



July 23, 2010

Via Electronic Mail

Mary Nichols, Chair
California Air Resources Board
1001 "I" Street
Sacramento, California 95814
<http://www.arb.ca.gov/cc/sb375/comments.htm>

Re: Comments on Draft Regional Greenhouse Gas Emission Reduction Targets for Automobiles and Light Trucks Pursuant to SB 375

Dear Chairman Nichols:

The Center for Biological Diversity ("Center") submits these comments on the proposed Draft Regional Greenhouse Gas Emission Reduction Targets for Automobiles and Light Trucks Pursuant to SB 375 ("Draft Targets"). SB 375 presents a unique opportunity to guide development in the State toward a sustainable and low-carbon future that will yield significant economic, public health, and environmental benefits for California. However, this opportunity will be squandered through the adoption of weak targets contemplated by the majority of Metropolitan Planning Organizations ("MPOs"). If adopted by the Air Resources Board ("ARB"), modest targets would reduce SB 375 to a series of backdoor CEQA exemptions that do little more than greenwash business as usual sprawl and undermine existing efforts to reduce greenhouse gas pollution. We strongly urge ARB to fulfill its statutory mandate under SB 375 and adopt robust targets that will facilitate the shift in land use planning and transportation policies needed to meet California's near and long-term emission reduction objectives.

I. The Draft Targets Violate SB 375 Because There is No Analysis of the Extent to Which They Would Achieve California's Near and Long-Term Emission Reduction Objectives

In passing SB 375, the Legislature clearly intended for ARB to adopt targets that help achieve California's emission reduction goals. SB 375 explicitly recognizes that absent "significant additional greenhouse gas reductions from changed land use patterns and improved transportation . . . California will not be able to achieve the goals of AB 32."¹ To fulfill this statutory purpose, SB 375 directs ARB to establish regional greenhouse gas reduction targets that "take into account" reductions achieved through

¹ Senate Bill No. 375 (2008) § 1(c).

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improved fuel economy and other regulations promulgated under AB 32.² By placing exclusive focus on whether a particular MPO might be able to achieve a given target – an objective that is nowhere found in the text of SB 375 – without regard to whether or not the target will achieve the significant *reductions*³ in greenhouse gas emissions needed to achieve California’s emission reduction objectives, the Draft Targets run afoul of SB 375.

Based on recommendations from the Regional Targets Advisory Committee (“RTAC”), the Draft Targets are set forth as per capita emissions reductions from a 2005 base year. We recognize that this metric may have certain benefits. However, by presenting purported reductions in per capita terms, the targets mask the potentially significant increases in net emissions that would result from anticipated population growth. Absent disclosure of the net change in emissions that would result from population growth expected in 2020 and 2035, the Draft Targets do not permit a reasoned assessment of their sufficiency in achieving California’s emission reduction objectives. To comply with SB 375 and enable informed decisionmaking, ARB must analyze how the Draft Targets would function to reduce net emissions and adopt targets that are consistent with California’s near and long-term emission reduction objectives.

The disconnect between the Draft Targets and California’s emission reduction objectives is particularly acute with regard to proposed targets for 2035, which propose little, if any, additional reduction in per capita emissions from 2020 despite the steep emissions reductions needed during the 2020 through 2035 time period. For example, “ambitious and achievable” scenarios proposed by SCAG envision per capita *increases* relative to 2020 targets. These proposals fly in the face of the findings in the Scoping Plan, which recognize that to meet California’s 2050 emissions reduction target, “per-capita emissions must decrease at an average rate of slightly less than five percent per year during the 2020 to 2030 period.”⁴ Indeed, immediate and significant changes in land use and transportation policies are critical to achieving California’s 2050 emission reduction objectives.⁵ Proposed targets that fail to significantly decrease per capita emissions during the 2020-2035 timeframe cannot be legitimately reconciled with California’s emission reduction objectives and must be rejected by ARB.

It is our understanding that, given shortcomings in existing modeling capabilities, ARB intends the 2035 targets to be viewed as provisional. However, provisional targets should conform to reductions needed to achieve California’s emissions reduction trajectory, not cater to modeling deficiencies and limitations in forecasting. Indeed,

² Gov’t Code §§ 65080(b)(2)(A), (b)(2)(A)(iii). Similarly, subsection (iv) allows ARB to revise the targets every four years based on factors in subsection (iii) (improved fuel consumption, changes in fuel composition etc).

³ Because SB 375 calls for reductions in emissions, targets that result in a net increase in emissions are inconsistent with SB 375.

⁴ Scoping Plan at 118.

⁵ Scoping Plan at ES-12 (“In order to achieve the deep cuts in greenhouse gas emissions we will need beyond 2020 it will be necessary to significantly change California’s current land use and transportation planning policies. Although these changes will take time, getting started now will help put California on course to cut statewide greenhouse gas emissions by 80 percent in 2050 as called for by Governor Schwarzenegger.”).

future opportunities to revise targets based solely on modeling concerns may be limited.⁶ Setting weak 2035 targets today will cement low expectations and make it all the more difficult to move toward the more stringent targets that will inevitably be required in the future.

In estimating how SB 375 would function to help achieve California's emission reduction goals, ARB must also discount any reductions attributable to the Draft Targets due to the non-binding nature of the SCS/APS. Under SB 375, "[n]either the sustainable communities strategy nor an alternative planning strategy regulates the use of land."⁷ Inconsistency with an SCS/APS cannot even be considered in determining whether a project has an environmental effect under CEQA.⁸ Therefore, local governments are free to approve projects that are inconsistent with an APS/SCS with the only consequence being full CEQA review for these projects as currently required under existing law. Indeed, as suggested by the proposed Sacramento County General Plan Update, local governments frequently seem inclined to disregard regional blueprints in favor of narrow economic or political interests.⁹ Accordingly, in assessing *actual* emission reductions that may result from SB 375, it is not appropriate to assume full compliance with an SCS by local governments.

II. SB 375 Contemplates the Adoption of Robust and Ambitious Targets that Require Forward-Thinking and Aggressive Action From MPOs

Targets set under SB 375 are intended to reflect the fundamental shift in development and transportation investment needed for California to meet its near-term and long-term emissions reduction goals. Adopting modest per capita reductions proposed by several MPOs, which seem to largely reflect existing trends toward mixed-use development with little in the way of aggressive measures and inspired land-use planning, is contrary to the intent of SB 375.

SB 375 does not envision setting emission reduction targets that represent merely a nominal improvement from current trends and requirements. It is clear from the fact that SB 375 allows for the preparation of an APS where an SCS does not meet the required targets, that the statute contemplates robust objectives that not all MPOs may be able to meet.¹⁰ Setting targets at a level that does not reflect a significant shift from business as usual simply to enable all MPOs to prepare a compliant SCS is therefore contrary to SB 375's statutory scheme. In passing SB 375, the Legislature did not intend ARB to capitulate to development and transportation scenarios that largely reflect current trends but rather to have ARB lay out a vision of meaningful sustainable growth that represents a significant shift from business as usual. Setting targets that would reward flawed modeling assumptions and a lack of commitment and ambition also sends the

⁶ Gov't Code §§ 65080(b)(2)(A)(iv).

⁷ Gov't Code § 65080(b)(2)(J).

⁸ Gov't Code § 65080(b)(2)(H)(v).

⁹ See FEIR, Sacramento County General Plan Update (Apr. 2010) at 3-33 (proposed new growth area "will significantly conflict with the smart growth principles outlined by the Blueprint"), *available at* <http://www.dera.saccounty.net/SearchforDocuments/GeneralPlanUpdateEIR/tabid/117/Default.aspx>

¹⁰ Gov't Code § 65080(b)(2)(H).

wrong signal to those MPOs that have done the hard work in crafting forward-thinking scenarios that would significantly reduce VMT in their region. Consistent with SB 375, ARB must set targets that reward excellence, not mediocrity.

III. Weak Targets Will Undermine Reductions in Greenhouse Gas Pollution That Would Otherwise Have Occurred Under CEQA

As a practical matter, the weak targets proposed by the majority of MPOs will undermine existing tools to reduce greenhouse gas emissions and could result in greater emissions than would have otherwise been achieved in the absence of SB 375. For example, CEQA already requires that a regional transportation plan (“RTP”) analyze and mitigate its greenhouse gas impacts. SB 375 targets that can be achieved through adoption of a handful of modest measures will undercut efforts to compel the consideration of additional mitigation and alternatives currently required under the CEQA review process. In addition, many local jurisdictions are developing greenhouse gas reduction plans that could function to streamline the analysis of greenhouse gas impacts under CEQA.¹¹ Weak SB 375 targets that result in an SCS that fails to significantly curtail sprawl development patterns could disincentivize the development of robust greenhouse gas reduction plans. Rather than meet the stronger emission reduction objectives required of a climate action plan, a jurisdiction could claim compliance with SB 375 as justification for its failure to pursue more stringent steps needed to meaningfully reduce community-wide emissions.

Weak targets would also reduce SB 375 to a series of backdoor CEQA exemptions without any resulting benefit to the environment. Part of the rationale for providing CEQA exemptions to projects that comply with the SCS/APS is that compliance serves as a rough proxy for that project’s environmental impacts. Modest targets that countenance sprawl development would permit these projects to escape certain types of environmental review. For example, SCAG’s scenarios would distribute more than 2 million people, or 40% of its population growth by 2035, to at or beyond the urban edge, in the High Desert, Coachella Valley and the valleys southeast of Riverside.¹² Were SCAG’s proposed targets accepted, even exurban sprawl permissible under a compliant SCS would likely be exempt from analyzing transportation-related greenhouse gas impacts even though these are exactly the types of projects that have a significant cumulative impact on global warming.¹³

For the reasons set forth above, we urge ARB to adopt strong targets that require the transformational shift in land use and transportation policies envisioned under SB 375.

¹¹ See CEQA Guideline § 15183.5.

¹² Letter to Mary Nichols from ClimatePlan re: Analysis of SB 375 Target Scenarios Prepared by SANDAG, SCAG, MTC and SACOG dated June 23, 2010 at 15.

¹³ Pub. Res. Code § 21159.28; see also BAAQMD Greenhouse Gas Thresholds Case Studies (finding that sprawl projects far exceed per capita emissions level for determining significance of greenhouse gas impacts).

Thank you for considering these comments. If you have any questions, please contact Matt Vespa at mvespa@biologicaldiversity.org or (415) 436-9682 x309.

Sincerely,

A handwritten signature in black ink that reads "Matthew Vespa". The signature is written in a cursive style with a large, sweeping initial 'M' and a distinct 'V'.

Matthew Vespa
Senior Attorney