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Christopher Calfee
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1400 Tenth Street
Sacramento, CA 95815

RE: Comments on SB 226 CEQA Guidelines

Dear Mr. Calfee:

Thank you for the thoughtful approach to the CEQA streamlining guidelines. With the passage of SB 226, it is clear that OPR took much care to ensure that the CEQA streamlining guidelines would enable growth via valuable infill development while continuing to ensure the environmental protections established by CEQA.

Human Impact Partners has been participating in CEQA processes for the last six years through our statewide work using Health Impact Assessment to increase the consideration of health impacts in decisions related to land-use projects. In that time, we have had the opportunity to understand the benefits and limitations of CEQA in terms of how well it protects human health and assesses equity impacts of proposed projects. In particular, we have worked on many specific, area, and general planning projects related to infill development in Oakland, Los Angeles, Bay Area suburbs, Central Valley cities and Humboldt County. We have also been involved in the development of Sustainable Communities Strategies/Regional Transportation Planning across the state. We bring this background to our comments on the guidelines for SB 226 CEQA streamlining for infill projects.

Healthy Places Coalition member organizations have also been involved statewide with land use planning processes and have signed on in support of the recommendations included below.

From a health perspective, we agree with most of the concepts behind what makes infill development attractive and worth pursuing to the extent that the state legislature has deemed fit to decrease the oversight responsibilities of CEQA. As stated in the Narrative Explanation of Guidelines and Performance Standards, infill development protects undeveloped natural spaces and agricultural land; increases physical activity through placing homes, jobs, retail, and public transit in close proximity to each other; and decreases driving which can improve air quality, reduce greenhouse gas emissions, and decrease sedentary behavior. All of these outcomes related to infill development are also championed by the health community. Infill development also offers the opportunity to create affordable homes for lower-income residents; to place homes and jobs within reach of urban residents who cannot afford cars; and to protect jobs on agricultural lands. All of these outcomes related to infill development are also championed by those concerned about equity for communities of concern. For these reasons, we support much of the guidance provided by OPR.

However, infill development carries increased exposure to the health hazards of density and the risk for displacement and disproportionate exposure to these hazards in environmental justice communities. It is vital that performance standards and the Written Checklist take these health and equity factors into consideration. **Specifically we encourage more stringent performance standards to protect residents from air pollution, noise, pedestrian and bicyclist collision with vehicles, and the risk of displacement.**

We also encourage increased clarity about how CEQA streamlining will continue to offer the public opportunity for oversight and input.

Our concerns come backed by the historical perspective that NEPA and CEQA do not adequately assess health outcomes or protect human health, particularly for vulnerable communities, despite requirements to do so.[1] [2] CEQA, for example, clearly states that the well-being of people is an environmental policy goal (California Public Resources Code. § 21000). CEQA requires an Environmental Impact Report if a project has the potential to cause substantial adverse effects on human beings (CCR §15065), and the EIR must discuss "health and safety problems caused by the physical changes (CCR §15126.2). Human Impact Partners and other HIA practitioners across California have been brought to the table to add our analyses specifically due to these inadequacies in the fulfillment of CEQA. For that reason, we will watch the implementation of SB 226 with care and we offer the following comments.

Air quality

Proximity to emissions from mobile sources is a well-established determinant of respiratory and cardiovascular disease, cancer, and poor reproductive health outcomes.[3] [4] [5] [6] With regard to projects near high-volume roadways (Performance Standards by Project Type, residential [III.A in Proposed Appendix M]), the guidance directs the lead agency to comply with policies and standards in any plans or codes that relate to the project for the protection of public health. However, California's regions, cities, and towns have a patchwork of relatively weak policies set up to protect residents from the health hazards of near-roadway air pollution.[7] Many regions disproportionately build affordable homes targeted for low-income residents, often people of color, in these hazardous locations. For example, the recent SCAG Draft Regional Transportation Plan/Sustainable Communities Strategy environmental justice analysis shows that while 5.7 percent of the entire SCAG region lives within 500 feet of a freeway, compared to a disproportionate 7 percent of low-income residents, and 7.1 percent of the region's people of color do.[8] Given the almost 18 million people in the SCAG region, this small percentage difference equates to high exposure for hundreds of thousands of more vulnerable residents. Since these communities carry higher vulnerabilities for poor health outcomes and particularly for respiratory disease,[9] [10] there is elevated concern about their increased exposure to mobile sources of air pollution.

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[1] Bear D. 2003. Some modest suggestions for improving implementation of the National Environmental Policy Act. Natural Resources Journal 43:931-60.

[2] Bhatia R, Wernham A. Integrating Human Health into Environmental Impact Assessment: An Unrealized Opportunity for Environmental Health and Justice. Environmental Health Perspectives. 2008; 116: 991–1000.

[3] Bell, M.L., Goldberg, R., Hogrefe, C., Kinney, P.L., Knowlton, K., Lynn, B., Rosenthal, J., Rosenweig, C., & Patz, J.A. 2007. "Climate change, ambient ozone, and health in 50 US cities." Climatic Change, 82: 61-76.

[4] World Health Organization. 2003. "Health aspects of air pollution with particulate matter, ozone, and nitrogen dioxide." Report on a WHO Working Group. Bonn, Germany 13-15 January 2003. Copenhagen: World Health Organization.

[5] United State Environmental Protection Agency. "Climate Change: Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gages under the Clean Air Act." Available at http://epa.gov/climatechange/endangerment.html.

[6] HEI (Health Effects Institute). 2009. Traffic-related air pollution: A critical review of the literature on emissions, exposure, and health effects. Special Report #17. Available at: pubs.healtheffects.org/view.php?id=306.

[7] Lepe C. 2008. Addressing Air Quality Related Health Impacts Associated with Siting Residential Development near High Traffic Roadways in California and the City of San Jose. San Jose State University.

[8] SCAG. 2012. Draft Regional Transportation Plan/Sustainable Communities Strategy: Environmental Justice Appendix.

[9] Morello-Frosch R, Lopez R. 2006. The riskscape and the color line: Examining the role of segregation in environmental health disparities. Environmental Research 102:181-96.

[10] Brown P, Mayer B, Zavestoski S, Luebke T, Mandelbaum J, McCormick S. 2004. Clearing the air and breathing freely: The health politics of air pollution and asthma. International Journal of Health Services 34(1):39-63.

While we support consulting with both the regional air district as well as with CARB on mitigation measures that protect public health, we suggest that OPR strengthen this guidance. Instead of relying on local policies that currently exist, we recommend including in the Checklist that if an infill project is within 500 feet of a busy roadway and current conditions such as existing background pollution, meteorology, and types of emissions warrant it, the project be considered a "new specific effect" that triggers the requirement to prepare an infill (limited) EIR. The standard methodology for this analysis could take its guidance from San Francisco, where Article 38 amendment to the Health Code requires an air quality assessment and ventilation for certain urban infill residential development.[11] Another set of standards for potential use are the Bay Area Air Quality Management District's CEQA Air Quality Guidelines update of May 2011.[12]

Pedestrian and bicycle collisions with vehicles

Infill development can promote many healthy outcomes. Increased physical activity through walking and biking is one important behavioral change that is promoted by increased urban density. Improving rates of physical activity is a primary health goal and has many positive health outcomes. However, more walking and biking in dense areas also increases exposure to vehicle/pedestrian and vehicle/bicyclist conflicts.[13] Low-income neighborhoods are more heavily burdened with pedestrian injuries and fatalities due to a variety of factors.[14] Nationally in 2009, 71% of pedestrian deaths due to collisions occurred in urban areas.[15] Bicyclists also experience a disproportionate share of traffic injury and fatality; their estimated per-trip fatality rate is over two times that of motor vehicles.[16] Additionally, physical activity increases related to smart growth infill development could be negated by negative perceptions of safety risks.[17] [18]

For that reason, we recommend including a check box similar to the one for air traffic (Appendix N [Written Checklist]. Pg. 14. XVI. Transportation, Traffic. (C)) which looks to a change in air traffic patterns that may cause safety risks. An additional question on the checklist should consider if the siting of the infill project would result in traffic patterns with an outcome of a "substantial pedestrian and bicyclist safety risk," and would include guidance explicitly defining "substantial safety risk". Criteria might include projects that will increase pedestrian and bicyclist injuries to levels that would exceed the following: state averages, the Healthy People 2020 goal of 20.3 pedestrian injuries per 100,000 people, density of injuries per street mile, or other criteria. A project that would cause levels to exceed these

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[11] Article 38: Air quality assessment & ventilation requirement for urban infill residential developments. Available at http://www.amlegal.com/nxt/gateway.dll/California/health/article38airqualityassessmentandventilat?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca.

[12] Bay Area Air Quality Management District. 2011. Updated CEQA Guidelines. Available at http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES/Updated-CEQA-Guidelines.aspx.

[13] Bhatia R, Wier M. 2011. Safety in Numbers Re-examined: Can we make valid or practical inferences from available evidence? Accident Analysis & Prevention 43(1):235-40.

[14] Cottrill CD, ThakuriahPV> 2010. Evaluating pedestrian crashes in areas with high low-income or minority populations. Accident Analysis and prevention 42(6):1718-28.

[15] Fatality Facts 2009." Insurance Institute for Highway Safety. 2011. Insurance Institute for Highway Safety. Available at: http://www.iihs.org/research/fatality_facts_2009/default.html.

[16] Beck LF, Dellinger AM, O'Neil ME. 2007. Motor vehicle crash injury rates by mode of travel, United States: Using exposure-based methods to quantify differences. Am Journal of Epidemiology 166(2):212-8.

[17] Jacobsen, P., Racioppi, F., and Rutter, H. 2009. "Who Owns the Roads? How Motorised Traffic Discourages Walking and Bicycling." Injury Prevention, 15(6): 369-373.

[18] Davison, K. & Lawson, C. 2006. "Do Attributes in the Physical Environment Influence Children's Physical Activity? A Review of the Literature." Int J Behav Nutr Phys Act, 3: 19.

criteria would institute a "new specific effect", but could be mitigated by uniformly applied local policies.

Displacement

As the Narrative cites, there has been a clear shift in preference in the population for housing near transit sites, and thus a call to build more transit-oriented development. TOD projects would be able to fulfill CEQA streamlining requirements. Across the country, increased property, housing, and commercial values near TOD projects have raised the very real concern about displacement of low-income people of color who proportionally have been residents of housing near transportation projects and have owned small businesses in these same areas.[19] [20] [21] [22] Displacement and subsequent lack of affordable housing carries grave health impacts including stress, depression, and anxiety; inability to afford necessities such as health care, nutritious food, and utilities; and residential instability leading to poor educational attainment for children.[23] [24]

California law clearly protects the housing needs of all Californians by putting in place protections so that affordable units will not be lost under SB 375, the Sustainable Communities and Climate Protection Act of 2008. This law requires "adequate provision for the housing needs of all economic segments of the community", preservation of existing affordable housing stock, and protects against any loss in number of affordable housing units. (Cal Govt Code 65583(c)).

The Written Checklist (Appendix N [XIII] Population and Housing, questions [b] and [c]) asks whether the project displaces substantial numbers of existing housing units and residents. As written, it is unclear what kind of evidence is required to prove or disprove displacement effects, and how it will be reviewed. We recommend clarifying what evidence the project sponsors would be required to use to show no displacement of current residents and businesses. Additionally, a project that would displace residents should be considered a "new specific effect". In such circumstances, if uniformly applied local policies would mitigate this effect, the Checklist should require the lead agency to specify the relevant policies. When mitigation is appropriate, the lead agency should require 1:1 replacement of units at a price point affordable to current residents.

On page 12, Subdivision (d) regarding infill EIR contents, the guidance states that if there are new specific effects that cannot be mitigated by uniformly applicable development policies, then a limited scope EIR would be required. If an "infill EIR" is required, we are concerned that such this limited EIR does not currently require analysis of growth inducing impacts. Displacement is an important "growth-

[19] Pollack S, Bluestone B, Billingham C. 2010. Maintaining diversity in America's transit-Rich neighborhoods: Tools for equitable neighborhood change. Dukakis Center for Urban and Regional Policy. Available at www.northeastern.edu/**dukakiscenter**/documents/TRN_Equity_final.pdf

[20] Steinacker A. 2003. Infill development and affordable housing: Patterns from 1996-2000. Urban Affairs Review 38:492-509.

[21] Karen Chapple, *Mapping Susceptibility to Gentrification: The Early Warning Toolkit* (Center for Community Innovation at the Institute of Urban and Regional Development, 2009). Available at http://communityinnovation.berkeley.edu/reports/Gentrification-Report.pdf.

[22] Maureen Kennedy and Paul Leonard, *Dealing with Neighborhood Change: A Primer on Gentrification and Policy Choices* (Washington, DC: Brookings Institution, and Oakland, CA: PolicyLink, 2001).

[23] Bhatia R, Guzman C. The case for housing impacts assessment: the human health and social impacts of inadequate housing and their consideration in CEQA policy and practice. San Francisco, CA: Department of Public Health; 2004.

[24] Braveman P, Dekker M, Egerter S, Sadegh=Nobari T, Pallack C. 2011. Where we live matters for our health: Links between housing and health. Robert Wood Johnson Issue Brief Series: Exploring the Social Determinants of Health.

inducing impact" and we would recommend that the guidelines clearly stipulate that it should be analyzed in infill EIRs and mitigated on a per-project basis.

Noise

Urban density and infill development also increases exposure to noise. Infill development near busy roadways will increase residents' exposure to chronic traffic noise, which has been shown to result in health and physiological impacts including increased cognitive impairment, sleep disturbance, annoyance, hypertension and heart disease and decreased school performance.[25] [26] [27] [28]

The Checklist includes the relevant questions that health experts would want to know regarding noise exposures (Appendix N, pg. 12, Section XII Noise). However, while [c] and [d] ask about a "substantial permanent increase in ambient noise levels in project vicinity above levels existing within the project" and an "increase in noise levels in the project vicinity above levels existing without the project", it is important to focus on increased exposure to noise rather than just new emissions. The project itself might not result in increased noise, but placing people next to roadways in infill projects might increase the number of people exposed to existing noise sources. The standard should not be an increase in noise but an increase in those exposed to current chronic noise of busy roadways.

We recommend including performance standards that protect against the health impacts of chronic and acute noise exposure in the infill standards. The state's Noise Insulation Standards (California Code of Regulations, Title 24 Section 1207 et seq.) establishes an interior noise standard of 45 dBA Ldn. Residential structures where noise (measured as Ldn or CNEL) is in excess of 60 dbA must show, by analysis, that the proposed design will be able to limit exterior noise to this allowable interior noise level. Many jurisdictions specify allowable ambient noise levels in their General Plans, but these standards are inconsistently applied and enforced. Infill performance standards must explicitly reference and apply these existing local noise compatibility standards.

Be explicit about health and equity outcomes in the Checklist

We would also request that health and equity effects are singled out in the Written Checklist on page 3 of Appendix N under Environmental Factors Potentially Affected. We recommend including checkboxes for Collisions, Respiratory Disease, and Displacement. Because CEQA requires assessment of environmental impacts in order to protect human health (see above), it *does* require health outcome assessment. By explicitly including a box for these effects, the Checklist will require infill project sponsors to assess the project's impacts in these issue areas. There are many methods for measuring these health impacts that are gaining hold in transportation planning argot, such as the use of the I-

[25] De Kluizenaar Y, Janssen SA, van Lengthe FJ, Miedema HM, Mackenbach JP. 2009. Long-term road traffic noise exposure is associated with an increase in morning tiredness. Acoustical Society of America 126:626-33. Passchier-Vermeer W, Passchier WF. 2000. Noise exposure an dpublic health. Environmental Health Perspectives 108:123-31.

[26] Shield BM, Dockrell JE. 2003. The effects of noise on children at school: A review. Journal of Building Acoustics 10:97-106.

[27] Van Kempen EE, Kruize H, Boshuizen HC, Ameling CB, Staatsen BA, de Hollander AE. 2002. The association between noise exposure and blood pressure and eschemic heart disease: a meta-analysis. Environmental Health Perspectives 110:307-17.

[28] Berglund, B., Lindvall, T., & Schwela. D.H. 1999. "Guidelines for Community Noise." World Health Organization. Available at: http://www.who.int/docstore/peh/noise/guildelines2.html.

THIM by the California Department of Public Health,[29] San Francisco Department of Public Health's pioneering work in collaboration with other government agencies,[30] and partnerships with academics at the University of California at Berkeley[31] and Northeastern University.[32]

Scale of Analysis

Analysis of health impacts at the regional scale, such as the Woodcock, et al. analysis cited by OPR, obscures differences in intra-regional effects and related environmental justice impacts. It is increasingly recognized that these aggregate regional environmental health benefits can mask localized increases in environmental health hazards. We recommend that local analyses be required.

Concerns with the process

Very generally, the streamlining process appears to fairly thoroughly guide lead agencies to protect public health by relying on past Planning Area EIRs unless there are new specific effects that cannot be mitigated by uniformly applied policies. We do have concerns with the process itself.

Impacts analyzed under a previous planning-level EIR. The written Checklist (c)(1)(B) states that, "An effect can be considered to be dealt with if it has been analyzed in a planning level EIR and included measures to mitigate the effect." Also, in the Narrative on page 8, second to last row, the "project level description" seems to imply that in an area level EIR has formerly been submitted, that infill projects would not be required to submit project level description.

We have four concerns. First, in our experience, it is rare that EIRs adequately analyze health impacts. They commonly analyze changes in the environment that are associated with health impacts, but to better inform public decisions, CEQA actually requires that EIRs analyze health impacts. Second, if health impacts were previously analyzed, this guidance does not require infill projects to show evidence that suggested mitigations were included in the Final Planning Area Plan, nor does the Plan need to reduce the effect to a less than significant level. Third, planning level mitigations are not always adequate for project level impacts. Finally, we do understand how one can determine if there are new specific effects from an infill project if a project level description is not required.

Due to these concerns, we again recommend the use of a health-focused check-boxes in the proposed Written Checklist so that health concerns of the infill project are assessed. Inclusion of these check-boxes would emphasize the need to analyze health impacts and ensure that health-protective mitigations are included in infill projects. We would also recommend that project level descriptions are required for all projects.

What is the public review of these applications? Much is left to the judgment of the lead agency in terms of reporting and assessing the effects in the Written Checklist. Other reviewers, including members of the public that might be impacted by the project proposals, may disagree with the lead agency's judgments and want the opportunity to review them. For example, SB 226 guidance gives the

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[29] Maizlish N. 2011. Health Co-Benefits and Transportation-Related Reductions in Greenhouse Gas Emissions in the Bay Area: Technical Report. California Department of Public Health. Available at www.cdph.ca.gov/programs/.../ITHIM_**Technical_Report**11-21-11.pdf.

[30] SFDPH. Health impact assessment tools. San Francisco Department of Public Health. Program on Health, Equity, and Sustainability. Available at http://www.sfphes.org/HIA_Tools.htm

[31] Center for Community Innovation. Preserving and Producing Affordable Housing. University of California at Berkeley. Available at http://communityinnovation.berkeley.edu/affordablehousing.html.

[32] Northeastern University. Dukakis Center for Urban and Regional Policy. Available at http://www.dukakiscenter.org/trnequity.

lead agency the authority to determine if a "uniformly applicable development policy" or a new mitigation measure will substantially mitigate an identified new specific effect of the infill project (c.1.E. and c.1.C.). Who will monitor this authority? We recommend that the written checklist be open to public review so all stakeholders can assess the judgment of the lead agency.

If the lead agency determines that no environmental review is necessary, Proposed CEQA Streamlining Guidelines should require a Notice of Exemption be issued by the lead agency, which would include public comment period on the Written Checklist. Section 15183.3(c)(2)(A) of the Proposed CEQA Guidelines currently *advises* lead agencies to file a Notice of Exemption upon determination that a project would not cause new specific effects or more significant effects than previously analyzed. This suggests that a notice is optional; we would suggest that the notice should be mandatory and include a specified time frame for public comment.

We appreciate the opportunity to comment on the proposed CEQA streamlining guidelines for infill projects, and we hope to continue to be engaged in the development of these guidelines. Please contact us if we can further clarify our comments.

Sincerely,

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The Healthy Places Coalition is comprised of the following active members:
Bay Area Regional Health Inequities Initiative
California Convergence
California Department of Public Health, Center for Physical Activity
California Pan-Ethnic Health Network
California Park and Recreation Society
Center for Civic Partnerships
County of San Diego, Chronic Disease and Health Disparities Team
Human Impact Partners
Local Government Commission
PolicyLink
Prevention Institute
Public Health Law & Policy
Raimi & Associates
Samuels & Associates
Shasta County Health & Human Services Agency, Public Health