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STANLEY GEE  
ACTING COMMISSIONER

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GOVERNOR

May 24, 2010

The Council on Environmental Quality  
*Attn:* Ted Boling  
722 Jackson Place, NW.  
Washington, DC 20503

**RE: “*Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions*”**

Dear Mr. Boling:

The New York State Department of Transportation (NYSDOT) appreciates the opportunity to comment on the Council on Environmental Quality (CEQ) “*Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions*,” dated February 18, 2010.

NYSDOT recognizes that climate change is a long-term global problem, as emissions of carbon dioxide (CO<sub>2</sub>) can persist in the atmosphere for hundreds of years and must be confronted on a global level by all sectors. In addressing climate change issues, NYSDOT has adopted the “think globally, act locally” approach, believing that small emissions reductions can make a difference and cumulatively can be significant. NYSDOT believes that reporting greenhouse gas (GHG) emissions on a project-level basis during the National Environmental Policy Act (NEPA) process provides meaningful information to help decision-makers and the public select among project alternatives. In fact, NYSDOT has been performing GHG emissions analyses for our projects for several years. NYSDOT also supports the consideration of GHG emissions on statewide and regional levels.

In addition, NYSDOT recognizes that each federal agency undertakes different types of projects, and the development of one set of GHG analysis procedures for use by all agencies is impractical. Thus, NYSDOT supports the concept that each federal agency should be responsible for developing its own GHG analysis criteria and procedures for NEPA documents.

NYSDOT's specific comments on the CEQ draft guidance are provided below for your consideration.

#### Reference Point of 25,000 Metric Tons

NYSDOT has developed guidelines for analyzing energy consumption and CO<sub>2</sub> emissions on a project level. The guidelines contain criteria for identifying when a project may result in substantially different CO<sub>2</sub> emissions among alternatives and, therefore, requires an analysis. These criteria, which are based on "design concept and scope," are specific to transportation projects and have proven to be extremely useful for conducting GHG and energy analyses of NYSDOT projects.

The CEQ draft guidance recommends the use of a 25,000-metric ton reference point to determine if a GHG analysis should be included in a NEPA document. However, this reference point was developed for use in reporting emissions of *stationary sources* under the Clean Air Act. The analysis of transportation projects differs greatly from that of stationary sources, and NYSDOT questions CEQ's proposal to specify one single reference point for all types of projects performed by every federal agency.

NYSDOT recommends that the CEQ guidance be revised to recognize that federal and/or state agencies may already have developed thresholds/criteria for performing GHG analyses and that these thresholds/criteria may be more appropriate for agency use than the 25,000-metric ton threshold specified in the draft guidance.

#### Analysis of Different Project Types

In addition to the use of a 25,000-metric ton reference point that was intended for stationary sources, the technical resources listed on page 4 primarily apply to stationary source analyses. NYSDOT believes that the draft guidance is oriented toward stationary sources, even though the transportation sector contributes approximately 28 percent of the nation's GHG emissions and approximately 35 percent of New York State's GHG emissions.

Also, the draft guidance does not reflect the varying levels of complexity involved with the analyses of different project types. For example, the analysis of GHG emissions for a transportation project must consider factors such as travel speeds, traffic patterns, current and future congestion levels, vehicle mix and vehicle and fuel technologies that is well beyond the level of effort typically needed to calculate the GHG emissions from a single point-source.

NYSDOT recommends that the CEQ guidance be flexible in specifying thresholds and procedures, recognizing that federal agencies pursue a wide range of projects. The guidance should emphasize that federal agencies are the most appropriate entities for issuing specific analysis procedures and should encourage federal agencies to do so.

### Quantitative Analysis of GHG Emissions

The draft guidance states that “information on GHG emissions (qualitative or quantitative) that is useful and relevant to the decision should be used when deciding among alternatives” (page 2). NYSDOT strongly supports the concept of generating quantitative estimates of GHG emissions to differentiate among project alternatives when the criteria for performing a GHG analysis are met.

NYSDOT recognizes that the methodologies for performing quantitative analyses of GHG emissions have been lacking for some time. For example, EPA’s MOBILE6.2 emissions model does not include any GHGs other than CO<sub>2</sub> and does not correct CO<sub>2</sub> emissions estimates for speed. Due to these shortcomings, NYSDOT has relied on analysis procedures issued by the California Department of Transportation (Caltrans). However, NYSDOT is transitioning to EPA’s recently released Motor Vehicle Emission Simulator 2010 (MOVES2010) that is a substantial improvement over MOBILE6.2 for GHG estimation. NYSDOT understands that there are still uncertainties involved in drawing conclusions based on the emissions estimates generated by MOVES2010; however, NYSDOT believes that the estimates are sufficient for performing comparative assessments of project alternatives and determining which alternatives emit less GHGs. Overall, NYSDOT supports the use of MOVES2010 for estimating direct GHG emissions for project alternative comparison purposes. However, it is unclear if the model’s application to GHG emissions is sufficiently robust for comparing emissions to any established threshold or air quality standard.

### Analysis of Specific GHGs

The footnote on page 1 of the draft guidance states, “For purposes of this guidance, CEQ defines “GHGs” in accordance with Section 19(i) of Executive Order 13514 (carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride).” Further, the draft guidance uses the term “CO<sub>2</sub>-equivalent GHG emissions” when discussing the proposed 25,000-metric ton reference point, indicating that gases in addition to CO<sub>2</sub> should be analyzed.

The MOVES2010 model, which is used by the transportation community for estimating GHGs, only includes CO<sub>2</sub>, methane (CH<sub>4</sub>), and nitrous oxide (N<sub>2</sub>O). Thus, transportation agencies would be required to use other means to estimate the additional three GHGs (if necessary), which would pose a burden to agencies while providing little added value. In

addition, not all six of these gases are equally important for all project types. For example, CO<sub>2</sub> is the major GHG associated with transportation facilities, while CH<sub>4</sub>, N<sub>2</sub>O, hydrofluorocarbons and perfluorocarbons are “minor” GHGs from transportation. NYSDOT understands that transportation does not contribute to sulfur hexafluoride emissions.

The CEQ guidance should be revised to recognize that the six GHGs vary in importance depending on the project type and agency activity and to clarify that not all six of the GHGs need to be analyzed for all projects.

#### Project Emissions and Climatological Changes

The draft guidance states that “it is not currently useful for the NEPA analysis to attempt to link specific climatological changes, or the environmental impacts thereof, to the particular project or emissions, as such direct linkage is difficult to isolate and understand” (page 3). NYSDOT supports this statement and believes that project-level GHG analyses should be used to compare feasible alternatives to no-build alternatives and to inform the alternative selection process, but that climate change science and analysis tools have not yet evolved to the point where linkages can be drawn between project emissions and specific climatological changes.

#### Mitigation of GHG Emissions

The draft guidance states, “When a proposed federal action meets an applicable threshold for quantification and reporting...CEQ proposes that the agency should also consider mitigation measures and reasonable alternatives to reduce action-related GHG emissions” (page 5). NYSDOT supports CEQ’s proposal that agencies should consider options to mitigate GHG impacts resulting from a project during the NEPA process; however, NYSDOT interprets this proposal to mean that agencies should consider, but are not required to implement, mitigation measures. Given the importance of addressing climate change impacts, it may be appropriate, however, for CEQ to encourage the implementation of measures to mitigate GHG impacts resulting from a project when cost-effective and fitting to the nature of the project.

#### Analysis of “All Phases” of a Proposed Action

The draft guidance states, “Analysis of emissions sources should take account of all phases and elements of the proposed action over its expected life, subject to reasonable limits based on feasibility and practicality” (page 5). NYSDOT believes that project-level GHG analyses should be limited to those components that are within the scope of the project and control of the action agency. In addition, NYSDOT understands that full life-cycle analyses are not readily available at this time. This information should be developed by the Federal government. Overall, NYSDOT requests that CEQ include further clarification in the guidance that a full life-cycle analysis is not required (for example, the GHG analysis for a highway

project should not include the emissions associated with the manufacturing of the vehicles using the transportation facility), at least until this type of information becomes available.

#### The GHG and Energy Link

The draft guidance proposes that GHG analyses “should also consider applicable Federal, State or local goals for energy conservation and alternatives for reducing energy demand or GHG emissions associated with energy production” (page 5). This recommendation is consistent with the 2009 New York State Energy Plan and NYSDOT suggests that this sentence be expanded to state that GHG analyses should also consider State Energy Plans and State/Regional Climate Action Plans.

#### Use of Programmatic Analyses

As discussed in the draft guidance, NYSDOT supports the incorporation of the results of programmatic analyses into subsequent NEPA analyses for individual agency actions. At the discretion of the involved agency, this approach could provide useful information to decision-makers in an efficient manner.

#### Considering Climate Change Effects as Part of the “Affected Environment”

The draft guidance proposes that action agencies consider the observed and projected effects of climate change as part of the proposed action’s “affected environment.” NYSDOT believes that it is reasonable to use existing studies, such as the New York State Energy Research and Development Authority’s ClimAID study, to qualitatively assess climate change effects occurring in a project area. However, NYSDOT does not believe that it is technically sound to use global climate models to determine the effects of climate change on a transportation-project level, as the modeling would require a substantial amount of effort and would not likely yield meaningful results for NEPA decision-making purposes. NYSDOT further recommends that the Federal government support the development of regional projections via a National Oceanic and Atmospheric Administration (NOAA) National Climate Service.

Thank you in advance for your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley Gee", written over a white background.

Stanley Gee  
Acting Commissioner

The Council on Environmental Quality  
May 24, 2010  
Page 6

cc: P. Grannis, NYS Department of Environmental Conservation  
J. Horsley, American Association of State Highway and Transportation Officials  
P. Iwanowicz, Deputy Secretary for the Environment, NYS Governor's Office