

LEGAL ALERTS | AUG 13, 2015

# Preliminary Discussion Draft of CEQA Guidelines Amendments Released

Comments Due to Office of Planning and Research by Oct. 12



The California Office of Planning and Research has issued a [preliminary discussion draft](#) of revisions to nearly 30 different sections of the CEQA Guidelines. This marks the first time since the late 1990s that such a comprehensive update to the Guidelines has occurred.

The proposal package would revise the Appendix G environmental checklist to remove redundant questions and, in compliance with recent legislation, identify new questions related to tribal cultural resources, transportation and wildfire. There are also proposed revisions relating to tiering of environmental documents, the transit-oriented development exemption, and the so-called “existing facilities” exemption.

Of particular note, the proposed revisions would also provide that:

- Environmental impact reports must include energy impact analysis addressing building design, transportation, equipment use, and location.
- A lead agency may not apply significance thresholds in a way that precludes consideration as to whether, despite compliance with the threshold, there may still be a significant environmental effect.
- Where a lead agency demonstrates, with substantial evidence, that use of an existing conditions baseline for measuring a project’s impacts would be either misleading or without informative value, an agency may use a different baseline.
- A lead agency must show that it has met four requirements before deferring specific mitigation details, namely that it has: 1.) fully evaluated the significance of the impact and explained why it is not feasible to formulate mitigation presently; 2.) commits to mitigation; 3.) lists mitigation options; and 4.) adopts specific performance standards.
- A lead agency may provide a general response to an EIR comment when the comment does not contain or specifically refer to readily available information, or does not explain the relevance of evidence submitted with the comment.

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The proposal package does not address transportation analysis regarding vehicle miles traveled – instead, OPR is finalizing a separate proposal for these changes in compliance with SB 743. The package also does not propose changes related to the analysis of greenhouse gas emissions, or changes clarifying whether CEQA requires analysis of impacts of the environment on a project. OPR notes that cases touching on these issues are currently pending before the California Supreme Court.

OPR is accepting public comments on the proposed revisions to the Guidelines through Oct. 12 at 5 p.m. Comments may be submitted electronically to [CEQA.Guidelines@resources.ca.gov](mailto:CEQA.Guidelines@resources.ca.gov).

For more information about how the proposed amendment package could affect your agency, or for assistance in drafting a comment letter on the proposed amendments, please contact one of the attorney authors of this legal alert listed at right in the [Environmental Law & Natural Resources](#) practice group, or your [BB&K attorney](#).

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