

CLIENT ALERT

It's Not Quite CEQA Reform; More Like CEQA Tinkering

OPR Releases Wide-Ranging Proposed Amendments to CEQA Guidelines

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While the Legislature continues to practice its annual ritual of toying with, but not pursuing, meaningful CEQA reform, the Governor's Office of Planning and Research (OPR) has been steadily working on a package of Proposed Amendments to the State CEQA Guidelines. The Proposed Amendments, released on November 27, are the culmination of a four-year public process.

The Proposed Amendments address a wide array of topics, including:

- Specifying vehicle miles travelled (VMT) (and not level of service) as the measure for transportation impacts for most projects, as required by SB 743;
- Further clarifying the required scope and approach to greenhouse gas emission impacts analysis; and
- Conforming certain guidelines to established case law regarding the use of pre-approval agreements, the definition of "discretionary" actions, when use of the future conditions environmental baseline is appropriate, and when specific details of mitigation measures can be deferred.

While certain of the Proposed Amendments may offer additional CEQA streamlining and greater certainty (and therefore potentially reduced litigation risk), other Proposed Amendments impose heightened burdens and stricter analytical requirements.

The most significant proposed update is requiring the use of VMT as the measure for transportation impacts for most projects, which would become mandatory as of January 1, 2020. Although SB 743 mandated this approach only within transit priority areas, the Proposed Amendments would apply it statewide. The switch to VMT presents a mixed bag for project proponents. For projects located within one-half mile of transit, there is a presumption of a less than significant transportation impact. At the same time, the use of VMT could make it increasingly more difficult for suburban and rural projects to mitigate impacts.

The Proposed Amendments now will be subject to further public review, comment and potential revision, as the Natural Resources Agency begins its formal administrative rulemaking process. Adoption of the Proposed Amendments is expected sometime in 2018.

If you have questions regarding the Proposed Amendments or how they might affect your project, or would like assistance in preparing comments for submittal to the Natural Resources Agency, please contact David Goldberg at david@agd-landuse.com or at (310) 209-8800.

About Our Law Firm

Armbuster Goldsmith & Delvac LLP is California's premier boutique land use law firm specializing in land use, administrative matters, municipal advocacy, and land use litigation (with an emphasis on the defense of CEQA lawsuits, Writs of Mandate, and Appeals).