



A Tradition of Stewardship  
A Commitment to Service

**Conservation, Development and Planning**

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**Hillary Gitelman**  
Director

January 26, 2009

Cynthia Bryant, Director  
Governor's Office of Planning and Research  
PO Box 3022  
Sacramento, CA 95812-3004

(by e-mail to: CEQA.GHG@opr.ca.gov)

RE: Proposed Amendments to the CEQA Guidelines

Dear Ms. Bryant,

Thank you for the opportunity to review proposed amendments to the CEQA Guidelines prepared pursuant to PRC Section 21083.05 to address green house gas emissions. Napa County's Department of Conservation, Development & Planning congratulates you on an important step towards integrating concerns regarding climate change and green house gas emissions into State and local decision making. We recognize the urgent need for clarification from the State and are grateful for the opportunity to provide these comments from our perspective as CEQA practitioners in a County recognized for its success in preserving agricultural land uses.

Proposed Changes to Appendix G are Inconsistent with Agricultural Preservation

The modification of Section II of the checklist (Appendix G) to include forest resources should be considered carefully. We believe that the current draft is inconsistent with State and local policies regarding agriculture and agricultural preservation. Specifically, the introduction of checklist item II(d) and the modification of existing checklist item II(c) – now item II(e) – would suggest that any conversion of forest land to another agricultural use is a significant environmental impact.

As a lead agency, Napa County carefully evaluates potential impacts of projects that propose to remove forest land and replace it with vineyard. Typically – and appropriately – these reviews focus on biological resources, hydrology and water quality, and projects are modified or mitigated to preserve a percentage of the site's natural habitats, as well as wildlife movement corridors, streams and other water features. To suggest that such projects would result in significant impacts despite substantial modification or mitigation to avoid sensitive resources is inappropriate. We urge OPR to return to the prior language of the checklist and/or embrace the concept that loss of forest land or conversion of forest land is only significant when it results in a *non-agricultural use* (rather than a non-forest use). Also, the questions regarding loss of forestland should be rephrased as a "substantial loss" to be consistent with the way other impacts are addressed in the checklist. (See "substantial adverse change" in the Cultural Resources section for example.)

Also, we are unfamiliar with the forest carbon measurement methodology provided in the Forest Protocols adopted by the California Air Resources Board and referenced in the checklist. We look forward to reviewing this methodology in light of our desire to ensure the long-term viability of California agriculture.

### Insufficient Guidance Provided Regarding “Considerable” Contributions

We are concerned that the proposed amendments do not sufficiently clarify when a project’s contribution to a cumulative impact (cumulative emissions or climate change) should be viewed as “considerable.” Cumulative green house gas emissions and climate change are global issues, unlikely to be solved (i.e. mitigated to less-than-significant) by any local lead agency, and thus it is appropriate that Section 15064(h)(3) has always indicated that a lead agency may determine that incremental contributions are not “cumulatively considerable” when projects comply with previously approved plans or mitigation programs. (A good example is a project which contributes to cumulative traffic congestion, but pays into a legally established traffic mitigation fund.)

However, the same subsection goes on to say: “If there is substantial evidence that the possible effects of a particular projects are still cumulatively considerable notwithstanding that the project complies with the specified plan or mitigation program addressing the cumulative problem, an EIR must be prepared.” This sentence sets up an impossible quandary for local lead agencies which will have ample evidence that cumulative green house gas emissions and climate change will remain significant issues on a global, State, regional, and possibly local scale, despite the adoption of plans and mitigation programs to address the issues. OPR should consider deleting, amending, or clarifying this sentence and the companion sentence that has been added as Section 15130(f).

Since the court’s decision in *Communities for a Better Environment v. California Resources Agency* and subsequent amendment of Section 15064, local lead agencies have struggled to respond to “one molecule” arguments and explain why and when incremental contributions to cumulatively significant impacts are not deemed “considerable.” This issue – more than any other – requires clarification.

### Other Specific Comments and Questions

- Section 15064.4(a)(4) states the obvious – that lead agencies must consider whether impacts exceed applicable threshold of significance – and could be deleted in favor of a more useful statement: “The extent to which proposed increases in energy consumption or greenhouse gas emissions are off-set by the proposal or by programs adopted by the lead agency.”
- Section 15064.4(b) acknowledges that methodologies will evolve over time, but should also acknowledge that the scope, scale and context of some projects will make estimating green house gas emissions associated with a project unnecessary. For example, a discretionary decision to approve a project using a Class 3 Categorical Exemption (Section 15303) or any of the other exemptions cited in Section 15300.2 will typically be one that should not require an analysis of greenhouse gas emissions.

- Section 15126.4(c)(1)'s use of the phrase "should consider all feasible means," is inconsistent with the standard "shall describe feasible measures" provided in Section 15126.4(a)(1) and would result in confusion.
- Section 15126.4(c)(4) should be amended to state "Mitigation measures may include measures that sequester carbon or carbon-equivalent emissions or that off-set emissions through specific project features or actions."
- Section 15126.4(c)(5) should be edited to make it clear that the responsibility for implementing mitigation measures rests with project applicants, not with the lead agency.
- Section 15130(b)(1)(B) should not include reference to a regional computer modeling program, since such programs are not "documents" that can be "made available to the public at a location specified by the lead agency." Cumulative analyses that rely on regional computer models are typically incorporated into environmental documents which are already mentioned in this section.
- Section 15152(i)'s use of the phrase "that adequately addresses greenhouse gas emissions" should be clarified. If there is a locally adopted plan to reduce cumulative green house gas emissions, but those cumulative emissions would remain significant due to circumstances beyond the control of the lead agency, would that plan be considered one that "adequately addresses" the subject?
- We are at a loss to understand proposed changes to the checklist in Appendix G regarding traffic. Specifically, item XVI(a) and (b) should be retained in their original form, and should reference substantial increases in traffic in relation to the existing traffic load, the capacity of the street system, and established service standards (if any). If there is a desire to consider any substantial increases in traffic as significant regardless of context, we suggest you add a reference to vehicle miles travelled (VMT) to the section about green house gas emissions, rather than diluting checklist items about traffic that have been used constructively by local lead agencies for many years.

Once again, thank you for the opportunity to comment on the proposed amendments to the CEQA Guidelines. I would be happy to discuss these comments and issues with you at your convenience and can be reached at (707) 253-4805 or [hgitelman@co.napa.ca.us](mailto:hgitelman@co.napa.ca.us).

Sincerely,



Hillary Gitelman

cc. Napa County Board of Supervisors  
Napa County CEO & County Counsel  
CSAC