

```
.hoverbot{position: relative;z-index: 0;}#10.hoverbot: hover{background-color:
transparent;z-index: 50;}.hoverbot span{ /*CSS for enlarged image*/position:
absolute;background-color: lightyellow;padding: 5px;left: -1000px;border: 1px dashed
gray;visibility: hidden;color: black;text-decoration: none;}.hoverbot span img{ /*CSS for enlarged
image*/border-width: 0;padding: 2px;}.hoverbot: hover span{ /*CSS for enlarged image on
hover*/visibility: visible;top: 0;left: 60px; /*position where enlarged image should offset
horizontally */} if (document.addEventListener) {
document.addEventListener("DOMContentLoaded", window.print(), false); } // for Internet
Explorer (using conditional comments) /*@cc_on @*/ /*@if (@_win32) document.write("");
var script = document.getElementById("__ie_onload"); script.onreadystatechange = function() {
if (this.readyState == "complete") { window.print(); // call the onload handler } }; /*@end
@*/
```

OPR asks for the time and CARB sends instructions on how to build a watch

Posted by: Joel in [SB 97](#) , [Governor's Office of Planning & Research \(OPR\)](#) , [Global Warming - Greenhouse Gas Reduction](#)

, [CEQA](#)

, [California Air Resources Board \(CARB\)](#)

on

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The old joke about the man on the street who asked a scientist for the time and instead got a two-hour lecture about how to build a watch (and the poor fellow never did find out what time it was) was played out again in Sacramento this week when the California Air Resources Board staff released its " [Preliminary Draft Staff Proposal Recommended Approaches for Setting Interim Significance Thresholds for Greenhouse Gases](#) " on Friday and presented it in a workshop on Monday. The twenty-page document leaves most of

the spaces for benchmark numbers blank, while proposing an elaborate process amounting to a new categorical exemption with CARB squarely at the controls.

Senate Bill 97 (Public Resources Code, § 21083.05), assigned the Governor's Office of Planning and Research (OPR) the task of revising the CEQA Guidelines by June 1, 2009 to address the conundrum for planners posed by the Global Warming Solutions Act of 2006 (AB 32) in performing environmental review of projects under the California Environmental Quality Act (CEQA). Lawsuits and EIR comment letters filed by Attorney General Jerry Brown, as well as lawsuits by environmental groups, raised the stakes while uncertainty remains about many critical questions about how the substantive limits set by AB 32 for GhG emissions to be achieved by 2020 should be analyzed under CEQA's long-established procedures and standards.

One of the keys to simplifying CEQA review is for the lead agency to set the standards for the effects ahead of time by adopting "thresholds of significance." In terms of AB 32, is one more molecule of GhG significant? What baseline conditions should be used to assess project effects? Should it be those in existence as of date that the project application is submitted as current CEQA law dictates, or is it some future date, such as 2020 or 2050 when AB 32 goals are to be met? In June OPR asked CARB for guidance in helping lead agencies determine what the thresholds for GhG emissions should be, perhaps assuming that CARB would provide objective benchmarks and a scientific technical means to measure or estimate what a given project would likely generate.

Instead, the CARB staff boldly proposed preliminary draft conceptual interim "sector-based approaches" which include criteria that are not scheduled for adoption until September 30, 2010. The staff proposal includes the remarkable conclusion that existing statutory and categorical exemptions need not be eliminated because the anticipated effects of such projects would be small (? - statutory exemptions, among many other projects, include prison construction, pipelines of less than a mile in length and railroad grade separation projects).

Staff reported its preliminary determination that the effect of project on a site of five acres or less qualifying for an infill exemption (Guidelines § 15332) would not exceed emissions of 1,600 metric tons of CO₂e annually, without any providing any evidence or explaining how it reached this conclusion. Does this mean that local agencies could adopt 1,600 metric tons of annual carbon dioxide equivalent emissions as a threshold of significance for other residential or commercial projects of five acres or less? CARB fails to provide data meeting the legal standard for substantial evidence on which a local agency could independently adopt a "threshold

of significance" for GhG emissions as contemplated by existing CEQA Guidelines. Clearly CARB staff had some threshold in mind when it reached its conclusion about exempt projects. It would be nice if they would tell OPR and the rest of us what it is.

The proposal provides examples for two types of projects-- industrial and residential-commercial. Industrial projects meeting "interim" performance standards still to be set by CARB for construction, transportation and operations will be presumed to have a less than significant climate change effect, and "exempt" from further CEQA review. The operations must have net emissions of less than 7,000 metric tons of CO₂ equivalents per year. Again, it would be helpful to know what evidence or methodology CARB used to set this limit.

For residential or commercial projects two tracks may lead to a presumption the project is "exempt." One is already established in CEQA Guidelines § 15064 (h)(3), for a determination that the significance of the project's incremental effect is not cumulatively considerable, subject to additional conditions to be set by CARB. The lead agency must find that the project will comply with an approved plan or program to avoid or substantially lessen GhG emissions that is consistent with statewide AB 32 goals and regional transportation impact reduction targets to be established in accordance with SB 375, includes a GhG reduction inventory with regular monitoring, has specific enforceable GhG reduction targets, can be revised over time and was approved in conjunction with an EIR. Of course this begs the question of what level will qualify as "substantial".

In the other track the lead agency must find that the project complies with CARB adopted minimum performance standards "or equivalent mitigation measures" for construction and operations, the latter including four "sub-sources" for energy consumption, water, waste and transportation. For energy consumption, the proposal is to adopt the California Energy Commission's Tier II Energy Efficiency Goal (35% above 2008 Title 24 code standards). The proposal allows that the other performance standards will be more than zero (at least for the time being) and that they will be "clear and stringent," but are expected to become tighter over time.

Even if all performance standards are met, the total project emissions may not exceed an annual emissions limit of some unspecified amount of metric tons of CO₂ equivalent per year, which CARB has yet to determine (or at least let us in on yet).

