

CLIMATE ACTION TEAM
Land Use & Infrastructure Working Group
Near-Term Implementation Plan

Strategy #2 - CEQA Guidelines and Land Use Regulatory Tools

Working Group Overview: The Land Use and Infrastructure Working Group advises the Strategic Growth Counsel (SGC) and the Climate Action Team (CAT) on sustainable land use policies and their link to climate change adaptation and mitigation. The group also works to coordinate planning efforts (housing and development, transportation, public health, etc.) in a way that links mitigation measures and adaptation strategies.

Working Group Agencies: The group includes staff from state agencies with expertise in and authority over issues related to energy, transportation, housing, environmental protection, agriculture, water supplies and wildlife preservation.

Participants include Cal/EPA, the Office of Planning and Research, Air Resources Board, California Energy Commission, Department of Food and Agriculture, Natural Resources Agency, CalTrans, Business-Transportation and Housing, Department of Water Resources, Department of Housing and Community Development, Department of Public Health, Dept of Toxics Substance Control, Water Resources Control Board, Department of Conservation, Department of Fish & Game, CalFire, and the Department of General Services.

Measure/Strategy:

- A) Description: Use existing laws and regulations, and revise as needed, to require evaluation of climate change impacts in land use decisions.
- B) Agencies Involved: Any agency charged with implementing the planning and permit authorization program for which the given laws and regulations apply. State agencies involved with the regulations discussed below include, but are not limited to, the following: California Natural Resources Agency, Office of Planning and Research, Business, Transportation and Housing, Housing and Community Development, Department of Toxic Substances Control, and the State Water Resources Control Board.
- C) Scoping Plan/Adaptation Plan Reference: For revisions to CEQA Guidelines: Key Recommendation #5, Page 8, California Climate Adaptation Strategy, December 2009. www.climatechange.ca.gov/adaptation/
- D) Metrics: The overall progress of this task cannot be defined in terms of metrics, due to the far-reaching policy implications germane to implementing and modifying statewide permitting regulations.
- E) Cross-cutting Issues: See tasks below.
- F) Tasks and Deliverables:

Task 2.1

1. Description: Projects to be carried out by, funded, or requiring state agency approval, including infrastructure projects, must consider potential impacts of locating new and future development in areas susceptible to hazards. Amendments to the CEQA Guidelines further clarify that lead agencies are required to evaluate the impacts of locating projects in areas susceptible to hazardous conditions, including hazards potentially exacerbated by climate change. (State CEQA Guidelines Section 15126.2) If an adverse environmental effect is found to be significant, lead agencies are required to mitigate the impact to below a level of significance. (State CEQA Guidelines Section 15126.4) Locating projects in such areas may require additional guidance that in part depends on planning tools that additional CAS key recommendations and other informational resources call for, as well as any guidance developed through the Land Use Working Group Tasks described below.
2. Deliverables: Updated policies regarding placement of projects subject to CEQA review.
3. Agency Roles:
 - a. Update of CEQA Section 15126.2: California Natural Resources Agency and Office of Planning and Research.
 - b. Implementation of updated CEQA guidelines: Any entity serving as lead agency for a project seeking approval under CEQA would be implementing the guidelines through project evaluations that put climate impacts into consideration.
4. Timeline: The CEQA guidelines were amended pursuant to SB 97, and became effective March 18, 2010.
5. Crosscutting Issues: Crosscutting issues will be realized as lead agencies investigate projects under the updated CEQA guidelines. Analyses of these projects will potentially be informed by hazard vulnerability assessments pertaining to areas of public health and safety.

Task 2.2:

1. Description: The Scoping Plan required the BTH Agency to convene a group to identify regulatory barriers to housing and efficient land use strategies and prepare recommendations on how such barriers can be addressed. HCD will lead this effort on behalf of BTH.
2. Deliverables: The final product will be a report including a list of recommendations to remove regulatory barriers to housing and efficient land use patterns that can assist in meeting greenhouse gas emission reductions. HCD will convene a working group made up of housing developers and builders, local governments, and housing and land use experts to identify regulatory barriers to housing and efficient land use strategies, such as affordable housing, infill housing, transit oriented development and mixed use development.
3. Agency Roles: HCD will lead and will consult with OPR, Energy Commission, Caltrans, CalEPA, Resources, and Public Health.

4. Timeline: All timelines subject to availability of resources.
 - June 2011-December 2011: Develop workplan, detailed timeline and potential participants for Working Group.
 - January 2012- July 2012: Convene Working Group
 - December 2012: Prepare report on recommendations to remove regulatory barriers.
5. Cross-cutting Issues: Where needed and appropriate, HCD will ensure appropriate staff within Caltrans, CARB, OPR, the Energy Commission, Public Health, and Natural Resources will be consulted and kept apprised of the effort.

Task 2.3:

1. Description: Modify DTSC's CEQA checklist to include consideration of GHG emissions and their mitigation, as well as the project-specific impacts of Climate Change during: a) the permitting process for applicable hazardous waste treatment, storage and disposal facilities, and b) the development of treatment remedies for the clean up of contaminated sites, in accordance with CAS key recommendation #5.
2. Deliverables: A revised checklist consistent with the recent amendments to the CEQA Guidelines adopted by the California Natural Resources Agency.
3. Agency Roles: DTSC, under leadership of the CEQA Unit, will modify the CEQA checklist used by cleanup staff to include consideration of GHG emissions and their mitigation, as well as the project-specific impacts of Climate Change during: a) the permitting process for applicable hazardous waste treatment, storage and disposal facilities, and b) the development of treatment remedies for the clean-up of contaminated sites, in accordance with CAS key recommendation #5.
4. Timeline: September 1, 2010.
5. Cross-cutting Issues: None anticipated

Task 2.4 - Regional Water Quality Control Plans (Basin Plans)

1. Description: Basin Plans are the master water quality control planning document for each region. Basin Plans designate beneficial uses for water bodies, and establish water quality objectives and implementation plans to protect those beneficial uses. Each plan may contain specific requirements or prohibitions to achieve water quality objectives that directly affect land use.
2. Deliverables: Each regional plan is a living document and is always subject to modification based on changing needs and circumstances with respect to applicable laws, policies, technologies and water quality conditions. Basin Plans are also subject to triennial reviews.
3. Agency Roles: The Regional Water Quality Control Boards are responsible for the preparation and adoption of the Basin Plans. Affected stakeholder groups participate through a defined public process.
4. Timeline: Basin Plans are a living document and are subject to continuous amendment. Once an amendment is approved by a Regional Water Board, the

State Water must then adopt the change. Amendments are also subject to OAL approval.

5. Crosscutting Issues: The Basin Plans may contain provisions that could limit the implementation of other sector mitigation or adaptation strategies such as promoting the use of recycled water in the water-energy sector. The Basin Plans could also serve as a mechanism to incent activities that either mitigate or promote adaptation to climate change.

Task 2.5 - Wetlands and Water Quality Certification (401 Certification)

1. Description: The Water Boards permit land use activities that result in the discharge of excavated or fill materials into the waters of the U.S. (or state waters under state law), including wetlands. The program protects all waters, but has special responsibility for wetlands, riparian areas and headwaters. In addition to their vulnerability to filling, high resource value and lack of systematic protection by other programs, these areas are on the front line for impacts associated with climate change. The Water Boards are working to ensure that the review of these requests for certification consider the effects of climate change and the contribution that wetlands provide in the mitigation of climate change impacts.
2. Deliverables: Deliverables are the approvals granted by the Regional Water Boards and State Water Board (for discharges that cross regional boundaries).
3. Agency Roles: The Water Boards are the certification authority. This certification is then incorporated into the US Army Corp of Engineers permit for the proposed activity.
4. Timeline: Reviews occur as requests for certification are submitted.
5. Crosscutting Issues: Many of the issues affecting wetland and riparian areas are issues being considered in actions to protect ocean, coastal and water resources.

Task 2.6 - Stormwater Permits

1. Description: The Water Boards approve permits that regulate stormwater management in municipalities throughout the state. Recently approved permits contain innovative provisions that implement low impact (land use) development techniques that aim to match post-construction runoff to pre-construction runoff.
2. Deliverables: Time tables exist for the updating and issuance of permits for large and small municipalities. As new permits come forward, the Water Boards are requiring techniques to implement these practices including: on-site storm water reuse, interception, evapotranspiration and infiltration through non-structural controls and conservation design measures.
3. Agency Roles: The Regional Water Boards are responsible for approving local permits. The State Water Board is responsible for adopting statewide permits for defined activities.
4. Timeline: Permits are adopted and updated for large and small municipalities, as well as for construction and other activities, on an ongoing basis.

5. Crosscutting Issues: Stormwater permits are the principal mechanism used by the Water Boards to encourage and require the use of low impact development (LID) techniques to either infiltrate storm water flows or capture, store and use storm water onsite. These techniques are expected to offset the need the import water from remote locations, thus creating an energy savings and reduction in green house gases for the water-energy sector.

SUMMARY TABLE

Deliverable	Agencies	Deadline
Task 2.1: CEQA Guidelines revision (section 15126.2).	CNRA, OPR	Effective March 18, 2010
Task 2.2: Report: regulatory barriers to efficient land use patterns.	BTH	December 2012
Task 2.3: Revised CEQA checklist for hazardous waste.	DTSC	September 1, 2010
Task 2.4: Revised Basin Plans.	RWQCB	Ongoing
Task 2.5: Water quality protection - approval of land use activities.	RWQCB	Ongoing
Task 2.6: Regulate storm water management.	RWQCB	Ongoing