



# South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178  
(909) 396-2000 • www.aqmd.gov

OFFICE OF GENERAL COUNSEL  
Writer's Direct Dial: (909) 396-2302  
Fax: (909) 396-2961

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Via electronic email: [CEQA.Guidelines@ceres.ca.gov](mailto:CEQA.Guidelines@ceres.ca.gov)

Christopher Calfee  
Senior Counsel  
Governor's Office of Planning and Research  
1400 Tenth Street  
Sacramento, CA 95814

Dear Mr. Calfee,

The Staff of the South Coast Air Quality Management District (SCAQMD) appreciate the opportunity to provide input on possible topics to be addressed in the 2014 CEQA Guidelines update, including any specific suggested language. The SCAQMD has extensive experience with CEQA through our varying responsibilities as a commenting agency, a responsible agency and as a lead agency for our own rule development process and for any discretionary permits we may issue. Drawing from this experience, we have the following recommended changes, most with proposed language:

- 1) Cumulative Impacts - Current case law still leaves uncertainty surrounding the analysis of cumulative impacts. The proposed language would encourage the establishment of screening levels to determine which projects are cumulatively considerable, and hence require further cumulative assessment. The SCAQMD staff suggest the addition of the following language to a new CEQA Guidelines §15064.8, or any other place deemed appropriate:

*“Agencies with jurisdiction over environmental impact areas identified in the environmental checklist (CEQA Guidelines - Appendix G) are encouraged to develop screening levels, based on substantial evidence, on the impact areas for which they have expertise. Projects that exceed the specified screening level would be cumulatively considerable. These screening thresholds may be used by other lead agencies, provided the decision to adopt such screening levels is supported by substantial evidence.”*

- 2) Categorical Exemptions - Clarity should be provided on the standard of review for categorical exemptions. The SCAQMD staff propose the following language to be added to CEQA Guidelines §15300.2 (c), or any other place deemed appropriate:

*“The substantial evidence standard applies in any challenge to an agency’s determination that no ‘unusual circumstances’ exist in connection with a categorical exemption if the agency prepares a written record supporting the exemption and files a Notice of Exemption. If a Notice of Exemption is not filed, the fair argument standard applies.”*

- 3) Public Comments - Improvements can be made to the process of public review of CEQA documents that would allow sufficient opportunity for the public to provide comments and also allow public agencies time to respond. The SCAQMD staff believes this may be accomplished by adding a new subsection to §15105, or any other place deemed appropriate, that includes a process identifying that:

*“Any interested person is required to raise all comments on the draft environmental impact report or negative declaration during the public comment period provided for review of that document or would otherwise be foreclosed from raising that issue in court. Agencies are required to make publicly available a Final Environmental Impact Report, CEQA Findings, Statement of Overriding Considerations, and mitigation monitoring and reporting plan, if any, at least 15 days before final approval of the environmental document. Any interested person is required to submit any comments on the final environmental document, the findings and statement of overriding considerations, if any, 5 days before the agency approves the project. Comments during the public hearing, if one is held, are limited to oral testimony.”*

- 4) Mitigation Monitoring and Reporting Program - Create a requirement for increased consultation prior to assigning a mitigation measure to another agency. The SCAQMD staff suggest the addition of the following language to CEQA Guidelines §15097, or any other place deemed appropriate:

*“If a lead agency assigns responsibility for implementing/monitoring mitigation measures for a proposed project to other public agencies, the lead agency shall:  
a) contact the other public agencies to inform them of the details of the project and the mitigation measures they would be responsible for implementing/monitoring; b) get written approval from those agencies agreeing to perform the mitigation measure implementing/monitoring function(s); and, c) written approvals must be received from the other public agencies before certification of the CEQA document including the mitigation monitoring and reporting plan.”*

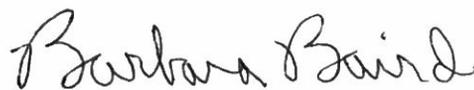
- 5) Baseline - The SCAQMD staff suggest including in the CEQA Guidelines the holding from *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4<sup>th</sup> 439, by adding the following language in §15064, or any other place deemed appropriate:

*“When supported by substantial evidence, a lead agency may establish an alternative baseline setting for a proposed project to enable the lead agency to distinguish the effects of the project from the effects of adopted regulatory standards or conditions that will change in the future, and better disclose the potential impacts of the project to the public and decision makers.”*

- 6) Statute of Limitations - The SCAQMD staff suggest including in the CEQA Guidelines §15062 (d) some clarification of the timing of the statute of limitations for the situation when a Notice of Exemption is filed by the lead agency, but the county clerk fails to post the notice within 24 hours of receipt as required by §15062 (c)(2). Similarly, the same issue applies to the filing and posting of Notices of Determination per §15075 (e) and §15094 (e) and the timing of the statute of limitations in §15075 (g) and §15094 (g), respectively.

Additionally, CEQA documents are becoming increasingly complex and lengthy. Public agencies could benefit from the preparation of a style guide for voluntary use that would emphasize concise and readable documents. We ask that the Governor’s Office of Planning and Research consider preparing a CEQA Style Guide for voluntary use that will promote standardized formats for the preparation of CEQA documents with an emphasis on improving public disclosure of project impacts. One such suggestion would be to provide guidance on what type of information should be kept in the main text of an Environmental Impact Report (EIR) and what should be put into technical appendices. Again, the SCAQMD staff thanks your agency for the opportunity to provide comments on this important topic and look forward to working with you as the process continues to develop. If you have any questions or seek clarification of the suggestions raised in this letter, please contact Veera Tyagi, Senior Deputy District Counsel, at (909) 396-2306.

Respectfully submitted,



Barbara Baird  
Chief Deputy Counsel

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