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STATE OF CALIFORNIA
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH



KEN ALEX
DIRECTOR

January 29, 2016
Secretary John Laird
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Re: Transmittal of the Governor's Office of Planning and Research's proposed Amendments to the CEQA Guidelines, Appendix G to include consideration of impacts to Tribal Cultural Resources

Dear Secretary Laird:

This package contains the Governor's Office of Planning and Research's (OPR) proposed changes to the sample environmental checklist form in Appendix G of the CEQA Guidelines to include consideration of impacts to tribal cultural resources.

OPR developed the proposed Amendments pursuant to Public Resources Code section 21083.09, enacted in Assembly Bill 52 (Gatto, 2014), which states in part:

On or before July 1, 2016, the Office of Planning and Research shall prepare and develop, and the Secretary of the Natural Resources Agency shall certify and adopt, revisions to the guidelines that update Appendix G of Chapter 3 (commencing with Section 15000) of Division 6 of Title 4 of the California Code of Regulations to do both of the following:

- (a) Separate the consideration of paleontological resources from tribal cultural resources and update the relevant sample questions.
- (b) Add consideration of tribal cultural resources with relevant sample questions.

In developing the proposed Amendments, OPR actively sought the input, advice, and assistance of numerous interested parties and stakeholder groups. Since September 2014, OPR has met with representatives of numerous agencies and organizations to discuss the perspectives of the business community, the environmental community, local governments, non-governmental organizations, state agencies, California Native American Tribes, CEQA practitioners, and legal experts. In addition, OPR staff presented at numerous regional and statewide conferences to raise awareness about CEQA and AB 52 among diverse audiences and to seek their input.

In November of 2015, OPR released a Discussion Draft of Proposed Changes to Appendix G of the CEQA Guidelines Incorporating Tribal Cultural Resources for a thirty-day public review period. That draft included three potential alternatives for changes to Appendix G. OPR also continued to conduct extensive public outreach, including a workshop for Tribal leadership and a public workshop, in order to receive input on the proposed amendments. In addition to oral comments at its workshops, OPR also received over thirty written comment letters.

OPR has incorporated suggestions and clarifications from public comment to the extent possible and consistent with CEQA and cognizant of the usability of the checklist as a simple, sample form.

Summary of OPR's Proposed Changes to Appendix G

This package proposes limited but meaningful changes to Appendix G.

First, the proposal would add to the introductory language in the section of Appendix G entitled "Evaluation of Environmental Impacts." The addition would refer lead agencies to the procedural requirement for tribal consultation in Public Resources Code section 21080.3.1. It also refers to other sources of information regarding tribal cultural resources, including the California Historical Resources Information Systems managed by the California Office of Historic Preservation, and the Sacred Lands File, maintained by the California Native American Heritage Commission. These proposed changes should assist lead agencies by alerting them to the new procedural requirements added by AB 52, as well as by pointing them to relevant sources for information.

The second proposed change would add subdivision (e) to Section V (Cultural Resources) to specifically address tribal cultural resources. The proposed question mirrors the statutory definition in Public Resources Code section 21074. The question is further broken into two subparts, in order to assist lead agencies in determining whether there may be a potentially significant impact to tribal cultural resource as defined in statute.

The proposal also includes minor revisions intended to conform the language in Appendix G regarding cemeteries to relevant provisions of the Health and Safety Code.

While AB 52 also directed that paleontology be separated from consideration of tribal cultural resources in Appendix G. The additions described above achieve that purpose. Each question on a separate line of the checklist is an independent analysis. Some comments suggested removing paleontology from the Cultural Resources portion of Appendix G, and moving it to the Geology and Soils section. While that suggestion may merit future consideration, OPR is currently considering a broader set of updates to Appendix G as part of a comprehensive update to the CEQA Guidelines. Rather than risk confusing lead agencies and practitioners with multiple updates to Appendix G, OPR proposes to defer further consideration of future changes related to paleontology to the comprehensive update.

Next Steps

This submittal to the California Natural Resources Agency will be posted on the OPR website.

Please do not hesitate to contact Holly Roberson, Land Use Counsel, at (916) 322-0467 or holly.roberson@opr.ca.gov if OPR can provide further assistance.

Sincerely,



Ken Alex
Director
Governor's Office of Planning and Research