

# Frequently Asked Questions Regarding the Preliminary Discussion Draft of Guidelines Implementing Senate Bill 743

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The Governor's Office of Planning and Research released a [Preliminary Discussion Draft](#) of changes to the CEQA Guidelines addressing transportation impacts on August 6, 2014. Since that time some observers have raised questions about the proposal. Answers to those questions, and places to find more information, are provided below. This Frequently Asked Questions document may be updated from time to time as additional discussion occurs.

## **Has the comment period been extended? If so, when should I submit written comments?**

Due to stakeholder interest in the proposal, OPR has extended the comment deadline to **November 21, 2014**. Written comments should be submitted to [CEQA.Guidelines@ceres.ca.gov](mailto:CEQA.Guidelines@ceres.ca.gov).

## **Where can I find additional information about the statute and the proposal?**

A copy of Senate Bill 743 (Steinberg, 2013) is available [online](#). That bill added new Section 21099 to the Public Resources Code, which directs the Office of Planning and Research to develop changes to the CEQA Guidelines. Those proposed changes are contained in the [Preliminary Discussion Draft](#) which includes not only the draft proposal, but also relevant excerpts of SB 743, additional Frequently Asked Questions, a sample vehicle miles traveled analysis, and description of available models. Additional information about transportation analysis is also available on the Office of Planning and Research's [website](#).

## **How does Senate Bill 743 Modify the California Environmental Quality Act? Why is the Office of Planning and Research proposing to update the CEQA Guidelines?**

Senate Bill 743 was passed by the State Legislature in 2013. It addressed several topics, including aesthetics and parking for certain infill projects. (See more below.) It also requires the Office of Planning and Research to update the Guidelines Implementing the California Environmental Quality Act to replace existing requirements for studying transportation impacts under CEQA. The Preliminary Discussion Draft addresses the issue of transportation analysis.

Existing rules treat auto delay and congestion, commonly measured using "level of service," or LOS, as an environmental impact. Instead, SB 743 requires the CEQA Guidelines to proscribe an analysis that

better accounts for transit and reducing greenhouse gas emissions. In this proposal, the Office of Planning and Research selected vehicle miles traveled as a replacement measure not only because it satisfies the explicit goals SB 743, but also because vehicle miles traveled is already used in CEQA to study greenhouse gas and energy impacts. Vehicle miles traveled is also already used in planning for regional sustainable communities strategies. Therefore, the proposal is not adding a new CEQA requirement; instead, it suggests replacing level of service with an analysis that is already widely used in CEQA.

**If Level of Service can still be used for planning purposes, isn't this proposal just adding another layer of study?**

Because Senate Bill 743 preserves local government authority to make planning decisions, level of service and congestion can still be measured for planning purposes. In fact, many general plans contain level of service requirements. While traffic studies may be required for planning approvals, those studies will not be required to be part of the CEQA process. (This would be similar to how some local governments require landscaping plans and site elevations as part of project approval, but not necessarily for the environmental document prepared under CEQA.) Also, as noted above, vehicle miles traveled is already being studied in many CEQA documents.

**What benefits come from removing level of service and congestion from CEQA?**

Removing level of service and congestion from CEQA is beneficial for several reasons. First, it preserves local choice in planning circulation systems (i.e., it does not mandate that local roads have any certain capacity). Second, it gives local governments the ability to make policy trade-offs in dealing with congestion (i.e., balancing free-flow with the cost of building and maintaining roadways and using other modes of travel). Third, mitigation for congestion impacts (which often entails larger roadway infrastructure) can be quite costly, and cause other adverse environmental impacts.

**What if local general plans call for more roadway capacity?**

Senate Bill 743 preserves local government authority to plan the circulation system that is right for their community. Local governments may continue to require new projects to contribute to transportation enhancements in connection with project approvals. To the extent that local governments adopt policies that have environmental impacts, those impacts would need to be studied. Once addressed in an environmental impact report for a general plan, such impacts would not normally need to be re-evaluated for later projects. (Pub. Resources Code section 21083.3.)

### **What if the mitigation measures identified in the proposal are not appropriate for my project or community?**

The proposal defers to lead agencies regarding the choice of mitigation measures if they identify a significant impact. The proposal further identifies several examples of mitigation measures that studies show will reduce vehicle miles traveled in an appendix. Importantly, those are only examples of measures.

### **Does this proposal add more of a litigation burden for infill?**

This proposal reduces litigation burdens in several ways. First, congestion impacts are frequently litigated in CEQA cases today. Under this proposal, however, such effects would not be part of CEQA litigation. Second, the proposal presumes that projects located near transit would normally not have a significant impact. In most cases, no study or mitigation would be required for such projects, meaning that there would be fewer issues to litigate in a lawsuit. Third, even for projects that are not located near transit, the proposal establishes wide discretion for lead agencies in selecting models to estimate vehicle miles traveled, and to apply professional judgment in adjusting model assumptions and outputs to reflect project conditions. All of these features of the proposal should make infill projects more defensible in litigation than they are today.

### **Didn't Senate Bill 743 eliminate the need to study aesthetics or parking impacts for infill projects? Why is that not part of this proposal?**

New Section 21099 of the Public Resources Code states that certain infill projects need not evaluate aesthetics or parking impacts. Those rules went into effect on January 1, 2014. The Office of Planning and Research posted information about the new rules on its [website](#) shortly after SB 743 was signed. No further action is needed in the Guidelines in order for those rules to go into effect.

This proposal focuses on transportation because the statute requires new Guidelines to address that issue. If stakeholders believe that additional guidance is needed in the CEQA Guidelines to address those issues, the Office of Planning and Research welcomes comments and suggestions to further clarify the terms of the statute.

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