



CEQA Streamlining Overview & Housing Exemptions

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Development Streamlining Services

Funded and managed by:

**Southern California Association of Governments
(SCAG)**



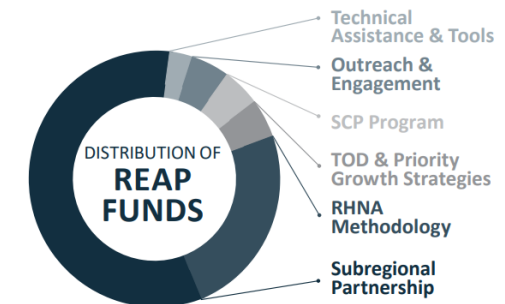
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Regional Early Action Program (REAP)



Development Streamlining Materials

SCAG

CONNECT SoCal REAP 2.0 RDP TRANSLATE

ABOUT US MEETINGS OUR WORK DATA & TOOLS GET INVOLVED NEWS & EVENTS

OUR WORK

- Connect SoCal +
- Inclusion, Diversity, Equity & Awareness
- Programs & Projects -
- Housing -
 - Regional Housing Needs Assessment
 - Housing Element Support +
 - Regional Early Action Planning -
 - Development Streamlining Efforts
 - Housing Policy Leadership Academy
 - Housing Policy Forum Series
 - REAP 2.0
 - Other To Residential Toolkit
- Sustainable Communities

DEVELOPMENT STREAMLINING EFFORTS

In response to the results from the Development Streamlining Questionnaire, and as part of our efforts to accelerate housing production, SCAG has prepared a series of guidance materials included below. The guidance material topics were carefully selected based on feedback and include a combination of streamlining options or exemptions under CEQA and other state laws.

Development Streamlining Materials

Recent changes in State laws to CEQA's environmental review process as well as new State laws to streamline administrative review processes have created new opportunities for jurisdictions with regulatory land use control to streamline and shorten the entitlement process and accelerate the production of much needed housing.

The guidance materials below were developed to provide support and pathways for local jurisdictions and land use practitioners to address these challenges.

DEVELOPMENT STREAMLINING GUIDANCE MATERIALS +

<https://scag.ca.gov/streamlining>














Development Streamlining Materials

Development Streamlining Materials

Recent changes in State laws to CEQA's environmental review process as well as new State laws to streamline administrative review processes have created new opportunities for jurisdictions with regulatory land use control to streamline and shorten the entitlement process and accelerate the production of much needed housing.

The guidance materials below were developed to provide support and pathways for local jurisdictions and land use practitioners to address these challenges.

DEVELOPMENT STREAMLINING GUIDANCE MATERIALS

-  What is CEQA Streamlining?
-  Senate Bill 375: CEQA Streamlining
-  CEQA Streamlining Options for Non-Exempt Housing Projects Covered by an Existing EIR: Project Eligibility Review Matrix
-  CEQA Streamlining For Infill Projects and Projects Consistent With Community Plan and Zoning
-  CEQA Categorical Exemptions
-  CEQA Exemptions for Housing Projects: Project Eligibility Review Matrix
-  Transit Priority Project and Transit-Oriented Project CEQA Exemptions
-  CEQA Article 12.5 - Exemptions For Agricultural Affordable and Infill Housing
-  Legislative Summary of AB 2345 - Density Bonus Law
-  Density Bonus Law: What are Incentives, Concessions, and Waivers?
-  Senate Bill 9: Ministerial Approval of Duplexes and Urban Lot Splits
-  Senate Bill 10: Local Rezoning for "Missing Middle" Housing Production
-  Senate Bill 35: Affordable Housing Streamlined Approval
-  Senate Bill 330 and Senate Bill 8: Summary of Housing Crisis Act of 2019

<https://scag.ca.gov/streamlining>

Legal Disclaimer

The purpose of this material is to provide guidance, which agencies and other entities may use at their discretion. This guidance does not alter lead agency discretion in decision-making, independent judgment and analysis, and preparing environmental documents for project or governmental action subject to CEQA requirements. This material is for general information only and should not be construed as legal advice or legal opinion.



Introductions



CHAD BECKSTROM, AICP
Ascent Environmental



CURTIS E. ALLING, AICP
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MARGARET SOHAGI, JD
Sohagi Law Group

SCAG Development Streamlining Efforts Workshop #4

What: CEQA Streamlining from Prior CEQA Documents for Housing Projects

When: Tuesday, June 20, 2023

Time: 11:30 am

Sign up online at:

<https://scag.ca.gov/streamlining>



Housekeeping Items



Webinar will be recorded and available on SCAG website:
<https://scag.ca.gov/streamlining>



Questions in Q&A box will be addressed at end of presentation



You can also send questions to Nashia Lalani at
lalani@scag.ca.gov



Upcoming "Office Hours" – dates and registration forthcoming



Agenda

- 1 Overview of CEQA Streamlining**
- 2 Traditional CEQA Streamlining Approaches**
- 3 CEQA Streamlining Legislation**
- 4 Worksheets and Tools**
- 5 Q&A**



POLL #1: WHAT TYPE OF CEQA DOCUMENT IS MOST COMMON FOR HOUSING APPROVALS IN YOUR JURISDICTION?

- a. None, Ministerial Approval**
- b. Categorical or Statutory Exemption**
- c. Negative Declaration or Mitigated Negative Declaration**
- d. Environmental Impact Report**
- e. Subsequent, Supplement, Addendum document**
- f. Streamlining with SB 375 or SB 743 provisions**



OVERVIEW OF CEQA STREAMLINING

What is CEQA Streamlining?

- Expediting environmental review
- Using exemptions and tiering
- Purpose is to:
 - Avoid unnecessary documentation
 - Prevent redundancy
 - Provide an incentive for qualifying projects



What Does Streamlining Look Like?

Is there a CEQA exemption that applies?

YES ▶

Project does not require further CEQA analysis. May file an NOE.

NO ▼

Is there another CEQA document that may cover the project?

YES ▶

Streamlined review may be available.

NO ▼

Is the project a Transit Priority Project; a residential, mixed-use or employment center on an infill site within a TPA; or does it refurbish dilapidated structures for new housing?

YES ▶

Traditional CEQA is required, but reduced analysis may apply for cumulative impacts, growth inducing impacts, alternatives, aesthetics, and/or parking.

NO ▼

Prepare an ND, MND or EIR according to the CEQA Guidelines.



TRADITIONAL “REGULAR” CEQA STREAMLINING



CEQA offers several long-standing provisions that are widely used to streamline CEQA analysis. While we may not think of some of these as “streamlining”, indeed they are just that – ways to reduce the amount of CEQA documentation to advance approvals and entitlements quicker.



Traditional “Regular” CEQA Approaches

Statutory Exemptions

Categorical Exemptions

Article 12.5 Exemptions

Projects Pursuant to a Specific Plan

Subsequent, Supplemental, Addenda

Tiering and Program EIRs

Start by Considering Exemptions

- When?
 - During Preliminary Review after application deemed complete
- Activity is not subject to CEQA if:
 - Not a “project” (§15378)
 - Not discretionary (ministerial)
 - No physical change in the environment





CATEGORICAL EXEMPTIONS

Categorical Exemptions

- 33 classes of projects
- Most relevant to housing :
 - Class 3 - New Construction or Conversion of Small Structures
 - Class 32 - In-Fill Projects
- Exceptions must be considered



Exceptions to the Use of Categorical Exemptions

- Location (Class 3)
- Cumulative Impact
- Significant Effect
- Scenic Highway
- Hazardous Waste Sites
- Historical Resources



Unusual Circumstances

- In *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal. 4th 1086, unusual circumstances exception applies only when it can be shown that:
 1. First, unusual circumstances are present and,
 2. Second, those unusual circumstances lead to a reasonable possibility the project could result in a significant impact.
- Determination that an unusual circumstance does not apply needs to be supported by substantial evidence
- If an unusual circumstance exists, and there is a fair argument that a significant impact might occur as a result, no CE may be used

Small Number of Units (Class 3)

Applicability

- 1 single-family residence
 - 3 units in urbanized area
- Second unit
- Duplex
- Up to 4 multi-family units
 - 6 units in urban area

CEQA Guidelines §15303



Small Number of Units (Class 3) – cont.

Advantages/Disadvantages

- Avoids NDs/MNDs on small projects
- Limited to very small projects in residential zones

Approach

- Document reasons
- Consider exceptions
- Prepare NOE

Small Infill Developments (Class 32)

Applicability

- Within city limits
- Less than 5 acres
- Surrounded by urban uses
- Consistent with general plan and zoning
- Served by utilities and public services
- Environmental considerations



Small Infill Developments (Class 32) – cont.

Advantages/Disadvantages

- No limitations on number of units
- May not be used with GPA or Zone Change

Approach

- Exceptions must be considered
- May require technical studies to address:
 - Habitat value
 - Traffic
 - Noise
 - Air quality
 - Water quality

Exemption for Residential or Mixed-Use Housing in Unincorporated Areas

Applicability

- Small urban infill
- Unincorporated urban areas
- Mixed-use projects allowed
- 6 units or more
- Environmental and site considerations



PRC §21159.25(b)

Exemption for Residential or Mixed-Use Housing in Unincorporated Areas – cont.

Advantages/Disadvantages

- Use in unincorporated areas
- Adds mixed-use projects

Approach

- Exceptions in PRC §21159.25 must be considered
- May require technical studies or other documentation
- File an NOE citing PRC §21159.25, not CEQA Guidelines

Projects Pursuant to a Specific Plan

- Projects Proximate to Transit
- Residential Projects Implementing Specific Plans
- Consideration of new or substantially more severe significant impacts



Projects Pursuant to a Specific Plan – cont.

Advantages

- Any residential project consistent with a specific plan adopted after 1980

Approach

- Demonstrate consistency with the SCS/APS
- Document changes to the specific plan EIR
- Determine no new or substantially more severe significant impacts (§15162)





ARTICLE 12.5 EXEMPTIONS

Agricultural Housing, Affordable Housing, and Residential Infill

Thresholds and Exceptions for Article 12.5 Exemptions

- Consistency with general plan and zoning
- Surrounded by urban uses
- No habitat or ecological value
- No harm to protected species
- Served by existing utilities and services
- Community-level environmental review completed
- Commitment to pay development fees
- Preliminary health hazards assessment completed
- Not on hazardous waste sites
- Not a historic resource
- No wildland fire hazards
- No risk of explosions or health hazards
- No seismic and other geologic hazards
- Not on developed open space or state conservancy lands
- No piecemealing into smaller projects



CEQA Guidelines §15192, PRC §21159.21

Agricultural Housing Exemption

- Up to 45 units, or
- Group housing for 45 workers
- Limitations on site size based on:
 - population density
 - incorporation status, and
 - affordability criteria
- Meets thresholds in §15192



Affordable Housing Exemption

- Maximum of 100 units
- Up to 5 acres
- Population density/total criteria
- Affordable to lower-income for at least 30 years
- Previously developed with urban uses or surrounded on 75% by urban uses
- Meets thresholds in §15192



Residential Infill Exemption

- Up to 100 units
- 4 acres or less
- Minimum density targets
- Within an urbanized area
- Near a major transit stop
- Community level EIR certified within 5 years
- Affordable housing or in-lieu fees
- Meets thresholds in §15192



CEQA Guidelines §15195, PRC §21159.24



SCENARIO FOR POLL #2: WHICH EXEMPTION(S) WOULD APPLY?

- **90 multi-family units**
- **Infill developed site on 3.9 acres surrounded by developed properties**
- **Incorporated city limits within 0.5 mile of transit stop**
- **Consistent with General Plan for which an EIR was completed in 2021**
- **10% low-income affordable housing with 30-year commitments**
- **No environmental sensitivities or impacts**



POLL #2: WHICH EXEMPTION(S) WOULD APPLY?

- a. Class 3 Categorical Exemption (CEQA Guidelines § 15303)**
- b. Class 32 Categorical Exemption (CEQA Guidelines § 15332)**
- c. Residential or Mixed-Use Housing in Unincorporated Areas (PRC §21159.25)**
- d. Agricultural Housing (Article 12.5)**
- e. Affordable Housing (Article 12.5)**
- f. Residential Infill (Article 12.5)**



POLL #2: CORRECT ANSWERS

- a. ~~Class 3 Categorical Exemption (CEQA Guidelines § 15303)~~
- b. Class 32 Categorical Exemption (CEQA Guidelines § 15332)**
- c. ~~Residential or Mixed-Use Housing in Unincorporated Areas (PRC §21159.25)~~
- d. ~~Agricultural Housing (Article 12.5)~~
- e. ~~Affordable Housing (Article 12.5)~~
- f. Residential Infill (Article 12.5)**

Tiering

Coverage of general matters and environmental effects in a broader EIR, with a later EIR or negative declaration on a narrower project focusing on issues specific to the later project.

General guidance in Section 15152. Also, refer to specific guideline sections for types of tiering



Program EIRs

- Prepared for a series of related activities for a large project and are related:
 - Geographically
 - Logical parts in a chain of actions
 - As a continuing program
 - As individual activities under the same authority with similar effects and mitigation
- A consistent, later activity may be found to be “within the scope” of the Program EIR. No publicly circulated document is needed.



Subsequent, Supplemental, and Addenda

A new discretionary approval required after CEQA certification/adoption

Further CEQA review not required unless:

- Substantial changes to the project
- Substantial changes in circumstances
- New information requires major revisions due to new or more severe significant impacts





CEQA STREAMLINING LEGISLATION

SB 375

Sustainable
Communities and
Climate Protection Act
of 2008

SB 226

CEQA Streamlining for
Infill Projects

SB 743

Transit-Oriented Infill
Projects



POLL #3: WHAT IS YOUR BIGGEST CONSTRAINT TO USING CEQA STREAMLINING TOOLS?

- a. Actual or perceived risk of legal challenge**
- b. Lack of knowledge about or experience applying exemptions or streamlining tools**
- c. Public or decision maker expectation that CEQA review must be an EIR or MND**
- d. Lack of resources (e.g., staff time or budget)**
- e. Existing exemptions and streamlining tools are not beneficial in terms of time or effort**
- g. N/A, no constraints**

SB 375: Sustainable Communities and Climate Protection Act of 2008

- Incentives for projects consistent with a Sustainable Communities Strategy (SCS)
- Added SCS Project Exemption for transit priority projects (TPPs)
- Added Streamlined CEQA for TPPs and residential or mixed-use projects that are not exempt
 - Sustainable Communities Environmental Assessment (SCEA)
 - Limited EIR
 - Reduced level of analysis

Definition of a Transit Priority Project (TPP)

- Up to 200 residential units
- Up to 8 acres
- At least 50% residential use
 - If 26-50% non-residential uses, FAR ≥ 0.75
- 20 du/ac minimum density
- Within 0.5 mile of major transit
- Consistent with an SCS or Alternative Planning Strategy (APS)

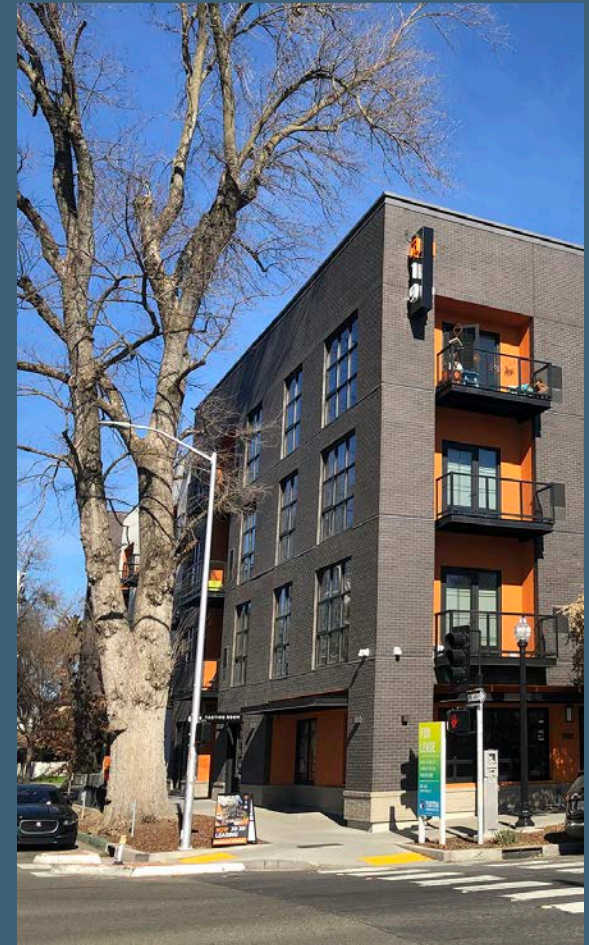


PRC §21155

Sustainable Communities Project Exemption

Applicability

- Meets definition of a TPP
- 8 environmental criteria
- 7 land use criteria
- At least 1 of 3 community benefits:
 - Provision of affordable housing
 - Payment of in-lieu fees
 - Provision of public open space



PRC §21155.1

Sustainable Communities Project Exemption – cont.

Advantages/Disadvantages

- Strict definition of a TPP
- Lots of environmental, land use, and community benefit criteria must be met

Approach

- Hold a public hearing where a legislative body finds that a project meets all TPP requirements
- Declared the project a “Sustainable Communities Project”
- File NOE

The SCS in the SCAG Region



- SCAG's RTP/SCS
 - A vision for Southern California's future, including policies, strategies, and projects for advancing the region's mobility, economy, and sustainability through the plan's horizon, at least 20 years into the future
 - Updated every four years (federal requirement)
 - Must integrate a regional development pattern & transportation network and achieve targets to reduce GHG emissions from passenger vehicles and light-duty trucks (SB 375 requirements)
- 2020 RTP/SCS (Connect SoCal 2020) is the current plan (adopted in September 2020), including the SCS Technical Report
- Development of the next plan (2024 RTP/SCS or Connect SoCal 2024) is underway. For more information, please visit <https://scag.ca.gov/connect-socal>

SB 226: CEQA Streamlining for Infill Projects

- EIR certified for a general plan, community plan, specific plan, or zoning
- CEQA review of a qualifying project is limited to:
 - environmental effects specific to the project or site not addressed in the prior EIR
 - substantial new information showing effects will be more significant than in the prior EIR



PRC §21094.5 and CEQA Guidelines §15183.3

SB 226: CEQA Streamlining for Infill Projects – cont.

- Applies to:
 - residential
 - commercial/retail
 - office
 - transit station
 - school
 - small walkable community project
 - mixed-use project
- Previously developed urban sites or vacant land at least 75% surrounded by urban uses
- Must first satisfy statewide performance standards and standards by project type in **Appendix M**
- Consistent with an SCS or APS



SB 226: CEQA Streamlining for Infill Projects – cont.

Advantages

- Applies to a wide range of project types

Approach

- Complete Appendix N or similar written checklist considering prior EIR
- Could lead to “No Further Review” determination

APPENDIX N: INFILL ENVIRONMENTAL CHECKLIST FORM

	Significant Impact	Less Than Significant or Less than Significant with Mitigation Incorporated	No Impact	Analyzed in the Prior EIR	Substantially Mitigated by Uniformly Applicable Development Policies
<u>I. AESTHETICS.</u> Except as provided in Public Resources Code Section 21099, would the project:					
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

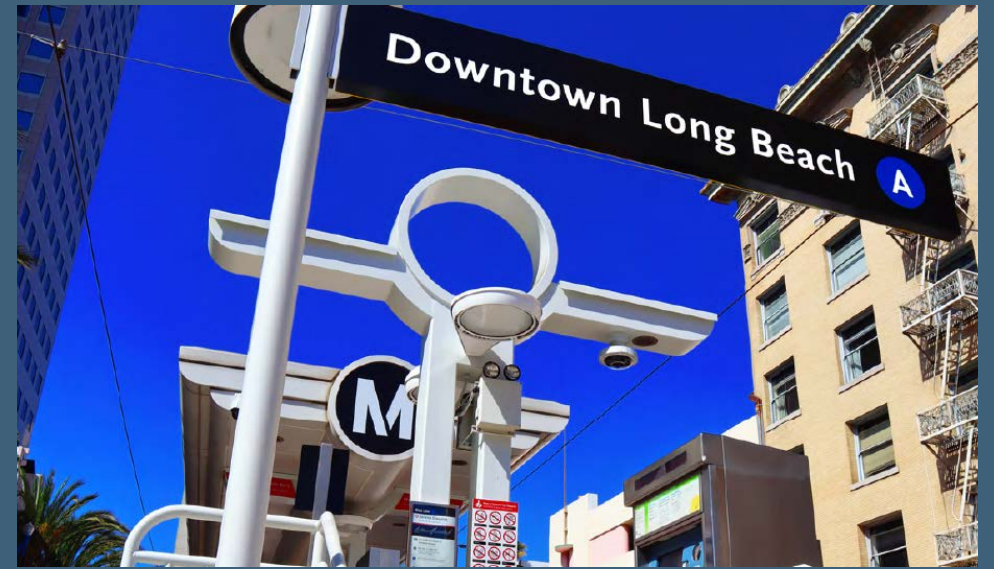
SB 743: Transit-Oriented Infill Projects

- Added CEQA exemption for TODs located in Transit Priority Areas (TPAs)
- Consistent with a Specific Plan
- Aesthetic and parking impacts are not considered significant
 - except for impacts to historic resources



Transit-Oriented Residential/Mixed-Use Implementing a Specific Plan Exemption

- Residential, employment center, or mixed-use
- Within a TPA within 0.5-mile of transit
- Consistent with a CARB-accepted SCS/APS
- No new or substantially more severe significant environmental impacts



Transit-Oriented Residential/Mixed-Use Implementing a Specific Plan Exemption – cont.

Advantages

- Available to a mix of land uses

Approach

- Demonstrate consistency with the SCS/APS
- Document changes to the specific plan EIR (Addendum-like process)
- Determine no new or substantially more severe significant environmental impacts
- May omit aesthetic and parking impacts





POLL #4: WHICH EXEMPTION(S) WOULD APPLY?

- **140 multi-family units**
- **Infill developed site on 6.9 acres surrounded by developed properties**
- **Incorporated city limits within 0.25 mile of high-quality transit corridor**
- **Consistent with the Sustainable Communities Strategy**
- **Consistent with General Plan and Specific Plan for which an EIR was completed in 2021**
- **Developer commits to affordability in-lieu fees**
- **No environmental sensitivities or impacts**



POLL #4: WHICH EXEMPTION(S) WOULD APPLY?

- a. Class 32 Categorical Exemption (CEQA Guidelines § 15332)**
- b. Affordable Housing (Article 12.5)**
- c. Residential Infill (Article 12.5)**
- d. Sustainable Communities Exemption (PRC §21155.1)**
- e. Transit-Oriented Residential/Mixed-Use (PRC §21155.4, CEQA Guidelines §15182)**



CORRECT ANSWERS

- a. ~~Class 32 Categorical Exemption (CEQA Guidelines §15332)~~
- b. ~~Affordable Housing (Article 12.5)~~
- c. ~~Residential Infill (Article 12.5)~~
- d. **Sustainable Communities Exemption (PRC §21155.1)**
- e. **Transit-Oriented Residential/Mixed-Use (PRC §21155.4, CEQA Guidelines §15182)**



GUIDANCE AND WORKSHEETS

<https://scag.ca.gov/streamlining>



POLL #5: HOW LIKELY WOULD YOU BE TO UTILIZE OR INCREASE USE OF ONE OR MORE STREAMLINING TOOLS?

- a. Highly Likely – These will help**
- b. Somewhat Likely – We'll give them a try and see**
- c. Neutral – Perhaps but we have some work to do**
- d. Somewhat Unlikely – Maybe, but these are still too complicated and risky for us**
- e. Highly Unlikely – We've tried them and they don't work for us**



QUESTIONS?

Feel free to type your questions in the Q&A box.

Contact Nashia Lalani at lalani@scag.ca.gov

<https://scag.ca.gov/streamlining>



THANK YOU!

For more information, please visit:

<https://scag.ca.gov/streamlining>