

# Final Statement of Reasons: Addendum

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This Addendum to the Final Statement of Reasons explains changes to the administrative rulemaking package (File No. Z-2012-0717-05) containing proposed updates to the Guidelines Implementing the California Environmental Quality Act pursuant to SB 226 (Simitian, 2011). These changes reflect the decision of the Natural Resources Agency to remove a definition of the term “previously developed” from the update package. Specifically, this Addendum explains the reason for removing the proposed definition and contains an updated response to comment to reflect that change.

## **Removal of the Definition of “Previously Developed”**

The Agency has removed the proposed definition of the phrase “previously developed” from this rulemaking package. The Agency originally proposed that definition because the phrase “previously developed” appears in Section 21094.5 of the Public Resources Code but is defined in neither that section nor elsewhere in the Public Resources Code. Though the Agency’s intent was to avoid confusion, over the course of this rulemaking process it became apparent that the proposed definition itself could raise more questions than it answers. For the reasons set forth below, the Agency has concluded that, at this time, defining “previously developed” in CEQA Guidelines Section 15183.3 is unnecessary.

The Initial Statement of Reasons explained that the term “development” in other contexts “can be broadly interpreted to mean any physical alteration of the land.” (Initial Statement of Reasons, at p. 28 of 54.) Specifically, the Initial Statement of Reasons cited the definition of “development” in the Subdivision Map Act as an example of such a broad definition. SB 226, on the other hand, is more narrowly focused on use and reuse of land in urbanized settings, and so the Agency originally proposed a definition of the term “previously developed” that would exclude agricultural production and parkland. Upon reflection, however, the Agency finds that the Subdivision Map Act’s definition would not apply to Section 21094.5. The Subdivision Map Act is an entirely separate statute and the definition in that statute serves a different purpose. Indeed, when the Legislature desires that a definition in one statute govern the terms in another statute, it provides a cross-reference. (*See, e.g.*, Gov. Code § 66021 (provision of the Mitigation Fee Act incorporating by reference the definition of “development” in the Subdivision Map Act).)

Moreover, the terms “develop,” “developed” and “development” appear repeatedly throughout the CEQA statute and CEQA Guidelines, and have done so for years without a regulatory definition. Local planning agencies and project applicants are sufficiently familiar with those terms that no definition is needed at this time. The Agency’s decision to remove that proposed definition should not be misunderstood to endorse any reading of “previously developed” that would include parkland or agricultural land. Rather, the Agency has simply concluded that the common understanding of the term development should suffice in applying Section 15183.3 of the CEQA Guidelines.

## **Revised Response to Comment 17-1**

Response to Comment, as it appears in bates numbered pages 259-260, is replaced in its entirety with the following:

The Agency declines to adopt the suggestion in this comment. In fact, the Agency has decided to withdraw the proposed definition of “previously developed” from this rulemaking package because the terms “develop,” “developed,” and “development” are already well-understood by agencies, applicants and the public that would rely on the CEQA Guidelines. A full explanation for the removal of the proposed definition is provided in the Addendum to the Final Statement of Reasons.

## **Errata**

The following changes to the Final Statement of Reasons are made to reflect the withdrawal of the proposed definition of “previously developed”:

Strike the discussion on bates numbered page 213 labeled: **“Final Changes to the Definition of Previously Developed After Round Two Comments Were Received.”**

The following changes to Appendix N were made to reflect the corresponding changes in Appendix M that were circulated for public review as described in the 15-Day Notice (October 22, 2012):

- On page 2 of Appendix N, at question 4, replace “100” with “300”
- On page 2 of Appendix N, at question 6, replace “within ¼ mile of an existing major transit stop” with “within ½ mile of an existing major transit stop, or ¼ mile of an existing stop along a high quality transit corridor”