**

CARB's proposal allows projects that are consistent with an adopted plan that meets certain attributes to avoid a detailed GHG emissions analysis. However, no plan currently exists that meets these requirements, which are in part keyed to recently enacted SB 375. Plans that meet these attributes and have completed environmental review are not likely to exist for many years. Consequently, the proposed thresholds do not appear to support comprehensive land use planning efforts underway now in many jurisdictions. Comprehensive land use planning is key to greenhouse gas reductions because it allows for synergies across uses that could not be possible on smaller individual projects. For example, San Francisco has adopted specific Area Plans for many of San Francisco's neighborhoods to address the specific land use and planning needs of such neighborhoods. San Francisco's more current area plans include sustainable design strategies and focus on infill development near transit rich areas of the City. These area plans often implement state of the art sustainability components. (Consider, for example, the Visitacion Valley / Schlage Lock Redevelopment Plan, which is a LEED in Neighborhood Design pilot project.) However, a project of moderate size that is consistent with the plan but of a mixed use nature that does not fit within a categorical exemption, would likely be required to undertake a project EIR and further reduce GHG emissions because the total project emissions exceed the CARB proposed threshold for residential/commercial projects.

However, if the component parts of an area plan were considered on a per unit basis (GHGs per commercial square footage, GHGs per residential unit, etc.), GHG emissions could be lower than the proposed significance thresholds (the proposed 1,600 tons of

CO<sub>2</sub>-equivalents/ 100 units of infill development). The Department recommends two solutions: allow a broader range of plans besides those that meet the features listed in the CARB proposal to serve as a basis for finding a project consistent with the plan has less than significant GHG impacts and provide an analysis of how the CARB proposal break downs the proposed thresholds on a per unit basis with clearly defined units.

A per unit analysis would provide clearer guidance to local jurisdictions as to appropriate goals to aim for with projects of varying types and would reduce incentives for project sponsors to try to piecemeal the environmental review of larger projects. It would also eliminate the appearance of disincentives for larger housing projects, thereby promoting the state's affordable housing goals. Larger development projects in San Francisco typically include a mix of uses to help support a larger affordable housing component due to their ability to offset the lower profit margins associated with affordable housing. But, even though such a project may be consistent with a plan that in aggregate would result in lower GHG emissions per unit of development than proposed by the CARB guidance, because of the size of the development, the project would apparently be expected to further mitigate GHG emissions solely because of its size. Establishing a significance threshold that is directly related to project size could disproportionately result in higher costs for affordable housing projects.

## **CALCULATION METHODOLOGY**

CARB could greatly aid the analysis of impacts under CEQA by developing a methodology that can be consistently applied to GHG emissions analyses for development projects. The Department is aware that CARB is working on the development of protocols for calculating GHG emissions from different sources, but has not yet developed protocols for community residential, commercial and institutional activities.

Consider, for example, the following methodological questions/assumptions, each of which could affect a project's GHG emission total. For purposes of calculating baseline

conditions, would CARB consider whether a project site is vacant and not contributing any GHGs? What about redevelopment of underutilized sites that are currently operating and emitting GHGs? Should existing GHG emissions be subtracted from the new GHG emissions from the project to calculate a net increase in emissions, consistent with CEQA? What are appropriate assumptions for infill development/ redevelopment sites that typically are not operating at full capacity and therefore not producing as much GHG emissions?

Additionally, it is unclear what calculations CARB does include in its analysis. The OPR technical advisory states that emissions should be calculated for construction activities, vehicle miles traveled, operational natural gas and electricity usage, and water usage. However, some jurisdictions include calculations from solid waste disposal as well. Also, when calculating waste emissions, should the total include energy used for recycling? For example, San Francisco diverts approximately 69 percent of its waste from landfills, and presumably this waste is recycled and/or composted. Should GHG emissions from landfilling, recycling and composting be considered? It is important that any threshold of significance that relies on a quantified approach identify the methodology to use for calculating emissions. Without clear and transparent methodology, there may be inconsistent application of the guidance and the possibility that third party consultants will use proprietary models that may be cost prohibitive for some projects and result in analysis that could be less transparent than if there is formal methodological guidance.

## **MITIGATION MEASURES**

The proposed significance thresholds should be able to evaluate the effectiveness of performance measures and mitigation measures. Methodology for assessing GHG reductions from mitigation measures should be developed if a quantitative GHG threshold is adopted. There should be equal clarification as to what constitutes mitigation. For example, would a mixed-use project that incorporates both residential and commercial uses qualify for some mitigation credits because presumably residents would be able to use the commercial uses on site, reducing their travel time and

potential vehicle miles? In line with the previous concerns regarding comprehensive land use planning, some planning efforts/projects would be designed to shift transportation modes away from vehicles, and to what extent can this mode shift be used as mitigation and how would the GHG reductions be counted? Also, it is unclear the extent to which off-set programs could be used as mitigation. What requirements would such a program need to have in order to qualify as mitigation?

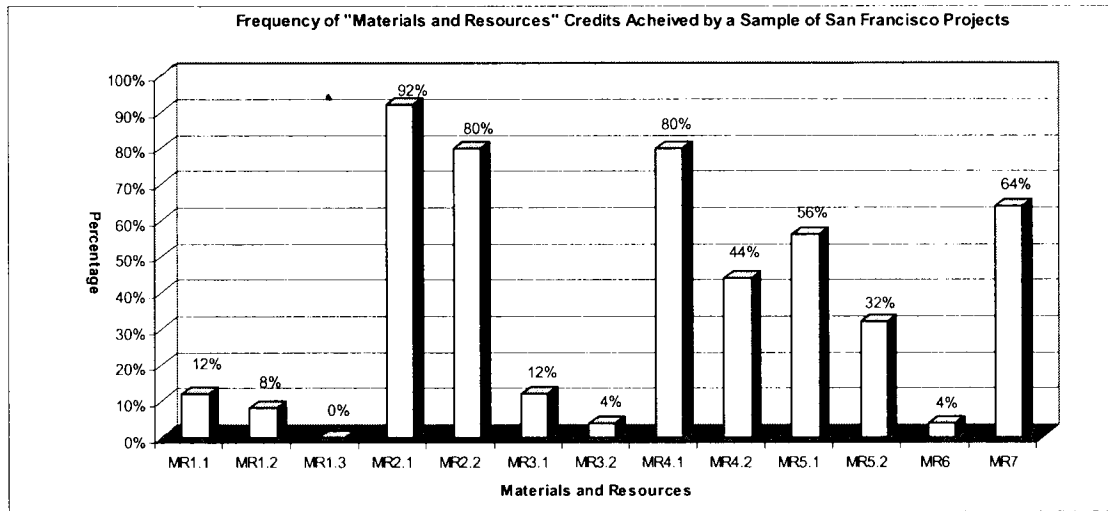
## **PERFORMANCE STANDARDS**

Upon initial review of the performance standards for Residential and Commercial projects, it appears that the performance standards are significantly more ambitious than San Francisco's recently enacted Green Building Ordinance (Chapter 13C of the San Francisco Building Code), which was approved by the Board of Supervisors on May 6, 2008 and effective as of November 3, 2008. San Francisco has enacted legislation or adoption programs to mandate or encourage green building standards in San Francisco since 2004. In 2007 a Green Building Task Force comprised of industry representatives was established and issued policy recommendations to advance sustainability in the private sector built environment. The resulting green building code is considered by many local governments to be not only the most comprehensive and aggressive in scope but also as a model for the phased-in approach to increasing requirements, and for its stakeholder input process.

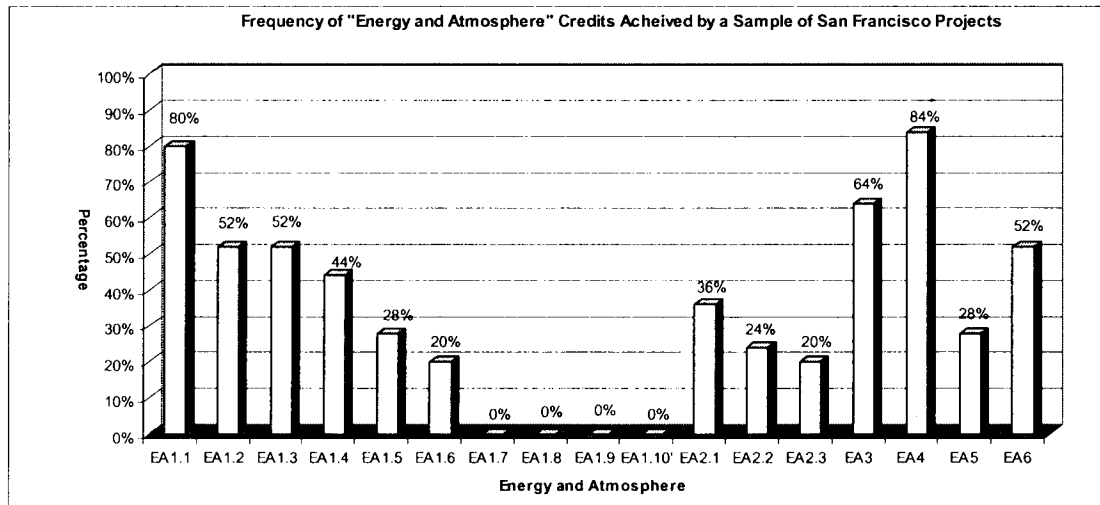
Specifically, there is some concern regarding the feasibility of prescribing LEED measures (or their equivalents) as performance standards in the areas of "Construction: Recycled content for 20% Valuation of Building Materials" (per LEED Credit MR 3.2), and "Energy: Meeting CEC's Voluntary Tier II Energy Efficiency Standards."

San Francisco recently conducted a Credit Achievement frequency analysis on completed and in process LEED Certified projects in San Francisco. According to our findings, LEED Credit MR 3.2 has been achieved on only 4% of certified projects (Table 1 below), while the equivalent to achieving Tier II energy efficiency (EA 1.7) has a 0% achievement range (Table 2 below).

Table 1



**Table 2**



While we appreciate the goals and intent of these performance measures, we recommend that alternative approaches be considered. Options might include:

- Phasing-in gradually towards getting to desired targets in materials and energy efficiency
- Offering means to meet some but not all of the performance measures as opposed to requiring all performance measures as currently proposed (a “mix and match” approach).

The Department cautions against performance standards that would be infeasible to implement and suggests seeking input from the development community on the feasibility of the proposed performance standards. The Department also advises that a performance standard based on vehicle miles traveled versus vehicle trips generated could produce ambiguous model outputs.

The Department is further concerned about the proposed timeline for implementation of significance thresholds given that methodology for calculating emissions are not flushed out. We look forward to an opportunity to comment on any methodology that might be developed in the next draft of the proposed thresholds. Additionally, it is important to not forget that the point of CEQA is to avoid or substantially reduce significant environmental impacts. Perhaps it would be most effective to develop qualitative thresholds of significance and focus the majority of analysis on incorporation of feasible



mitigation measures that would reduce potential impacts. Ideally, development projects would include maximum performance standards, which might be most effectively incorporated into development projects through the California Building Code, for example, and not necessarily CEQA.

Thank you in advance for consideration of our comments. Once again, the Department commends CARB's efforts to develop GHG significance thresholds under CEQA. Please feel free to contact us should you have any questions or require additional information.

Thank you,

A handwritten signature in black ink, appearing to read "Bill Wycko", written in a cursive style.

Bill Wycko  
Environmental Review Officer  
San Francisco Planning Department

