



November 18, 2014

Christopher Calfee, Senior Counsel
Governor's Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

**Building
Industry
Association
of Southern
California, Inc.**

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RE: Proposed Draft Guidelines for implementation of SB 743 related projects.

Dear Mr. Calfee:

The Building Industry Association of Southern California, Inc. (BIASC) is a regional trade association that represents more than 1,400 member companies within a six county region and comprised of Chapters in Orange, Los Angeles/Ventura, Riverside/Imperial and San Bernardino counties. Together, BIASC's members build most of the homes and communities throughout the same six-county region.

Southern California is discouragingly far from meeting its housing needs. Any new planning mechanism to evaluate traffic must acknowledge and respect that our Region needs to maximize every opportunity for new housing whether that be infill or greenfield.

BIASC is pleased to offer its collective comments on the Governor's Office of Planning and Research (OPR)'s Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing Senate Bill 743, dated September 6, 2014 (PDD).

The membership of BIASC has always been on the forefront of green building practices and as such, has led the nation in both innovation and application of the latest sustainable building practices. We have been an ardent and engaged partner with the state planning and regulatory communities as AB 32 mandated Green House Gas (GHG) reduction efforts have been implemented, first via local green and sustainable communities initiatives, through SB 375 implementation, and now with CEQA streamlining efforts for infill projects via SB 743 guideline development .

BIASC has organized our concerns regarding the proposed PDD into three areas including, 1) Inapplicability of VMT as a reasonable substitute/additional metric for the already problematic Level of Service (LOS) model, and the resulting undermining of local land use control. 2) Inconsistency with stated SB 743 goals to streamline transit priority projects and encourage related development including intermodal transit infrastructure. 3) Impacts to an already fragile regional economy.

Inapplicability of VMT Metric- The regulated community has long struggled with fitting the application of LOS analysis (congestion management) into the CEQA process. While impacts from traffic; air quality, noise and safety require mitigation, that analysis is currently already a requirement of the current CEQA checklist.

Baldy View Chapter
L.A./Ventura Chapter
Orange County Chapter
Riverside County Chapter

CEQA Guidelines for SB 743

November 18, 2014

Page 2 of 4

The addition of a “regional or statewide VMT” average measurement creates a one size fits all barrier that will not be applicable consistently to all jurisdictions and undermines the latitude and local land use authority of lead agencies. Local control has long been the hallmark and the spirit of CEQA law and its application. VMT analysis creates an artificial and difficult to quantify metric that will be impossible to apply equally across multiple jurisdictions. The lack of a quantifiable VMT impact assessment modeling tools also makes any VMT mitigation measures, unreliable and subject to increased frivolous legal challenges to CEQA determinations, which is clearly in conflict with the original SB 743 streamlining intent for infill projects.

Merely attempting to tether development in order to reduce project induced VMT, in the anticipation of reducing GHG emissions is highly reliant on the accurate forecasting of consumer socioeconomic behavior, and inconsistent with the primary environmental impact analysis intent of CEQA. Residents and employees of the built environment operate in an unconstrained free market for housing and employment locations.

Also, the use of a VMT measure does not take into account fleet change impacts and the unpredictable nature of consumer choices. Market dynamics are very fluid and closely tied to current economic realities, “build it and they will come” is not a practical nor compelling approach to land use planning. The SCAG region is highly diverse as are its communities, both in design and geographic proximity to existing transit infrastructure. Applying a VMT metric in this varied landscape is impractical, very subjective, and any resulting GHG reductions very difficult to quantify.

In addition, the “New Section 15064.3 (b) **Criteria for Analyzing Transportation Impacts**”, largely dictates how lead agencies will assess transportation impacts and how they are to be analyzed for the purpose of determining significance, and purports that VMT is definitively the best means for determining transportation impacts at the project level. This mandate greatly degrades local land use control decisions and authority by lead agencies. Local agencies are accustomed to using LOS and trip counts to calculate required mitigation. VMT reduction measures are not universal and are very location specific. Application of standard mitigation measures from the CAPCOA Handbook is not defensible. Local agencies are accustomed to using LOS and trip counts to calculate required mitigation, which have a mathematical basis and are defensible. Conversion to VMT will create a regulatory and legal quagmire, allowing project opponents use CEQA to halt projects due to vested interests.”

Recommendation: Reject implementation of the VMT metric as an unproven artificial and unreliable approach to GHG and traffic mitigation.

Inconsistent with Streamlining Goals:- SB 743 seems to suggest that a proposed alternate metric for traffic analysis may not be an exclusive substitute but rather an additional requirement. While eliminating LOS as a CEQA requirement, it leaves open the guidance to continue the use in addition to the application of the new VMT

CEQA Guidelines for SB 743

November 18, 2014

Page 3 of 4

metric, therefore further complicating the CEQA process in conflict with the stated streamlining intent.

“(c) (1) ...The alternative metrics may include the retention of traffic levels of service, where appropriate and as determined by the office.” (Public Resources Code section 21099).

The PDD guidelines also do not incorporate the parts of SB 743 that are designed to streamline CEQA guidelines for infill projects including eliminating aesthetics, parking and automobile delay as significant CEQA impacts. Instead the addition of a VMT measurement is proposed not as a direct substitute but in addition to LOS modeling and analysis as appropriate. This duplication of effort is both costly and ineffective at reducing GHG (CO₂e) in any predictable manner, and creates more legal risk from a CEQA challenge.

The proposed guidelines as written will make most projects subject to the preparation of a full Environmental Impact Reports (EIR's) as a normal course of business. The application of the CEQA Checklist as a time saving screening tool and use of Mitigated Negative Declarations (IS/MND) as a means by project proponents and lead agencies to streamline projects that have clearly have no significant impact, will give way to needless and costly expanded environmental reviews. This process will also lead to an increase in lawsuits and make many transit priority projects non-viable as a result.

The legislative intent to streamline CEQA analysis for infill projects has not delivered the results anticipated and further complicating the viability of these type projects by applying additional and redundant impact analysis stifles the viability of the projects that SB 743 was intended to help facilitate.

On a separate note, the proposed guidance says that any new roadways will have a significant impact on transportation. This will limit development, especially in Counties where the circulation infrastructure is not fully constructed, or when roadway widening is conditioned on development projects. For example, if a development project is conditioned to widen a street from 2 lanes to 4 lanes as a condition of approval, the roadway widening will result in increased VMT.

Impacts to a Fragile Regional Economy- The review of the PDD cannot be done in a vacuum without due consideration to the potential unintended fiscal impacts that could result from implementation of the proposed guidelines. Home building in California is presently responsible for approximately 25% of job creation and provides good paying jobs to a broad employment base statewide. Our industry fuels the local, regional and state economy. California's economy is in a very sensitive recovery mode and any regulatory effort that hampers or delays production of homes or contributes to the cost of homes to potential homeowners, is detrimental to both the private and public sectors.

Private sector job growth is paramount to the ability of the public sector to invest in regional inter-modal transportation infrastructure, that is in-turn central to making

CEQA Guidelines for SB 743

November 18, 2014

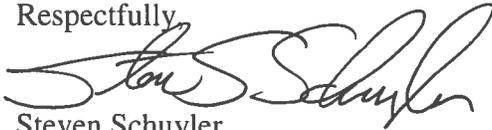
Page 4 of 4

quantifiable VMT reductions and related GHG reductions a future reality. Ill-conceived regulatory efforts that attempt to limit public choices in home selection and transportation options, ignore marketplace dynamics that are not easily malleable.

Recommendation: Return to the original intent of SB 743 and focus efforts to help facilitate development of transit priority projects consistent with the intentions of SB 375 and AB 32, and the resulting reduction in GHG emissions. Work with the regulated community to establish a regimen that will lead to the actual construction of these environmentally desirable transit priority projects via substantive streamlining policy development.

BIASC offers these comments in the spirit of collaboration and as a partner in achieving our collective goals to meet GHG reduction targets and mitigate traffic impacts through good planning and development practices.

Respectfully

A handwritten signature in black ink, appearing to read "Steven Schuyler". The signature is fluid and cursive, with a large initial "S" and "S".

Steven Schuyler

EVP Government Affairs, BIASC