



# Judicial Council of California

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## INVITATION TO COMMENT

### SPR24-11

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**Title**

CEQA Actions: Initial Case Management Conferences

**Action Requested**

Review and submit comments by May 3, 2024

**Proposed Rules, Forms, Standards, or Statutes**

Amend Cal. Rules of Court, rule 3.2226

**Proposed Effective Date**

January 1, 2025

**Proposed by**

Civil and Small Claims Advisory Committee  
Hon. Tamara L. Wood, Chair

**Contact**

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### Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes amending rule 3.2226 of the California Rules of Court to implement the provisions of Senate Bill 149 concerning initial case management conferences for actions brought under the California Environmental Quality Act.

### Background

Last year, the Legislature enacted SB 149 (Stats. 2023, ch. 60).<sup>1</sup> SB 149 (see Link A) added newly defined “infrastructure projects” to the list of projects that receive expedited judicial review of legal challenges brought under the California Environmental Quality Act (CEQA). At its November 2023 meeting, the Judicial Council approved several rule amendments to implement the major provisions of SB 149.<sup>2</sup> This proposal recommends a minor rule amendment to implement a provision of SB 149 that was not previously addressed.

Specifically, SB 149 amended Public Resources Code section 21167.6(b)(1)(B) to provide that in all legal challenges against a project brought under CEQA, the “court shall schedule a case management conference within 30 days of the filing of the complaint or petition” to review “the scope, timing, and cost of the record of proceedings.” Currently, California Rules of Court, rule

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<sup>1</sup> SB 149 is available at [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB149](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB149).

<sup>2</sup> That report is available at <https://jcc.legistar.com/View.ashx?M=F&ID=12398997&GUID=7F912B56-E0AF-4D15-B801-87FE8D7EF0C2>.

*This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.*

3.2226, which only applies to CEQA actions that receive expedited court review, provides that “the court *should* provide an initial case management conference within 30 days of the filing of the petition or complaint” and lists 15 specific subjects for consideration at the conference. (Emphasis added.)

### **The Proposal**

The rule amendments proposed in this invitation to comment are needed to conform to the law. The committee proposes amending rule 3.2226 to provide that the court “must” hold an initial case management conference within 30 days of the filing of the complaint. In addition, the committee proposes including “the scope, timing, and cost of the record of proceedings” as an additional enumerated topic that the court should consider at the conference.

### **Alternatives Considered**

Given that rule 3.2226 is limited to cases that receive expedited review and that SB 149 now requires an initial case management conference for all CEQA cases—even those that do not receive expedited review—the committee considered broadening the scope of rule 3.2226. The committee chose not to broaden rule 3.2226 because all the rules in division 22 of title 3 only apply to expedited CEQA cases and therefore it would be inappropriate to broaden the scope of rule 3.2226. The committee also concluded that while it is necessary to eliminate the conflict between Public Resources Code section 21167.6(b)(1)(B) and rule 3.2226, it would be unnecessary and contrary to general rule drafting policy to propose a rule that simply duplicates statutory requirements. The committee did not consider taking no action, as leaving rule 3.2226 in conflict with section 21167.6 would be confusing to courts and parties.

### **Fiscal and Operational Impacts**

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the amended rule, but any such training would be minimal.

### **Request for Specific Comments**

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### **Attachments and Links**

1. Cal. Rules of Court, rules 3.2226, at pages 4–5
2. Link A: SB 149,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB149](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB149)

Rule 3.2226 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 3.2226. Initial case management conference**

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3 **(a) Timing of conference**

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5 The court ~~should~~ must hold an initial case management conference within 30 days  
6 of the filing of the petition or complaint.

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8 **(b) Notice**

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10 Petitioner must provide notice of the case management conference to respondent,  
11 real party in interest, and any responsible agency or party to the action who has  
12 been served before the case management conference, within one court day of  
13 receiving notice from the court or at time of service of the petition or complaint,  
14 whichever is later.

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16 **(c) Subjects for consideration**

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18 At the conference, the court should consider the following subjects:

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20 (1) Whether all parties named in the petition or complaint have been served;  
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22 (2) Whether a list of responsible agencies has been provided, and notice provided  
23 to each;  
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25 (3) Whether all responsive pleadings have been filed, and if not, when they must  
26 be filed, and whether any hearing is required to address them;  
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28 (4) Whether severance, bifurcation, or consolidation with other actions is  
29 desirable, and if so, a relevant briefing schedule;  
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31 (5) Whether to appoint a liaison or lead counsel, and either a briefing schedule  
32 on this issue or the actual appointment of counsel;  
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34 (6) Whether the administrative record has been certified and served on all  
35 parties, whether there are any issues with it, and whether the court wants to  
36 receive a paper copy;  
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38 (7) Whether the parties anticipate any motions before the hearing on the merits  
39 concerning discovery, injunctions, or other matters, and if so, a briefing  
40 schedule for these motions;  
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42 (8) What issues the parties intend to raise in their briefs on the merits, and  
43 whether any limitation of issues to be briefed and argued is appropriate;

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- (9) Whether a schedule for briefs on the merits different from the schedule provided in these rules is appropriate;
- (10) Whether the submission of joint briefs on the merits is appropriate, and the page limitations on all briefs, whether aggregate per side or per brief;
- (11) When the hearing on the merits of the petition will be held, and the amount of time appropriate for it;
- (12) The potential for settlement, and whether a schedule for settlement conferences or alternative dispute resolution should be set;
- (13) Any stipulations between the parties;
- (14) Whether a further case management conference should be set; ~~and~~
- (15) The scope, timing, and cost of the record of proceedings; and
- ~~(15)~~ (16) Any other matters that the court finds appropriate.

**(d) Joint case management conference statements**

At least three court days before the case management conference, petitioner and all parties that have been served with the petition must serve and file a joint case management conference statement that addresses the issues identified in (c) and any other pertinent issues.

**(e) Preparation for the conference**

At the conference, lead counsel for each party and each self-represented party must appear in person or remotely, must be familiar with the case, and must be prepared to discuss and commit to the party's position on the issues listed in (c).