

TECHNICAL ADVISORY

CEQA REVIEW OF SUSTAINABLE
TRANSPORTATION PROJECTS



CEQA Review of Sustainable Transportation Projects Technical Advisory

This technical advisory is one in a series of advisories provided by the Governor's Office of Planning and Research (OPR) as a service to professional planners, land use officials, and California Environmental Quality Act (CEQA) practitioners. OPR creates and updates technical advisories as needed on current issues in environmental law and land use planning that broadly affect the practice of CEQA and land use planning in California. This document does not alter lead agency discretion in preparing environmental documents subject to CEQA. This document should not be construed as legal advice.

Purpose

The purpose of this technical advisory is to provide an overview of the existing CEQA provisions that can streamline the construction of sustainable transportation projects.¹ California has ambitious climate goals, including reducing greenhouse gas emissions 40 percent below 1990 levels by 2030. While substantial progress has been made, emissions from the transportation sector remain a significant source of emissions, totaling more than 40 percent of all greenhouse gas emissions statewide. (See [EO N-19-19](#) and the [California Action Plan for Transportation Infrastructure](#).) While vehicle and fuel technology are a critical part of our transportation emission reductions strategy, we also need to get a large share of our emission reductions from land use and transportation system changes. Sustainable transportation projects are therefore an important part of achieving California's long-term climate goals.

This technical advisory also provides guidance on how to prepare a project business case and a racial equity analysis, as required for sustainable transportation projects over \$100 million seeking to use the exemption contained in Public Resources Code § 21080.25. (See Appendix A.)

Finally, this technical advisory provides a comparison chart that allows users to quickly see the CEQA streamlining options available for specific sustainable transportation project types. (See Appendix B.)

Scope

This technical advisory covers the following statutes and regulations:

Public Resources Code § 21080

Public Resources Code § 21080.20 (*Amended 1-1-21 pursuant to SB 288*)

Public Resources Code § 21080.25 (*Added 1-1-21 pursuant to SB 288*)

CEQA Guidelines § 15301

Government Code § 65850.7

¹ For the purposes of this technical advisory, "sustainable transportation" has been defined as transportation projects that encourage the use of active transportation, transit, and zero-emission vehicles.

Statutory Exemptions

[PRC § 21080\(b\)\(10\), \(11\), \(12\) General Statutory Exemptions](#)

CEQA does not apply to:

- A project for the institution or increase of passenger or commuter services on rail or highway rights-of-way already in use, including modernization of existing stations and parking facilities.
 - For purposes of this paragraph, “highway” shall have the same meaning as defined in [Section 360 of the Vehicle Code](#).
- A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.
- Facility extensions not to exceed four miles in length which are required for the transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

[PRC § 21080.20 Bicycle Transportation Plans – Amended January 1, 2021](#)

CEQA does not apply to a bicycle transportation plan that covers an urbanized area² and discusses:

- the restriping of streets and highways;
- bicycle parking and storage;
- signal timing to improve street and highway intersection operations; and
- the related signage for bicycles, pedestrians, and vehicles.

Public Hearing

Before determining that a project is exempt pursuant to this section, the lead agency shall hold noticed public hearings in areas affected by the bicycle transportation plan to hear and respond to public comments.

- Publication of the notice shall be no fewer times than required by [Section 6061 of the Government Code](#) by the public agency in a newspaper of general circulation in the area affected by the proposed project.
- If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

Notice of Exemption

If a local agency determines that a project is not subject to this division pursuant to this section and it determines to approve or carry out that project, the notice shall be filed with the Office of Planning and Research and the county clerk in the county in which the project is located in the manner specified in subdivisions (b) and (c) of [Section 21152](#).

Sunset

This section shall remain in effect only until **January 1, 2030**, and as of that date is repealed.

² Because the term “urbanized area” is not defined, the general CEQA definition would apply. (See [PRC § 21071](#).) For a map of the urbanized areas as defined by PRC § 21071, see sitecheck.opr.ca.gov.

[PRC § 21080.25 SB 288 Exemption – Added January 1, 2021](#)

CEQA does not apply to any of the following projects:

- 1) Pedestrian and bicycle facilities, including new facilities.
 - a. For purposes of this paragraph, “bicycle facilities” include, but are not limited to, bicycle parking, bicycle sharing facilities, and bikeways as defined in [Section 890.4 of the Streets and Highways Code](#).
- 2) Projects that improve customer information and wayfinding for transit riders, bicyclists, or pedestrians.
- 3) Transit prioritization projects.
- 4) On highways with existing public transit service or that will be implementing public transit service within six months of the conversion, a project for the designation and conversion of general purpose lanes or highway shoulders to bus-only lanes, for use either during peak congestion hours or all day.
- 5) A project for the institution or increase of new bus rapid transit, bus, or light rail service, including the construction of stations, on existing public rights-of-way or existing highway rights-of-way, whether or not the right-of-way is in use for public mass transit.
- 6) A project to construct or maintain infrastructure to charge or refuel zero-emission transit buses, provided the project is carried out by a public transit agency that is subject to, and in compliance with, the State Air Resources Board’s [Innovative Clean Transit regulations](#), and the project is located on property owned by the transit agency or within an existing public right-of-way.
- 7) The maintenance, repair, relocation, replacement, or removal of any utility infrastructure associated with a project identified in paragraphs (1) to (6), inclusive.
- 8) A project that consists exclusively of a combination of any of the components of a project identified in paragraphs (1) to (7), inclusive.
- 9) A project carried out by a city or county to reduce minimum parking requirements.
 - a. Note, this project type is not subject to additional requirements listed below. (See PRC § 21080.25(e).)

[Additional Requirements](#)

- 1) A public agency is carrying out the project and is the lead agency for the project.
- 2) The project is located in an urbanized area.³
- 3) The project is located on or within an existing public right-of-way.
- 4) The project shall not add physical infrastructure that increases new automobile capacity on existing rights-of-way except for minor modifications needed for the efficient and safe movement of transit vehicles, such as extended merging lanes. The project shall not include the addition of any auxiliary lanes.
- 5) The construction of the project shall not require the demolition of affordable housing units.
- 6) The project will be completed by a skilled and trained workforce. (See PRC § 21080.25(d) for additional details.)

³ Because the term “urbanized area” is not defined, the general CEQA definition would apply. (See [PRC § 21071](#).) For a map of the urbanized areas as defined by PRC § 21071, see sitecheck.opr.ca.gov.

Additional Requirements for Sustainable Transportation Projects Exceeding \$100,000,000⁴

- A. The project is incorporated in a regional transportation plan, sustainable communities strategy, general plan, or other plan that has undergone a programmatic-level environmental review pursuant to this division within 10 years of the approval of the project.
- B. The project's construction impacts are fully mitigated consistent with applicable law.⁵
- C. The lead agency shall complete and consider the results of a project business case and a racial equity analysis. (See Appendix A for more guidance on how to prepare a project business case and a racial equity analysis.)
- D. The lead agency shall hold noticed public meetings as follows:
 - i. Before determining that a project is exempt pursuant to this section, the lead agency shall hold at least three noticed public meetings in the project area to hear and respond to public comments.
 - ii. At least one of the three public meetings shall review the project business case and the racial equity analysis. The review of these documents does not inhibit or preclude application of this section.
 - iii. The lead agency shall conduct at least two noticed public meetings annually during project construction for the public to provide comments.
 - iv. The public meetings held pursuant to clauses (i) to (iii), inclusive, shall be in the form of either a public community planning meeting held in the project area or in the form of a regularly scheduled meeting of the governing body of the lead agency.
- E. The lead agency shall give public notice of the public meetings to the last known name and address of all the organizations and individuals that have previously requested notice and shall also give the general public notice using at least one of the following procedures:
 - i. Publication of the notice in a newspaper of general circulation in the area affected by the project. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.
 - ii. Posting of the notice onsite and offsite in the area where the project is located.
 - iii. Posting of the notice on the lead agency's internet website and social media accounts.

Notice of Exemption

If the lead agency determines that a project is not subject to this division pursuant to this section, and the lead agency determines to carry out that project, the lead agency shall file a notice of exemption with the Office of Planning and Research and the county clerk of the county in which the project is located in the manner specified in subdivisions (b) and (c) of [Section 21152](#).

Sunset

This section shall remain in effect only until **January 1, 2023**, and as of that date is repealed.

Definitions

"Affordable housing" means any of the following:

⁴ Calculated in in 2020 United States dollars. (See PRC 21080.25(c)(6).)

⁵ This refers to any non-CEQA laws that may apply to the project.

- A. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents or sales prices to levels affordable, as defined in Section [50052.5](#) or [50053](#) of the Health and Safety Code, to persons and families of moderate, lower, or very low income, as defined in Section [50079.5](#), [50093](#), or [50105](#) of the Health and Safety Code, respectively.
- B. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
- C. Housing that had been occupied by tenants within five years from the date of approval of the development agreement by a primary tenant who was low income and did not leave voluntarily.

"Highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. "Highway" includes a street.

"New automobile capacity" means any new lane mileage of any kind other than sidewalks or bike lanes.

"Project labor agreement" has the same meaning as defined in paragraph (1) of subdivision (b) of [Section 2500 of the Public Contract Code](#).

"Skilled and trained workforce" has the same meaning as provided in Chapter 2.9 ([commencing with Section 2600](#)) of Part 1 of Division 2 of the Public Contract Code.

"Transit lanes" means street design elements that delineate space within the roadbed as exclusive to transit use, either full or part time.

"Transit prioritization projects" means any of the following transit project types on highways:

- A. Signal coordination.
- B. Signal timing modifications.
- C. Signal phasing modifications.
- D. The installation of wayside technology and onboard technology.
- E. The installation of ramp meters.
- F. The installation of dedicated transit or very high occupancy vehicle lanes, and shared turning lanes.

"Very high occupancy vehicle" means a vehicle with six or more occupants.

Categorical Exemptions

[CEQA Guidelines § 15301. Existing Facilities \("Class 1"\)](#)

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

Existing facilities include existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities⁶ and therefore covers projects such as:

- a. Road grading for the purpose of public safety
- b. Addition of bicycle facilities, including but not limited to:
 - i. bicycle parking
 - ii. bicycle-share facilities
 - iii. bicycle lanes
- c. Transit improvements such as bus lanes
- d. Pedestrian crossings
- e. Street trees
- f. Other similar alterations that do not create additional automobile lanes

Note: The Class 1 Categorical Exemption, like all categorical exemptions, is limited by the exceptions contained in [CEQA Guidelines § 15300.2](#).

Ministerial Approval

[Government Code § 65850.7. Ministerial Approval of EV Charging Stations](#)

Pursuant to Subdivision (b), a city, county, or city and county must administratively approve an application to install electric vehicle charging stations through the issuance of a building permit or similar nondiscretionary permit.

Because CEQA is only triggered by discretionary actions (see [PRC § 21080\(a\), \(b\)\(1\)](#)), this also provides a CEQA exemption for electric vehicle charging stations.

⁶ The types of “existing facilities” listed are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion.

Appendix A: Project Business Case and Racial Equity Analysis Guidance

Projects over \$100 million seeking to use the exemption contained in [Public Resources Code § 21080.25](#) must prepare a project business case and a racial equity analysis and “consider the results.” (See Subd. (c)(6)(C).)

OPR may set standards for the project business case and the racial equity analysis or delegate that authority to metropolitan planning organizations (MPOs). (See Subd. (c)(6)(C)(i).)

OPR is electing to provide guidance on this topic. However, as a non-regulatory agency, OPR does not have the authority to formally adopt standards. The guidance below is therefore voluntary. MPOs may elect to prepare other standards.

Project Business Case

Pursuant to PRC § 21080.25(c)(6)(C)(ii), the Project Business Case must:

1. Set forth the rationale for why the project should be implemented to solve a problem or address an opportunity.
2. Outline strategic goals and objectives of the project.
3. Evaluate other options to achieve the project’s objectives.
4. Describe the economic costs and benefits of the project.
5. Describe the financial implications of the project and establish what is required to deliver and operate the project.

Comprehensive guidance on Business Cases has been prepared by Metrolinx, the regional transportation entity for the provincial Government of Ontario, Canada. Metrolinx has produced numerous Business Cases for large transit projects, which are available on [its website](#). While these analyses are likely more comprehensive than those that will be prepared for a PRC § 21080.25 statutory exemption, they are still helpful examples to consider.

Additionally, with the help of an advisory panel consisting of external experts in academia, economics, and public policy, Metrolink has prepared detailed guidance on Business Cases that can be used by public agencies seeking to comply with the requirements in Public Resources Code § 21080.25:

Metrolink Business Case Manual Volume 1: [Overview](#)

This document provides a concise summary of the overall Business Case approach used by Metrolinx to help stakeholders, decision-makers, and the public interpret Business Cases.

Metrolink Business Case Manual Volume 2: [Guidance](#)

Volume 2 provides detailed information on how to lead the development of a Business Case and outlines the key business areas with the expertise to support or review specific content. This document also lays out the analytical methods and parameters to support the development of Business Case content.

Racial Equity Analysis

Pursuant to PRC § 21080.25(c)(6)(C)(iii), the Racial Equity Analysis must:

1. Identify the racial equity impacts of the project.
2. Identify who will benefit from and be burdened by the project.
3. Where significant or disproportionate impacts exist, suggest strategies, designs, or actions to mitigate those impacts.

The use of Racial Equity Analyses in the United States is relatively new and still somewhat limited. However, resources exist to assist lead agencies undertaking a Racial Equity Analysis.

Race Forward

According to the organization [Race Forward](#) and Terry Keleher of the Applied Research Center, a Racial Equity Analysis “is a systematic examination of how different racial and ethnic groups will likely be affected by a proposed action or decision” and are “used to reduce, eliminate and prevent racial discrimination and inequities.”

“The persistence of deep racial disparities and divisions across society is evidence of institutional racism—the routine, often invisible and unintentional, production of inequitable social opportunities and outcomes. When racial equity is not consciously addressed, racial inequality is often unconsciously replicated.”

A Racial Equity Analysis should be conducted prior to the decision-making process or taking any action, because they are used to inform decisions, similar to an environmental assessment under CEQA.

Race Forward recommends using the following 10 sample questions to anticipate, assess, and prevent potential adverse consequences of proposed actions on different racial groups:

- 1. IDENTIFYING STAKEHOLDERS** Which racial/ethnic groups may be most affected by and concerned with the issues related to this proposal?
- 2. ENGAGING STAKEHOLDERS** Have stakeholders from different racial/ethnic groups—especially those most adversely affected—been informed, meaningfully involved, and authentically represented in the development of this proposal? Who’s missing and how can they be engaged?
- 3. IDENTIFYING AND DOCUMENTING RACIAL INEQUITIES** Which racial/ethnic groups are currently most advantaged and most disadvantaged by the issues this proposal seeks to address? How are they affected differently? What quantitative and qualitative evidence of inequality exists? What evidence is missing or needed?
- 4. EXAMINING THE CAUSES** What factors may be producing and perpetuating racial inequities associated with this issue? How did the inequities arise? Are they expanding or narrowing? Does the proposal address root causes? If not, how could it?
- 5. CLARIFYING THE PURPOSE** What does the proposal seek to accomplish? Will it reduce disparities or discrimination?

6. CONSIDERING ADVERSE IMPACTS What adverse impacts or unintended consequences could result from this policy? Which racial/ethnic groups could be negatively affected? How could adverse impacts be prevented or minimized?

7. ADVANCING EQUITABLE IMPACTS What positive impacts on equality and inclusion, if any, could result from this proposal? Which racial/ethnic groups could benefit? Are there further ways to maximize equitable opportunities and impacts?

8. EXAMINING ALTERNATIVES OR IMPROVEMENTS Are there better ways to reduce racial disparities and advance racial equity? What provisions could be changed or added to ensure positive impacts on racial equity and inclusion?

9. ENSURING VIABILITY AND SUSTAINABILITY Is the proposal realistic, adequately funded, with mechanisms to ensure successful implementation and enforcement. Are there provisions to ensure ongoing data collection, public reporting, stakeholder participation and public accountability?

10. IDENTIFYING SUCCESS INDICATORS What are the success indicators and progress benchmarks? How will impacts be documented and evaluated? How will the level, diversity and quality of ongoing stakeholder engagement be assessed?

Additional Examples:

- [MTC/ABAG's Equity Platform](#): In California's Bay Area, the MPO has incorporated racial equity across its planning processes.
- [Equity and Social Justice Initiative, King County, WA](#): King County is using an Equity Impact Review Tool to intentionally consider the promotion of equity in the development and implementation of key policies, programs and funding decisions.
- [Race and Social Justice Initiative, Seattle, WA](#): City Departments are using a set of Racial Equity Analysis questions as filters for policy development and budget making.
- [Equality Impact Assessments, United Kingdom](#): Since 2000, all public authorities required to develop and publish race equity plans must assess proposed policies using an Equality Impact Assessment.

Additional Resources:

- [The Government Alliance on Race and Equity \(GARE\)'s Racial Equity Tool](#): A step-by-step guide with six primary questions. Within each question are additional questions that could be asked.
- [PolicyLink's National Equity Atlas](#): A detailed report card on racial and economic equity with indicators, research, and applied data.
- [Greenlining's Mobility Equity Framework](#): A step-by-step guide to a more community-centered transportation planning process that focuses on the mobility needs of communities and puts affected communities at the center of decision-making.
- [TransForm's Report Pricing Roads, Advancing Equity](#): The report includes a detailed toolkit on road pricing strategy that could be adapted to other transportation projects. TransForm has also developed a Word Document [worksheet](#) based on the toolkit that can be easily adapted for other projects.
- [Racial Equity Tools.org](#): A website with tools, research, tips, curricula, and ideas for people who want to increase their own understanding and to help those working for racial justice at every level – in systems, organizations, communities, and the culture at large.

Appendix B: Comparison Chart by Project Type

This chart may be used to determine the exemption that might be the best fit for a specific project type. Additional details and requirements should be confirmed by referencing the statutory or regulatory language or the body of this Technical Advisory.

	PRC 21080 (Stat Ex)	PRC 21080.20 (Stat Ex)	PRC 21080.25 (Stat Ex)	Class 1 (Cat Ex)	GC 65850.7 (Ministerial)
Bike Lane			X	X	
Bike Plan		X			
Sidewalk/Shade			X	X	
EV Charging Stations					X
Reduce Parking Minimums			X		
Zero-Emission Bus Charging			X		
Transit Prioritization			X		
Transit Signage			X		
Bus Only Lane Conversions			X	X	
Bus Service (Institution or Increase)			X		
Bus Rapid Transit (Institution or Increase)			X		
Light rail (Institution or Increase)			X		
Transit Station Modernization	X			X	
Transit Parking Modernization	X			X	
Increasing Service on ROW or HOV	X			X	
Facility Extensions for Passenger Transfers	X				