



Air Pollution Control District San Luis Obispo County

Date: January 28, 2021 *(green text indicates minor changes made to this document in February 2022)*

To: All Interested Parties

Subject: Interim CEQA Greenhouse Gas Guidance for the San Luis Obispo County Air Pollution Control District's 2012 CEQA Air Quality Handbook¹

BACKGROUND

As a Commenting Agency under the California Environmental Quality Act (CEQA), the San Luis Obispo County Air Pollution Control District (SLO County APCD) developed a CEQA Air Quality Handbook ([SLO County APCD Handbook](#)) to assist lead agencies, planning consultants, and project proponents in assessing the potential air quality impacts from residential, commercial, and industrial development. The SLO County APCD Handbook (updated and approved by the SLO County APCD Board in 2012)² is designed to provide uniform procedures for preparing the air quality analysis and greenhouse gas (GHG) emission sections of environmental documents for projects subject to CEQA. The SLO County APCD Handbook defines the criteria used by the SLO County APCD to determine when an air quality analysis is necessary, the type of analysis that should be performed, the significance of the impacts predicted by the analysis, and the mitigation measures to reduce overall air quality impacts.

PURPOSE

SLO County APCD staff developed this 2021 Interim CEQA GHG Guidance to provide administrative clarification on the SLO County APCD Handbook's thresholds of significance for GHG emissions and to provide information on current trends, best practices, and legislation. This document may evolve over time as land use and related GHG reduction strategies, executive orders, legislation, etc. change. It is the responsibility of lead agencies to determine if a project is adequately mitigated or if findings of significant and unavoidable impacts are necessary.

CONTACT

For further information on any of the topics covered in this Interim CEQA GHG Guidance, contact the SLO County APCD at (805) 781-5912.

SLO COUNTY APCD HANDBOOK UPDATES AND GUIDANCE ON GHG EVALUATIONS IN CEQA

The *2020 Association of Environmental Professionals (AEP) CEQA Statute and Guidelines Handbook*³ (CEQA Guidelines) includes an Environmental Checklist Form (Appendix G, p.307) which poses the following two questions under Section VIII. *Greenhouse Gas Emissions* (p.316).

A. Does the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

The CEQA Guidelines (§ 15064.4(b)(2)) require determination of whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project.

SLO County APCD Handbook Section 3.5.6 “Greenhouse Gas Emissions” defines thresholds of significance for GHG emissions for projects in San Luis Obispo County. The SLO County APCD’s 10,000 metric tons of carbon dioxide equivalent per year (MT CO₂e /yr) GHG threshold for stationary (industrial) sources was based on actual San Luis Obispo County emission inventories and the emission reductions necessary to meet the goals of the governor’s Executive Order (EO) S-3-05 (80% below 1990 levels by 2050).⁴ This threshold remains applicable to stationary sources in San Luis Obispo County that are required to have a SLO County APCD permit.

The SLO County APCD’s bright-line threshold of 1,150 MT CO₂e /yr and the efficiency threshold of 4.9 MT CO₂e /yr per service population were applicable to residential and commercial projects. These thresholds were based on a [gap analysis](#) and were used in CEQA evaluations for projects to demonstrate their consistency with the state’s 2020 GHG emission reduction goal from the Global Warming Solutions Act (AB 32) and the 2008 California Air Resources Board’s (CARB) Climate Change Scoping Plan. In 2015, the California Supreme Court issued an opinion in the *Center for Biological Diversity vs California Department of Fish and Wildlife* (Newhall Ranch)⁵ which determined that AB 32 based thresholds derived from a gap analysis are invalid for projects with a planning horizon beyond 2020.

Since the bright-line and service population GHG thresholds in the SLO County APCD Handbook are AB 32 based and project horizons are now beyond 2020, the SLO County APCD does not recommend the use of these thresholds in CEQA evaluations. In lieu of these thresholds the following can be considered:

- Consistency with a Qualified Climate Action Plan (CAP): CAPs conforming to [CEQA Guidelines § 15183 and 15183.5](#) would be qualified and eligible for project streamlining under CEQA⁶. SLO County APCD recommends reviewing the Newhall Ranch case, where the California Supreme Court identified that compliance with a local qualified CAP is one potentially acceptable method for meeting CEQA requirements. The SLO County APCD also recommends reviewing guidance from other existing⁷ and future relevant court cases;
- No-net Increase: On page 101, [California’s 2017 Climate Change Scoping Plan \(2017 Scoping Plan\)](#)⁸, states that no-net increase in GHG emissions relative to baseline conditions “is an appropriate overall objective for new development.” The Newhall Ranch project demonstrated that no-net GHG increase was feasible and defensible; or
- Lead Agency Adopted Defensible CEQA GHG Thresholds:
 - Meeting Local GHG Emission Targets with Best Management Practices
On April 23, 2020, the Sacramento Metropolitan Air Quality Management District (SMAQMD) adopted [Greenhouse Gas Thresholds for Sacramento County](#)⁹. This substantial evidenced based document sets SB 32 based local GHG emission targets for 2030 by evaluating the GHG inventory for local emission sectors¹⁰ relative to statewide sector inventories and the state’s GHG reduction target of 40% below 1990 levels.¹¹ Relative to business-as-usual, the document considered the commercial and residential sector emission reductions needed from new development to help achieve the SB 32 goal. To help secure these reductions, best management practices were established for new development. This document also provides a good summary of GHG threshold history and applicable court cases.

- GHG Bright-line and Efficiency Thresholds

SB 32 based local bright-line and operational efficiency thresholds can be established by evaluating local emission sectors in a jurisdiction's GHG inventory relative to statewide sector inventories and the state's GHG reduction target of 40% below 1990 levels. This approach is found in earlier drafts of SMAQMD's SB 32 threshold work and the AEP Climate Change Committee may provide guidance on a similar approach.

CEQA Mitigation for Excess GHG Impacts¹²

For projects that have excess CEQA GHG impacts that need to be mitigated, the following hierarchy^{13, 14} of mitigation options to reduce lifetime GHG impacts can be considered:

1. On-site GHG Mitigation Measures: The first GHG mitigation priority should be the implementation of all feasible on-site GHG reducing mitigation measures that are applicable to the project¹⁵;
2. SLO County GHG Mitigation Measures: After the benefits of the on-site GHG mitigation measures are accounted for, if emissions still exceed a threshold, then the next priority for the project should be implementing all feasible off-site GHG mitigation measures within SLO County. These measures can include but are not limited to:
 - a. Energy efficiency measures¹⁶ (potential example: [Home Energy Savings Program](#) (HES), a built environment retrofit program administered by the [Tri-County Regional Energy Network](#) (3C-REN); and
 - b. SLO County generated offsets that are compliant with a protocol approved by CARB or equivalent. While the SLO County APCD does not endorse individual offset programs, CARB provides a list of [CARB approved GHG offset project registries](#) which may include offsets meeting Cap-and-Trade or voluntary protocols.¹⁷ [Cap-and-Trade protocol generated offsets](#) may not be available for CEQA mitigation to entities not regulated by Cap-and-Trade. Other potential *GHG reductions* offsets may include the carbon benefits secured from some types of carbon farm practices in local [Carbon Farm Plans](#) or *Forecast Mitigation Units* from *future* projects under the [Climate Forward](#) concept. Whatever offsets *or GHG reductions* are used for CEQA mitigation, they must be real, additional, quantifiable, permanent, verifiable, and enforceable.^{18, 19}
3. California Generated Offsets: After the benefits of the on-site and SLO County GHG mitigation measures are accounted for, if emissions still exceed a threshold, SLO County APCD then recommends the use of protocol compliant (as described above in 2b) California generated GHG offsets, if feasible; and
4. If California offsets are not feasible, then North American, protocol compliant offsets (as described above in 2b) are the next option. If North American offsets are not available, then protocol compliant international offsets are the next option.

The SLO County APCD Handbook states that project lifetime excess impacts should be mitigated and provides project lifetime definitions in Section 2.1 Construction Significance Criteria and Section 3.8.3 Off-Site Mitigation. With this guidance document, SLO County APCD is recommending a project lifetime for residential projects of 30 years and establishing a

recommended project life for mixed use projects to also be 30 years.²⁰ The SLO County APCD Handbook's 25-year project life for strictly commercial projects is still recommended by APCD. Lead agencies can consider allowing appropriate alternative project lives.

It is important for the project proponent, lead agency, and the SLO County APCD to work closely together to ensure that after on-site measures have been accounted for, any excess GHG emissions are mitigated prior to issuance of the occupancy permit.

B. Does the project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

The CEQA Guidelines (§ 15064.4(b)(3)) require an analysis of whether a project would comply with an existing applicable plan, policy or regulation that has been legally adopted for the purpose of reducing GHG emissions. Consideration should include, but not be limited to:

- Climate Action Plans: Projects should show consistency with any locally adopted Climate Action Plans, Sustainability Plans, Adaptation Plans, General Plans, or other plans, policies and regulations designed to reduce GHG emissions;
- San Luis Obispo Council of Governments Regional Transportation Plan/Sustainable Community Strategies (RTP/SCS): Project proponents should work with SLOCOG early in the project development process to foster consistency with the land use and transportation policies, goals, action strategies, and preferred growth scenario identified in the current RTP/SCS; and
- Demonstrate Project Consistency with 2017 Scoping Plan: All applicable components within the 2017 Scoping Plan should be evaluated for consistency. One such component is transportation:
 - In the GHG section of a project's CEQA evaluation, a project can demonstrate it is consistent with the transportation GHG reduction assumptions in the 2017 Scoping Plan if it can show 15% vehicle miles traveled (VMT) reduction.²¹
 - Projects which cannot achieve 15% VMT reduction need to demonstrate how they will achieve equivalent GHG reductions by implementing design changes or other offsetting GHG mitigation to comply with the 2017 Scoping Plan.²²
 - Note: SB 743 recommends a project achieve 15% VMT reduction and is evaluated in the transportation section of a project's CEQA evaluation. The difference between SB 743 and the 2017 Scoping Plan is SB 743 recommendation can only be met by VMT reductions, whereas the 2017 Scoping Plan consistency can be achieved with VMT reductions and design changes or other offsetting GHG mitigation equivalent to 15% VMT reduction.

Notes and References

¹ Additional resources were verified 26 January 2021.

² The SLO County APCD issued an administrative [Clarification Memorandum in 2017](#).

³ Association of Environmental Professionals. 2020 California Environmental Quality Act (CEQA) Statute and Guidelines. https://www.califaep.org/statute_and_guidelines.php.

⁴ See EO S-3-05:

[http://static1.squarespace.com/static/549885d4e4b0ba0bff5dc695/t/54d7f1e0e4b0f0798cee3010/1423438304744/California+Executive+Order+S-3-05+\(June+2005\).pdf](http://static1.squarespace.com/static/549885d4e4b0ba0bff5dc695/t/54d7f1e0e4b0f0798cee3010/1423438304744/California+Executive+Order+S-3-05+(June+2005).pdf).

⁵ "Newhall Ranch Resource Management and Development Plan and Spineflower Conservation Plan." California Department of Fish and Wildlife, June 14, 2017, wildlife.ca.gov/Regions/5/Newhall. An additional resource is ceqportal.org/ceqacase.cfm?cq_id=1612.

⁶ The historic AB 32 based CAPs for jurisdictions within SLO County may not conform with [CEQA Guidelines § 15183 and 15183.5](#), or the GHG emission goals of SB 32, and therefore may not be eligible for CEQA streamlining or tiering.

⁷ An example relevant court case: 2018 Golden Door Properties v. County of San Diego. ceqportal.org/ceqacase.cfm?cq_id=1899.

⁸ California Air Resources Board. California's 2017 Climate Change Scoping Plan. https://ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping_plan_2017.pdf?

⁹ Ramboll US Corporation. "Greenhouse Gas Threshold for Sacramento County (SMAQMD). 4 March 2020. <http://www.airquality.org/LandUseTransportation/Documents/SMAQMDGHGThresholds2020-03-04v2.pdf>.

¹⁰ The SLO County APCD and the San Luis Council of Governments are working with local stakeholders and the Association of Monterey Bay Area Governments on an emission inventory update project for jurisdictions in SLO County. This is a first step toward developing local updates for GHG thresholds and CAPs.

¹¹ It should be noted that SB 32's GHG reduction target date of 2030 may not be a defensible target for new development projects with planning horizons beyond 2030, and therefore, such projects may want to consider their consistency with the 2050 emission reduction target of 80% reduction below 1990 levels from EO S-3-05 and/or the 2045 carbon neutrality target from EO B-55-18. The SMAQMD 2020 threshold document states that projects are required to qualitatively show that they are not otherwise impeding the 2045 statewide carbon neutrality goal.

¹² Estimated emissions from the average vehicle fleet used in the CalEEMod land use model reduce over time. Therefore, SLO County APCD recommends that this emission reduction benefit for a project be considered when determining the excess GHG impacts a project needs to mitigate over its lifetime.

¹³ The Project-Level Greenhouse Gas Emissions Reduction Actions and Thresholds section in the [2017 Scoping Plan](#) establishes a clear preference for onsite and local measures that achieve local co-benefits before turning to offsets.

¹⁴ California Code, Public Resources Code - [PRC § 21168.6.5 \(j\)\(1\)](#) states that "Offset credits shall be employed by the applicant only after feasible local emission reduction measures have been implemented."

¹⁵ The following are some example references for identifying GHG mitigation measures (Note: some are not currently quantifiable):

- Table 3-5: Mitigation Measures in the 2017 SLO County APCD Handbook Clarification Memo.
- [2010 CAPCOA Quantifying Greenhouse Gas Mitigation Measures](#) document and the future update to this document that is currently being managed by Sacramento Air Quality Management District under a SB1 Adaptation Planning Grant.
- [2017 Scoping Plan Appendix B](#) includes examples of on-site project design features, mitigation measures, and direct regional investments that may be feasible to minimize GHG impacts from projects.
- VMT measures found in the 2018 Office of Planning and Research (OPR) [Technical Advisory on Evaluating Transportation Impacts in CEQA](#).

¹⁶ Energy efficiency measures such as a built environment retrofit program for old buildings need to show a nexus between retrofit costs and the resulting emission reductions that the retrofit will achieve. In the case of the HES example, program retrofits provide agreed upon industry standard emission reductions.

¹⁷ For information on possible issues with using voluntary offsets for CEQA, review the “CEQA Issues” section (p.39, especially pages 49-55) of the opinion for [Golden Door Props., LLC v. Cnty. of San Diego, D075328, 8 \(Cal. Ct. App. Jun. 12, 2020\)](#).

¹⁸ What constitutes GHG offsets have been described through citations in the follow statement: “GHG offsets ‘must be real, additional, quantifiable, permanent, verifiable, and enforceable.’ ([Cal. Code Regs., tit. 17, § 95802](#), subd. (a).) Numerous statutes and regulations are designed to ensure these criteria are met ([Health & Saf. Code, § 38562](#); [Cal. Code Regs., tit. 17, § 95100](#) et seq.)” 2020 [Golden Door Props., LLC v. Cnty. Of San Diego](#).

¹⁹ AEP Climate Change Committee. “Open the Golden Door to International Carbon Credits!” [AEP Environmental Monitor](#), AEP, Summer 2020, pp. 5-9.

²⁰ This aligns with recommendations from [South Coast AQMD](#), project lives used by [Environmental Leadership Land Use Development Projects](#) seeking judicial CEQA streamlining under [AB 900](#), and recommendations by the International Energy Agency in their March 2008 Information Paper entitled, [Energy Efficiency Requirements in Building Codes, Energy Efficiency Policies for New Buildings](#).

²¹ For information on how VMT reductions can help the state reach its 2050 climate goals see the following documents:

- December 2018 OPR [Technical Advisory on Evaluating Transportation Impacts in CEQA](#)
- January 2019 [California Air Resources Board 2017 Scoping Plan-Identified VMT Reductions and Relationship to State Climate Goals](#)

²² The Governor’s OPR [2018 Technical Advisory on Evaluating Transportation Impacts in CEQA](#) provides mitigation measures and alternatives that could reduce GHG impacts from transportation (page 26-28).