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January 9, 2009

Ms. Mary Nichols, Chair  
California Air Resources Board  
1001 "I" Street  
Sacramento, CA 95814

Subject: Preliminary draft framework and potential performance standards for CEQA and Greenhouse Gases

Dear Ms. Nichols,

Thank you for the opportunity to comment on the preliminary draft framework and potential performance standards for residential and commercial project greenhouse gases under the California Environmental Quality Act (CEQA) as presented at the ARB workshop on December 9, 2008. These comments are in addition to the comments submitted by the City of Los Angeles to ARB on 12/1/2008. That comment letter also contains background information on the City's climate actions and CEQA process.

#### COMMENTS

The proposed performance standards appear somewhat arbitrary and have varying degrees of difficulty for achievement. For example, based on the City's experience, the construction-related standards appear more easily achievable than the energy standards. A 30% reduction over 2008 Title 24 standards represents quite a challenge for most projects. To better inform the appropriate level of a standard, the City recommends ARB survey recently completed construction projects to set levels that are being achieved at similar frequencies.

One solution to this issue would be for ARB to allow a unified performance option of meeting the appropriate LEED standard. The US Green Building Council robustly maintains the LEED system and has recently adopted goals of 50% greenhouse gas reduction and has rescaled the point system accordingly. This approach removes much of the arbitrariness inherent in ARB proposed performance standards. The LEED system is continually evaluated and updated by a diverse group of environmental and development experts, which also avoids ARB having to maintain a less comprehensive but nonetheless duplicative set of standards.

At the December 9 workshop, ARB solicited scenarios where the Box 3b "AND X" is necessary. The scenario of greatest concern would be when an essentially greenfield development is able



to achieve high efficiency standards based on its physical design, but avoid a true accounting of transportation-related emissions due to faulty assumptions about locations of trip origin and destination, projected growth patterns, and what trips are truly being replaced. The "AND X" might help in this regard in some cases, but is also a rather awkward non-normalized target to meet. What is really needed are improved transportation models and additional "greenfield" screening tests to avoid having such projects slip through without proper accounting.

Providing lead agencies an option to address GHG impacts on a programmatic and planning level, and not on a project-by-project basis, is consistent with the global nature of the problem. The smart growth concept extends beyond efficient projects and includes how those projects connect together. There is risk of continued growth propelling enough efficient projects to the point of geographic saturation in infill areas. Among other things, good densification creates opportunities for increased open space and access thereto. A series of individual infill projects can more quickly and seriously impact local open space access than climate change. Therefore land use, climate action and sustainability plans should be allowed to reconcile these issues.

Another area of where programmatic approaches should prevail concerns transportation impacts of proposed development and redevelopment projects. While some mitigation can be done on site, options to truly reduce vehicles trips are limited if public transit is not available. We strongly encourage ARB to look closely at regional or area-wide evaluation of GHG impacts, where that makes sense. As noted in a previous comment, transportation GHG projections have more assumptions and variables than other sectors, and are therefore more likely to be skewed by project proponents. This underscores the urgent necessity to have quantified metrics for mitigation measures that could be incorporated into projects without a great deal of administrative costs. The ARB should work with CALTRANS and other organizations to develop a reference guide of quantified GHG mitigation measures that quantify TDMs for lead agencies to use in their CEQA review.

In a similar vein, the "substantial evidence" test under CEQA for greenhouse gas significance has been roughly met statewide under AB32. Local lead agencies may adopt or modify the ARB recommendation, and would need to repeat the substantial evidence to justify its adoption of a threshold. More justification may be needed for local lead agencies to declare significance of individual projects within the statewide mix and for treating one source category differently than another. It would be helpful, though a challenging undertaking for ARB, to provide evolving GHG budgets for CEQA projects (i.e. "new" projects subject to CEQA review) as differentiated from current sector-based categories under the AB32 Scoping Plan.


To be consistent with AB32 and the Kyoto Protocols, 1990 should be a required baseline for emissions analyses. Business as usual should be determined by the local lead agency, since jurisdictions have varying rates of progress.

Slide 19, second bullet: For residential projects, the performance standards do not adequately define the type of services residential projects need to be in proximity to, how proximity is determined or what is meant by carbon efficiency. It also does not demonstrate if the carbon efficiency finding is inclusive with the numerical target, or if is a substitute measure. Qualitative thresholds have the appearance of allowing lead agencies greater flexibility making impact determinations for projects that demonstrate smart growth features, but make it very difficult to enforce consistently.

Slide 23: The projected residential GHG reduction rates are 3 times that of commercial rates. Unless ARB can state a convincing reason for residential uses to carry a much heavier reduction burden, a similar VMT-based standard should be used for commercial.

We realize that we've raised some issues without immediate answers and look forward to working with ARB staff towards possible solutions. Thank you, again, for the opportunity to provide you with these comments on the proposed interim significance threshold for greenhouse gas emissions. If you have any questions, or for further information, please feel free to contact me at (213) 978-0852 or Craig Tranby of my staff at (213) 978-0853.

Sincerely,

  
Gretchen Hardison  
Director, Climate and Air Programs

C: James Caldwell, LADWP  
James Dugan, City Planning