

## Letter 41

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### **Comment 41-1**

The use of a programmatic approach to GHG emissions recognizes the value of conducting a regional analysis and greater effectiveness at balancing projects to reduce overall emissions.

### **Response 41-1**

The Natural Resources Agency concurs that greenhouse gas emissions are particularly well-suited for analysis and mitigation at a programmatic level. Thus, the proposed amendments recognize throughout the Guidelines, where appropriate, the various types of plans that may be used to provide programmatic analysis and mitigation. Section 15183.5(b), in particular, recognizes that agencies throughout California are developing various plans to reduce greenhouse gas emissions and describes the elements that such plans should contain if they are to serve a CEQA streamlining purpose. Responses to specific comments are provided below.

### **Comment 41-2**

The development of Sustainable Communities Strategies during the next cycle of regional transportation plans will further balance projects to meet GHG emission reduction targets adopted by CARB.

### **Response 41-2**

As explained in the Initial Statement of Reasons, the Natural Resources Agency finds that greenhouse gas emissions are best analyzed and mitigated at a programmatic level. (Initial Statement of Reasons, at p. 53.) SB375 encourages such programmatic analysis and planning for greenhouse gas emissions from cars and light-duty trucks, and provides specific CEQA streamlining benefits for certain types of projects that are consistent with a Sustainable Communities Strategy (SCS) or an Alternative Planning Strategy (APS). Given the specificity of those statutory provisions, sections 21155 through 21155.3 and 21159.28 of the Public Resources Code in particular, the Office of Planning and Research and the Natural Resources Agency did not find that additional guidance on those provisions was necessary at this time. Proposed section 15183.5(c), however, clarifies that while certain projects consistent with an SCS or APS may not need to analyze greenhouse gas emissions from cars and light-duty trucks, emissions from

other sources still may require analysis and mitigation. As SB97 requires the CEQA Guidelines to be updated periodically to incorporate new information, additional guidance regarding the relationship between CEQA and SB375 may be developed as necessary.

### **Comment 41-3**

Section 15183.5 fails to specifically identify what types of plans would satisfy the criteria for GHG Reduction Plans. This guidance is necessary to ensure that lead agencies understand whether a particular plan can be used for tiering purposes.

### **Response 41-3**

The Office of Planning and Research and the Natural Resources Agency developed proposed section 15183.5 to address tiering and streamlining the analysis of greenhouse gas emissions. Subdivision (a) highlights existing tiering and streamlining mechanisms in CEQA that may be used to address the analysis and mitigation of greenhouse gas emissions. Those mechanisms are often used for general plans and other long range planning documents. Subdivision (a) therefore recognizes that lead agencies may choose to include a programmatic analysis of greenhouse gas emissions in those long range plans. That subdivision did not create any new tiering or streamlining provisions; rather, it cross-references existing mechanisms. Each mechanism has its own benefits and drawbacks, and the use of any analysis of greenhouse gas emissions contained in such a document would be governed by the specific provisions cited in subdivision (a).

Subdivision (b), on the other hand, acknowledges that, in addition to the long range documents mentioned in subdivision (a), some agencies are voluntarily developing stand-alone plans focused specifically on the reduction of greenhouse gas emissions. Subdivision (b) is not a tiering mechanism. Tiering is governed by section 15152 of the existing CEQA Guidelines. The purpose of section 15183.5(b) is much narrower. Because climate action plans and greenhouse gas reduction plans are voluntary, and not subject to any legislative criteria or requirements, subdivision (b) was developed “to assist lead agencies in determining whether an existing greenhouse gas reduction plan is an appropriate document to use in a cumulative impacts analysis under CEQA.” (Initial Statement of Reasons, at p. 54.) Specifically, a project that is consistent with a plan that satisfies the criteria in subdivision (b) may benefit from the presumption created in sections 15064(h)(3) and 15130(d) that the project’s cumulative impacts are less than significant due to compliance with the plan. Subdivision (b) does not create or authorize any plans; rather, it provides a tool to determine whether a plan for the reduction of greenhouse gas emissions may be used in a cumulative impacts analysis as provided in section 15064(h)(3) or 15130(d).

As an example, if a general plan EIR analyzed and mitigated greenhouse gas emissions, a lead agency would use the specific streamlining provision applicable to general plan EIRs in section 15183, and not the more general provision in 15183.5(b). A stand alone “climate action plan” that was not analyzed in a program EIR, master EIR, or other mechanism identified in 15183.5(a) may still be used in a cumulative

impacts analysis pursuant to sections 15064(h)(3) or 15130(d), but only if that climate action plan contains the elements listed in section 15183.5(b)(1).

The comment suggests that section 15183.5(b) should identify specific plans to which it would apply. That section was developed precisely because plans for the reduction of greenhouse gas emissions are not specified in law and are so varied. They have been variously titled “climate action plans”, “sustainability plans”, “greenhouse gas reduction plans”, etc. Contents of such plans also vary widely. Thus, the Natural Resources Agency cannot specifically identify which plans satisfy the criteria in subdivision (b). That determination must be made by the individual lead agency based on whether the specific plan under consideration satisfies each of the criteria in subdivision (b)(1).

#### **Comment 41-4**

SB375 sets forth specific criteria that must be addressed in a Sustainable Communities Strategy, including regional targets that may be updated if necessary.

#### **Response 41-4**

The Natural Resources Agency acknowledges that SB375 sets forth specific criteria for Sustainable Communities Strategies. Because those criteria are set forth in statute, those specific provisions would apply to the strategy. The environmental impact report for the regional transportation plan would have to analyze the project that satisfies those legislative criteria. The specific statutory provisions in SB375 would also govern review of certain later projects that are consistent with an SCS or APS. (See, e.g., Public Resources Code §§ 21155.2, 21159.28.) Notably, for projects that would not be subject to the specific provisions in SB375, an EIR prepared for a regional transportation plan would likely be a master EIR or a program EIR, and so tiering provisions may apply to those projects. Section 15183.5(b) only applies to determine whether a plan can be used in a cumulative impacts analysis as provided in sections 15064(h)(3) and 15130(d). In other words, the provisions in 15183.5(b) would only arise if other more specific provisions would not apply.

#### **Comment 41-5**

The recognition of the fair argument standard in section 15183.5(b)(2) may be problematic when applied to a project consistent with an SCS. The SCS allows for projects to increase GHG emissions but accounts for any increase with projects that decrease, and, offset any increase in emissions. Thus, a project consistent with a SCS accounts for and mitigates and its regional impacts from GHG emissions but could be seen as incrementally contributing to a cumulatively considerable impact.

**Response 41-5**

As explained in Response 41-4, above, section 15183.5(b) does not create a tiering mechanism; it is limited to determining whether a plan may be used in a cumulative impacts analysis as provided in sections 15064(h)(3) and 15130(d). A lead agency's reliance on those provisions in the analysis of a cumulative impacts analysis is completely voluntary. The separate streamlining mechanism in section 21155.2, on the other hand, would apply to transit priority projects. The specific provisions in that statute would control, and not the more general guidance in section 15183.5(b). Therefore, there is no conflict between section 15183.5(b) and the provisions of SB375.

**Comment 41-6**

Add a new proposed Section 15183.5(b)(3) to clarify no further project level analysis of GHG emissions is required if the project is consistent with a regional transportation plan which includes a SCS.

**Response 41-6**

As explained in Responses 41-4 and 41-5, above, section 15183.5(b) serves a purpose that is completely separate from a Sustainable Communities Strategy. Its application is voluntary, and is subject to several limitations. The contents and use of Sustainable Communities Strategy are prescribed by statute, and those statutory provisions would control. Moreover, the suggested text would not be consistent with CEQA. Not all projects that are consistent with a Sustainable Communities Strategy may forego further environmental review of greenhouse gas emissions. Only transit priority projects that meet specified criteria are exempted from CEQA. (Public Resources Code, § 21155.2.) Further, only residential and mixed-use projects that are consistent with an SCS or APS are excused from analyzing greenhouse gas emissions from cars and light duty trucks, but not other sources of greenhouse gas emissions. For the reasons described above, the Natural Resources Agency declines to incorporate the suggested addition.

**Comment 41-7**

Revise Section 15125(d) to include only plans that have a legally binding authority to be implemented. Blueprints are entirely voluntary and may not be consistent with general plans.

**Response 41-7**

The purpose of section 15125 is to provide information regarding a project's local and regional setting. Thus, subdivision (d) of that section directs lead agencies to "discuss any inconsistencies between the proposed project and applicable general plans and regional plans." A plan need not be binding in order to provide information about a project's environmental setting. As explained in the Initial Statement of Reasons, "Regional Blueprint Plans can provide information regarding the region's existing transportation setting and identify methods to reduce region-wide transportation-related impacts."

(Initial Statement of Reasons, at p. 33.) Therefore, because such plans may provide useful information about the project's environmental setting, and because section 15125(d) does not require such plans to be binding, the Natural Resources Agency declines to incorporate the suggestion in this comment.

**Comment 41-8**

Appendix G: Transportation/Traffic question (a), a grammatical error to include "not" in sentence "including but not limited to intersections..."

**Response 41-8**

Question (a) in the Transportation section of Appendix G has been revised to correct the grammatical error noted in this comment.