

State CEQA Guidelines for Greenhouse Gas Emissions

Green Remediation Symposium
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Presentation Overview

- ▶ The Scope of Senate Bill 97
- ▶ Key Issues and Challenges
- ▶ Interim OPR Advice
- ▶ OPR Preliminary Guideline Amendments
- ▶ Public Input Regarding the Amendments
- ▶ Schedule for Adoption
- ▶ CEQA, GHG and Remediation

Scope of SB 97

- ▶ **Background**
 - Executive Order S-03-05 (2005)
 - Assembly Bill 32 (2006)
 - CEQA litigation
- ▶ **Senate Bill 97 (Dutton, 2007)**
 - Interpretations/expectations
 - The bottom line
- ▶ **First of its kind regulations for GHG**

Key Issues and Challenges

- ▶ Global, cumulative nature of the problem
- ▶ AB 32 and CEQA are distinct but related
- ▶ CEQA is project specific
- ▶ CEQA analytical methods still evolving
- ▶ How can CEQA contribute to the solution?

Interim OPR Advice

- ▶ OPR Technical Advisory, June 2008
 - 3 basic steps in CEQA review
 - OPR asked ARB to help with thresholds
 - Bottom line: don't wait for regulations
- ▶ How public agencies are responding
 - OPR tracks CEQA documents with GHG discussion
 - Many agencies are meeting the challenge
 - Others still say it is too speculative

OPR Preliminary Amendments

- ▶ Public release on January 8, 2009
- ▶ Process
 - Developed over 12 months
 - Significant public outreach to diverse groups
 - Coordination with state agencies
- ▶ Substance
 - 12 amended sections
 - 2 new sections
 - 2 revised appendices

Public Input

- ▶ Two public workshops
- ▶ Comment period ended February 2
- ▶ Overview of public comments
 - General reactions
 - Suggested changes

Schedule for Adoption

- ▶ OPR will submit draft amendments soon
- ▶ Resources Agency's rulemaking process
 - Must certify & adopt guidelines by January 1, 2010
 - Typically a one-year process
 - Subject to APA
 - Formal notices, hearings
 - Public review and comment
 - Agency responses to comments
 - OAL must review

CEQA, GHG and Remediation

- ▶ Remediation projects subject to CEQA
- ▶ Affected agencies now must address GHG
 - Identify all the GHG emission sources
 - Calculate/estimate GHG emissions
 - Identify mitigation measures and alternative methods/approaches
 - Identify preferred mitigation strategies
 - GHG does not trump other environmental issues
- ▶ The courts look for good faith effort, not perfection.

Thank You!

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