

Name: James Merk
Organization: Public
Date Received: August 24, 2009

Subject:

Dear Mr. Calfee,

As someone who spends most of his day editing CEQA-related documents, I would love to see the text of the guidelines tidied up a bit. The firm I work for frequently quotes from the guidelines, which sometimes creates an issue for me and the editors I work with because we would like to edit the language in the quoted material. I have proposed a few content-related revisions, also, but my primary reason for writing is to recommend that the language be cleaned up a bit. My marked-up hard copy is enclosed.

Thank you for considering these revisions.

Jams Merk

CEQA GUIDELINES
SECTIONS PROPOSED TO BE ADDED OR AMENDED

PROPOSED AMENDMENTS TO 14 SECTIONS
OF THE CEQA GUIDELINES

ARE INDICATED BY REDLINE/STRIKEOUT TEXT

James Merk

OPR proposes that the Resources Agency amend or add the following fourteen (14) sections of the State CEQA Guidelines. The complete text of each section is provided below with strikeouts to indicate deletions and underlines to indicate additions.

15064. Determining the Significance of the Environmental Effects Caused by a Project

(a) Determining whether a project may have a significant effect plays a critical role in the CEQA process.

(1) If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR.

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(2) When a final EIR identifies one or more significant effects, the ~~Lead Agency~~ and each Responsible Agency shall make a finding under Section 15091 for each significant effect and may need to make a statement of overriding considerations under Section 15093 for the project.

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(b) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not always possible, because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.

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(c) In determining whether an effect will be adverse or beneficial, the ~~Lead Agency~~ shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency. Before requiring the preparation of an EIR, the ~~Lead Agency~~ must still determine whether ^{the} environmental change itself might be substantial.

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(d) In evaluating the significance of the environmental effect of a project, the ~~Lead Agency~~ shall consider direct physical changes in the environment ^{that} which may be caused by the project and reasonably foreseeable indirect physical changes in the environment ^{that} which may be caused by the project.

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(1) A direct physical change in the environment is a physical change in the environment ^{that} which is caused by and immediately related to the project. Examples of direct physical changes in the environment are the dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment plant and possible odors from operation of the plant.

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(2) An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, ^{that} but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area ~~due to~~ the increase in sewage treatment capacity and may lead to an increase in air pollution. ^{because of}

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XX (3) An indirect physical change is to be considered only if that change is a reasonably foreseeable impact ^{that} which may be caused by the project. A change ^{that} which is speculative or unlikely to occur is not reasonably foreseeable.

(e) Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect.

(f) The decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency.

(1) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (Friends of B Street v. City of Hayward (1980) 106 Cal.App.3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (No. Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68).

X (2) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment but the lead agency determines that revisions in the project plans or proposals made by, or agreed to by, the applicant would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur and there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment, then a mitigated negative declaration shall be prepared.

X (3) If the lead agency determines there is no substantial evidence that the project may have a significant effect on the environment, the lead agency shall prepare a negative declaration (Friends of B Street v. City of Hayward (1980) 106 Cal.App. 3d 988).

(4) The existence of public controversy over the environmental effects of a project will not require preparation of an EIR if there is no substantial evidence before the agency that the project may have a significant effect on the environment.

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X (5) Argument, speculation, unsubstantiated opinion or narrative, ^{or} evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence.

Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

(6) Evidence of economic and social impacts that do not contribute to or are not caused by physical changes in the environment is not substantial evidence that the project may have a significant effect on the environment.

X X (7) The provisions of sections 15162, 15163, and 15164 apply when the project being analyzed is a change to, or further approval for, a project for which an EIR or negative declaration was previously certified or adopted (e.g., a tentative subdivision, conditional use permit). Under case law, the fair argument standard does not apply to determinations of significance pursuant to sections 15162, 15163, and 15164.

X X (g) After application of the principles set forth above in Section 15064(f)(g), and in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the ~~Lead Agency~~ shall treat the effect as significant and shall prepare an EIR.

X X (h)(1) When assessing whether a cumulative effect requires ^{preparation of} an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(2) A lead agency may determine in an initial study that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. When a project might contribute to a significant cumulative impact, but the contribution will be rendered less than cumulatively considerable through mitigation measures set forth in a mitigated negative declaration, the initial study shall briefly indicate and explain how the contribution has been rendered less than cumulatively considerable.

X (3) A lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program (including, but not limited to, water quality control plan, air quality attainment or maintenance plan, integrated waste management plan, habitat conservation plan, natural community conservation plan, plans or regulations for the reduction of greenhouse gas emissions) which ^{provides} specific requirements that will avoid or substantially lessen the cumulative problem (e.g., water quality control plan, air quality attainment or maintenance plan, integrated waste management plan) within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. When relying on a plan

through a public review process and must include specific requirements that reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project.

15064.7. Thresholds of Significance

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(a) Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. A threshold of significance is an identifiable quantitative, qualitative, or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.

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(b) Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence.

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(c) When adopting thresholds of significance, a lead agency may consider thresholds of significance previously adopted or recommended by other public agencies or recommended by experts, provided the decision of the lead agency to adopt such thresholds is supported by substantial evidence.

Note: Authority: Section 21083, Public Resources Code; Reference: Sections 21082 and 21083, Public Resources Code.

15065. Mandatory Findings of Significance

(a) A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where there is substantial evidence, in light of the whole record, that any of the following conditions may occur:

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(1) The project has the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare, or threatened species; or eliminate important examples of the major periods of California history or prehistory.

(2) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

(3) The project has possible environmental effects that are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(4) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

X (b)(1) Where, prior to the commencement of preliminary public review of an environmental document, a project proponent agrees to mitigation measures or project modifications that would avoid any significant effect on the environment specified by subdivision (a) or would mitigate the significant effect to a point where clearly no significant effect on the environment would occur, a lead agency need not prepare an environmental impact report solely because, without mitigation, the environmental effects at issue would have been significant. EIR

X (2) Furthermore, where a proposed project has the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species, the lead agency need not prepare an EIR solely because of such an effect, if:

(A) the project proponent is bound to implement mitigation requirements relating to such species and habitat pursuant to an approved habitat conservation plan or natural community conservation plan;

X X (B) the state or federal agency approved the habitat conservation plan or natural community conservation plan in reliance on an environmental impact report or environmental impact statement; and EIR

(C) 1. such requirements avoid any net loss of habitat and net reduction in number of the affected species, or

X 2. such requirements preserve, restore, or enhance ^{an amount of} sufficient habitat to mitigate the reduction in habitat and number of the affected species to below a level of significance.

(c) Following the decision to prepare an EIR, if a lead agency determines that any of the conditions specified by subdivision (a) will occur, such a determination shall apply to:

X (1) the identification of effects to be analyzed in depth in the environmental impact report or the functional equivalent thereof; EIR

X (2) the requirement to make detailed findings on the feasibility of alternatives or mitigation measures to substantially lessen or avoid the significant effects on the environment;

X (3) when found to be feasible, the making of changes in the project to substantially lessen or avoid the significant effects on the environment; and

(4) where necessary, the requirement to adopt a statement of overriding considerations.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21001(c), 21082.2, and 21083, Public Resources Code; San Joaquin Raptor/Wildlife Center v. County of Stanislaus (1996) 42 Cal.App.4th 608; Los Angeles Unified School District v. City of Los

15086. Consultation Concerning Draft EIR

XX (a) The ~~Lead~~ Agency shall consult with and request comments on the draft EIR from:

XXX (1) ~~Responsible Agencies;~~

XX (2) ~~Trustee agencies with resources affected by the project;~~ and

keep first words called XX (3) Any other state, federal, and local agencies ^{that} which have jurisdiction by law with respect to the project or ^{that} which exercise authority over resources ^{that} which may be affected by the project, including water agencies consulted pursuant to section 15083.5⁰¹

XX (4) Any city or county ^{that} which borders on a city or county within which the project is located⁰¹

XX (5) For a project of statewide, regional, or areawide significance, the transportation planning agencies and public agencies ^{that} which have transportation facilities within their jurisdictions which could be affected by the project. "Transportation facilities" includes ^{the} major local arterials and public transit within five miles of the project site⁰² and freeways, highways and rail transit service within 10 miles of the project site⁰¹

XX (6) For a state lead agency when the EIR is being prepared for a highway or freeway project, ^{the project would be located in} the State ~~California~~ Air Resources Board as to the air pollution impact of the potential vehicular use of the highway or freeway and, if a non-attainment area, the local air quality management district for a determination of conformity with the air quality management plan⁰¹; and

(7) For a subdivision project located within one mile of a facility of the State Water Resources Development System, the California Department of Water Resources.

(b) The lead agency may consult directly with:

X (1) Any person who has special expertise with respect to any environmental impact involved⁰¹

XX (2) Any member of the public who has filed a written request for notice with the lead agency or the clerk of the governing body⁰¹; and

(3) Any person identified by the applicant whom the applicant believes will be concerned with the environmental effects of the project.

IX (c) A responsible agency or other public agency shall only make substantive comments regarding those activities involved in the project that are within an area of expertise of the agency or ~~which~~ ^{that} are required to be carried out or approved by the responsible agency. Those comments shall be supported by specific documentation.

X (d) Prior to the close of the public review period, a responsible agency or trustee agency which ^{that} has identified what that agency considers to be significant environmental effects shall advise the lead agency of those effects. As to those effects relevant to its decision, if any, on the project, the responsible or trustee agency shall either submit to the lead agency complete and detailed performance objectives for mitigation measures addressing those effects or refer the lead agency to appropriate, readily available guidelines or reference documents concerning mitigation measures. If the responsible or trustee agency is not aware of mitigation measures that address identified effects, the responsible or trustee agency shall so state.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21081.6, 21092.4, 21092.5, 21104 and 21153, Public Resources Code.

15093. Statement of Overriding Considerations

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

X 7 (b) ^{that} When the lead agency approves a project, which will result in the occurrence of significant effects ^{that} which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

X (d) When an agency makes a statement of overriding considerations, the agency may consider adverse environmental effects in the context of region-wide or statewide environmental benefits.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002 and 21081, Public Resources Code; San Francisco Ecology Center v. City and County of San Francisco (1975) 48 Cal.App.3d 584; City of Carmel-by-the-Sea v. Board of Supervisors (1977) 71 Cal.App.3d 84; Sierra Club v. Contra Costa County (1992) 10 Cal.App.4th 1212; Citizens for Quality Growth v. City of Mount Shasta (1988) 198 Cal.App.3d 433.

15125. Environmental Setting

X X (a) An EIR must include a description of the physical environmental conditions in the vicinity of the project as they exist at the time the notice of preparation is published, or if no notice of

preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives.

(b) When preparing an EIR for a plan for the reuse of a military base, lead agencies should refer to the special application of the principle of baseline conditions for determining significant impacts contained in Section 15229.

X (c) Knowledge of the regional setting is critical to the assessment of environmental impacts. Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context.

X X X (d) The EIR shall discuss any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans. Such regional plans include, but are not limited to, the applicable air quality attainment or maintenance plan or State Implementation Plan, area-wide waste treatment and water quality control plans, regional transportation plans, regional housing allocation plans, regional blueprint plans, greenhouse gas reduction plans, habitat conservation plans, natural community conservation plans and regional land use plans for the protection of the Coastal Zone, Lake Tahoe Basin, San Francisco Bay, and Santa Monica Mountains.

X T X (e) Where a proposed project is compared with an adopted plan, the analysis shall examine the existing physical conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, as well as the potential future conditions discussed in the plan.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061 and 21100, Public Resources Code; E.P.I.C. v. County of El Dorado (1982) 131 Cal.App.3d 350; San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27 Cal.App.4th 713; Bloom v. McGurk (1994) 26 Cal.App.4th 1307.

15126.2. Consideration and Discussion of Significant Environmental Impacts.

X (a) The Significant Environmental Effects of the Proposed Project. An EIR shall identify and focus on the significant environmental effects of the proposed project. In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced. Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion should include relevant specifics of the area, the

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resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), health and safety problems caused by the physical changes, and other aspects of the resource base, such as water, historical resources, scenic quality, and public services. The EIR shall also analyze any significant environmental effects the project might cause by bringing development and people into the area affected. For example, an EIR on a subdivision astride an active fault line should identify as a significant effect the seismic hazard to future occupants of the subdivision. The subdivision would have the effect of attracting people to the location and exposing them to the hazards found there.

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(b) Significant Environmental Effects ^{That} Which Cannot be Avoided if the Proposed Project is Implemented. Describe any significant impacts, including those ^{that} which can be mitigated but not reduced to a level of ^{less than significant} insignificance. Where there are impacts that cannot be alleviated without imposing an alternative design, their implications and the reasons why the project is being proposed, notwithstanding their effect, should be described.

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(c) Significant Irreversible Environmental Changes ^{That} Which Would be Caused by the Proposed Project Should ~~it be~~ Implemented. Uses of nonrenewable resources ^{because} during the initial and continued phases of the project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary impacts and, particularly, secondary impacts (such as highway improvement ^{that} which provides access to a previously inaccessible area) generally commit future generations to similar uses. Also, irreversible damage can result from environmental accidents associated with the project. Irretrievable commitments of resources should be evaluated to ^{ensure} assure that such current consumption is justified. (See Public Resources Code section 21100.1 and Title 14, California Code of Regulations, section 15127 for limitations to applicability of this requirement.)

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(d) Growth-Inducing Impact of the Proposed Project. Discuss the ways in which ^{implementing} the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects ^{that} which would remove obstacles to population growth (a major expansion of a waste water treatment plant might, for example, allow for more construction in service areas). Increases in the population may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects. Also, discuss the characteristic of some projects ^{that} which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21002, 21003, and 21100, Public Resources Code; Citizens of Goleta Valley v. Board of Supervisors, (1990) 52 Cal.3d 553; Laurel Heights Improvement Association v. Regents of the University of California, (1988) 47 Cal.3d 376; Gentry v. City of Murrieta (1995) 36 Cal.App.4th 1359; and Laurel Heights Improvement Association v. Regents of the University of California (1993) 6 Cal.4th 1112; Goleta Union School Dist. v. Regents of the Univ. Of Calif (1995) 37 Cal. App.4th 1025.

15126.4. Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects.

(a) Mitigation Measures in General.

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(1) An EIR shall describe feasible measures, ^{that} which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.

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(A) The discussion of mitigation measures shall distinguish between the measures, ^{that} which are proposed by project proponents to be included in the project and other measures ^{that} proposed by the lead, responsible or trustee agency or other persons, ^{that} which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

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(B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify ^{that} performance standards, ^{that} which would mitigate the significant effect of the project and ^{that} which may be accomplished in more than one specified way.

(C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix F.

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(D) If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (Stevens v. City of Glendale (1981) 125 Cal.App.3d 986.)

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(2) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally ^{implementing} binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.

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(3) Mitigation measures are not required for effects, ^{that} which are not found to be significant.

(4) Mitigation measures must be consistent with all applicable constitutional requirements, including the following:

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(A) There must be an essential nexus (i.e., connection) between the mitigation measure and a legitimate governmental interest. (Nollan v. California Coastal Commission, 483 U.S. 825 (1987)); and

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(B) The mitigation measure must be "roughly proportional" to the impacts of the project. (Dolan v. City of Tigard, 512 U.S. 374 (1994)). Where the mitigation measure is an ad hoc exaction, it

X must be "roughly proportional" to the impacts of the project (Ehrlich v. City of Culver City (1996) 12 Cal.4th 854).

(5) If the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency's determination.

(b) Mitigation Measures Related to Impacts on Historical Resources.

X (1) Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation, or reconstruction of the historical resource will be conducted in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer, the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus not significant.

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Are these the authors? please clarify.

(2) In some circumstances, documentation of a historical resource by way of historic narrative, photographs, or architectural drawings, as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur.

(3) Public agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors shall be considered and discussed in an EIR for a project involving such an archaeological site:

X (A) Preservation in place is the preferred manner of mitigating impacts to archaeological sites. Preservation in place maintains the relationship between artifacts and the archaeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.

(B) Preservation in place may be accomplished by, but is not limited to, the following:

1. Planning construction to avoid archaeological sites;
2. Incorporation of sites within parks, greenspace, or other open space;
3. Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site.
4. Deeding the site into a permanent conservation easement.

X X that X X (C) When data recovery through excavation is the only feasible mitigation, a data recovery plan which makes provisions for adequately recovering the scientifically consequential information from and about the historical resource shall be prepared and adopted before any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archeological sites known to contain human remains shall be

→ This seems to be a combination of the California Historical Resources Information System and the regional information center.

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treated in accordance with the provisions of Section 7050.5 Health and Safety Code. If an artifact must be removed during project excavation or testing, curation may be an appropriate mitigation.

(D) Data recovery shall not be required for an historical resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center

see earlier note

(c) Mitigation Measures Related to Greenhouse Gas Emissions.

Consistent with section 15126.4(a), lead agencies shall consider feasible means of mitigating greenhouse gas emissions that may include, but not be limited to:

(1) Measures in an existing plan or mitigation program for the reduction of emissions that are required as part of the lead agency's decision;

(2) Reductions in emissions resulting from a project through implementation of project features, project design, or other measures, such as those described in Appendix F;

(3) Off-site measures, including offsets, to mitigate a project's emissions;

verifiable

(4) Measures that sequester additional greenhouse gases; and

or "measures that provide surplus sequestration of greenhouse gases; and"

(5) In the case of the adoption of a plan, such as a general plan, long range development plan, or greenhouse gas reduction plan, mitigation may include the identification of specific measures that may be implemented on a project-by-project basis. Mitigation may also include the incorporation of specific measures or policies found in an adopted ordinance or regulation that reduces the cumulative effect of emissions.

That would contribute toward achieving the goals of Assembly Bill 32

Note: Authority: Section 21083, Public Resources Code. Reference: Sections 5020.5, 21002, 21003, 21100 and 21084.1, Public Resources Code; Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553; Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal.3d 376; Gentry v. City of Murrieta (1995) 36 Cal.App.4th 1359; Laurel Heights Improvement Association v. Regents of the University of California (1993) 6 Cal.4th 1112; and Sacramento Old City Assn. v. City Council of Sacramento (1991) 229 Cal.App.3d 1011.

15130. Discussion of Cumulative Impacts

(a) An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in section 15065(a)(3). Where a lead agency is examining a project with an incremental effect that is not "cumulatively considerable," a lead agency need not consider that effect significant but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

X (1) As defined in Section 15355, a cumulative impact consists of an impact, ^{that} which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR should not discuss impacts ^{that} which do not result in part from the project evaluated in the EIR.

(2) When the combined cumulative impact associated with the project's incremental effect and the effects of other projects is not significant, the EIR shall briefly indicate why the cumulative impact is not significant and is not discussed in further detail in the EIR. A lead agency shall identify facts and analysis supporting the lead agency's conclusion that the cumulative impact is less than significant.

(3) An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. The lead agency shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable.

X (b) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as ^{much} great detail as is provided for the effects attributable to the project alone. The discussion should be guided by standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects ^{that} which do not contribute to the cumulative impact. The following elements are necessary to an adequate discussion of significant cumulative impacts:

(1) Either:

(A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or

X (B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or areawide conditions contributing to the cumulative impact local, regional or statewide plan, or related planning document that describes or evaluates conditions contributing to the cumulative effect. Such plans may include a general plan, regional transportation plan, or greenhouse gas reduction plan. A summary of projections may also be contained in an adopted or certified prior environmental document for such a plan. Such projections may be supplemented with additional information, such as a regional modeling program. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.

X (2) When ^{using} utilizing a list, as suggested in paragraph (1) of subdivision (b), factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue ^{since} projects outside the

watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.

(3) Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.

(4) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available, and

(5) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.

(c) With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.

(d) Previously approved land use documents, including, but not limited to, general plans, specific plans, regional transportation plans, greenhouse gas reduction plans, and local coastal plans may be used in cumulative impact analysis. A pertinent discussion of cumulative impacts contained in one or more previously certified EIRs may be incorporated by reference pursuant to the provisions for tiering and program EIRs. No further cumulative impacts analysis is required when a project is consistent with a general, specific, master or comparable programmatic plan where the lead agency determines that the regional or areawide cumulative impacts of the proposed project have already been adequately addressed, as defined in section 15152(f), in a certified EIR for that plan.

(e) If a cumulative impact was adequately addressed in a prior EIR for a community plan, zoning action, or general plan, and the project is consistent with that plan or action, then an EIR for such a project should not further analyze that cumulative impact, as provided in Section 15183(j).

(f) An EIR shall analyze greenhouse gas emissions resulting from a proposed project when the incremental contribution of those emissions may be cumulatively considerable.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21083(b), 21093, 21094 and 21100, Public Resources Code; Whitman v. Board of Supervisors, (1979) 88 Cal. App. 3d 397; San Franciscans for Reasonable Growth v. City and County of San Francisco (1984) 151 Cal.App.3d 61; Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692; Laurel Heights Homeowners Association v. Regents of the University of California (1988) 47 Cal.3d 376; Sierra Club v. Gilroy (1990) 220 Cal.App.3d 30; Citizens to Preserve the Ojai v. County of Ventura (1985) 176 Cal.App.3d 421; Concerned Citizens of South Cent. Los Angeles v. Los Angeles Unified Sch. Dist. (1994) 24 Cal.App.4th 826; Las Virgenes Homeowners Fed'n v. County of Los Angeles (1986) 177 Cal.App.3d 300; San Joaquin Raptor/Wildlife Rescue Ctr v. County of Stanislaus (1994) 27 Cal.App.4th 713; Fort Mojave Indian Tribe v. Cal. Dept. Of Health Services (1995) 38 Cal.App.4th 1574; and Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App.4th 98.

15150. Incorporation by Reference

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(a) An EIR or ~~Negative Declaration~~ may incorporate by reference all or portions of another document ^{that} which is a matter of public record or is generally available to the public. Where all or part of another document is incorporated by reference, the incorporated language shall be considered to be set forth in full as part of the text of the EIR or ~~Negative Declaration~~.

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(b) Where part of another document is incorporated by reference, such other document shall be made available to the public for inspection at a public place or public building. The EIR or ~~Negative Declaration~~ shall state where the incorporated documents will be available for inspection. At a minimum, the incorporated document shall be made available to the public in an office of the ~~Lead Agency~~ in the county where the project would be carried out or in one or more public buildings, such as county offices or public libraries, if the ~~Lead Agency~~ does not have an office in the county.

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(c) Where an EIR or ~~Negative Declaration~~ uses incorporation by reference, the incorporated part of the referenced document shall be briefly summarized where possible or briefly described if the data or information cannot be summarized. The relationship between the incorporated part of the referenced document and the EIR shall be described.

(d) Where an agency incorporates information from an EIR that has previously been reviewed through the state review system, the state identification number of the incorporated document should be included in the summary or designation described in subdivision (c).

(e) Examples of materials that may be incorporated by reference include but are not limited to:

(1) A description of the environmental setting from another EIR.

(2) A description of the air pollution problems prepared by an air pollution control agency concerning a process involved in the project.

(3) A description of the city or county general plan that applies to the location of the project.

(4) A description of the effects of greenhouse gas emissions on the environment.

(f) Incorporation by reference is most appropriate for including long, descriptive, or technical materials that provide general background but do not contribute directly to the analysis of the problem at hand.

Note: Authority cited: Section 21083, Public Resources Code; Reference Sections 21003, 21061, and 21100, Public Resources Code.

15183. Projects Consistent with a Community Plan or Zoning

X (a) CEQA mandates that projects ^{that} ~~which~~ are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects ^{that} ~~which~~ are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies.

X (b) In approving a project meeting the requirements of this section, a public agency shall limit its examination of environmental effects to those ^{that} ~~which~~ the agency determines, in an initial study or other analysis:

X (1) Are peculiar to the project or the parcel ^{on} which the project would be located,

X (2) Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent;

X (3) Are potentially significant off-site impacts and cumulative impacts ^{that} ~~which~~ were not discussed in the prior EIR prepared for the general plan, community plan, or zoning action; or

X (4) Are previously identified significant effects ^{that} ~~which~~, as a result of substantial new information ^{relative} ~~which~~ was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.

(c) If an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, as contemplated by subdivision (e) below, then an additional EIR need not be prepared for the project solely on the basis of that impact.

X (d) This section shall apply only to projects ^{that} ~~which~~ meet the following conditions:

(1) The project is consistent with:

(A) A community plan adopted as part of a general plan,

X (B) A zoning action ^{that} ~~which~~ zoned or designated the parcel on which the project would be located to accommodate a particular density of development, or

(C) A general plan of a local agency, and

(2) An EIR was certified by the lead agency for the zoning action, the community plan, or the general plan.

(e) This section shall limit the analysis of only those significant environmental effects for which:

X (1) Each public agency with authority to mitigate any of the significant effects on the environment identified in the planning or zoning action ^{that} undertakes or requires others to undertake mitigation measures specified in the EIR when the lead agency found to be feasible, and

(2) The lead agency makes a finding at a public hearing as to whether the feasible mitigation measures will be undertaken.

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X (f) An effect of a project on the environment shall not be considered peculiar to the project or the parcel for the purposes of this section if uniformly applied development policies or standards have been previously adopted by the city or county with a finding that the development policies or standards will substantially mitigate that environmental effect when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect. The finding shall be based on substantial evidence ^{that} which need not include an EIR. Such development policies or standards need not apply throughout the entire city or county, but can apply only within the zoning district in which the project is located ^{or} within the area subject to the community plan on which the lead agency is relying. Moreover, such policies or standards need not be part of the general plan or any community plan, but can be found within another pertinent planning document such as a zoning ordinance. Where a city or county, in previously adopting uniformly applied development policies or standards for imposition on future projects, failed to make a finding as to whether such policies or standards would substantially mitigate the effects of future projects, the decisionmaking body of the city or county, prior to approving such a future project pursuant to this section, may hold a public hearing for the purpose of considering whether, as applied to the project, such standards or policies would substantially mitigate the effects of the project. Such a public hearing need only be held if the city or county decides to apply the standards or policies as permitted in this section.

(g) Examples of uniformly applied development policies or standards include, but are not limited to:

X (1) Parking ordinances ^{and}

X (2) Public access requirements ^{and}

X (3) Grading ordinances ^{and}

X (4) Hillside development ordinances ^{and}

X X (5) Flood plain ordinances ^{and}

X (6) Habitat protection or conservation ordinances ^{and} ~~and~~

(7) View protection ordinances ^{and} and

X (8) Requirements for reducing greenhouse gas emissions, as set forth in an adopted land use plan, policy or regulation.

(h) An environmental effect shall not be considered peculiar to the project or parcel solely because no uniformly applied development policy or standard is applicable to it.

(i) Where the prior EIR relied upon by the lead agency was prepared for a general plan or community plan that meets the requirements of this section, any rezoning action consistent with the general plan or community plan shall be treated as a project subject to this section.

(1) "Community plan" is defined as a part of the general plan of a city or county ^{that} applies to a defined geographic portion of the total area included in the general plan, includes or references each of the mandatory elements specified in Section 65302 of the Government Code, and contains specific development policies and implementation measures ^{that} will apply those policies to each involved parcel.

(2) For purposes of this section, "consistent" means that the density of the proposed project is the same or less than the standard expressed for the involved parcel in the general plan, community plan, or zoning action for which an EIR has been certified, and that the project complies with the density-related standards contained in that plan or zoning. Where the zoning ordinance refers to the general plan or community plan for its density standard, the project shall be consistent with the applicable plan.

(j) This section does not affect any requirement to analyze potentially significant offsite or cumulative impacts if those impacts were not adequately discussed in the prior EIR. If a significant offsite or cumulative impact was adequately discussed in the prior EIR, then this section may be used as a basis for excluding further analysis of that offsite or cumulative impact.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21083.3, Public Resources Code.

15183.5 Tiering and Streamlining the Analysis of Greenhouse Gas Emissions

(a) Lead agencies may analyze and mitigate the effects of greenhouse gas emissions at a programmatic level, such as in a general plan, a long range development plan, or a separate plan to reduce greenhouse gas emissions. Later project-specific environmental documents may tier off and/or incorporate by reference that existing programmatic review. Project-specific environmental documents may rely on an EIR containing a programmatic analysis of greenhouse gas emissions as provided in section 15152 (tiering), 15168 (program EIRs), 15175-15179.5 (Master EIRs), 15182 (EIRs Prepared for Specific Plans), and 15183 (EIRs Prepared for General Plans, Community Plans, or Zoning).

(b) Greenhouse Gas Reduction Plans. Public agencies may choose to analyze and mitigate greenhouse gas emissions in a greenhouse gas reduction plan or similar document. A plan to reduce greenhouse gas emissions may be used in a cumulative impacts analysis as set forth below. Pursuant to sections 15064(h)(3) and 15130(d), a lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the

Repeat "Section"

project complies with the requirements in a previously adopted plan or mitigation program under specified circumstances.

(1) Plan Elements. A greenhouse gas emissions reduction plan may:

X (A) Quantify greenhouse gas emissions, both existing and projected over a specified time period, resulting from activities within a defined geographic area;

(B) Establish a level, based on substantial evidence, below which the contribution to greenhouse gas emissions from activities covered by the plan would not be cumulatively considerable;

(C) Identify and analyze the greenhouse gas emissions resulting from specific actions or categories of actions anticipated within the geographic area;

(D) Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level;

(E) Establish a mechanism to monitor the plan's progress toward achieving the level and to require amendment if the plan is not achieving specified levels;

(F) Be adopted in a public process following environmental review.

(2) Use with Later Activities. A greenhouse gas reduction plan, once adopted following certification of an EIR, may be used in the cumulative impacts analysis of later projects. An environmental document that relies on a greenhouse gas reduction plan for a cumulative impacts analysis must identify those requirements specified in the plan that apply to the project and, if those requirements are not otherwise binding and enforceable, incorporate those requirements as mitigation measures applicable to the project. If there is substantial evidence that the effects of a particular project may be cumulatively considerable notwithstanding the project's compliance with the specified requirements in the greenhouse gas reduction plan, an EIR must be prepared for the project.

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XX
(c) Special Situations. Consistent with Public Resources Code sections 21155.2 and 21159.28, certain residential and mixed use projects and transit priority projects, as defined in section 21155, that are consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in an applicable sustainable communities strategy or alternative planning strategy accepted by the California Air Resources Board need not analyze global warming impacts resulting from cars and light duty trucks. A lead agency should consider whether such projects may result in greenhouse gas emissions resulting from other sources, however, consistent with these Guidelines.

implementing

15364.5. Greenhouse Gas (Definition)

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X
X
"Greenhouse gas" or "greenhouse gases" includes but is not limited to carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. (Reference: Health and Safety Code section 38505(g).)

CEQA GUIDELINES
APPENDIX F
ENERGY CONSERVATION

PROPOSED AMENDMENTS TO APPENDIX F
ARE INDICATED BY REDLINE/STRIKEOUT TEXT

CEQA Guidelines

Appendix F

ENERGY CONSERVATION

I. Introduction

The goal of conserving energy implies the wise and efficient use of energy. The means of achieving this goal include:

- (1) decreasing overall per capita energy consumption,
- (2) decreasing reliance on natural gas and oil, and
- (3) increasing reliance on renewable energy sources.

X H ^{ensure}
In order to ~~assure~~ that energy implications are considered in project decisions, the California Environmental Quality Act requires that EIRs include a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy (see Public Resources Code section 21100(b)(3)). Energy conservation implies that a project's cost effectiveness be reviewed not only in dollars, but also in terms of energy requirements. For many projects, lifetime costs effectiveness may be determined more by energy efficiency than by initial dollar costs. A lead agency may consider the extent to which an energy source serving the project has already undergone environmental review that adequately analyzed and mitigated the effects of energy production.

II. EIR Contents

Potentially significant energy implications of a project ~~should~~ shall be considered in an EIR to the extent relevant and applicable to the project. The following list of energy impact possibilities and potential conservation measures is designed to assist in the preparation of an EIR. In many instances, specific items may not apply or additional items may be needed. Where items listed below are applicable or relevant to the project, they should be considered in the EIR.

X A. Project Description may include the following items:

- XX 1. Energy consuming equipment and processes ^{that} which will be used during construction, operation, and/or removal of the project. If appropriate, this discussion should consider the energy intensiveness of materials and equipment required for the project.
2. Total energy requirements of the project by fuel type and end use.
3. Energy conservation equipment and design features.

4. Identification of Initial and lifecycle energy costs or supplies that would serve the project.

5. Total estimated daily vehicle trips to be generated by the project and the additional energy consumed per trip by mode.

section
X X B. Environmental ~~Setting~~ may include existing energy supplies and energy use patterns in the region and locality.

section
X X C. Environmental ~~Impacts~~ may include:

X 1. The project's energy requirements and its energy use efficiencies by amount and fuel type for each stage of the project's ~~lifecycle~~ including construction, operation, maintenance, and/or removal. If appropriate, the energy intensiveness of materials may be discussed.

2. The effects of the project on local and regional energy supplies and on requirements for additional capacity.

3. The effects of the project on peak and base period demands for electricity and other forms of energy.

4. The degree to which the project complies with existing energy standards.

5. The effects of the project on energy resources.

6. The project's projected transportation energy use requirements and its overall use of efficient transportation alternatives.

X D. Mitigation ~~Measures~~ may include:

X
X
X 1. Potential measures to reduce wasteful, inefficient, and unnecessary consumption of energy during construction, operation, maintenance, and/or removal. The discussion should explain why certain measures were incorporated ^{to} in the project and why other measures were dismissed.

X 2. The potential of siting, orientation, and design to minimize energy consumption, including transportation energy, water conservation, and solid waste reduction.

3. The potential for reducing peak energy demand.

4. Alternate fuels (particularly renewable ones) or energy systems.

X 5. Energy conservation ^{that} ~~which~~ could result from recycling efforts.

X E. Alternatives should be compared in terms of overall energy consumption and in terms of reducing wasteful, inefficient, and unnecessary consumption of energy. F. Unavoidable Adverse

~~X~~ Effects may include wasteful, inefficient, and unnecessary consumption of energy during the project construction, operation, maintenance, and/or removal that cannot be feasibly mitigated.

~~X~~ G. Irreversible Commitment of Resources ^{section} ~~may~~ may include a discussion of how the project preempts future energy development or future energy conservation.

~~X~~ H. Short-Term Gains versus Long-Term Impacts ^{section} can be compared by calculating the project's energy costs over the project's lifetime of the project.

~~X~~ I. Growth-Inducing Effects ^{section} may include the estimated energy consumption of growth induced by the project.

CEQA GUIDELINES
APPENDIX G
INITIAL STUDY CHECKLIST

PROPOSED AMENDMENTS TO APPENDIX G
ARE INDICATED BY REDLINE/STRIKEOUT TEXT

CEQA Guidelines

Appendix G

Environmental Checklist Form

NOTE: The following is a sample form and may be tailored to satisfy individual agencies' needs and project circumstances. It may be used to meet the requirements for an initial study when the criteria set forth in the CEQA Guidelines have been met. Substantial evidence of potential impacts that are not listed on this form must also be considered. The sample questions in this form are intended to encourage thoughtful assessment of impacts, and do not necessarily represent thresholds of significance.

X

1. Project title: _____

2. Lead agency name and address: _____

3. Contact person and phone number: _____

4. Project location: _____

5. Project sponsor's name and address: _____

6. General plan designation: _____

7. Zoning: _____

8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)

9. Surrounding land uses and setting: Briefly describe the project's surroundings: _____

Do we need both

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)

X

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- Aesthetics
- Agriculture and Forest Resources
- Air Quality
- Biological Resources
- Cultural Resources
- X Geology/Soils and
- X Greenhouse Gas Emissions and
- X Hazards & Hazardous Materials
- X Hydrology/Water Quality and
- X Land Use/Planning and
- Mineral Resources
- Noise
- X Population/Housing and
- Public Services
- Recreation
- X Transportation/Traffic
- X Utilities/Service Systems and
- Mandatory Findings of Significance

my changes reflect the wordings in the headings below.

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has

been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

X I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Date

Printed Name

EVALUATION OF ENVIRONMENTAL IMPACTS:

X 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors ^{and} ~~as well as~~ general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

X 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there ~~are~~ ^{is} one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

X XX XXX 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).

X 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. (Section 15063(c)(3)(D) XX) In this case, a brief discussion should identify the following:

a) Earlier Analysis Used. Identify and state where they are available for review.

b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

X c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures ^{that} which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:

X a) the significance criteria or threshold, if any, used to evaluate each question ^{and}

X b) the mitigation measure identified, if any, to reduce the impact to less than significance ^{level}

SAMPLE QUESTIONS

I. AESTHETICS -- Would the project:

a) Have a substantial adverse effect on a scenic vista?

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

c) Substantially degrade the existing visual character or quality of the site and its surroundings?

X d) Create a new source of substantial light or glare ^{that} which would adversely affect ^{time} day, or nighttime views in the area?

IV. BIOLOGICAL RESOURCES -- Would the project:

X a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

X X b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Game or ~~US~~ Fish and Wildlife Service?

X c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? *area?*

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

X X f) Conflict with the provisions of an adopted ~~Habitat Conservation Plan~~; ~~Natural Community Conservation Plan~~ or other approved local, regional, or state habitat conservation plan?

V. CULTURAL RESOURCES -- Would the project:

X a) Cause a substantial adverse change in the significance of a historical resource as defined in § ~~Section~~ 15064.5?

X b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5? *section*

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

d) Disturb any human remains, including those interred outside of formal cemeteries?

VI. GEOLOGY AND SOILS -- Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other

Should we use new agency name?

substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

ii) Strong seismic ground shaking?

iii) Seismic-related ground failure, including liquefaction?

iv) Landslides?

b) Result in substantial soil erosion or the loss of topsoil?

X c) Be located on a geologic unit or soil that is unstable ~~or~~ that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

X d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

X e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

VII. GREENHOUSE GAS EMISSIONS -- Would the project:

X a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

X b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?

VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

X d) Be located on a site ^{that} ~~which~~ is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

X e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? *implementing*

X f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? *implementing*

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

X h) Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

VIII. HYDROLOGY AND WATER QUALITY -- Would the project:

a) Violate any water quality standards or waste discharge requirements?

X b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of ~~pre-existing~~ ^{that} nearby wells would drop to a level ~~which~~ ^{that} would not support existing land uses or planned uses for which permits have been granted)?

X c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner ~~which~~ ^{that} would result in substantial erosion or siltation on- or off-site?

X d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner ~~which~~ ^{that} would result in flooding on- or off-site?

X e) Create or contribute runoff water ~~which~~ ^{that} would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

f) Otherwise substantially degrade water quality?

g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

X h) Place within a 100-year flood hazard area structures ~~which~~ ^{that} would impede or redirect flood flows?

X i) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?

j) Inundation by seiche, tsunami, or mudflow?

X

IX. LAND USE AND PLANNING - Would the project:

a) Physically divide an established community?

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

XI. MINERAL RESOURCES -- Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

X

X

b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

X

XII. NOISE -- Would the project result in:

XX

X

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

XX

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

X

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

X

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

XIII. POPULATION AND HOUSING -- Would the project:

- a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?
- b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?
- c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

XIIIIV. PUBLIC SERVICES

This text seems redundant

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

- Fire protection?
- Police protection?
- Schools?
- Parks?
- Other public facilities?

XIVXV. RECREATION

- a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility ~~would~~ *ies* occur or be accelerated? X
- b) Does the project include recreational facilities or require the construction or expansion of recreational facilities ^{that} ~~which~~ might have an adverse physical effect on the environment? X

XVI. TRANSPORTATION/TRAFFIC -- Would the project:

a) ~~Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?~~ Exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc), taking into account all relevant components of the circulation system, including but not limited to, intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? *for example,*

X b) ~~Exceed, either individually or cumulatively, a~~ Conflict with an applicable congestion management program, including, but not limited to, ~~level of service standards and travel demand measures, or other standards~~ established by the county congestion management agency for designated roads or highways? X X

X c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location, that results in substantial safety risks?

X d) Substantially increase hazards ^{because of} due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

e) Result in inadequate emergency access?

f) ~~Result in inadequate parking capacity?~~

g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

XVII. UTILITIES AND SERVICE SYSTEMS -- Would the project:

X a) Exceed wastewater treatment requirements of the applicable ~~Regional Water Quality Control Board?~~

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

X c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

X e) Result in a determination by the wastewater treatment provider, ^{that} which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

X g) Comply with federal, state, and local statutes and regulations related to solid waste?

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

- X a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?
- X b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?
- X c) Does the project have environmental effects ^{that} which will cause substantial adverse effects on human beings, either directly or indirectly?

Note: Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21080(c), 21080.1, 21080.3, 21082.1, 21083, 21083.3, 21093, 21094, 21151, Public Resources Code; Sundstrom v. County of Mendocino, 202 Cal.App.3d 296 (1988); Leonoff v. Monterey Board of Supervisors, 222 Cal.App.3d 1337 (1990).