

To: The California Natural Resources Agency (email: CEQA.Guidelines@resources.ca.gov)
Re: Proposed Update to the Guidelines Implementing The California Environmental Quality Act
From: Allan Cooper, 756 Broad Street, San Luis Obispo CA
Date: July 3, 2018

To Whom It May Concern -

The California Natural Resources Agency's proposed Notice of Proposed Rule Making to update the Guidelines Implementing the California Environmental Quality Act are intended to "unburden" lead agencies in their CEQA tasks as well as to address current case law.

Unfortunately, this update to the Guidelines will further undermine the intent behind CEQA by 1) allowing the lead agency to enter into agreements before CEQA review is undertaken; 2) allowing lead agencies to contract out initial studies; 3) allowing the lead agency more latitude in defining thresholds of significance; 4) allowing the lead agency to tier traffic impact studies onto regional plan EIR's; 5) disallowing the cumulative addition of greenhouse gas emissions from a single project onto existing regional emissions; 6) disallowing deferred mitigations that are deemed infeasible; 7) exempting CEQA review for all transit-oriented projects; 8) strengthening the appellant's case in a successful court challenge; 9) eliminating aesthetic considerations for projects within transit priority areas; and 9) further enabling lead agencies to streamline CEQA review for all infill projects.

My detailed critique of this update to the Guidelines is as follows:

Section 15004 allows lead agencies more latitude in determining when the agency can enter into agreements prior to completing environmental reviews. One should question the advisability of entering into agreements without the knowledge and insight that can be gleaned from environmental reviews.

Section 15063 allows the lead agency to contract out the initial study. Though this initial study prepared by consultants must reflect the lead agency's "independent judgement", there is no way to determine the lead agency's "independent judgement" once the agency is removed from this decision making process. This will also result in the lead agency having no accountability to either their elected officials or to the public at large.

Section 15064 allows the lead agency to establish arbitrary and factually insupportable "thresholds of significance" to assist in determining the significance of potential impacts because describing the substantial evidence that would support compliance with the thresholds is deemed to be too "burdensome".

Section 15064.3 allows the lead agency to avoid commissioning a new transportation impact analysis if it can be tiered to a previously completed "regional transportation plan EIR". This will lessen the lead agency's ability to deny a project based on unmitigable traffic impacts.

Section 15064.4 undermines the determination of cumulative impacts of greenhouse gas emissions by disallowing the incremental greenhouse gas contributions made at the state, national or global level.

Section 15126.4 requires the lead agency to identify deferred mitigation measures in advance of project completion that are known to be "feasible". Of course there is no definition of "feasibility" and this will lead to the elimination of many mitigation measures.

Section 15182 provides CEQA exemptions to all residential, commercial and mixed use “transit-oriented” projects. Depending on how “transit-oriented” is defined could result in most projects within an urban setting being exempted from CEQA review.

Section 15234 strengthens the appellant’s case in a successful court challenge to a project by not requiring that approval of the project would “benefit the environment”.

Section 15301 stipulates that changes to existing bicycle facilities, pedestrian crossings and street trees will be exempt from CEQA.

Appendix G allows the lead agency to eliminate aesthetic considerations for certain projects within transit priority areas.

Appendix N provides a sample environmental checklist for streamlined review of infill projects.