



California Council for Environmental and Economic Balance

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November 21, 2014

Mr. Christopher Calfee
Senior Counsel
Governor's Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

Re: Preliminary Discussion Draft of Updates to CEQA Guidelines to Implement
SB 743 -- Proposed Section 15064.3 and Proposed Amendments to
Appendices F and G

Dear Mr. Calfee:

The California Council for Environmental and Economic Balance ("CCEEB") is a coalition of business, labor, and public leaders that works together to advance strategies to achieve a sound economy and a healthy environment. Founded in 1973, CCEEB is a non-profit and non-partisan organization.

CCEEB appreciates the opportunity to submit the following comments on the Governor's Office of Planning and Research's Preliminary Discussion Draft of Updates to CEQA Guidelines to Implement SB 743.

Senate Bill 743

SB 743 requires OPR to prepare revisions to the CEQA guidelines regarding "criteria for determined the significance of transportation impacts of projects within transit priority areas." The criteria "shall promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses." Also, in developing the criteria, OPR shall recommend potential metrics to evaluate the transportation impacts, which may include "vehicle miles traveled, vehicle miles traveled per capita, automobile trip generation rates or automobile trips generated." With the certification of the guidelines, "automobile delay" as traditionally described "shall not be considered a significant impact on the environment . . ." with potential exceptions to be noted in the guidelines.

SB 743 recognizes a local agency's police power and states that it "does not preclude the application of local general plan policies, zoning codes, conditions of approval, thresholds, or any other planning requirements" Also, any air quality, noise, safety or other impacts associated with transportation will still need to be analyzed. OPR has the option of establishing "alternative metrics to the metrics used for traffic levels of service for transportation impacts outside of transit priority areas."

Summary of Proposed Section 15064.3

Proposed Section 15064.3 includes in its "Purpose" the following: "When analyzing a project's potential environmental impacts related to transportation, primary considerations include the amount and distance of automobile travel associated with the project. Other relevant considerations include the effects of the project on transit and non-motorized travel and the safety of all travelers." This section also reiterates SB 743's admonition – automobile delay does not constitute a significant environmental impact – and notes that any indirect effects of transportation on air quality and noise may be analyzed in other portions of the environmental document.

This proposed Section 15064.3 also describes criteria for analyzing transportation impacts in subsection (b), including VMT and Land Use Projects, Induced Vehicle Travel and Transportation Projects, Local Safety and Methodology. Subsection (c) relates to Alternatives and Mitigation to reduce VMT, and subsection (d) explains the timing of application of this Section to projects with "transit priority areas" and other areas.

1. Any Proposed Changes to the CEQA Guidelines Should be Restricted to "Transportation Impacts of Projects Within Transit Priority Areas"

As currently drafted, proposed Section 15064.3 and the proposed amendments to Appendices F and G are intended to address transportation impacts for all projects, and based on its phased approach, it would apply "statewide" on January 1, 2016. For example, Section 15064.3(a), Purpose, discusses a "project's potential environmental impacts related to transportation," and does not mention SB 743's mandate with respect to "transit priority areas." Subsection (b) states: "Generally, transportation impacts of a project can be best measured using vehicle miles traveled." Again, this statement is not qualified by referring to "transit priority areas." Similarly, proposed amendments to Appendices F and G would apply to all projects, not only projects in "transit priority areas."

While SB 743 provides the option to OPR of establishing “alternative metrics” for areas outside of “transit priority areas,” OPR should decline to do so at this juncture. While “vehicle miles traveled” (“VMT”) is a metric that has been utilized for transit-served areas through the implementation of SB 375, as OPR has acknowledged, VMT has not been sufficiently evaluated or studied to be established as the CEQA metric for projects outside of “transit priority areas.” (See Preliminary Discussion, p. 11.) Further, the use of VMT for purposes of evaluating transportation impacts under CEQA is a new approach even for “transit priority areas” and OPR should consider the success or failure of using VMT in “transit priority areas” first before imposing it on all projects in the State of California.

2. Any Proposed Changes Not Mandated by SB 743 Should be Eliminated

Although SB 743 does not direct OPR to prepare revisions to the CEQA Guidelines to address “Induced Vehicle Travel and Transportation Projects” or “Local Safety,” proposed Section 15064.3 includes two substantial provisions devoted to these topics. Subsection (b)(2) requires an analysis of whether certain transportation projects could create “additional automobile travel” but fails to identify how such an analysis would be performed, particularly in the context of a local agency’s general plan and required circulation element. While there may be benefits from a better understanding of how new roadways affect growth, such an analysis should be performed on a policy and planning level, not on a project by project basis under CEQA.

Subsection (b)(3) on Local Safety is also not mandated by SB 743, and while safety is certainly an important topic, the “objective factors” listed seem to be incomplete or unclear, and again, it does not provide any direction as to how this potential impact should be determined. The discussion paper states: “Further, impacts to human safety are clearly impacts under CEQA. [Citation to CEQA Section 21083(b)(3).] . . . Finally, SB 743 requires the new guidelines to promote “multimodal transportation” and to provide for analysis of safety impacts.” (Preliminary Discussion, p. 7.) To the contrary, however, SB 743 states that it does not relieve a public agency from evaluating impacts to air quality, noise and safety related to transportation and that it does not create a presumption that those impacts would not occur. Thus, the discussion paper seems to overstate SB 743, and the other two areas listed along with safety in SB 743 – noise and air quality – are not included as new subsections in the proposed Section 15064.3.

Instead of attempting to tackle subjects not mandated by SB 743, particularly subjects that would benefit from further study and analysis, we would suggest that OPR focus on preparing updates to the CEQA Guidelines that address the primary mandate of SB 743 -- “transportation impacts of projects in transit priority areas.”

3. The Discussion of Alternatives in Section E of Appendix F Should be Eliminated

The proposed amendments to Appendix F include a list of potential alternatives to reduce vehicle miles traveled under Section E. Section E currently states: “Alternatives should be compared in terms of overall energy consumption and in terms of reducing wasteful, inefficient and unnecessary consumption of energy.” Section E does not, and should not, be used to list specific alternatives to be considered for individual projects. CEQA already provides numerous requirements for how alternatives are to be considered and discussed in a CEQA document. (See CEQA Guidelines, Section 15126.6.) Further, the selection and evaluation of alternatives is to be performed with respect to the project as a whole, not any one specific environmental topic. Finally, these examples of project alternatives seem to relate solely to projects within “transit priority areas” and not all projects to be evaluated under CEQA. Thus, to the extent feasible, these concepts may be incorporated elsewhere in any proposed guidelines, but should be eliminated from Section E of Appendix F.

4. Amendments to Appendix G Should Be Limited to Transit Priority Areas

The proposed amendments to Appendix G are intended to conform to proposed Section 15064.3, and given our concerns raised regarding proposed Section 15064.3, we believe any amendments to Appendix G should only be modified to the minimum degree required by law for transit priority areas.

5. Proposed Section 15064.3 Creates More CEQA Work, Not Less, and Thus, Its Scope Should be Limited to “Transit Priority Areas”

While SB 743 and proposed Section 15064.3 purport to eliminate a significant impact under CEQA for automobile delay, SB 743 acknowledges that local agencies have the authority to include such levels of service in their general plans (based on their police power). Thus, to the extent that local agencies retain level of service requirements in their planning documents, this proposed Section 15064.3 creates another layer of analysis for transportation impacts and does not serve to replace the level of service analysis. Further, land use is typically an environmental topic in CEQA documents, and thus, a project’s consistency with any level of service requirements in a local agency’s planning requirements would be evaluated in the CEQA document, although in a different section – land use, not transportation. For this reason, OPR should limit the scope of proposed Section 15064.3 to “transit priority areas” until this new CEQA metric of “vehicle miles traveled” may be evaluated and considered.

6. Additional Review

Should the comments received by OPR result in the introduction of any new issues to the Preliminary Discussion Draft, or should the document be amended substantively, we respectfully request that additional time be allocated for further review and submittal of written comments on those items.

We appreciate the time and effort required to develop revisions to the CEQA Guidelines and are pleased to have the opportunity to work with OPR on these issues. If you have any comments or questions concerning the suggested revisions detailed above, please contact me or Jackson R. Gualco or Mark Theisen of The Gualco Group, Inc. at (916) 441-1392.

Thank you for your consideration of our comments.

Sincerely,



GERALD D. SECUNDY
President

cc: Honorable Edmund G. Brown, Jr.
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