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Summary of Major Themes in Comments Regarding the CEQA Guidelines Update

October 18, 2013

During the summer of 2013, the Governor's Office of Planning and Research and the Natural Resources Agency invited broad public input into possible revisions to the Guidelines Implementing the California Environmental Quality Act. This document summarizes some of the major themes that were raised in comments responding to the [Solicitation for Input](#). Copies of the comments can be reviewed in their entirety [here](#).

Substantive Requirements

The following are some of the major themes raised regarding substantive requirements in the CEQA Guidelines.

Baselines

Some comments suggested that the Guidelines clarify when it is appropriate for an environmental analysis to rely on projected future baselines, rather than existing conditions. Others further suggested that future projections related to climate change in particular should be addressed in the Guidelines.

Several comments raised the issue of unpermitted uses. Some comments suggested that treating such uses as part of the existing baseline encourages illegal conduct. Another comment, however, urged that environmental analyses should only consider existing conditions on the ground, regardless of the legality.

Scope of Analysis (Exposure to Hazards)

Many comments reflected a general interest in protection of public health and the effects of climate change. Comments differed, however, on whether the Guidelines should be revised in response to *Ballona Wetlands Land Trust v. City of Los Angeles* and related decisions.

Use of Regulatory Standards

Some comments suggested that the CEQA Guidelines should address how regulatory standards can be used in determining significance of environmental effects under CEQA. Comments differed on whether certain aspects of CEQA analyses are needed where the project will comply with other regulatory rules.

Environmental Checklist (Appendix G)

Many comments suggested a variety of changes to the sample environmental checklist in Appendix G. Some suggestions are described below.

- Some comments suggested eliminating questions regarding:
 - Effects of the environment on the project and exposure to hazards (see scope of analysis above)
 - Issues addressed by other regulatory standards (see use of regulatory standards above)
 - Visual impacts
 - Geological impacts
 - Population and housing
 - Public services
 - Recreation
 - Solid waste
- Some comments suggested revising questions regarding:
 - Greenhouse gas emissions
 - Biological resources
 - Circulation impacts
- Some comments urged more precision in the questions regarding:
 - Definition of agriculture resources
 - Exposure to hazards
 - Water quality
- Other comments suggested adding questions regarding:
 - Scenery (address separately from aesthetics)
 - Recreation (beyond existing questions)
 - Habitat connectivity
 - Regional resources
 - Spread of invasive species
 - Tribal resources (address in the historic resources section, separate from paleontology and geology)
 - Energy delivery infrastructure/utilities
 - Fire hazards
 - Greenhouse gases

Several comments further proposed creating new checklists for different types of projects.

Cumulative Impacts and Overburdened Communities

Some comments suggested enhancing public health and safety considerations in the CEQA Guidelines, particularly with regard to overburdened communities. Specifically, those comments suggested prescribing mitigation requirements addressing displacement of communities. Comments also suggested more specific assessment of cumulative impacts to vulnerable communities.

Mitigation and Alternatives

Several comments suggested strengthening and clarifying mitigation requirements as well as situations in which projects may appropriately defer certain details of mitigation measures and plans. One comment suggested adding a sample mitigation monitoring or reporting program (MMRP). Another comment also suggested adding specific information on the mitigation of agricultural impacts, and in particular noting that preservation in perpetuity is an acceptable mitigation option. Other comments suggested bolstering mitigation enforcement to ensure that proposed measures are actually implemented.

Several comments suggested further guidance related to the feasibility of alternatives and the content of the “no project” alternative.

Tiering and Supplemental Review

Several comments suggested providing more precise guidance on streamlining through the use of supplemental review, tiering, program EIRs, etc. In particular, comments suggested creation of a new checklist to help guide such review. Other comments, however, suggested restricting the use of prior environmental review. For example, some suggested limiting the use of environmental analysis that exceeds a certain age.

Categorical Exemptions

Several comments addressed the use of categorical exemptions. Some asked that the Guidelines be clearer about when categorical exemptions may apply and what is considered an “unusual circumstance” that would trigger an exception to use of categorical exemptions. Other comments suggested modifications of certain categories. Some comments suggested adding new categorical exemptions for hydroelectric projects at existing conveyance facilities, small transit projects, and use of surface rails within existing rights of way (modeled on an existing categorical exclusion under the National Environmental Policy Act). Finally, some comments suggested expanding the categorical exemption for infill projects to include unincorporated urban areas, rather than only sites within city limits.

Procedural Requirements

The following are some of the major themes raised regarding procedural requirements in the CEQA Guidelines.

Standard of Review

Some comments suggested providing clearer guidance on when the fair argument standard applies and when the substantial evidence standard applies, particularly in the context of supplemental or subsequent review.

Tribal Consultation

Several comments suggested providing guidance on consultation with Native American Tribes. Specifically, some comments suggested that the Guidelines should recognize the expertise of Native American Tribes in determining the significance of resources and potential mitigation of impacts to such resources. Comments further suggested that tribal cultural resources should be considered separately from historic and archeological resources.

Administrative Drafts

One comment suggested adding guidance allowing lead agencies to share pre-publication administrative drafts with the applicant, without including the documents in the record for litigation purposes.

Electronic Documents

Several comments addressed the use of electronic documents. Some comments sought to encourage electronic submission of documents wherever practicable, and allow public distribution of environmental documents electronically. Others suggested adding guidance to improve and consolidate online access to documents.

Responses to Comments

One comments suggested requiring commenters to explain the relevance of information submitted in response to comments.

Definitions

Some comments suggested more precise definitions of “discretionary project,” “mitigation,” and “project.”

Next Steps

The Governor’s Office of Planning and Research is currently evaluating the recommendations that were received in response to the Solicitation for Input. Following that evaluation, OPR will preliminarily identify which topics it intends to address in the update. Once OPR selects which topics to include, it will develop a discussion draft of amendments on which it will seek public review and comment. To receive e-mail notice of future CEQA Guidelines update activities, you can sign up for the update listserv [here](#).