



November 21, 2014

Christopher Calfee, Senior Counsel
Governor's Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814
CEQA.Guidelines@ceres.ca.gov

Re: Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing
Senate Bill 743

Dear Mr. Calfee:

Center for Biological Diversity and Sierra Club California appreciate the opportunity to comment on the preliminary discussion draft of the proposed guidelines to respond to SB 743 ("draft guidelines") put forward by the Office of Planning and Research ("OPR"). We support the intent of SB 743 to move away from automobile delay as constituting a significant impact on the environment. We also support shifting the metric to measure potential transportation impacts from level of service standards to vehicle miles traveled ("VMT"). Certain of the draft guidelines' criteria for analyzing transportation impacts could, however, have unintended consequences, and may not result in a reduction in VMT, thus undermining the purpose of SB 743. We bring your attention to the following provisions that we believe should be modified.

1. Land Use Projects: VMT Greater than Regional Average

In proposed new section 15064.3 (b)(1), the draft Guidelines state that a project that results in VMT greater than the regional average for the land use type (e.g., residential, employment, commercial) may indicate a significant impact. The proposed text explains that "region" refers to the metropolitan planning organization or regional transportation plan area within which the project is located. This approach to determining a project's significance under CEQA is problematic for at least two reasons. In rural regions such as the central valley or in regions that contain large amounts of suburban development such as Los Angeles or San Diego, the "regional average" VMT may be quite high. Thus, even if a development project generates a substantial amount of VMT, as long as a development project results in less VMT than the

regional average, it would be deemed to not have a significant impact on the environment. These, of course, are the very regions that need to dramatically alter their land use patterns in order to reduce VMT and greenhouse gas (“GHG”) emissions.

Alternatively, in urban locations, projects that have VMT below regional average would be determined to have a less than significant impact since the larger region necessarily includes suburban and even rural communities that tend to have much higher VMT. For example, the City of San Francisco is located within the Metropolitan Transportation Commission’s region. This region covers nine counties, including more rural and suburban counties such as Solano, Sonoma and Contra Costa County. Projects within San Francisco could certainly result in a substantial amount of VMT if, for example, they include an excessive amount of parking or if they are located in a comparatively remote location from the City’s extensive transit network (e.g., the outer Richmond District neighborhood of San Francisco). Simply put, MPO regions are simply too large and diverse to use as a criterion for determining whether projects will have a less than significant transportation impact.

One possible suggestion would be for OPR to identify “not to exceed” VMT averages for urban, suburban and rural communities. Alternatively since the primary motivation of SB 743 is to ensure that travel from development projects helps achieve a reduction in GHG emissions, OPR could suggest a threshold VMT reduction commensurate with the GHG emission reduction percentages identified in Executive Order S-3-05. Thus, each region could be tasked with reducing VMT to 2000 levels by 2010, to 2000 levels by 2020, and an 80 percent reduction below 1990 levels by 2050.

2. Land Use Projects: Proximity to Transit

Proposed new section 15064.3 (b)(1) also suggests that projects may have a less than significant impact with respect to VMT if they are located in areas served by transit. The phrase “served by transit” is vague and therefore of little value. What specifically does it mean to be served by transit? Not all transit is the same. A project near transit that includes excessive parking will encourage automobile travel. If a comprehensive transit network does not exist or if there is infrequent transit service, people will be unlikely to rely on transit as their primary mode of transportation. Even rural areas may be “served by transit” but that only means a bus comes by every hour or so or even once per day. Alternatively, as discussed above, the entire City of San Francisco is served by transit but certain development projects could certainly result in substantial amounts of VMT.

OPR may want to consider identifying minimum service levels in its definition of “areas served by transit.” These service levels should include, for example, convenience and connectivity (i.e., does the transit service come close to performing on par with an automobile trip?); frequency of headways; and low cost fares. In addition, because there is a well-known relationship between parking supply and transit use, any development project that provides more than the minimum amount of parking should not be determined to have a less than significant transportation impact.

3. Land Use Plans: Consistency with Sustainable Communities Strategies

As regards land use plans, proposed new section 15064.3 (b)(1), suggests that land use plans that are either consistent with a sustainable communities strategy (“SCS”) or that achieve at least an equivalent reduction in VMT as projected to result from implementation of a SCS, may be considered to have a less than significant effect. This approach is problematic. First, many SCSs do not achieve sufficient GHG emission reductions to achieve California’s GHG reduction goals. For example, the Merced County RTP/SCS requires only a nominal reduction in GHG emissions: 5 percent below 2005 levels by 2020 and 10 percent below 2005 levels by 2035. These reductions fall far short of the statewide emissions reduction goals of AB 32, the AB 32 Scoping Plan, and Executive Order S-3-05, all of which establish a steeper emissions reduction “trajectory” consistent with what scientists believe is necessary to stabilize the climate. Notwithstanding these low GHG emission reduction targets, Merced County’s SCS does not even meet the 2035 targets. Given these facts, it is highly unlikely that Merced County’s SCS would result in a measureable reduction in VMT. It is critical that land use plans in Merced County not be given a free pass simply because they may be “consistent” with the County’s SCS.

As another example, under the San Diego Association of Government’s (“SANDAG”) 2050 RTP/SCS, VMT would actually increase by 50 percent between 2010 and 2050. Both absolute and per capita GHG emissions from transportation and land use in the region also would be rising again by 2050, exceeding even current levels over the long term. Consequently, the fact that a land use plan is consistent with this SCS will do nothing to ensure a regional reduction in VMT, reduce GHG emissions, or serve as the basis for a finding that the land use plan’s greenhouse gas emissions are less than significant.

Second, the very concept of a land use plan’s consistency with a SCS is a bit circular, and potentially meaningless, since at least some of the MPO’s SCSs have simply adopted cities’ and County general plans’ demographic projections. Certain jurisdictions and MPOs have not yet demonstrated a commitment to sustainable land use and transportation planning and it would be a terrible mistake to allow land use agencies the leeway to tier off of uninspired SCSs. Agencies are currently required under CEQA to address GHG emissions in land use plans, including general plans, and to adopt all feasible measures to reduce these emissions. By giving plans a “free pass” if they are deemed consistent with a SCS, these agencies will no longer have to mitigate for environmental impacts resulting from unsustainable land use planning practices.

4. Transportation Projects: Induced Vehicle Travel

We applaud OPR for requiring that agencies analyze a transportation project’s potential to induce additional automobile travel. Proposed new section 15064.3 (b)(2), however, states that projects that are primarily designed to improve safety or operations would not typically be expected to create significant impacts. An exemption targeting “operations” and “safety” is too lenient and should be restricted or eliminated altogether. Increases in highway capacity are often considered necessary to improve “operations.” Likewise, Caltrans claims that many of its projects are required to improve safety.

For example, one of the largest highway projects currently planned for California is the expansion of I-5 in San Diego County. Caltrans describes the purpose and need for the I-5 widening project in San Diego as follows: “to maintain or improve the existing and future traffic operations ... in order to improve the safe and efficient regional movement of people and goods for the design year of 2030.” In another example, the State Route 60 Truck Lanes Project in Riverside County would add truck climbing and descending lanes to a highway that would serve the expanding warehouse logistics complexes of the Inland Empire. Caltrans states that the “purpose of the project is to improve safety, reduce traffic congestion, and improve operational characteristics.” Despite the direct and indirect impacts of the highway widening, the growth inducing nature of the infrastructure expansion, and diesel emissions associated with heavy truck traffic Caltrans claims that the impacts of air pollution and greenhouse gases are less than significant.

We suggest that OPR consider revising the draft guidelines to remove the phase “improve operations” in a determination that a project would not result in a significant transportation impact. As regards safety improvements, we suggest that OPR not include a blanket exemption for safety. If a transportation project is needed to improve safety, the burden should be on the lead agency to demonstrate that the project would not also increase capacity in a manner that will induce additional automobile travel.

We appreciate the opportunity to provide input on these important revisions to the CEQA Guidelines. We would appreciate notification of OPR’s continued efforts to refine these draft guidelines.

If you have any question please contact Kevin Bundy at kbundy@biologicaldiversity.org/(415) 436-9682 or Matt Vespa at matt.vespa@sierraclub.org/(415) 977-5753. We look forward to continuing to work with the Office of Planning and Research on this important endeavor.

Respectfully Submitted,

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