

CALIFORNIA NATURAL RESOURCES AGENCY

In the Matter of:

CEQA Guidelines Update 2018 )  

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PUBLIC HEARING

CALIFORNIA ENERGY COMMISSION

ART ROSENFELD HEARING ROOM

1516 9TH STREET

SACRAMENTO, CALIFORNIA

THURSDAY, MARCH 15, 2018

1:30 P.M.

Reported by:

Peter Petty

APPEARANCES

STAFF

Christopher Calfee, Deputy Secretary and General Counsel

Jeannie Lee, Senior Counsel

PUBLIC COMMENT

Ella Wise, ClimatePlan

Anna Alvarado, City of San Jose

Dan Alison

Bill Magavern, Coalition for Clean Air

Linda Khamoushian, California Bicycle Coalition

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P R O C E E D I N G S

1:30 P.M.

SACRAMENTO, CALIFORNIA, THURSDAY, MARCH 15, 2018

MR. CALFEE: Good afternoon everyone.

Welcome to Sacramento at the Energy Commission.  
We are here today for a public hearing on the  
Natural Resources Agency's proposed updates to  
the CEQA Guidelines.

My name is Christopher Calfee. I'm  
General Counsel at the Natural Resources Agency.  
I'm joined by my colleague Jeannie Lee, who is  
Senior Counsel at the Governor's Office of  
Planning and Research. We're also joined by a  
court reporter, who will be transcribing the  
hearing.

At the top, I wanted to thank both the  
court reporter and the Energy Commission for  
providing this meeting space today.

Again, the purpose of today's hearing is  
to accept oral comments on the CEQA Guidelines  
proposal. We will not be administering oaths,  
but the hearing will be transcribed and the  
transcript will be included in the rulemaking  
record.

1           Also, this hearing is being webcast and  
2 recorded.

3           We will not engage in any back and forth  
4 in this forum, but we will be taking notes on  
5 your comments and may ask clarifying questions,  
6 if necessary.

7           To assist the court reporter, those  
8 wishing to speak should fill out a speaker card  
9 and hand that card to one of us in the front.  
10 Speakers will be called in the order that cards  
11 are received. We will ask speakers to please  
12 state their name and affiliation for the record,  
13 and to please speak into the microphone.

14           Also, if you have a business card, if you  
15 could leave one with the court reporter, that  
16 would help him out.

17           For the purpose of allocating time, may I  
18 please see a show of hands of who intends to  
19 provide oral comment today? Okay. It looks like  
20 we can probably accommodate you within the three  
21 hour time period, so we will not be placing  
22 limits at this time. If others decide to provide  
23 comment, then we welcome that as well.

24           A couple of additional housekeeping  
25 details before we get started.

1           Emergency exits are located in the back  
2 of the room, where indicated. Restrooms are  
3 located in the atrium behind you. As you exit  
4 the hearing room the restrooms are to the left.

5           To avoid disruption to others, please  
6 take this opportunity to silence your cell  
7 phones. And if you have not done so already,  
8 please sign in at the sign-in sheet at the back  
9 of the room.

10           Before we open the floor to public  
11 comment, I will provide a very brief background  
12 on the process and the content of the proposal.

13           So generally, the California  
14 Environmental Quality Act requires public  
15 agencies to consider the environmental impacts of  
16 proposed projects. And if those impacts may be  
17 significant and adverse, the Agency must consider  
18 feasible mitigation measures or alternatives to  
19 avoid those impacts. That process includes the  
20 preparation of either a negative declaration or  
21 an environmental impact report and includes  
22 opportunities for the public to review and  
23 comment on those studies.

24           While CEQA requires study, the choice of  
25 whether to approve a project or to require

1 changes in the project remains with the lead  
2 agency. The CEQA Guidelines are administrative  
3 regulations that implement CEQA and provide  
4 guidance to public agencies on how to comply with  
5 the law. The Guidelines are developed by the  
6 Governor's Office of Planning and Research and  
7 adopted through a rulemaking process by the  
8 Natural Resources Agency. CEQA requires regular  
9 updates to the Guidelines to incorporate changes  
10 in the statute and in case law.

11           The Governor's Office of Planning and  
12 Research and the Natural Resources Agency began  
13 this current update in the Summer of 2013 by  
14 asking for -- asking stakeholders to provide  
15 suggestions on what updates were needed. Having  
16 collected that input, we developed a list of  
17 possible changes and again invited public input  
18 on whether we identified the right changes.

19           In 2015, the Office of Planning and  
20 Research released its initial draft of the update  
21 package and again invited public input. At the  
22 same time, OPR also developed several drafts of  
23 changes related to transportation and hazards.  
24 It finalized its proposal in November 2017.

25           After OPR finalized its proposal, the

1 Natural Resources Agency began this rulemaking  
2 process. It started with a formal Notice of  
3 Proposed Rulemaking, which was released on  
4 January 26th, 2018, together with the text of  
5 proposed changes and the Initial Statement of  
6 Reasons which explained the basis of those  
7 changes.

8           This is the second of two public hearings  
9 on the Guidelines proposal. The first was held  
10 in Los Angeles yesterday, and today is the  
11 second. The written comment period closes today  
12 at five o'clock.

13           Once all comments have been reviewed the  
14 Agency may make further revisions to the proposal  
15 and, if so, may seek additional input. Those who  
16 would like notice of further activity on the  
17 Guidelines should sign up for the listserv on the  
18 Natural Resources Agency's website at  
19 [resources.ca.gov/ceqa](http://resources.ca.gov/ceqa).

20           So I'll give a brief summary of the  
21 content of the proposal.

22           This package is intended to make the CEQA  
23 process easier and quicker to implement, and also  
24 to better protect natural and fiscal resources,  
25 consistent with California's environmental

1 policies. The package proposes several changes  
2 intended to result in a smoother, more  
3 predictable process for agencies, project  
4 applicants and the public.

5           First, the package promotes using  
6 existing regulatory standards as thresholds of  
7 significance. Doing so allows agencies to rely  
8 on the work of expert agencies without  
9 foreclosing consideration of possible project-  
10 specific effects.

11           Second, the package updates the  
12 environmental checklist that many agencies use to  
13 conduct their environmental review. Redundant  
14 questions in the existing checklist would be  
15 eliminated and some questions would be updated to  
16 address contemporary topics. The checklist has  
17 also been updated with new questions related to  
18 transportation and wildfire, as required by  
19 statute.

20           Third, the package includes several  
21 changes to make existing programmatic review  
22 easier to use for later projects. Specifically,  
23 it clarifies the rules on tiering and provides  
24 additional guidance on when a later project may  
25 be considered within the scope of an existing



1 program EIR.

2 Fourth, the package enhances several  
3 exemptions. For example, it updates an existing  
4 exemption for projects implementing a specific  
5 plan to include not just residential projects,  
6 but also commercial and mixed-use projects near  
7 transit. It also clarifies the rules on  
8 exemptions for changes to existing facilities so  
9 vacant buildings can be more easily redeveloped.

10 Finally, the package includes a new  
11 section to assist agencies in complying with  
12 CEQA, following resolution of a court challenge,  
13 and help the public and public -- excuse me,  
14 project proponents understand the effect of a  
15 remand on project implementation.

16 In addition to those efficiency  
17 improvements, the package also includes a number  
18 of changes related to environmental protection.  
19 Those changes include guidance regarding energy  
20 impacts analysis by addressing not just building  
21 design, but also transportation equipment use,  
22 location, and other relevant factors.

23 Second, the package proposes guidance on  
24 the analysis of water supply impacts, as was set  
25 out in the California Supreme Court's decision in

1 *Vineyard Area Citizens for Responsible Growth.*  
2 That analysis requires looking at a proposed  
3 project's possible sources of water supply over  
4 the life of the project and the environmental  
5 impacts of supplying that water to the project.

6 Third, as directed by the legislature,  
7 the package includes a new section addressing  
8 evaluation of transportation impacts. This new  
9 update will focus on vehicle miles traveled,  
10 instead of on congestion, which should promote  
11 project designs that reduce the need for  
12 automobile travel.

13 Finally, the package includes a number of  
14 technical changes responding to recent cases and  
15 statutory changes. For example, one of the  
16 changes clarifies when agencies must consider the  
17 effects of locating projects in hazardous  
18 locations. Other changes address changes in case  
19 law dealing with greenhouse gas emissions, as  
20 well as when it's appropriate to use future  
21 conditions for a project baseline. There are  
22 many other technical changes in the package.

23 So this concludes the background portion  
24 of the presentation, and we'll now open the  
25 hearing to public comments. I believe we have at

1 least one person who would like to speak and, if  
2 so, would you please come up to this podium here.

3 MS. WISE: Hello? Hello? Okay. Hello.  
4 My name is Ella Wise and I'm the State Policy  
5 Associate with ClimatePlan. We're a statewide  
6 network of more than 50 organizations working to  
7 support more sustainable and equitable  
8 communities. Our comments are in regards to the  
9 transportation impacts, and some of the comments  
10 are regards to OPR's technical advisory, which I  
11 realize are separate from these Guidelines, but  
12 we'll take the opportunity to comment on those,  
13 as well. We have submitted a letter with more  
14 than 15 signatures of different organizations  
15 that we've very recently submitted.

16 So first of all, thank you so much for  
17 your work. This has been a long process and it's  
18 innovating new policy and a real paradigm shift.  
19 And thank you so much for the technical work and  
20 public outreach that's gone into developing the  
21 Guidelines.

22 We are in strong support of the statewide  
23 replacement of level of service with vehicle  
24 miles traveled, as you probably know. And we're  
25 in strong support of much of the Guidelines,

1 including preference for active transportation  
2 projects, transit-oriented development,  
3 consistency with sustainable community  
4 strategies, and the clarification --

5 (Microphone stops working.)

6 MS. WISE: Thank you for the  
7 clarification to discourage roadway capacity  
8 expansion in the name of safety, so thank you for  
9 those.

10 That said, we do have some  
11 recommendations. We're very concerned that the  
12 Guidelines exempt roadway capacity projects from  
13 using the VMT metric. With the proposed  
14 rulemaking, the state has determined that the  
15 best approach to examining transportation impacts  
16 is VMT, and yet at the same time the state  
17 exempts roadway capacity projects which arguably  
18 have the greatest impact.

19 So to close this loophole, we recommend  
20 that Caltrans commit to applying the VMT metric,  
21 including induced VMT analysis when they are  
22 responsible -- when they are the responsible  
23 agency. And I realize, again, that you're not  
24 Caltrans hosting this, but I want to make that  
25 recommendation clear.

1           Our second recommendation is to  
2 strengthen the VMT threshold over time to align  
3 with long-range climate goals. So a lot of  
4 thought and consideration went into the  
5 recommended VMT threshold. But as our climate  
6 needs change and our climate goals change and the  
7 technical advisory and the scoping plan change,  
8 we'd like to see the state commit to updating the  
9 VMT threshold over time to be consistent with the  
10 scoping plan goals for VMT reduction.

11           Third, we recommend reducing the risks of  
12 gentrification and displacement, so I want to  
13 make clear that we think the replacement of LOS  
14 with VMT will help advance social equity, but we  
15 want to reduce any displacement risks, and we  
16 have two specific recommendations for the  
17 technical advisory to do so.

18           One is to streamline affordable  
19 housing -- 100 percent affordable housing in  
20 infill locations consistent with SB 226 and  
21 existing streamlining.

22           And the second specific recommendation is  
23 more in regards to anti-displacement, and that is  
24 to not streamline or add to the exemptions of  
25 presumption of less than significant projects

1 that result in a net reduction of affordable  
2 rental units, so that we're not streamlining  
3 projects that result in displacement.

4           And fourth, we commend regularly  
5 monitoring the implementation of these  
6 Guidelines, as well as OPR monitoring the  
7 technical advisory, as so much work has gone into  
8 this with staff, as well as stakeholders across  
9 the state. We'd like to make sure that these --  
10 that the Guidelines are working, and to recommend  
11 concrete changes if not. And it seems that OPR's  
12 annual planning survey could be a great  
13 opportunity for that monitoring, particularly on  
14 the roadway capacity measurements.

15           Thanks very much.

16           MR. CALFEE: Thank you for your comment.

17           I believe we have another speaker.

18           MS. ALVARADO: Good afternoon. My name  
19 is Anna Alvarado and I'm here today representing  
20 the City of San Jose. Thank you all for the hard  
21 work you and OPR have done on the CEQA  
22 Guidelines. The outreach opportunity to work  
23 with OPR staff has been outstanding, so thank  
24 you.

25           As the fourth and largest city to adopt a

1 VMT-based CEQA standard, San Jose has dug deep  
2 into the effects of this proposed change. The  
3 proposed Guidelines are very strong and move the  
4 state in the right direction on achieving climate  
5 action targets, increasing livability and access,  
6 and really beating our affordable housing crisis.  
7 We ask that you pass them with one change.

8           We respectfully ask that the exclusion  
9 for transportation projects that induce VMT be  
10 removed. We believe all projects should be  
11 measured by the same fundamental metric, a per  
12 capita VMT-based metric that uses appropriate  
13 reduction targets at this threshold. This  
14 fundamental metric should apply to all projects,  
15 including transportation projects that reduce VMT  
16 and land use projects, no matter where they are  
17 or if they are reuse projects. We are concerned  
18 that suggestions, like ITEs, to only apply VMT to  
19 certain areas of a city would lead to confusion,  
20 added CEQA burden on infill projects, and open  
21 cities up for litigation.

22           We have provided further comments in our  
23 joint letter with Los Angeles, San Francisco,  
24 Long Beach, Oakland and Sacramento. And we  
25 definitely look forward to continuing to work

1 with you on implementation of SB 743.

2 Thank you.

3 MR. CALFEE: Thank you for your comment.

4 It looks like we have another speaker.

5 MR. ALISON: My name is Dan Alison. I'm  
6 a citizen, not representing an organization. And  
7 I would like to speak today specifically about  
8 15064.3(b)(2), the exemption for transportation.  
9 I believe that it is wrong. The rest of the  
10 document is wonderful. It really will help move  
11 things along for infill development and reduce  
12 the prevalence of greenfield development, and  
13 that's all to the good. But the problem is, is  
14 transportation drives greenfield development,  
15 rather than greenfield development driving  
16 transportation. And if we exempt transportation,  
17 we're still going to get a lot of greenfield  
18 development.

19 Specifically, the -- it doesn't do  
20 anything to reduce transportation VMT. It allows  
21 an agency to use anything it wants. And I am  
22 certain that almost every single agency in this  
23 Sacramento region where I live will not use VMT.  
24 They're locked into level of service and love it.  
25 And even a discussion about a possible change to



1 VMT had them up in arms. They like things the way  
2 they are and they will not change, unless they're  
3 forced to change. Possibly two cities in this  
4 region will, all the counties will not, all the  
5 rest of the cities will not change. They'll  
6 continue doing the same thing they've always  
7 done.

8           And, sure, a request a Caltrans to use  
9 VMT instead of level of service is a great thing,  
10 but a lot of the projects happen at a more local  
11 level, at the region, county and city level.

12           Capacity expansion is exactly the  
13 problem. Most of our greenhouse gas emissions  
14 are from transportation, or at least it's the  
15 biggest single source. And if we allow capacity  
16 expansion without, apparently, any limits,  
17 nothing good will come out of this. Nothing else  
18 that we can do encourage infill and reduce  
19 greenfield will counteract that. Transportation  
20 is the issue. And I think it was the original  
21 intent of the legislators to make sure that level  
22 of service was no longer used for transportation  
23 projects, and I'm very disappointed to see this  
24 exemption in there.

25           Thank you for your time.

1 MR. CALFEE: Thank you for your comment.  
2 It looks like we have another potential  
3 speaker.

4 MR. MEGAVERN: Good afternoon. Bill  
5 Magavern with the Coalition for Clean Air. I'm  
6 here to speak on the transportation impacts  
7 Guidelines which implement SB 743, which I  
8 believe was passed four-and-a-half years ago as  
9 part of a package that also included an effort to  
10 streamline the construction of a downtown arena.  
11 The arena has now been open for a year-and-a-  
12 half, so I think it's well past time to get these  
13 Guidelines into place.

14 We do support them on the hole. Most of  
15 our work at Coalition for Clean Air is addressed  
16 at reducing emissions from transportation. And  
17 that's because over 80 percent of the air  
18 pollution in the state of California comes from  
19 mobile sources of pollution, primarily both  
20 personal and freight transportation. And in  
21 order to actually reach both our air quality and  
22 climate standards we need to reduce vehicle miles  
23 traveled, and that's something that the state has  
24 not been doing well at, at all.

25 In fact, I was at an event recently where

1 Governor Brown addressed the 50th anniversary of  
2 the Air Resources Board. And he noted that after  
3 he had called for a 50 percent reduction in  
4 petroleum used in cars and trucks, actually,  
5 petroleum use in cars and trucks has gone up.  
6 And that's primarily -- well, it's really  
7 entirely due to the increase in vehicle miles  
8 traveled. We're making some progress in cleaner  
9 engine technologies. We're making a little bit  
10 of progress in cleaning up fuels. We're not  
11 really making progress on reducing VMT.

12           So these Guidelines will help with that.  
13 They certainly weren't -- won't solve the whole  
14 problem, but they're a piece of the solution in  
15 changing this perverse level of service criterion  
16 that actual has been a disincentive to infill  
17 development and an incentive to sprawl-inducing  
18 development.

19           We do not support the highway exemption  
20 at all. We think that is a very bad idea that  
21 goes contrary to the entire thrust and purpose of  
22 these Guidelines, so we hope that that can be  
23 fixed. But on the whole, we'd like to see these  
24 actually go into practice.

25           Thank you.

1 MR. CALFEE: Thank you for your comment.

2 Dan Alison. Oh, got it. Thank you.

3 A few people filtered into the room after  
4 we got started. Is there anyone else who would  
5 like to provide oral comment?

6 MS. KHAMOUSHIAN: Good afternoon. Linda  
7 Khamoushian with the California Bicycle Coalition  
8 here today to echo and reiterate some of the  
9 efforts and comments that our colleagues have  
10 made here today, particularly to mention that,  
11 you know, we're a coalition of, you know, a  
12 dozen, over a dozen organizations that have  
13 signed a letter to really take a moment to  
14 address, you know, some of the concerns. And so  
15 I'll just give a summary again of what my  
16 colleague Ella has already mentioned.

17 So thanks again for the Guidelines. I  
18 think, you know, coming from an urban planning  
19 perspective, this is a huge shift in the work  
20 that we do, so it's exciting, but also, the  
21 Guidelines are so critical to make that  
22 transition smooth.

23 And so, you know, looking at our  
24 recommendations again here, it's -- we really  
25 want to see -- to apply the VMT-based approach to

1 all projects. This exemption is something we  
2 want to understand, you know, how we can address  
3 this issue for the highway exemption.

4           Strengthen the VMT threshold over time to  
5 align with the long-range climate goals. In all  
6 the efforts that we do in different policy areas,  
7 we really want to see a coordination among  
8 helping the state reach its goals and what is  
9 already aligned, so we'd really like to see that  
10 strengthened in these Guidelines. Advancing the  
11 components of social equity is really critical to  
12 not displace people in the process of making this  
13 transition and implementing this new method.

14           One of the ways that we can see  
15 improvements along the way is that if we can  
16 strengthen the Guidelines in respect to how to  
17 monitor the implementation as we see the results  
18 going forward. And again, to reiterate,  
19 clarifying how to determine consistency with --  
20 at the SES (phonetic).

21           Lastly, clarification of how to determine  
22 low VMT areas in map-based screening approaches.

23           And if there's any other questions or,  
24 you know, ways that we can work with you to help  
25 strengthen these Guidelines, we would be

1 available for that.

2 Thank you.

3 MR. CALFEE: Thank you for those  
4 comments.

5 We have plenty of time, if anyone else  
6 would like to offer any written -- or, excuse me,  
7 oral comments. Okay.

8 If no one else would like to speak at  
9 this time, I'll move on to the closing portion of  
10 this hearing with, first, a thank you for those  
11 who logged in and for your interest. Thank you  
12 for those in the room and for all of the  
13 speakers. I really appreciate your participation  
14 in this process.

15 The written comment period is open until  
16 five o'clock this afternoon. Written comments  
17 are encouraged to be submitted electronically to  
18 [ceqa.guidelines@resources.ca.gov](mailto:ceqa.guidelines@resources.ca.gov). And again,  
19 five o'clock is the comment deadline for that.

20 Those of you who may be viewing online, I  
21 realize you didn't have a chance to speak to this  
22 room, but if you would like to submit your  
23 comments, please do so through the -- through an  
24 email submission.

25 Once the comment period closes this

1 afternoon, we will -- staff will be reviewing all  
2 of the comments that are received and will decide  
3 whether any additional revisions to the  
4 Guidelines are needed. If so, we may make some  
5 revisions and ask for additional public comment.

6           So again, those who would like to stay  
7 tuned into the latest activity on the CEQA  
8 Guidelines should sign up on the agencies  
9 listserv, and that's available at the agency's  
10 website, [resources.ca.gov/ceqa](http://resources.ca.gov/ceqa).

11           So if there are no other public comments,  
12 I'll close the public hearing. Thank you very  
13 much everyone.

14           (The public hearing concluded at 1:55 p.m.)

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