

## Los Angeles Hearing

Ronald Reagan State Building  
1<sup>st</sup> Floor Auditorium  
300 S. Spring Street  
Los Angeles, CA 90013

August 20, 2009

### **Comment LA-1** **Planning Resources**

Commenter believes the proposed Guideline amendments do not fulfill the statutory obligation to develop mitigation for GHG emissions and the effects of GHG emissions. Senate Bill 97 directs the Governor's Office of Planning and Resources to develop methodologies or set standards or develop thresholds. The Guidelines are silent on the effects of GHG emissions.

### **Response LA-1**

The Natural Resources Agency disagrees that the proposed amendments do not fulfill the statutory obligation under SB 97. The Initial Statement of Reasons explains in detail the necessity and authority for each proposed change to the existing CEQA Guidelines. Proposed new sections 15064.4 and 15126.4(c) each address determining the effects of greenhouse gas emissions and mitigation of greenhouse gas emissions, respectively. Proposed new section 15183.5 addresses tiering and streamlining of the analysis and mitigation of greenhouse gas emissions, consistent with both SB97 and other legislative directives. The remainder of the proposed amendments updates provisions in the existing CEQA Guidelines to accommodate the analysis of greenhouse gas emissions and the efforts of public agencies to reduce such emissions and/or increase sequestration of such emissions. Notably, while the primary focus of this rulemaking package remains implementation of SB97, the Natural Resources Agency also acts pursuant to its authority granted in section 21083(f) of the Public Resources Code, which requires updates to the Guidelines every two years.

By enacting SB 97, the Legislature directed the Office of Planning and Research and the Natural Resources Agency to develop and adopt guidelines on the effects of individual projects' greenhouse gas emissions and the mitigation of greenhouse gas emissions pursuant to CEQA. SB97's seemingly sweeping language referring to the "effects of greenhouse gas emissions" generally, enacted in section 21083.05 of the Public Resources Code, must be read in context. That section immediately follows section 21083, which required the development of guidelines for the "orderly evaluation of projects" to implement CEQA. (Public Resources Code, § 21083(a).) While CEQA's underlying purpose is protection of the environment, it does so at a micro-level by requiring analysis of environmental impacts resulting from the implementation of individual projects. (Public Resources Code, § 21002 ("public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation

measures available which would substantially lessen the significant environmental effects of such projects”) (emphasis added).) Thus, in enacting SB97, the Legislature required the development of guidelines to analyze effects of an individual project’s greenhouse gas emissions, and if those emissions would result in significant effects, guidelines to mitigate that project’s significant emissions.

Furthermore, the Initial Statement of Reasons explains the Natural Resources Agency’s position that existing CEQA law already supports an analysis of climate change impacts under certain circumstances. (Initial Statement of Reasons, at pp. 68-69.) In particular, Section 15126.2 already requires an analysis of placing a project in a potentially hazardous location. Further, several questions in the Appendix G checklist already ask about wildfire and flooding risks. Many comments on the proposed amendments asked for additional guidance, however.

Similarly, several comments submitted as part of the Natural Resources Agency’s SB97 rulemaking process made reference to or urged incorporating the draft Adaptation Strategy into the CEQA Guidelines. In considering such comments, it is important to understand several key differences between the California Adaptation Strategy and the California Environmental Quality Act. First, the Adaptation Strategy is a policy statement that contains recommendations; it is not a binding regulatory document. Second, the focus of the Adaptation Strategy is on how we can change in response to climate change. CEQA’s focus, on the other hand, is the analysis of greenhouse gas emissions from a particular project, and mitigation of those emissions if they are significant. Given these differences, CEQA should not be viewed as the tool to implement the Adaptation Strategy; rather, as indicated in the Strategy’s key recommendations, advanced programmatic planning is the primary method to implement the Adaptation Strategies.

There is some overlap between CEQA and Adaptation, however. As explained in both the Initial Statement of Reasons and in the Draft Adaptation Strategy, section 15126.2 may require the analysis of the effects of a changing climate under certain circumstances. Having reviewed all of the comments addressing the effects of climate change, the Natural Resources Agency revised the proposed amendments to include a new sentence in Section 15126.2 clarifying the type of analysis that would be required.

Having reviewed all of the comments addressing the effects of climate change, the Natural Resources Agency revised the proposed amendments to include a new sentence in Section 15126.2 clarifying the type of analysis that would be required. Specifically, the new sentence calls for analysis of placing projects in areas susceptible to hazards, such as floodplains, coastlines, and wildfire risk areas. Such analysis would be appropriate where the risk is identified in authoritative maps, risk assessments or land use plans. Notably, that analysis is subject to limitations regarding forecasting and speculation. According to the Office of Planning and Research, at least sixty lead agencies already require this type of analysis. (California Governor’s Office of Planning and Research. (January, 2009). The California Planners’ Book of Lists 2009. State Clearinghouse. Sacramento, California, at p. 109.) This addition is

reasonably necessary to guide lead agencies as to the scope of analysis of a changing climate that is appropriate under CEQA.

**Comment LA-2**

Commenter suggests that the amendment to Section 15130, adding Blueprint Plans to the list of plans that can be relied upon, is redundant.

**Response LA-2**

The commenter incorrectly states that the Natural Resources Agency proposed amendments to Section 15130 to include a regional “blueprint plan” to be of use in a discussion of cumulative impacts. Indeed, on January 8, 2009, the Office of Planning and Research proposed to amend section 15130 to include reference to blueprint plans in addition to several others. Since then, however, the Guidelines amendments have undergone several revisions.

To clarify, Section 15130(b)(1)(B) offers two options for estimating the effects resulting from past, present and reasonably foreseeable projects (cumulative impacts). A lead agency may either rely on a list of such projects, or a summary of projections to estimate cumulative impacts. Existing section 15130(b)(1)(B) allows a lead agency to rely on projections in a land use document or certified environmental document that addresses the cumulative impact under consideration. The proposed amendments clarify that plans providing such projections need not be limited to land use plans, so long as the subject plans evaluate the relevant cumulative effect. The proposed amendments also allow a lead agency to rely on information provided in regional modeling programs.

**Comment LA-3**

Commenter suggests lead agencies should not be able to rely on a Blueprint Plan for a discussion on cumulative impacts because there are no established standards for adopting such plans.

**Response LA-3**

See Response LA-2, above.

**Comment LA-4**

Commenter suggests that lead agencies should not be able to rely on a GHG Reduction Plans for a discussion on cumulative impacts because there are no established standards for adopting such plans.

**Response LA-4**

Section 15183.5(b) was developed primarily to provide standards for plans for the reduction of greenhouse gas emissions. Subdivision (b) acknowledges that some agencies are voluntarily developing stand-alone plans focused specifically on the reduction of greenhouse gas emissions. Because climate action plans and greenhouse gas reduction plans are voluntary, and not subject to any legislative criteria or requirements, subdivision (b) was developed “to assist lead agencies in determining whether an existing greenhouse gas reduction plan is an appropriate document to use in a cumulative impacts analysis under CEQA.” (Initial Statement of Reasons, at p. 54.) Subdivision (b) does not create or authorize any plans; rather, it provides a tool to determine whether a plan for the reduction of greenhouse gas emissions may be used in a cumulative impacts analysis. Section 15183.5(b) does not require that public agencies develop plans for the reduction of greenhouse gas emissions, nor does it prohibit public agencies from developing individual ordinances and regulations to address individual sources of greenhouse gas emissions.

The comment notes that the criteria set forth in section 15183.5(b) appear to be voluntary. That section has been revised to clarify that a plan for the reduction of greenhouse gas emissions “should” contain the listed elements. Thus, for the reasons described above, the Natural Resources Agency disagrees that a plan for the reduction of greenhouse gas emissions should not be used in a cumulative impacts analysis.

**Comment LA-5**

Commenter supports Appendix G preamble clarifying the checklist does not represent standards for significance.

**Response LA-5**

The Natural Resources Agency appreciates the commenter’s support.

**Comment LA-6**

Commenter is concerned that the amendments to Appendix G: Transportation/Traffic checklist do not reflect transportation planning or engineering practices and suggests Resources Agency staff consult with Caltrans regarding the project.

**Response LA-6**

As explained in the Initial Statement of Reasons, the purpose of the proposed amendments related to the transportation questions in Appendix G is to ensure that traffic analysis reflects the lead agency’s choice of the most appropriate methodology to address impacts to the circulation system as a whole. (Initial Statement of Reasons, at pp. 64-65.)

The Office of Planning and Research and the Natural Resources Agency have participated in extensive outreach with stakeholder groups in the process of developing amendments to Appendix G, Section XVI: Transportation/Traffic. Revisions to the transportation section of Appendix G to accomplish the following goals:

- Assess traffic impacts on intersections, streets, highways and freeways as well as impacts to pedestrian, non-vehicular and mass-transit circulation
- Recognize a lead agency's discretion to choose methodology, including LOS, to assess traffic impacts
- Consistent with existing requirements in congestion management programs, general plans, ordinances, and elsewhere

In response to public comments submitted on proposed amendments, the Natural Resources Agency further refined question (a) to shift the focus from the capacity of the circulation system to consistency with applicable plans, policies, and other objective measures of effectiveness.

Question (b) still refers to level of service standards, but does so in the context of a congestion management program. Government Code section 65088, and following, requires Congestion Management Agencies, in urbanized areas, to adopt Congestion Management Programs covering that agency's cities and county, and in consultation with local governments, transportation planning agencies, and air quality management districts. A CMP must, pursuant to statute, contain level of service standards for certain designated roadways. A CMP must also include a land use analysis program to assess the impact of land use decisions on the regional transportation system. A CMA may require that land use analysis to occur through the CEQA process.

In response to specific comments raising safety concerns, the Natural Resources Agency revised existing question (g) to specifically ask whether a project would "substantially decrease the ... safety of [transit, bikeway, or pedestrian] facilities?" Notably, existing question (d) already asks whether a project would increase hazards due to design features or incompatible uses. Thus, in light of the existing question (d) and the revisions to existing question (g), the CEQA Guidelines contain several tools to examine safety issues. No further revisions are required in response to this comment.

#### **Comment LA-7**

Commenter suggests lead agencies will only consider an impact to the transportation system to be significant if it exceeds capacity, thus, does not acknowledge the incremental contribution to an overall cumulative effect.

**Response LA-7**

As explained above, the Natural Resources Agency further refined question (a) to shift the focus from the capacity of the circulation system to consistency with applicable plans, policies, and other objective measures of effectiveness. Further, as provided in the “Evaluation of Environmental Impacts” section preceding the individual checklist questions, the evaluation must address both cumulative and project-specific impacts. No further response to this comment is necessary.

**Comment LA-8**

Commenter is concerned that the amendments to Appendix G: Transportation/Traffic checklist will direct lead agencies to only consider an impact significant if it exceeds capacity. In doing so, traffic conditions in an urban environment will slowly deteriorate beyond the point of effectively addressing the impact.

**Response LA-8**

See Response LA-7, above.

**Comment LA-9**

Revise the Appendix G: Transportation/Traffic checklist to maintain the existing standards where each project contributes its fair-share to address the incremental changes to the transportation system.

**Response LA-9**

See Response LA-7.

**Comment LA-10**

Commenter recognizes that mitigation must be proportional to the impact to avoid imposing excessive mitigation to a project. Commenter recommends this standard not change.

**Response LA-10**

See Response LA-7.

**Comment LA-11**

Commenter objects to removing “parking” from the Appendix G: Transportation/Traffic checklist.

### **Response LA-11**

The Natural Resources Agency declines to retain the question regarding the adequacy of parking in the Appendix G checklist. As explained in the Initial Statement of Reasons, CEQA case-law recognizes that parking adequacy is not necessarily an environmental impact. The evidence before the Natural Resources Agency leads to the same conclusion. A lack of parking may lead to “cruising” behavior, as the comment notes, which may result in traffic and air impacts. On the other hand, parking supply has been observed to cause “induced demand” similar to that described above, which too can result in air and traffic impacts. The California Air Pollution Control Officers Association CEQA White Paper, for example, suggests reducing available parking as a way to reduce greenhouse gas emissions. (Greg Tholen, et al. (January, 2008). CEQA & Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act. California Air Pollution Control Officers Association, at Appendix B, pp. 8-9.) Parking analyses do not typically address either air quality or traffic impacts; rather, such analyses often focus on the number of parking spaces necessary to satisfy peak demand, which is often established by a local agency as a parking ratio (i.e., one space per 250 square feet of office space). (See, e.g., Shoup, Donald. (1999). In Lieu of Required Parking. Journal of Planning Education and Research, Vol. 18 No. 4. Association of Collegiate Schools of Planning, at p. 309.) Thus, the question in Appendix G related to parking adequacy would not necessarily lead to the development of information addressing any environmental impacts.

Deletion of the question related to parking adequacy will not allow lead agencies to ignore substantial evidence supporting a fair argument that the secondary effects of a project’s parking may cause adverse environmental impacts. Moreover, the deletion from Appendix G would not permit local agencies to ignore binding standards in municipal codes and General Plan. Finally, as indicated in the Note, Appendix G is a sample only, and lead agencies are free to devise environmental checklists that are most appropriate for particular local circumstances.

Thus, because there is not a clear relationship between “parking adequacy” and an environmental impact, the Natural Resources Agency finds that analysis of the secondary effects of parking behaviors are best addressed in the relevant subject areas (i.e., traffic and air quality). Since Appendix G already contains questions addressing traffic and air quality effects of a project, the question related to parking adequacy is not necessary.

### **Comment LA-12**

Commenter suggests by removing “parking” from the Appendix G: Transportation/Traffic checklist, lead agencies will no longer consider parking deficiencies as a significant impact but will remain a significant, unresolved issue.

**Response LA-12**

See Response LA-11, above. The Natural Resources Agency acknowledges that parking supply may lead to social impacts that lead agencies may wish to regulate. Cities and counties can, and do, include parking related policies in their municipal ordinances and general plans. (See, e.g., Office of Planning and Research, General Plan Guidelines, at pp. 59-60.) To the extent an agency has developed parking related policies in a general plan, zoning ordinance, or other regulation, consistency with those policies could be analyzed as a potential land use impact. Because agencies are free to develop their own parking regulations and policies, the Natural Resources Agency finds that innovative responses to those parking policies may occur even if the Appendix G checklist does not contain a parking question. No further revision is required in response to this comment.

**Comment LA-13**

Commenter recommends retaining “parking” in the Appendix G: Transportation/Traffic checklist because inadequate parking may result in significant increases in GHG emissions from people cruising for parking.

**Response LA-13**

See Response LA-11.

**Comment LA-14**

Commenter supports the amendment to 15064.7, Thresholds of Significance, allowing a lead agency to adopt threshold developed by other agencies, long as the lead agency supports the adoption with substantial evidence in the record.

**Response LA-14**

The Natural Resources Agency appreciates the commenter’s support.

**Comment LA-15****Alston & Bird**

Commenter supports the proposed Guideline amendments, recognizing the CEQA Guidelines are not mandates but rather provide guidance for lead agencies while maintaining flexibility and discretion for what is appropriate and consistent with CEQA.

**Response LA-15**

The Natural Resources Agency appreciates the commenter’s support.



#### **Comment LA-16**

Clarify Section 15064.7, which allows a lead agency may rely on thresholds of significance adopted by another agency. It is unclear whether it allows a lead agency to rely on another agency's standard because the other agency is considered an expert in that particular field, or, whether the lead agency is required to include all of the substantial evidence to supporting the expert agency's decision.

#### **Response LA-16**

Proposed section 15064.7(c) provides: "When adopted thresholds of significance, a led agency may consider thresholds of significance previously adopted or recommended by other public agencies, pr recommended by experts, provided the decision of the lead agency to adopt such thresholds is supported by substantial evidence."

The last clause in section 15064.7(c) reflects the requirement in existing section 15064.7(b) that "[t]hresholds 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."

Specifically addressing the commenter's question, the lead agency adopting the threshold must determine on its own whether substantial evidence supports the threshold it intends to adopt. Notably, the definition of "substantial evidence" in section 21082.2 of the Public Resources Code states: "Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." (Emphasis added.) Thus, the Natural Resources Agency finds that the term "substantial evidence" in section 15064.7(c) is clear.

#### **Comment LA-17**

Section 15093(d) is redundant; subsection (a) already addresses the need to balance environmental impacts and benefits.

#### **Response LA-17**

As explained in the Initial Statement of Reasons, the addition of subdivision (d) to section 15093 was proposed for several reasons, including reminding lead agencies that even beneficial projects may have adverse environmental impacts, and encouraging lead agencies to consider broader region-wide and statewide benefits that may result from some projects. (Initial Statement of Reasons, at pp. 31-32.) The proposed addition was not intended to signal any relative importance of regional or statewide concerns as opposed to local concerns, however.

To avoid such interpretation, the Natural Resources Agency has further refined Section 15093 in response to comments. Specifically, it has added "region-wide or statewide environmental benefits" to the other benefits listed in section 15093(a), and deleted the proposed subdivision (d). Listing region-

wide and statewide environmental benefits among the other benefits enumerated in subdivision (a) placed those benefits within the proper context of the section governing statements of overriding considerations. This change clarifies that lead agencies must balance region-wide and statewide environmental benefits, just like the other listed benefits, against a project's significant adverse impacts in making a statement of overriding considerations. This change still advances the policy objective of encouraging lead agencies to consider benefits of a project that may extend beyond just a local jurisdiction.

**Comment LA-18**

Section 15093(d) should not be narrowed to only consider a project's region-wide or statewide environmental benefits. Lead agencies should also be allowed to consider other, non-environmental factors.

**Response LA-18**

See Response LA-17, above. Also, section 15093(a) is broadly worded, allowing consideration of "other benefits."

**Comment LA-19**

Section 15093(d) should not be narrowed to only consider a project's region-wide or statewide environmental benefits. Lead agencies should also be allowed to consider cross-border benefits.

**Response LA-19**

See Response LA-17, above.

**Comment LA-20**

Section 15093(d) may be interpreted to be limiting and not assisting a lead agency.

**Response LA-20**

See Response LA-17, above.

**Comment LA-21**

Commenter suggests that the amendments to Appendix F will change the original intent of suggesting a lead agency to consider whether the project is designed to maximize energy efficiency.

## **Response LA-21**

As explained in the Initial Statement of Reasons:

CEQA's requirement to analyze and mitigate energy impacts of a project is substantive, and is not merely procedural. (*People v. County of Kern* (1976) 62 Cal.App.3d 761, 774.) Despite the requirement, lead agencies have not consistently included such analysis in their EIRs. (Remy et al., Guide to CEQA, 11th Ed. 2007, at pp. 1007-1008, n. 34.) The following revisions to Appendix F are, therefore, reasonably necessary to ensure that lead agencies comply with the substantive directive in section 21100(b)(3).

(Initial Statement of Reasons, at p. 60.) With regard to the sentence addressed in this comment, the Initial Statement of Reasons explained further:

This section also includes an addition to make clear that energy impacts that have already been analyzed may not need to be repeated in later EIRs. This sentence is consistent with the Legislative intent in CEQA that information in existing environmental review be used to "reduce delay and duplication in preparation of subsequent environmental impact reports." (Pub. Resources Code, § 21003(d).)

(*Ibid.*) Thus, the proposed amendments are reasonably necessary to effectuate the legislative directives in Public Resources Code sections 21003(d) and 21100(b)(3).

## **Comment LA-22**

### **California Wastewater Climate Change Group**

Commenter is concerned that the Guidelines amendments do not distinguish between anthropogenic and biogenic sources of GHG emissions.

## **Response LA-22**

Regarding the comment that the Guidelines should distinguish between anthropogenic and biogenic carbon dioxide emissions, the Natural Resources Agency notes that SB97 did not distinguish between the sources of greenhouse gas emissions. Thus, it would not be appropriate for the Natural Resources Agency to treat the different categories of emissions differently absent a legislative intent that the Guidelines do so. Notably, neither AB32 nor the Air Resources Board's Scoping Plan distinguishes between biogenic and anthropogenic sources of greenhouse gas emissions. On the contrary, the Scoping Plan identifies methane from, among other sources, organic wastes decomposing in landfills as a source of emissions that should be controlled. (Scoping Plan, at pp. 62-63.)

The Natural Resources Agency notes, however, that proposed section 15064.4(b)(1) would allow a lead agency to consider the extent to which a project results in an increase or a decrease in greenhouse gas emissions compared to the existing environmental setting. If an agency has performed an analysis that

demonstrates that a particular process does not result in an increase in greenhouse gas emissions compared to what already occurs in the atmosphere, that evidence would support a conclusion that the project will not cause an increase in greenhouse gas emissions. Thus, to the extent the comment suggests that certain biogenic emissions should not be considered new emissions, the text in proposed section 15064.4(b)(1) is broad enough to encompass the type of analysis suggested, subject to the limitation that such analysis could not be used in a way that would mask the effects of emissions associate with the project. For example, if the emissions occurring in the short-term will have impacts that differ from emissions occurring in the future, those differences may need to be analyzed.

No revision is required in response to this comment.

### **Comment LA-23**

Commenter is concerned any threshold of significance for GHG emissions will not make the distinction between the uses of fossil fuels versus the uses of carbon neutral fuels. If no distinction s made, combustion of renewable fuel may be unnecessarily treated as contributing to a significant impact.

### **Response LA-23**

See Response LA-22, above.

### **Comment LA-24**

Commenter suggests the Guidelines amendments may discourage the use of renewable fuels if a distinction between fossil fuels and renewable fuels is not made.

### **Response LA-24**

To the extent that the combustion of renewable fuels, such as methane and digester gas, may cause adverse effects on the environment, those effects would need to be analyzed under CEQA. As the Third District Court of Appeal recently explained:

“[I]t cannot be assumed that activities intended to protect or preserve the environment are immune from environmental review. [Citations.]” .... There may be environmental costs to an environmentally beneficial project, which must be considered and assessed.

(*Cal. Farm Bureau Fed. v. Cal. Wildlife Cons. Bd.* (2006) 143 Cal. App. 4th 173, 196.) Nothing in SB97 altered this rule. Thus, lead agencies must consider whether the greenhouse gas emissions resulting from biogenic emissions may cause adverse environmental effects. However, as explained in Responses 95-1 and 95-2, above, to the extent that substantial evidence demonstrates that such biogenic emissions do not result in a change in the existing environmental setting, a lead agency may consider that

information in determining whether such emissions are significant pursuant to section 15064.4(b)(1). No revision is required in response to this comment.

**Comment LA-25**

Commenter recommends the Guidelines amendments the net increase or decrease in emissions of an activity when determining significance.

**Response LA-25**

See Response LA-22.

**Comment LA-26**

Revise Guidelines amendments to recognize CO<sub>2</sub> emissions, derived from renewable fuels and biomass and biogas, and carbon emitted from other sources that mimic short-term carbon cycles, be considered not cumulatively considerable under CEQA.

**Response LA-26**

See Responses LA-22 to LA-24, above.

**Comment LA-27**

Revise Guidelines amendments to exclude CO<sub>2</sub> emissions, derived from renewable fuels and biomass and biogas, and carbon emitted from other sources that mimic short-term carbon cycles, from any significance threshold.

**Response LA-27**

See Responses LA-22 and LA-23.

**Comment LA-28**

**Southern California Edison**

Commenter recommends that the Guidelines be amended to direct lead agencies to analyze GHG emissions in the context of a system wide approach.

**Response LA-28**

Section 15064.4(b)(1) states that agencies should consider the extent to which the project results in an increase or a decrease in greenhouse gas emissions compared to the existing environmental setting. This section reflects the existing CEQA rule in section 15125 of the State CEQA Guidelines that project impacts should normally be compared against the environment as it exists at the time that environmental review is performed. (Initial Statement of Reasons, at p. 20.) In performing this analysis, a lead agency would need to account for all project components, and both direct and indirect impacts. (State CEQA Guidelines, §§ 15358, 15378.) Thus, to the extent that a project would cause changes in greenhouse gas emissions in an existing system, and substantial evidence substantiates such changes, those changes may be considered pursuant to section 15064.4(b)(1).

#### **Comment LA-29**

Revise the Guidelines amendments to allow lead agencies to consider a project's impact in the context of past, present, or future project and activities.

#### **Response LA-29**

Adding the phrase "in combination with related past, present, or future projects and activities" to Section 15064.4(b)(1) would unnecessarily conflate that section with section 15130 on the analysis of cumulative impacts. While the Natural Resources Agency agrees that greenhouse gas emissions are most appropriately analyzed in most cases as cumulative impacts, the Guidelines cannot suggest that lead agencies never need consider project-specific impacts if substantial evidence suggests such an impact. Further, the Natural Resources Agency disagrees that section 15064.4(b)(1) "could be read to only allow for projects' emissions to be assessed on an incremental or project specific basis." Section 15064.4 would have to be read in connection with sections 15064(h), 15130, and 15355, which require that a project's incremental contribution be considered together with the contributions of other past, present, and reasonably foreseeable probable future projects. In either a project-specific or cumulative impact analysis, a lead agency would consider the extent to which a project increases or decreases emissions compared to the existing environmental setting. Thus, the Natural Resources Agency declines to revise that amendments to allow lead agencies to consider a project's impact with past, present, or future project and activities.

#### **Comment LA-30**

Commenter suggests that the Guidelines amendments may be counterproductive by unintentionally frustrating the State's ability to meet the renewable portfolio standard. Lead agencies may incorrectly require mitigation despite the project having a system-wide benefit.

### **Response LA-30**

The comment argues that requiring analysis and mitigation of greenhouse gas emissions associated with certain new power generation facilities may discourage new energy development. It points to two potential benefits of new power facilities: (1) supporting the use of renewable power by providing system reliability, and (2) displacing less efficient power generators from the power system.

CEQA requires analysis and mitigation of a project's significant adverse environmental impacts, even if that project may be considered environmentally beneficial overall. As the Third District Court of Appeal recently explained:

“[I]t cannot be assumed that activities intended to protect or preserve the environment are immune from environmental review. [Citations.]” .... There may be environmental costs to an environmentally beneficial project, which must be considered and assessed.

(*Cal. Farm Bureau Fed. v. Cal. Wildlife Cons. Bd.* (2006) 143 Cal. App. 4th 173, 196.) Nothing in SB97 altered this rule. Thus, lead agencies must consider whether the greenhouse gas emissions resulting from new power generation facilities may be significant, and if so, whether any feasible measures exist to mitigate those emissions. If such emissions are found to be significant and unavoidable, proposed amendments to section 15093 would expressly allow lead agencies to consider the region-wide and statewide environmental benefits of a project in determining whether project benefits outweigh its adverse environmental impacts.

To the extent that a project would cause changes in greenhouse gas emissions in an existing system, and substantial evidence substantiates such changes, those changes may be considered pursuant to section 15064.4(b)(1).