

Letter 88

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Comment 88-1

Commenter recognizes the value of adding section 15183.5. However, a plan for the reduction of greenhouse gas emissions may not be prescriptive or applicable to individual projects. Rather, they serve as a guiding vision for subsequent regulations and programs designed to achieve citywide greenhouse gas emissions reductions. Climate policies may also be spread throughout municipal codes and not be fully captured in a single plan for reducing greenhouse gas emissions. In developing a plan to reduce greenhouse gas emissions, individual programs are not well defined to enable, or require, environmental review. Rather, they provide the policy basis for subsequent regulation which prescribes specific requirements that are applicable on a project-level basis, such as a Green Building Ordinance. Such an ordinance would undergo environmental review and then be incorporated in municipal codes as appropriate.

Response 88-1

As explained in the Initial Statement of Reasons, section 15183.5(b) was proposed both to acknowledge the great diversity of plans that local agencies were developing and adopting to reduce greenhouse gas emissions and also to explain how such plans may be used, if at all, in a cumulative impacts analysis. Specifically, because section 15064(h)(3) allows a lead agency to presume that a project's compliance with a plan will ensure that it does not have cumulative impacts, section 15183.5(b) sets forth the criteria that such a plan would need to satisfy in order to give rise to the presumption in section 15064(h)(3) in order to assist lead agencies in determining whether a particular plan may be used in a cumulative impacts analysis. Section 15183.5(b) does not require that public agencies develop plans for the reduction of greenhouse gas emissions, nor does it prohibit public agencies from developing individual ordinances and regulations to address individual sources of greenhouse gas emissions. No revisions to the proposed amendments are required in response to this comment.

Comment 88-2

Commenter suggests that lead agencies should be able to rely on subsequent regulations applicable to individual projects that have been adopted to implement a GHG reduction plan.

Response 88-2

Section 15064.4(b)(3) would allow a lead agency to consider compliance with requirements and regulations in the determination of significance of a project's greenhouse gas emissions. Thus, a lead agency could consider the effect of compliance with one ordinance or a suite of ordinances in determining the significance of an individual project's greenhouse gas emissions. In order for a lead agency to rely on a plan for the reduction of greenhouse gas emissions to presume that a project's emissions are not cumulatively considerable for the purposes of section 15064(h)(3), however, that plan would need to contain the elements described in section 15183.5(b).

Comment 88-3

Commenter proposes changes to Section 15183.5(b) that would allow a lead agency to rely on plan that is determined to be equivalent to a plan to reduce GHG emissions when conducting a cumulative impact analysis, and allow a lead agency to determine that a project's incremental contribution is not cumulatively considerable if the project complies with a regulation adopted to implement a plan or mitigation program.

Response 88-3

The comment's reference to "a determination of equivalency" appears to draw from the discussion of plans other than "qualified action plans" in the Bay Area Air Quality Management's draft CEQA Thresholds. The Natural Resources Agency notes that the BAAQMD's draft CEQA Thresholds have not yet been adopted. Moreover, as explained in Response 88-1, above, section 15183.5(b) is intended to assist lead agencies in determining which types of plans may give rise to a presumption that projects consistent with those plans will not cause cumulative impacts. Further, Response 88-3, above, explains that compliance with an individual ordinance may be considered under section 15064.4(b)(3). The language suggested in this comment, moreover, could be misinterpreted to mean that compliance with only one requirement among many in an overall plan would be sufficient to determine that an impact is less than significant. Therefore, for the reasons described above, the Natural Resources Agency declines to incorporate the suggested text into the proposed amendments.

Comment 88-4

Section 15183.5(b)(1)(F) should be revised to insert the "plan or subsequent regulation adopted to carry out or support the plan that is being relied upon, must be adopted..."

Response 88-4

As explained in Response 88-4, above, the suggested text could be misinterpreted to mean that compliance with only one requirement among many in an overall plan would be sufficient to determine

that an impact is less than significant. Therefore, for the reasons described Response 88-4, above, the Natural Resources Agency declines to accept the proposed text.

Comment 88-5

Revise Section 15183.5(b)(2) to allow a lead agency to rely on subsequent regulations or a determination of exemption in a cumulative impact analysis of later projects.

Response 88-5

As explained in Response 88-3, above, section 15064.4(b)(3) would allow a lead agency to consider compliance with requirements and regulations in the determination of significance of a project's greenhouse gas emissions. Thus, a lead agency could consider the effect of compliance with one ordinance or a suite of ordinances in determining the significance of an individual project's greenhouse gas emissions. Therefore, for the reasons described Response 88-3, above, the Natural Resources Agency declines to accept the proposed text.