THE PORT OF LOS ANGELES
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May 18, 2010

Nancy H. Sutley, Chair
Council on Environmental Quality
722 Jackson Place, NW
Washington DC, 20503

Via internet and e-mail: CE.guidance@ceq.eop.gov

Dear Chairwoman Sutley:

The Port of Los Angeles (POLA or Port) appreciates the opportunity to provide comments on the Council on Environmental Quality (CEQ) *Draft Guidance for NEPA Mitigation and Monitoring* and the *Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions* released for public comment on February 18, 2010. POLA is the largest port in the United States encompassing 7,500 acres and 43 miles of waterfront property in Los Angeles, California. Environmental sustainability is an important component of our operation, which has led to several ground breaking environmental and community initiatives including our Clean Air Action Plan. Our specific comments for clarification on the draft guidance are summarized below.

Comments on the Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions:

1. The NEPA GHG guidance indicates that as part of the initial scoping process, agencies should determine whether a project requiring federal approval would be "reasonably anticipated to cause direct emissions" of GHGs. Specifically, if a proposed action would be reasonably anticipated to cause direct emissions of 25,000 metric tons or more of CO_2-equivalent GHG emissions on an annual basis, agencies should consider this an indicator that a quantitative and qualitative assessment may be meaningful to decision makers and the public.

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The Port recognizes the evolving GHG regulatory landscape and the potential for changes in the quantification of emissions in the foreseeable future. As such, the Port would continue to defer to the federal lead agency for adoption or consideration of a minimum level indicator of GHG emissions that may warrant some description in the appropriate NEPA analysis for agency actions involving direct emissions of GHGs.

2. The guidance suggests that climate change effects should be considered in the analysis of projects that are designed for long-term utility and located in areas that are considered vulnerable to specific effects of climate change. The Port requests additional clarification on what constitutes projects of a long-term utility since the effects of climate change are a global problem and GHG emissions (temperature rise, sea level rise, and precipitation changes) will be outside the typical project life times.

3. The Port requests guidance on when/if regional climate modeling should be performed as part of the GHG evaluation. If these models are prepared to evaluate impacts, the spatial boundary of the effort could vary considerably – ranging from a small section of a State to an entire region. Additional clarification would be helpful to address this potential variability in spatial scale for GHG impact analysis.

4. The guidance requires projects to qualitatively discuss the link between emissions and effects. The Port requests guidance in preparing this discussion as the effects are not solely attributable to projects.

Comments on the Draft Guidance for NEPA Mitigation and Monitoring:

1. The Port requests clarification on limits or boundaries of responsibility for monitoring mitigation failure. Responsibility for mitigation failure by the lead agency may or may not be distinct from responsibility for mitigation failure by the project proponent. Clear guidance on the definition of mitigation measure monitoring and tracking should be a key component of the final guidance adopted to explicitly describe the delineation of responsibilities between the federal lead agency and the project proponent. In addition, the final guidance should address the procedure for addressing mitigation monitoring and tracking measures that may be entirely or partly out of the project proponents' control or legal authority (e.g. broad scale regional GHG emission levels from transportation pattern changes).

In some cases, mitigation monitoring by the federal lead agency is done at the permit level and most mitigation measures adopted through the NEPA process are deferred to the local lead agency with jurisdiction over the project for tracking and monitoring purposes. This practice and division of responsibility should be considered in the guidance in order to avoid duplication of efforts.

2. The Port requests clarification regarding the types and frequency of data reporting for mitigation monitoring and compliance. If annual reporting of certain types of new data is required, then project proponent infrastructure upgrades or changes in operational practice may be needed. Such potential changes will likely have financial and strategic implications that it would be helpful to understand for planning purposes.

3. The Port requests clarification regarding public involvement and providing appropriate and transparent data. For example, reporting of new data may need to be accompanied by benchmarks or appropriate third-party verification to provide a frame of reference for the public to understand the data and place it in appropriate context. For example, GHG emissions from a single facility without comparison to appropriate basin or regional models may be interpreted differently from one member of the public to another. In addition, different methods of reporting, in the absence of standards or verifiable approaches may lead to widely different results and potential implications.

Thank you for consideration of our comments.

Sincerely,

RALPH G. APPY, Ph.D.
Director of Environmental Management

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