

From: Jim Moose, Senior Partner, Remy Moose Manly LLP

Subject: comments on proposed CEQA Guidelines applying SB 226

Dear Mr. Calfee et al.,

I find the proposed sections 15183.3 and appendices M and N to be excellent.

I have only two comments:

1) In section 15183.3, subdivision (c), please consider making the use of a written checklist mandatory rather than optional. In other words, consider changing "may prepare a written checklist" to "shall prepare" The whole system created by the new proposals seems to assume that such checklists have to be prepared. I don't see how an agency could create a defensible administrative record without using the checklist or something extremely similar to it.

2) In section 15183.3, subdivision (e)(8), please consider adding Climate Action plans consistent with section 15183.5 to the list of examples of uniformly applicable development policies or standards (or use language similar or identical to that already found in subdivision (g)(8) of existing section 15183).

Once the rulemaking required by SB 226 is complete, I recommend that OPR and the Natural Resources Agency undertake similar amendments to section 15183 in order to achieve clarification of some of its ambiguous terms (e.g., "substantially mitigate" and "peculiar to the project or the parcel on which the project would be located").

Jim Moose