



**Local Agency Formation Commission**  
**LAFCO of Napa County**

1700 Second Street, Suite 268  
Napa, CA 94559  
(707) 259-8645  
FAX (707) 251-1053  
<http://napa.lafco.ca.gov>

**DECEMBER 4, 2006**  
**AGENDA ITEM NO. 8a**

November 27, 2006

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Executive Officer  
Jackie Gong, Commission Counsel

**SUBJECT: California Environmental Quality Act: Commission Guidelines**  
The Commission will consider a resolution adopting an update to its implementation guidelines for the California Environmental Quality Act.

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Attached is a comprehensive update to the Commission's guidelines for implementing the California Environmental Quality Act (CEQA). This update makes significant revisions to the Commission's existing CEQA Guidelines, which were adopted on January 16, 1980. A draft of this update was presented to the Commission for discussion at its October 2, 2006 meeting and then circulated for review to the local agencies in Napa County. Several minor technical comments were provided by the City of American Canyon and have been incorporated into the final update (copy attached).

In addition to providing technical comments, American Canyon has asked for clarification regarding Section 3.1 of the update. This section states that LAFCO will serve as responsible agency unless it has not been consulted by the lead agency (city, special district, or the County) in the preparation of their environmental review. American Canyon has asked what would be the recourse for LAFCO in reviewing an application, such as an annexation, if it was not consulted by the lead agency in the course of preparing the environmental review. Under such circumstances, Section 15052 of the State CEQA Guidelines directs LAFCO to assume the role of lead agency. However, underlying this code section is the issue of whether the environmental document that has been prepared by the lead agency without consulting the responsible agency is adequate. Accordingly, if it is determined that an environmental document has been prepared without its consultation and is inadequate, LAFCO has the option to become lead agency and conduct its own environmental review.

A draft resolution approving the comprehensive update to the Commission's guidelines for implementing CEQA is attached for consideration. (The update is included as "Attachment A" of the draft resolution.)

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Dr. Andrew Alexander, Vice-Chair  
Mayor, City of Calistoga

Kevin Block, Commissioner  
Councilmember, City of Napa

Cindy Coffey, Alt. Commissioner  
Councilmember, City of American Canyon

Bill Dodd, Chair  
Supervisor, 4th District

Brad Wagenknecht, Commissioner  
Supervisor, 1st District

Mark Luce, Alt. Commissioner  
Supervisor, 2nd District

Guy Kay, Commissioner  
Representative of the General Public

Brian Kelly, Alt. Commissioner  
Representative of the General Public

Keene Simonds  
Executive Officer

**RECOMMENDATION**

It is recommended for the Commission to take the following action:

- 1) Adopt the form of the attached draft resolution approving a comprehensive update to Commission's guidelines for implementing the California Environmental Quality Act.

Respectfully submitted,

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Keene Simonds  
Executive Officer

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Jackie Gong  
Commission Counsel

**Attachments:**

- 1) Draft Resolution
- 2) Comments from the City of American Canyon, dated November 3, 2006

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF  
NAPA COUNTY  
ADOPTING PROCEDURES TO IMPLEMENT THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**WHEREAS**, Section 21082 of the California Public Resources Code requires that all public agencies adopt by ordinance, resolution, rule, or regulation, the objectives, criteria, and procedures for the evaluation of projects and the preparation of environmental impact reports and negative declarations pursuant to the California Environmental Quality Act ("CEQA") that are consistent with the State CEQA Guidelines ("State Guidelines") adopted by the Secretary of the Resources Agency; and

**WHEREAS**, on or about January 16, 1980, the Local Agency Formation Commission of Napa County ("the Commission") adopted the LAFCOM EIR Guidelines and by reference the State CEQA Guidelines to comply with Section 21082; and

**WHEREAS**, State Guideline Section 15022(c) states that public agencies should revise their implementing procedures to conform to amendments to State Guidelines and the State Guidelines have been amended subsequent to the adoption of the LAFCOM EIR Guidelines.

**NOW, THEREFORE, BE IT RESOLVED** as follows:

1. **Purpose:** It is the purpose of this Resolution to adopt objectives, criteria, and specific procedures consistent with CEQA and the State Guidelines for administration by LAFCO of its responsibilities under CEQA, including the orderly evaluation of projects and preparation of environmental documents, as set forth in the document entitled "CEQA Policy of the Local Agency Formation Commission of Napa County – December 4, 2006", attached hereto as attachment A and hereinafter referred to as the "LAFCO CEQA Policy".

2. **Adoption of State Guidelines:** The Commission hereby adopts and incorporates by reference into the LAFCO CEQA Policy the provisions of CEQA and those State CEQA Guidelines in effect on the date of this Resolution, and as subsequently amended. In the event the State Guidelines should be subsequently amended, those amendments shall be deemed to be effective and incorporated into the LAFCO CEQA Policy 120 days after the effective date of the amendments.

3. **Additional Implementing Procedures:** In accordance with State Guideline 15022, the Commission hereby further adopts additional implementing procedures as more fully set forth in the LAFCO CEQA Policy.

4. By this Resolution, all other LAFCO policies on the subject of CEQA, including the LAFCOM EIR Guidelines, adopted January 16, 1980, are hereby superseded and replaced by “CEQA Policy of the Local Agency Formation Commission of Napa County – December 4, 2006”.

**THE FOREGOING RESOLUTION** was duly and regularly adopted at a regular meeting of the Local Agency Formation Commission of Napa County held on 4th day of December, 2006 in the County of Napa, State of California.

AYES: Commissioners: \_\_\_\_\_

NOES: Commissioners: \_\_\_\_\_

ABSTAIN: Commissioners: \_\_\_\_\_

ABSENT: Commissioners: \_\_\_\_\_

ATTEST: EXECUTIVE OFFICER  
Clerk of the Commission

By: \_\_\_\_\_

**CEQA POLICY  
OF  
THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY**  
(Effective December 4, 2006)

**SECTION 1. INTRODUCTION**

Section 15022 of the State CEQA Guidelines requires public agencies to adopt objectives, criteria and specific procedures consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines for administering CEQA. The CEQA (Sections 21000 et seq. of the Public Resources Code) and the State CEQA Guidelines (Sections 15000 et seq. of Title 14 of the California Administrative Code) are hereby incorporated by reference into this CEQA Policy of the Local Agency Formation Commission of Napa County (hereinafter "Policy").

This Policy establishes the Napa County LAFCO procedures for the Commission acting as both a Responsible Agency and as a Lead Agency with respect to complying with the State CEQA requirements. The Commission shall conform to any statutory change in CEQA regardless of whether this Policy contains the amended procedures.

**SECTION 2. PURPOSE**

The purpose of the Commission's Policy is to set forth the specific procedures and provisions adopted by the Commission to implement and comply with the requirements of CEQA and the State CEQA Guidelines.

### **SECTION 3. LAFCO AS A RESPONSIBLE AGENCY**

3.1 LAFCO as Responsible Agency: A Responsible Agency is a public agency other than the Lead Agency that has responsibility for carrying out or approving a project and for complying with CEQA.

3.1.1. In the case of projects initiated by a land use authority, such as a city or county, where annexations are required as a condition of approval, LAFCO will assume the Responsible Agency role unless the Lead Agency did not consult with LAFCO as the Responsible Agency.

3.1.2. LAFCO will assume the Responsible Agency role for annexations that include a prezone by a city unless the Lead Agency did not consult with LAFCO as the Responsible Agency.

3.1.3. LAFCO will assume the Responsible Agency role for changes in organizations for a district which include infrastructure development by a district unless that agency did not consult with LAFCO as the Responsible Agency.

3.2 Comment Period for Lead Agency Environmental Documents: Lead agencies shall comply with the State CEQA Guidelines requirements (Section 15086 to 15087) for distributing draft environmental documents to Responsible Agencies when forwarding draft environmental documents to LAFCO. The Executive Officer will transmit written comments to the lead agency within the noticed public review period. The Executive Officer, or his/her designee, shall respond in writing as to the adequacy of the proposed environmental document, including any specific areas of concern or disagreement, within the time specified in the lead agency's notice. LAFCO shall also identify, in writing, any significant environmental effects that it believes could result from the project. Comments should be limited to LAFCO's scope and responsibilities for review of the project. The lead agency should incorporate and address all LAFCO comments in the final environmental document.

Issues that are particularly important for an environmental document that is being prepared for a subsequent LAFCO action include the following:

- (1) Cumulative and Regional Impacts
- (2) Impacts to public services, including but not limited to, water supply and distribution systems; wastewater treatment and sewer collection systems; solid waste disposal capacity and collection; public school districts, fire and police protection; and public facilities, including discussion on the ability of the receiving entities (i.e. water district, sewer district, school district) to provide the services to the proposed boundary change area.
- (3) Conversion of prime agricultural lands to urban uses and protection/preservation of prime agricultural lands and resources.
- (4) Consistency with General and Specific Plans
- (5) Affordable Housing

3.3 Lead Agency Preparation of Environmental Documents: The following procedures apply when a city, special district or other entity assumes the role of lead agency (as defined in CEQA Section 21067 and CEQA Guidelines Section 15051) for preparation of the appropriate environmental document. Generally, this involves a lead agency's environmental review and document for a project where subsequent LAFCO action is anticipated.

3.3.1 Lead agencies shall, as a result of any comments received by LAFCO, prepare environmental documents in a manner that would permit their use by LAFCO in considering subsequent boundary change proposals. References to any boundary changes required to implement the underlying project shall be included on the title page and accurately described in the project description.

3.3.2 All notices of determination or exemption shall be submitted to LAFCO. Additionally, copies of the final environmental document and the lead agency's adopted Statement of Facts and Findings (CEQA Guidelines Section 15091), Statement of Overriding Considerations, and adopted mitigation measures (CEQA Guidelines Section 15096[g]), shall be submitted to LAFCO with the application, if applicable. The lead agency shall also include for an approved project its adopted Mitigation Monitoring and Reporting Program (MMRP) and any conditions of project approval that mitigate or avoid significant effects on the environment.

3.4 LAFCO Use of Lead Agency Environmental Documents: LAFCO shall, in making determinations on boundary change proposals, utilize the environmental document prepared by the lead agency in accordance with these procedures and the State CEQA Guidelines. The Commission shall certify that it has reviewed and considered the information contained in the environmental document prior to approval of a proposal. LAFCO shall, when utilizing a lead agency's environmental document for a project where significant effects are identified, make or incorporate, by reference, findings required by Section 15091 for each significant effect of the project.

3.4.1 If LAFCO approves a proposal supported by an EIR, it must adopt a Statement of Overriding Considerations when a lead agency (pursuant to State CEQA Guidelines Section 15093) has adopted a Statement of Overriding Considerations for significant effects, which cannot be wholly mitigated. LAFCO may adopt a Statement of Overriding Considerations by incorporating the lead agency's Statement by reference.

3.4.2 When an EIR has been prepared, LAFCO shall not approve the project as proposed if it finds feasible alternatives or feasible mitigation measures within its powers that would substantially lessen any significant effect the project would have on the environment.

3.4.3 LAFCO can also require an applicant to prepare a subsequent environmental document, including a supplemental environmental impact report or an addendum to an environmental impact report, pursuant to CEQA Guidelines Sections 15162 and 15163. Additionally, in some instances LAFCO may assume the role of lead agency pursuant to CEQA Guidelines Section 15052.

3.4.4 The Executive Officer will deem an application incomplete, for processing purposes, until the required environmental documentation has been received.

## **SECTION 4. LAFCO AS LEAD AGENCY**

4.1 Lead Agency Criteria: Public Resources Code Section 21067 defines lead agency as the public agency that has the principal responsibility for carrying out or approving a project that may have a significant impact upon the environment. LAFCO will assume the Lead Agency role when:

- (1) A petitioner submits a project application to LAFCO.
- (2) The Commission initiates and determines that it is the lead agency for a sphere of influence update pursuant to Government Code Section 56425.
- (3) The Commission initiates and determines that it is the lead agency for conducting a service review pursuant to Government Code Section 56430.
- (4) The Commission initiates a proposal pursuant to Government Code Section 56375(a).
- (5) Another public agency was the appropriate lead agency, but pursuant to CEQA Guidelines Section 15052, a shift in the lead agency designation is required.

4.2 Determination of the Applicability of CEQA: The Executive Officer or his/her designee shall, when LAFCO is the Lead Agency, determine whether an environmental document will be required (CEQA Guidelines Section 15060) or whether the project is exempt from CEQA (CEQA Guidelines Section 15061). The Executive Officer will also be responsible for determining whether a project normally considered exempt from CEQA may require preparation of an environmental document because the project may actually have a significant impact on the environment (CEQA Guidelines Section 15300.2.).

4.2.1 The Executive Officer shall, within 30 days from the date of receiving an application, such as a petition, or the initiation of a project for which LAFCO is the lead agency, determine whether an activity is subject to CEQA (CEQA Guidelines Section 15060) before conducting an Initial Study. If the proposal is considered to be subject to CEQA, and is not considered to be exempt from the State CEQA Guidelines (Section 15061), the Executive Officer shall prepare an initial study, or cause an initial study to be prepared.



4.3 Categorical or Other Exemptions: The Executive Officer shall determine whether the project qualifies for an exemption under State CEQA Guidelines (Section 15061). If the project qualifies for an exemption, no further environmental documentation is necessary other than the filing of the “Notice of Exemption” form with the Napa County Clerk.

4.3.1 Common LAFCO Exemptions. The following categories of exemptions are frequently relevant to projects before LAFCO:

- (1) New Construction or Conversion of Small Structures as specified in State CEQA Guidelines (Section 15303).
- (2) Information Collection as specified in State CEQA Guidelines (Section 15306).
- (3) Annexation of Existing Facilities and Lots for Exempt Facilities as specified in State CEQA Guidelines (Section 15319).
- (4) Changes in Organization of Local Agencies as specified in State CEQA Guidelines (Section 15320).
- (5) Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment as specified in State CEQA Guidelines (Section 15061(b)(3)).

4.3.2. Limitations on Use of Exemptions: All exemptions for these categories are inapplicable when any of the following occur (State CEQA Guidelines Section 15300.2):

- (1) Due to particular circumstances relating to the specific project, such as a particularly sensitive project environment, a project that is ordinarily insignificant in its impact on the environment may be significant.
- (2) The cumulative impact of successive projects of the same type, in the same place, over time, is significant.
- (3) An exemption shall not be used for a project where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

4.4 Costs of Preparation of Environmental Documents: For projects submitted by petition, or where LAFCO is serving as lead agency on behalf of another public agency, the full costs of preparing all environmental documents, including the preparation of an initial study and either a Negative Declaration, Mitigated Negative Declaration or an Environmental Impact Report shall be the responsibility of the petitioners or the public agency involved. The petitioners or public agency will be required to submit a deposit fee and a reimbursement agreement committing to payment of the entire costs for preparation of all environmental documents prior to the preparation of an initial study.

4.5 Preparation of Environmental Documents: The Executive Officer will determine if LAFCO staff will prepare the initial study and/or other environmental documents, or whether the initial study and/or other environmental documents will be prepared by independent consultants hired by LAFCO. Any independent consultants shall serve solely at the direction of the Executive Officer.

The Executive Officer may require project proponents to submit special studies or other information necessary to adequately evaluate potential impacts of a project.

4.6 Initial Study Preparation:

4.6.1. Any initial study shall be completed in a timely fashion and within the time limits required by law.

4.6.2. Responsible Agencies, Trustee Agencies and Affected Agencies may be consulted and advice and recommendations may be solicited from other public agencies/persons or organizations.

4.6.3. The Initial Study Checklist and Initial Study Assessment Guidelines currently in use by the County of Napa Planning Department will be utilized unless LAFCO prepares and adopts its own, separate, Initial Study Checklist and Assessment Guidelines.

4.6.4. The initial study shall take into consideration all aspects and phases of the project, the purposes, policies, rules, regulations and standards set forth in CEQA, the CEQA Guidelines, this Administrative Supplement, and, as appropriate, other LAFCO policies and procedures and the plans and policies of the County and/or affected cities and/or special districts, as appropriate.

4.7 Determination of Appropriate Environmental Document:

4.7.1 Based on a completed initial study the Executive Officer shall determine the appropriate environmental document to be prepared.

4.7.2 The Executive Officer shall prepare or cause to be prepared a Negative Declaration or Mitigated Negative Declaration for those projects that have been found to have no significant effect on the environment pursuant to State CEQA Guidelines Sections 15070 through 15075.

4.7.3 The Executive Officer shall prepare or cause to be prepared an Environmental Impact Report for those projects that may have a significant effect on the environment pursuant to State CEQA Guidelines Sections 15080 - 15179.5.

4.8 Fish and Game Fees: Additional fees may be required by the California Department of Fish and Game pursuant to California Fish and Game Code Section 711.4 and Title 14 California Code of Regulations Section 753.5 to defray the cost of managing and protecting fish and wildlife. If the Initial Study determines that a project has a significant impact on fish and wildlife resources, the applicant must pay the state mandated fees. These fees apply to both public and private projects. No project shall be vested, or final, until these fees are paid.

4.9 Public Notice and Review: The Executive Officer shall provide or cause to be provided, public notification and shall make Negative Declarations, Mitigated Negative Declarations and Environmental Impact Reports available for public review, pursuant to State CEQA Guidelines Section 15073 et. seq. (Negative Declarations/Mitigated Negative Declarations) or Sections 15087 - 15088.5 (EIRs).

4.10 Adoption of Environmental Documents: LAFCO shall adopt Negative Declarations, Mitigated Negative Declarations and Environmental Impact Reports in accordance with the State CEQA Guidelines.

## **SECTION 5. POLICY REGARDING SIGNIFICANT AND ADVERSE ENVIRONMENTAL IMPACTS**

When evaluating environmental impacts during its environmental review process, LAFCO may identify such impacts as significant and adverse if:

5.1 Build out of the proposed project may cause service levels to decline below established standards, or cause costs of service provision to rise substantially to the detriment of service levels, or cause those currently receiving service to receive reduced or inadequate services, especially when such change may cause adverse health and safety or other physical impacts.

5.2 Build out of the proposed project may cause the infrastructure capacity of a service provider to exceed planned and safe limits especially when such change may cause adverse health and safety or other physical impacts.

5.3 Inclusion of the proposed territory into the boundaries of the service agency exceeds the ability of the service provider to provide service to the proposed or existing development within that territory with either existing or proposed service capacity.

5.4 The proposed project includes or plans for infrastructure capacity, especially water and sewer lines, that exceed the needs of the proposed project and may be used to serve areas not presently planned for development, especially those containing prime agricultural and resource land, mineral, sensitive plant and wildlife or other important resources.

5.5 The proposed project could cause health and safety or physical impacts because a service provider is incapable of providing service, the proposal has an illogical boundary, or elements needed to provide service (water supply, treatment facilities, equipment, energy) are not available, or stressed beyond capacity.

5.6 The proposed project may result in substantial loss of prime agricultural land or important open space, timberland, mining or other resource lands. Land use zones adopted by a city or the County shall be used to judge appropriate land use.

5.7 The proposed project may cause premature, ill-planned, illogical or inefficient conversion of prime agricultural, timberland, open space, mineral resource or other important resource areas not presently planned for development.

5.8 The proposed project is substantially inconsistent with applicable Sphere of Influence plans; or General Plan or Specific Plan, area service plans, phased land use plans of any city or County; or resource conservation plans of the state or federal government.

5.9 The proposed project may induce substantial growth on important agricultural, resource and open space lands because it would:

- Permit the extension of, or require, infrastructure such as flood control levees or water diversions, electrical, water or sewer lines, especially trunk lines, roadways or public facilities that would permit new development in a substantial area currently constrained from development.
- Encourage or foster development by permitting uses that adversely impact adjacent agricultural, timberland, mining or other resource operations, significantly increase property values of adjacent or proximate agricultural or resource land, or remove man-made or natural buffers between urban and agricultural, timber, mining or conservation uses.
- Be adversely and substantially inconsistent with the agricultural, open space, resource conservation or preservation, growth management, or other plans or policies of General Plan or Specific Plan of the land use jurisdiction responsible for the project site or vicinity.

5.10 The proposed project, when considered in conjunction with other recent, present and reasonably foreseeable projects, may cause significant adverse cumulative impacts.