

Memorandum

Via Electronic Mail To: CEQA.Guidelines@resources.ca.gov

Date: October 12, 2015

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

From: Department of Water Resources

Subject: Discussion Draft Comments – Proposed Updates to the Guidelines Implementing the California Environmental Quality Act (CEQA Guidelines)

Thank you for the opportunity to provide input into the Governor's Office of Planning and Research as well as the California Natural Resources Agency's discussion draft of proposed updates to the CEQA Guidelines.

The Department of Water Resources (DWR) appreciates that many of its proposed suggestions have been incorporated into the discussion draft. DWR also appreciates the amount of work necessary to undertake a comprehensive review of the CEQA Guidelines and is pleased to provide the following comments:

A. Appendix G Updates

1. Agricultural and Forest Resources

a. California Agricultural LESA Model

Agricultural and Forest Resources is proposed to be consolidated with open space, managed resources and working landscapes. Noticeably, the preface referencing the California Agricultural Land Evaluation and Site Assessment (LESA) Model (1997) prepared by the California Department of Conservation as an optional model for lead agencies to use in assessing impacts on agriculture and farmland is omitted from the proposed revised text. Section 21095 states:

“(a) The Resources Agency, in consultation with the Office of Planning and Research, shall develop an amendment to Appendix G of the state guidelines, for adoption pursuant to Section 21083, to provide lead agencies an optional methodology to ensure that significant effects on the environment of agricultural land conversions are quantitatively and consistently considered in the environmental review process.”

Was deletion of the optional model from Appendix G intended?

b. Farmland

Currently Appendix G, Section II. Agriculture and Forestry Resources, question (a) asks:

“Would the project:

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?”

The sample question is proposed to be changed at Appendix G, Section XI, question (b) to ask whether the project would:

“Adversely impact open space used for production of resources by among other things:

- (i) Converting farmland to non-agricultural use.”**

Is the proposed change intended to apply to the conversion of any farmland to non-agricultural use and not conditioned on it being prime, unique or farmland of statewide importance? Also, is the proposed change intended to include such additional categories as farmland of local importance and grazing land?

2. Energy

Incorporating the two proposed questions about project energy use into Appendix G’s sample environmental checklist makes sense. The sample questions are also broad enough to maintain relevancy even as energy technology continues to change.

Although users know to consider other appendices within the CEQA Guidelines, it makes it easier for lead agencies to find guidance in one place. DWR also recommends that a cross-reference to Appendix F be included within Appendix G, Section V. Energy, question (a), to direct the user to Appendix F because it contains a more comprehensive list of energy considerations and issues.

One question OPR asks in the Preliminary Discussion Draft is whether the phrase “wasteful, inefficient, and unnecessary consumption of energy” should be defined. (See also Pub. Resources Code, § 21100, subd. (b)(3).) Appendix F explains what constitutes “wise and efficient use of energy” and also provides an extensive list of energy-related items that can or should be investigated and-if-necessary-incorporated into the Project Description, Environmental Impacts and Mitigation Measures of sections of an EIR. Thus, it is unnecessary to define the phrase.

3. Hydrology and Water Quality

For purposes of setting up future recharge basins, it would be helpful to consider whether a proposed project would impact natural or artificial recharge areas. For instance, paving over a natural or artificial recharge area could substantially interfere with efforts to replenish the groundwater supply in an area where there is a higher rate of recharge.

Thus, DWR proposes the following additional sample question:

Would the project:

“Substantially interfere with groundwater recharge in an area where soil and geologic conditions either contribute or allow for the replenishment of the groundwater supply?”

B. Section 15269 – Emergency Projects

The discussion draft includes the following proposed addition to subdivision (c):

“Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term, **but this exclusion does not apply (i) if the anticipated period of time to conduct an environmental review of such a long-term project would create a risk to public health, safety or welfare, or (ii) if activities (such as fire or catastrophic risk mitigation or modifications to improve facility integrity) are proposed for existing facilities in response to an emergency at a similar existing facility.**”

DWR proposes the following modifications to the proposed language:

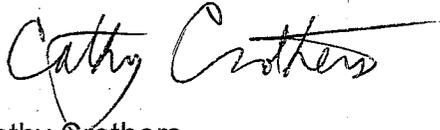
“Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term, **but this exclusion does not apply (i) if the reasonably anticipated delay that would result from environmental review period of time to conduct an environmental review of such a long-term project would create a risk to public health, safety or welfare, or (ii) if activities (such as fire, drought or catastrophic risk mitigation or modifications to improve facility integrity) are proposed for existing facilities in response to an emergency at a similar existing facility.**”

Additional guidance on this proposed addition would also be helpful.

DWR also proposes that a third category be added to the exceptions to the exclusion as follows:

“(iii) Activities undertaken in response to legislation that identifies the need for action to address an emergency, or to preserve the public health, safety, and welfare.”

Thank you again for the opportunity to provide input to the CEQA Guidelines revisions. If you have any questions regarding the foregoing, or if DWR can be of further assistance to you, please contact Mary U. Akens, Attorney III, at (916) 653-1037.



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