



November 21, 2014

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

Subject: Draft Updates to the CEQA Guidelines Implementing SB 743

Dear Mr. Calfee:

Thank you for the opportunity to provide input into the Draft Updates to the CEQA Guidelines Implementing SB 743. Staffs of the Planning and Environmental Review Division and Department of Transportation have reviewed the documents and supporting information. We offer the following comments regarding the draft Text of Proposed New Section 15064.3.

1. Section 21099(b) of the CEQA Statute calls for establishment of criteria for determining significance of transportation impacts of projects within transit priority areas, and specifies that upon certification of the Guidelines automobile delay, as described solely by LOS, shall not be considered a significant impact "pursuant to this division". Only in subsequent Section 21099(c) is OPR granted the authority to adopt "guidelines establishing alternative metrics to the metrics used for LOS" for impacts outside transit priority areas. Based on the statute, it would seem that the determination that automobile delay is not a significant impact applies only within transit priority areas. Therefore, it would seem that the last sentence under subsection (a) Purpose, on page 13, needs to be amended so that it is clear that "automobile delay does not constitute a significant environmental impact" only within transit priority areas. The discussion of this section, on page 7, should likewise be amended.

Further, it should be clarified throughout the proposed Guidelines that use of non-LOS based impact analysis is only required in transit priority areas, but may be used as an alternative metric for determining impacts outside transit priority areas. This would give local jurisdictions greater flexibility in fitting the appropriate analysis to each individual project.

2. Page 13 – subsection (b)(1), last sentence: It is unclear how to determine whether a land use plan would achieve an equivalent reduction in vehicle miles traveled as projected to result from implementation of a Sustainable Communities Strategy (SCS). The Draft explanation indicates that the intent is to compare a land use plan's VMT to the regional average as documented in the region's SCS. However, a land use plan's VMT can be calculated a variety of ways, such as an aggregate VMT or as VMT per capita. If the intent is to leave the interpretation to a lead agency's discretion, such interpretations could be subject to challenge. In addition, it is unclear how to calculate a land use plan's equivalent reduction in VMT as compared to the VMT reduction projected to result from an SCS because the common comparison figure is unknown. For example, Sacramento Area Council of Governments' 2012 MTP/SCS contains a VMT projection, but not a clear reduction in comparison to a business-as-usual approach.

3. Page 14- subsection (b)(2), last sentence: It is unclear how to determine whether a transportation project might lead to net decreases in vehicle miles traveled. The potential decreases in VMT could be modeled or calculated in different ways, which could be subject to legal challenge.

In addition, a potential unintended consequence of this section is that impacts identified as a result of the additional required analysis may trigger the need to prepare an Environmental Impact Report if the impacts are significant. This could lead to substantially more time and expense for relatively simple projects, and could effectively prevent some new roadways or roadway widening from occurring in the future. The long term result could be severe congestion that would also affect air quality with automobiles operating for much longer periods of time and at slower speeds. Congestion will also have a substantial negative impact on business viability and the transport of goods and services. As a community grows over time, appropriate infrastructure needs to be implemented to support that growth. A well planned and efficient roadway network should not be viewed as an excessive public burden, but rather just one of many pieces of public infrastructure necessary to support well planned, smart growth.

4. No transportation impact analysis should be required for CEQA in "transit priority areas" as defined by SB 743. Generally, transit priority areas are categorized as infill. Through SB 375, CEQA already provides for streamlining the process for transit priority projects that meet the criteria specified in Section 21155(b) of the CEQA Statute. Eliminating transportation impact analysis in transit priority areas would do the most to meet the legislative intent of SB 743: to "promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses."
5. VMT analysis could be utilized in a defined urban area outside of transit priority areas to encourage infill development. The Sacramento County General Plan promotes high quality infill development through a variety of policies aimed toward reducing or eliminating barriers to infill development. Specifically, General Plan Policy LU-120 defines a performance metric of 14 VMT per capita for projects that would expand the Urban Policy Area or for master plans outside the existing UPA. Although this General Plan performance metric is not defined as a significance threshold under CEQA, we believe VMT analysis is appropriate in certain limited contexts outside of transit priority areas, but not necessarily statewide.
6. The draft Guidelines recommend a January 1, 2016 statewide implementation for VMT analysis in lieu of LOS analysis for land use projects. Given the uncertainty surrounding implementation of VMT analysis, we recommend a longer testing or study period during which VMT analysis would be performed in addition to LOS analysis to determine if it is a viable alternative to LOS analysis. The study should determine the differences in methodology and impact determinations, as well as potential changes to the types of mitigation measures available. The study would also determine the relative cost and time for preparation of a VMT analysis as compared to an LOS analysis. This information would reveal practical implications associated with implementation.
7. From a practical perspective, if automobile delay as described by LOS or similar measures of traffic congestion is not considered a significant impact on the environment under CEQA, project applicants would still be required to provide a traffic impact study consistent with current practice. Sacramento County Department of Transportation uses traffic impact study data to determine appropriate roadway sizing, intersection improvements and other traffic mitigation consistent with County standards and General Plan criteria. The traffic impacts and associated mitigation would no longer be a CEQA requirement, but a condition of project approval by the Department of Transportation. The concern is that these conditions might be more "challengeable" from the development community.

Thank you for your consideration of our comments. Please contact Catherine Hack at (916) 874-7183, Todd Smith at (916) 874-6918, or Marianne Biner at (916) 874-7520 if you have any CEQA-related questions, or Dean Blank at (916) 874-6121 if you have any questions related to transportation modeling or Sacramento

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County's transportation impact fee program. We look forward to continued collaboration on this update as it progresses.

Sincerely,

A handwritten signature in cursive script that reads "Leighann Moffitt".

Leighann Moffitt
Planning Director

cc: Dean Blank, Department of Transportation
Matt Darrow, Department of Transportation
Catherine Hack, Planning and Environmental Review
Todd Smith, Planning and Environmental Review
Marianne Biner, Planning and Environmental Review
Lori Moss, Department of Community Development

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