



ASSOCIATION OF
ENVIRONMENTAL
PROFESSIONALS

February 24, 2012

CEQA Guidelines Update

C/o Christopher Calfee
1400 Tenth Street
Sacramento, CA 95814

RE: COMMENTS ON THE PROPOSED ADDITION TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES IMPLEMENTING SB 226 (Simitian).

The Association of Environmental Professionals (AEP) appreciates the opportunity to comment on the proposed additions to the CEQA Guidelines implementing SB 226.

As you know, AEP is a non-profit organization of California's environmental professionals. AEP members are involved in every stage of the evaluation, analysis, assessment, and litigation of projects subject to CEQA. For over thirty years, AEP has dedicated itself to improving the technical expertise and professional qualifications of its membership, as well as educating the public on the value of California's laws protecting the environment, managing our natural resources, and promoting responsible land use and urban growth. AEP's membership is broad and diverse, incorporating representatives from public agencies, the private sector and non-governmental organizations.

Streamlining the CEQA review of environmentally beneficial projects, as envisioned in SB 226, is fundamental to the efficient application of CEQA. The Proposed Guidelines strengthen this feature of SB 226 by amplifying the meaning of key concepts and outlining a logical approach to implementation. AEP supports the overall approach taken by OPR in separating the expedited environmental review process for eligible projects (15183.3) from the description of performance standards that determine the eligibility of infill projects (Appendix M) and synthesizing the two through operation of an Infill Environmental Checklist (Appendix N).

AEP offers the following comments in support of the streamlined CEQA review process made possible by the enactment of SB 226. Our goal is that the procedures and supporting materials associated with Proposed State CEQA Guideline 15183.3 are clear and easily understood so that lead agencies will be able to use the streamlined process effectively.

General Comments

1. New terms-of-art introduced in proposed CEQA Guideline 15083.1, related appendices and the Narrative Explanation would benefit from being defined. Examples: "Infill EIR," "Limited Scope EIR" and "one pedestrian network mile of 50% of the projected student population."
2. Dependence on per capita vehicle miles travelled (VMT) included in Proposed Appendix M is problematic since it is often difficult and quite costly to accurately calculate VMT associated with a project. In addition, many metropolitan planning organizations (MPO's) have not calculated regional VMT for their area. It is recommended that Appendix M identify a process for an MPO to designate areas that meet the 75% of regional VMT requirement so that lead agencies do not have to prepare costly traffic studies to determine if a particular infill project qualifies.
3. The Performance Standards included Appendix M state that a project "must implement all of the following" yet the project only needs to include renewable energy components "where feasible." We recommend use of a different performance standard that avoids the use of "where feasible" and possibly relates to energy efficiency instead of a renewable energy component.

4. Language in new materials should match existing terms and language in CEQA (e.g., avoid new terms such as “more significant,” “new specific effects,” etc.
5. On page 2 of Appendix N, Section 6a, 4th box, it should say “mile” after one-half.

PROPOSED PERFORMANCE STANDARDS ARE DIFFICULT TO RECONCILE WITH REQUIREMENTS OF SB 226.

AEP finds the organization of performance standards as laid out in Appendix M to be a good start that can be improved by moving toward greater parallel construction with SB 226. We outline the relevant provisions of SB 226 and the organization of proposed Appendix M below to illustrate the similarities and differences between the two, and then pose questions concerning the completeness of Appendix M in addressing the statewide policy objectives identified in SB 226.

Under SB 226:

An “infill project” means any one, or combination, of six types of land use:

- 1) Residential,
- 2) Commercial/Retail,
- 3) Office Building,
- 4) Transit Station,
- 5) School, and
- 6) Small Walkable Community.

SB 226 further provides that a designated type of infill project is eligible for CEQA streamlining if the project is consistent with local land use plans and the project satisfies applicable statewide performance standards that promote the following statewide policy objectives:

- 1) Implementation of SB 375.
- 2) Statewide planning priorities in Gov. Code 65041.1.ⁱ
- 3) Reduction in GHG.
- 4) Reduction in per capita water use.
- 5) Creation of a transit village development district consistent with Government Code 65460.1.
- 6) Substantial energy efficiency improvements, including related transportation energy.
- 7) Protection of public health from air or water pollution or soil contamination.

Under proposed Appendix M:

Performance standards are organized on two levels: standards that apply to all six types of land uses and additional standards that apply separately to the six designated types of projects.

Performance standards that would be applicable to all six types of land use are:

- 1) Renewable energy;
- 2) Active Transportation (walking, bicycling, and other forms of human powered transportation);
- 3) Consistency with transit station area plans when a project is within ½ mile of an existing or planned station; and
- 4) Consistency with soil and water remediation plans when the project site is a CalEPA-listed hazardous waste site or contaminated ground water site.

Additional standards that apply separately to the six types of land uses are:

For Residential Infill Projects:

- 1) Reduction in regional per capita vehicle miles traveled (VMT); and
- 2) For residential projects near high-volume roadways the project must include measures that promote the protection of public health;

For commercial and retail projects that are less than 75,000 sq.ft. in size, performance standards are driven by regional location. In general, such projects must do one of the following:

- 1) Meet certain per capita VMT targets based on a traffic analysis zone in which the project is proposed to be located and supplemented with measures associated with CALGreen building standards;
- 2) A project located within ½ mile of 1200 households, as measured along the pedestrian network, is automatically eligible; and
- 3) A project located within ¼ mile of a transit stop and with no more than 15% of the site devoted to parking is eligible;

For commercial/retail project projects of any size, including projects larger than 75,000 sq. ft., Such projects would become eligible for the CEQA streamlining is they reduce existing regional VMT.

For Office Building Projects:

- 1) Commercial and public office buildings are eligible if located in a traffic analysis zone exhibiting average residential per capita VMT of 75% of the regional VMT and are also located within ¼ mile radius of a transit stop.

For Transit Station Projects:

[No additional performance standard is proposed]

For School Projects:

- 1) Elementary schools: eligibility based on being located within “one pedestrian network mile of 50% of student population”
- 2) Middle schools: eligibility based on being located within “two pedestrian network mile of 50% of student population;”
- 3) All schools: provision of bicycle parking/storage and the site complies with requirements in the Ed. Code to avoid enumerated environmentally hazardous conditions.

For Small Walkable Community Projects:

[No additional performance standard is proposed]

The Nexus Between Policy Objectives and Performance Standards Should Be Clarified.

We suggest adding comments to Appendix M indicating the statewide policy objective(s) served by each proposed standard. Examples of where clarification would be helpful include:

- The policy objective of promoting energy efficiency in the types of land use designated in SB 226 is not singled out in the Appendix M scheme and, in fact, appears to be addressed only indirectly through the application of California’s green building standards (CALGreen). CALGreen promotes energy efficiency in residential buildings, schools, and some commercial and retail buildings and public office buildings. Appendix M associates CALGreen only in the case of housing and commercial/retail projects. Shouldn’t the policy objective of promoting energy efficiency be built into performance standards made applicable to all land use types covered by SB 226?
- Appendix M appears to indirectly address the policy objective of reducing per capita water use by associating CALGreen with residential and commercial/retail projects. Shouldn’t the policy objective of reducing per capita water use be built into performance standards applicable to other land use types covered by SB 226?
- Should alternative frameworks for implementing green building design, such as “Leadership in Energy and Environmental Design” (LEED) certification also be considered in Appendix M?
- Appendix M would apply a performance standard relating to renewable energy components to all six designated land use types, where feasible. We assume such a standard is intended to address the policy objective of reducing GHG emissions. Since there are many other strategies for reducing GHG emissions, some of which may be more feasible and cost-effective than the use of renewable energy components, we suggest substituting a broader performance standard respecting a wider range of measures for reducing GHG emissions.

AEP welcomes the opportunity of working with OPR toward further solutions ensuring that a healthy economy and a healthy environment are not mutually exclusive. Should you have any questions or need additional information regarding our comments, please do not hesitate to contact our lobbyist, Mr. Allan Lind, at 916-761-1373.

Sincerely,



C. Eugene Talmadge
President, Association of Environmental Professionals

Cc.: Mr. Allan Lind, Allan Lind & Associates

ⁱ Gov. Code 65041.1 declares state land use development policy priorities to be: 1st: renew and maintain existing urban areas; 2nd: develop vacant and underutilized areas within urban and suburban areas; and 3rd: development on undeveloped lands would be the last priority.