ARNOLD SCHWARZENEGGER, Governor
MIKE CHRISMAN, Secretary for Natural Resources

Notice of 15 Day Comment Period on Changes to Proposed Amendments to the State CEQA Guidelines

The Natural Resources Agency has revised the text of the proposed amendments to the State CEQA Guidelines (Proposed Amendments) described in a Notice of Proposed Amendments dated July 3, 2009. The Natural Resources Agency provided a 55-day review period for the Proposed Amendments and conducted two public hearings on August 18, 2009, in Sacramento, and on August 20, 2009, in Los Angeles. The Agency has considered the oral and written comments received and has revised the Proposed Amendments. Text revisions are marked as follows: new additions are **bolded and underlined** and deletions are indicated by ~~**bolded strikeout**~~.

Comment Period: The Natural Resources Agency will receive written comments on the revisions to the Proposed Amendments from October 23, 2009, until **5:00 p.m. on November 10, 2009**. The Natural Resources Agency requests that comments focus on the revisions to the proposed amendments (i.e. the bolded underline and/or bolded strikeout portions of the text). The revised text of the proposed amendments may be viewed on-line at http://ceres.ca.gov/ceqa/guidelines/ and is also available for inspection at the address listed below. Written comments may be mailed to:

Christopher Calfee, Special Counsel
ATTN: CEQA Guidelines
California Resources Agency
1017 L Street, #2223
Sacramento, CA 95814

Facsimile: (916) 653-8102

CEQA.Rulemaking@resources.ca.gov

Comments may be hand-delivered to 1416 Ninth Street, Suite 1311, Sacramento, California, 95814. The rulemaking file is also available for inspection at the above address. Prior to adoption of the final text, the Final Statement of Reasons will be prepared, and will contain responses to comments submitted during the July 3 to August 27, 2009, review period on the original text of the Proposed Amendments, and comments on the revised text submitted during the October 23 to November 10, 2009, review period.

Background: The State CEQA Guidelines are contained in Title 14 of the California Code of Regulations, Sections 15000 through 15387 with appendices. The Guidelines explain and implement the requirements of the California Environmental Quality Act, Public Resources Code Sections 21000 et seq. and court decisions dealing with the review of the environmental effects of proposed projects and the preparation of environmental documents. This rulemaking package focuses primarily on revisions to the State CEQA Guidelines addressing analysis and mitigation of greenhouse gas emissions pursuant to Public Resources Code section 21083.05.

Summary of Proposed Changes. Having reviewed and considered all comments on the Proposed Amendments, the Natural Resources Agency now proposes changes to those Proposed Amendments to clarify and strengthen the originally proposed text. Several primary revisions are summarized below.

Clarify Standards for Determining Significance of Greenhouse Gas Emissions

Many comments on the Proposed Amendments addressed the discretion left to lead agencies, in proposed section 15064.4, to perform either a quantitative or a qualitative analysis in determining the significance of a project's greenhouse gas emissions. The Initial Statement of Reasons explains why section 15064.4 leaves the precise method of analysis to the lead agency. The Natural Resources Agency does not propose to limit that discretion in these proposed revisions. The proposed revisions do, however, clarify the standard applicable to either a quantitative or qualitative analysis. Specifically, the proposed revisions would provide that instead of basing the analysis on "available information," the lead agency must base its analysis "to the extent possible on scientific and factual data." This revision is necessary to parallel the standard in existing section 15064(b). The proposed revisions would also clarify that a lead agency may perform either a qualitative or quantitative analysis, or both, as appropriate to the project. Finally, the proposed revisions provide that the non-exclusive list of factors in section 15064.4(b) normally should be considered in a lead agency's analysis where applicable.

Simplify Guidance on Statement of Overriding Considerations

Comments on the proposed addition of section 15093(d), regarding statements of overriding considerations, expressed both support and concern. Some comments, for example, suggested that the new subdivision may signal that statewide and region-wide considerations have been elevated above local impacts. Other comments indicated confusion about how the addition should be interpreted in light of the remainder of the section. The Natural Resources Agency also received comments supporting the addition because the reduction of greenhouse gas emissions on a statewide level may rely on local action. To ensure that consideration of such statewide and regional environmental benefits occurs in the proper context, the proposed revisions would add "statewide and region-wide benefits" to the list of benefits in the existing section 15093(a), and delete subdivision (d).

Clarify Analysis of Project in a Changing Climate

The Initial Statement of Reasons explained that existing CEQA law already permits the analysis of climate change on a project where appropriate. In particular, section 15126.2 provides that an environmental impact report should analyze, among other potential impacts, the effect of placing a project in a hazardous location. Comments on the proposed amendments indicated, however, that, particularly in light of the release of a discussion draft of the California Adaptation Strategy, additional guidance on how to address the effects of a changing climate on a project would be appropriate. Both SB97 and the general authority to promulgate CEQA Guidelines authorize the Natural Resources Agency to provide such additional guidance. Therefore, the proposed revisions include a clarifying sentence in section 15126.2 indicating that an environmental impact report should analyze the effect of placing a project in areas susceptible to hazardous conditions. That proposed revision specifically lists types of areas (including floodplains, coastlines and wildfire risk areas) that may be most impacted by the effects of a changing climate. The proposed revision would also clarify that analysis of such hazards is appropriate where such areas are specified in authoritative hazard maps, risk assessments or land use plans. Notably, this clarifying language would be subject to existing standards governing preparation of environmental documents, including limitations on speculation and forecasting in sections 15144 and 15145 of the CEQA Guidelines.

Clarify Standards of Mitigation of Greenhouse Gas Emissions

The Initial Statement of Reasons explained that lead agencies have discretion in most cases to choose the most appropriate mitigation to address a project's significant impacts, and the proposed section 15126.4(c) reflects that discretion. Some comments on the Proposed Amendments, however, expressed concern regarding the reliability of off-site measures, and suggested that the Guidelines express a preference for on-site mitigation. For the reasons explained in the Initial Statement of Reasons, the proposed revisions would not limit a lead agency's existing discretion. The proposed revisions do include, however, clarification of the standards governing greenhouse gas mitigation. Specifically, the revisions clarify that any greenhouse gas mitigation must be supported with substantial evidence and be subject to monitoring. The revisions also clarify that reductions in emissions that result from activities that are not otherwise required may constitute mitigation for the purposes of section 15126.4(c).

Refine Guidelines on Cumulative Impacts Analysis

The Proposed Amendments would add a new subdivision to the section addressing analysis of cumulative impacts. The purpose of the proposed subdivision (f) was to emphasize that a greenhouse gas emissions are most appropriately analyzed as a cumulative impact. Several comments noted, however, that the new subdivision merely restated the law, and was capable of misinterpretation. Because other provisions of the Proposed Amendments address the analysis of greenhouse gas emissions as a cumulative impact, and because the reasoning of those Proposed Amendments is fully explained in the Initial Statement of Reasons, the proposed revisions would delete subdivision (f) from this rulemaking package. Also, proposed additions to subdivision (d) of section 15130, proposed by the Office of Planning and Research, were inadvertently omitted from the language circulated on July 3, 2009.

Further Refine Appendix G Questions Related to Transportation

The Proposed Amendments included changes to the Appendix G questions related to transportation. The intent of those amendments was to recognize a lead agency's discretion to choose its own methodology for determining transportation-related impacts of a project while ensuring that all components of a circulation system are addressed in the analysis. Several comments raised concern regarding the formulation of the proposed question. The proposed revisions would refocus the question from the capacity of the circulation system to the performance of the circulation system as indicated in an applicable plan or ordinance. The proposed revisions also clarify and update language regarding safety considerations and other mass transit and non-motorized transportation issues.

Other Technical Revisions

Comments on the Proposed Amendments suggested a number of technical revisions and clarifications to the text. While only substantial revisions to the proposed amendments require additional public review, the Natural Resources Agency is making available all proposed revisions to the Guidelines text.

Availability of Additional Documents. As indicated in its July 3, 2009, Notice of Proposed Action, the Natural Resources Agency has made available all documents on which it relies in its Statement of Reasons. The following documents, in addition to all materials submitted during the prior comment period, are also proposed for inclusion in the rulemaking record for the proposed amendments:

> Bay Area Air Quality Management District. (October 2009). *Revised Draft Options and Justification Report: California Environmental Quality Act Thresholds of Significance.* San Francisco, California. Retrieve from http://baaqmd.gov/~/media/Files/%20Planning%20and%20Research/CEQA/Revised%20Draft%20CEQA%20Thresholds%20%20Justification%20Report%20Oct%202009.ashx

Bay Conservation and Development Commission. (October, 2009). *Status Report on the Commission's Strategic Plan*. California Natural Resources Agency. Sacramento, California. Retrieve from http://www.bcdc.ca.gov/reports/strategic_status_rpt.pdf

California Climate Action Team. (August, 2008). *Climate Action Team Recycling and Waste Management Sector Summary for Public Distribution*. California Environmental Protection Agency. Sacramento, California. Retrieve from http://www.climatechange.ca.gov/climate_action_team/reports/CAT_subgroup_reports/Recycling_Waste_Mngmt_Summary_and_Analyses.pdf

California Department of Forestry and Fire Protection. (October, 2003). *The Changing California: Forest and Range Assessment; Assessment Summary*. Fire and Resource Assessment Program. Sacramento, California. Retrieve from http://www.frap.cdf.ca.gov/assessment2003/

California Energy Commission. (December, 2006). *Refining Estimates of Water-Related Energy Use in California*. California Natural Resources Agency. (CEC Publication No. CEC-500-2006-118). Sacramento, California. Retrieve from http://www.energy.ca.gov/2006publications/CEC-500-2006-118/CEC-500-2006-118.PDF

California Governor's Office of Planning and Research. (August, 2009). *Environmental Assessment Documents Containing a Discussion of Climate Change.* State Clearinghouse. Sacramento, California. Retrieve from http://opr.ca.gov/ceqa/pdfs/Environmental_Assessment_Climate_Change.pdf

California Integrated Waste Management Board. (October, 2009). *2008 Annual Report.* California Environmental Protection Agency. (IWMB Publication No. IWMB-2009-020). Sacramento, California. Retrieve from http://www.ciwmb.ca.gov/Publications/General/2009020.pdf

Cervero, Robert. (July, 2001). *Road Expansion, Urban Growth, and Induced Travel: A Path Analysis.* Journal of the American Planning Association, Vol. 69 No. 2. American Planning Association. Retrieve from http://www.uctc.net/papers/520.pdf

Cervero, R. & Arrington G.B. (2008). *Vehicle Trip Reduction Impacts of Transit-Oriented Housing.* Journal of Public Transportation, Vol. 11 No. 3. Center for Urban Transportation Research. Retrieve from http://www.nctr.usf.edu/jpt/pdf/JPT11-3Cervero.pdf

Climate Action Reserve. (August, 2009). *Forest Project Protocol; Version 3.0*. Author. Los Angeles, California. Retrieve from http://www.climateactionreserve.org/wp-content/uploads/2009/03/Forest-Project-Protocol-Version-3.0.pdf

Noland, R.B. & Lem, L.L. (February, 2001). *A Review of the Evidence for Induced Travel and Changes in Transportation and Environmental Policy in the United States and the United Kingdom*. U.S. Environmental Protection Agency. Washington D.C. Retrieve from http://www.cts.cv.ic.ac.uk/documents/publications/iccts00244.pdf

Noland, R.B. & Quddus, Mohammed A. (2006). *Flow Improvements and Vehicle Emissions: Effects of Trip Generation and Emission Control Technology.* Transportation Research Part D: Transport and Environment, Vol. 11 No. 1. Center for Transport Studies. London, United Kingdom. Retrieve from http://www.sciencedirect.com/science/article/B6VH8-4GP1VT7-1/1/dfc689f10ad921e53803a6813ee2bf04

Shoup, Donald. (1999). *In Lieu of Required Parking*. Journal of Planning Education and Research, Vol. 18 No. 4. Association of Collegiate Schools of Planning. Retrieve from http://www.uctc.net/papers/507.pdf

Shoup, Donald. (2007). *Cruising for Parking*. Transport Policy, Vol. 13 No. 6, November 2006, pp. 479-486. Retrieve from http://shoup.bol.ucla.edu/Cruising.pdf

Shoup, Donald. (2007). *Cruising for Parking.* Access, No. 30, Spring 2007 pp. 16-22. Retrieve from http://shoup.bol.ucla.edu/CruisingForParkingAccess.pdf

U.S. Environmental Protection Agency. (November, 2005). *Greenhouse Gas Mitigation Potential in U.S. Forestry and Agriculture.* Author. Washington D.C. Retrieve from http://www.epa.gov/sequestration/pdf/greenhousegas2005.pdf

The foregoing documents are available for inspection at the Natural Resources Agency, 1416 Ninth Street, Suite 1311, Sacramento, California, 95814, between the hours of 9:00 a.m. and 5:00 p.m.

Inquiries. Inquiries regarding the proposed revisions or the Natural Resources Agency's rulemaking process may be directed to Christopher Calfee or Ian Peterson at (916) 653-5656.