



Climate Change and CEQA

Presentation to the
AB 32 Implementation Group
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Introduction to OPR



- ◆ Who are we?
 - Part of the Governor's Office
 - Statewide comprehensive planning agency
 - ◆ Make policy recommendations
 - ◆ Coordinate land use planning
- ◆ What do we do?
 - CEQA – state review process, CEQA Guidelines
 - Local planning – technical assistance
 - State planning – coordination and assistance
 - Participate in task forces, steering committees

Where It All Began

- ◆ June 2005: Governor Signed EO S-03-05
 - Climate change is real and time for action is now
 - Created Climate Action Team
- ◆ Passage of AB 32 (2006)
 - Climate change a threat to the environment


Where It All Began

- ◆ OPR started getting calls as soon as AB 32 passed
- ◆ Increasing number of comment letters
- ◆ Several lawsuits filed
- ◆ The number of CEQA docs with GHG analysis grew steadily

Where It All Began

- ◆ June 2005: Governor Signed EO S-03-05
 - Climate change is real and time for action is now
 - Created Climate Action Team
- ◆ Passage of AB 32 (2006)
 - Climate change a threat to the environment
- ◆ Passage of SB 97 (2007)
 - Puts GHG into the CEQA realm
 - Governor's signing message

OPR Philosophy

- ◆ Encourage good land use planning
 - ◆ Ensure consistency with statewide goals
 - ◆ Encourage state agency coordination
 - ◆ Avoid unintended consequences
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CEQA and SB 97

- ◆ Basic CEQA concepts
- ◆ What SB 97 says
- ◆ Distinctions between AB32 & SB97

CEQA and SB 97

CEQA concepts

- Climate change is an environmental issue
- CEQA is only one of many tools to reduce emissions
- CEQA should recognize the benefits of sustainable land use

CEQA and SB 97

What SB 97 says:

- ◆ “On or before 7-1-09, the OPR shall prepare, develop and transmit to the Resources Agency guidelines for the mitigation of GHG emissions or the effects of GHG emissions as required by this division, including but not limited to , effects associated with transportation or energy consumption”
- ◆ “The OPR and Resources Agency shall periodically update the guidelines to incorporate new information or criteria established by the ARB pursuant to AB 32)

One clear message:

- ◆ Address Climate Change in CEQA

CEQA and SB 97

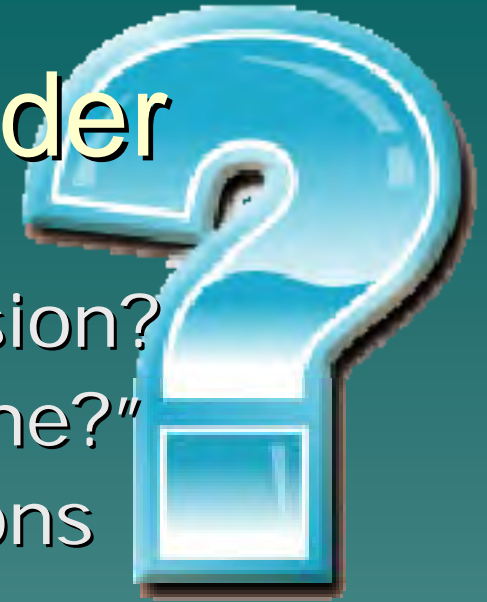
Distinctions between AB 32 and SB 97

- ◆ AB 32 does not amend CEQA
- ◆ AB 32 does not create a CEQA threshold
- ◆ AB 32 applies to all significant GHG sources; CEQA only applies to new projects
- ◆ SB 97 only mentions AB 32 in the context of future “new information or criteria” that may come from ARB

OPR Approach to Regulation

- ◆ Based on good evidence, information, & science
- ◆ Rational basis
- ◆ Understand thresholds of significance, mitigation measures & baseline conditions
- ◆ Public agency and stakeholder involvement.

Questions to Consider



- ◆ What constitutes a “new” emission?
- ◆ What is the appropriate “baseline?”
- ◆ What makes a project’s emissions “significant?”
- ◆ Does every project contribute to a “cumulatively considerable” impact?
- ◆ Is the impact really too “speculative” to evaluate?
- ◆ How much mitigation is enough to reduce the impact to “less than significant?”

Questions to Consider

What is the CEQA Baseline?

- ◆ CEQA says current conditions
- ◆ Is 1990 relevant?

Questions to Consider

What is the threshold of significance?

- ◆ Lead agency has discretion
- ◆ TOS not required to make a significance determination
- ◆ TOS is not necessarily zero
- ◆ OPR not mandated to set a TOS
- ◆ Maintain CEQA tiering and streamlining provisions

Questions to Consider

How do you mitigate the impact?

- ◆ Lead agency has discretion to select most effective measures
- ◆ Mitigation must be feasible
- ◆ How to evaluate “effectiveness” of a measure
- ◆ Prescriptive measures from OPR not very helpful
- ◆ OPR encourages reliance on programmatic mitigation strategies

Questions to Consider

How to weave the guidance into other CEQA Guidelines provisions?

- ◆ Appendices
 - Initial Study Checklist
 - Energy Conservation
- ◆ Alternatives analysis
- ◆ Make the most of tiering provisions

SB 97 Implementation

OPR Process (2008-09)

- ◆ Timeline
 - ◆ Coordination with Agencies
 - ◆ Public Involvement
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- A decorative graphic at the bottom of the slide showing a silhouette of a mountain range in shades of teal, extending from the right side towards the center.

SB 97 Implementation

- ◆ Public Involvement
 - Focus Groups
 - Public Workshops
 - Preliminary Draft Guidelines
 - OPR Website and List serve



SB 97 Implementation

Resources Agency Rulemaking

- ◆ Start in 2009
- ◆ Formal rulemaking through OAL
- ◆ Public notice
- ◆ Public hearings
- ◆ Response to comments
- ◆ Certify and adopt by 1-1-2010
- ◆ OAL process can take up to 1 year

What Happens After 2010?

- ◆ CEQA Guidelines certified and adopted on or before 1-1-10.
- ◆ ARB adopts regulations by 2011.
- ◆ ARB regulations take effect in 2012.
- ◆ CEQA Guidelines will be reviewed and updated as necessary.

“So, how do I do this?!”

- ◆ Yes, it's difficult -- but it is possible.
- ◆ No standard, “perfect” way.
- ◆ Many examples of different approaches.

What Would OPR Suggest?

- ◆ No standardized method, many approaches possible
- ◆ Some technical assistance is available
- ◆ Don't wait for formal CEQA Guidelines
- ◆ Approach it as a cumulative impact
- ◆ 3 basic steps:
 - Estimate, model, calculate emissions
 - Assess impact
 - Mitigate where feasible
- ◆ Show your work
- ◆ Support conclusions with substantial evidence

Why Do It?



OPR Contact Information

Website: www.opr.ca.gov

◆ CEQA and Climate Change page

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