

From: Gideon Kracov
Sent: Thursday, September 25, 2014 1:31 PM
To: CEQA Guidelines
Cc: 'Christopher Calfee'
Subject: SB 743 Comments

Chris:

I have a comment relating to the timing of when SB743's new requirements apply to CEQA analysis.

I presume that it applies prospectively only to CEQA analysis or mitigation conducted/approved AFTER the certification of the new guidelines.

But it should not apply retroactively to invalidate previously approved CEQA analysis or mitigation that relies on LOS, etc. BEFORE the certification of the new guidelines. This would lead to great uncertainty about existing approvals.

In other words, it should be made clear that the new requirements should not invalidate existing traffic mitigation or mitigation monitoring plans in already approved CEQA documents approved BEFORE the certification of the new guidelines, even if the mitigation or mitigation monitoring plans are based on LOS methodology or triggers?

Potentially, the agency could re-open the prior approvals or mitigation monitoring plans and make new findings [see *Katzeff* 181 Cal.App.4th 601 (2010)] if it wanted to apply the new SB743 requirements to existing approvals. But that would be the appropriate mechanism, not some automatic retroactive application of SB743, right?

Perhaps this is what PRC 21099(b)(4) and
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