

February 14, 2014



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Mr. Christopher Calfee, Senior Counsel
Governor's Office of Planning and Research
1400 Tenth Street
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Re: CEQA Guidelines and Potential Replacement Metric for Level of Service

Dear Mr. Calfee:

The California State Association of Counties (CSAC) would like to provide early input in the Governor's Office of Planning and Research's (OPR) efforts to solicit ideas for possible changes to the California Environmental Quality Act (CEQA) Guidelines as well as to develop an alternative metric for measuring environmental impacts related to transportation, especially for those areas served by transit. We appreciate the opportunity to assist with the development of these important efforts.

CEQA Guidelines

Section 15060.5 (Pre-application Consultation)

Among the potential changes to this section is the addition of suggestions related to tribal consultation. CSAC supports policies that promote effective government-to-government relationships between local governments and tribes. Specifically, local governments should consult with tribal governments when amending general plans to preserve and/or mitigate impacts to Native American historical, cultural, or sacred sites. Suggestions for additional consultation may be premature for this update of the guidelines, as the Legislature is currently considering legislation that could affect tribal consultation.

Section 15065 (Mandatory Findings of Significance)

OPR suggests that the widening of roadways and the provision of excess parking should be listed as examples of projects that may achieve short-term environmental goals (reducing congestion) at the expense of long-term goals (reducing GHG emissions). Road widening should be narrowly defined to exclude projects that require additional right of way to implement complete streets features, including bike lanes and sidewalks.

If an alternate metric to LOS is selected, including roadway widening as an example under this section may have unanticipated consequences. Mitigation measures that require road widening based on a LOS analysis could be identified as a significant impact and require an EIR. Moreover, road widening projects consistent with an adopted Sustainable Communities Strategy should not be subject to this mandatory finding of significance. Finally, parking requirements should be subject to the sole discretion of local regulation and ordinance.

Section 15301 (Existing Facilities)

CSAC supports the clarification that this exemption includes alterations for bike lanes and other complete streets features. The construction of paved road shoulders should be added

to the definition under subsection (c). Road shoulders are typically six to eight feet of asphalt added to the edge of an existing road, which allow motorists to have a safe place to yield or stop in case of an emergency. Shoulders do not increase the number of lanes available for travel and existing dirt shoulders are heavily disturbed due to annual maintenance for safety. (Alternatively, the construction of paved shoulders could be listed as a project type under section 15304 - Minor Alterations to Land).

Section 15332 (In-fill development projects)

The existing CEQA exemption for certain infill development projects should be amended to apply to projects in urbanized unincorporated areas that otherwise meet all of the criteria of this section and section 15300.2.

Alternative Measures of Environmental Impacts from Transportation

Senator Steinberg's SB 743 (Chapter 386, Statutes of 2013) requires OPR to revise the CEQA Guidelines for analyzing the environmental impacts of transportation projects. The legislative intent is to reduce the reliance on roadway capacity and vehicle delay and replace it with a metric that better captures greenhouse gas (GHG) emissions impacts, at the very least in areas served by transit.

Level of service (LOS), the current methodology relied on under the CEQA Guidelines to measure the environmental impacts from transportation, focuses on the delay vehicles experience at intersections and on roadway segments. Mitigation of transportation impacts under the LOS model often involves increasing capacity to reduce delay. In place since the 1990s, the LOS methodology is criticized as working against newer statewide sustainability goals, including compact development and the reduction of GHG emissions. The alternatives discussed in the Preliminary Evaluation would allow congestion to increase as a way of encouraging mitigation of impacts through increase in transit and bicycle and pedestrian travel.

Continued Role for LOS Analysis

CSAC recognizes the limitations of LOS analysis in certain instances; however, we believe that roadway capacity analysis still has a role in the CEQA Guidelines and in the design, planning, and operations of roadways. Counties and other local and regional agencies are still accountable for addressing roadway congestion. Moreover, roadway congestion analysis is necessary to access federal funding available to reduce congestion and improve air quality in areas that have not attained National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter.

CSAC urges OPR to consider the impact of an alternative transportation impact metric on local traffic mitigation fees collected based on LOS analysis. Other commenters have mentioned the potential for any changes to shift the fiscal burden of mitigating project impacts from developers to local agencies. The new methodology must provide a clear nexus that would allow counties to require a fair share of mitigation that would recoup the costs of the projects impacts on the transportation system.

Another issue with alternative metrics to LOS is the current status of circulation elements and community plans which rely on maintaining LOS at a specified threshold. Revising the general plan elements and other community plans would be an expensive and time-

consuming effort. If local plans are not required to be updated to reflect mandated alternative metrics, this could induce expanded and more costly traffic analysis that analyzes both the alternative for CEQA and LOS for general plan conformity.

Flexibility in Use of LOS Alternatives and Significance Thresholds

The alternatives to LOS discussed in the Preliminary Evaluation may be more appropriate for downtown areas of larger metropolitan areas with sufficient public transit options. Counties, however, must retain the flexibility to select the most appropriate measure of the environmental and transportation impacts from projects. These measures must reflect a community's character, physical layout, and built environment. Using vehicle miles traveled (VMT) or another alternative will likely have minimal impact in promoting other modes of active transportation in rural communities where travelers have limited options beyond private personal vehicle.

Except where otherwise mandated by statute, OPR should provide recommendations allowing lead agencies to use alternatives to LOS, but not mandate their use within the CEQA Guidelines. Retaining flexibility will allow agencies to use alternative methods in place of LOS and determine what is most effective within their specific community. Moreover, in areas where statute mandates an alternative to LOS, projects with a Notice of Preparation issued prior to the effective date of the updated guidelines should be allowed to use LOS analysis.

The use of VMT as an alternative metric to LOS could present issues related to determining thresholds of significance. Other commenters have stated that "it would be impossible to develop broad significance criteria applicable to all situations and regions." As such, if VMT is recommended as an alternative, then local agencies should be allowed flexibility to determine their own criteria.

Role for Parking Regulations

Pursuant to SB 743, parking impacts from certain projects should not be considered significant impacts on the environment. In general, however, CSAC argues that parking requirements should remain the domain of local government policy and regulation.

Once again, thank you for the opportunity to provide this early input into OPR's process for updating the CEQA guidelines and examining potential alternative to analyze the transportation impacts of projects. If you have any questions regarding our comments, please contact Cara Martinson at 916-327-7500, ext. 504, or cmartinson@counties.org, or Kiana Buss at 916-327-7500, ext. 566, or kbuss@counties.org.

Sincerely,



Cara B. Martinson
Associate Legislative Representative



Kiana Buss
Legislative Representative