



Date: August 27, 2014
 Current Meeting: September 18, 2014
 Board Meeting: N/A

BOARD MEMORANDUM

TO: Santa Clara Valley Transportation Authority
 Congestion Management Program & Planning Committee

THROUGH: General Manager, Nuria I. Fernandez

FROM: Director of Planning and Program Development, John Ristow

SUBJECT: Update on SB 743 Changes to CEQA Transportation Analysis

FOR INFORMATION ONLY

BACKGROUND:

Senate Bill (SB) 743, approved by the California legislature in September 2013, directs the Governor's Office of Planning and Research (OPR) to develop alternative metrics to the use of vehicular "level of service" (LOS) for evaluating transportation impacts under the California Environmental Quality Act (CEQA). These changes to CEQA analysis are likely to have significant implications for VTA and Member Agencies. Staff presented an overview of SB 743 for discussion at the April 2014 meetings of the Technical Advisory Committee (TAC), Policy Advisory Committee (PAC), and Congestion Management Program & Planning Committee (CMPP).

OPR released the *Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing Senate Bill 743* on August 6, 2014. This document contains recommended amendments to the *CEQA Guidelines* to comply with SB 743, with a comment deadline of October 10, 2014.

DISCUSSION:

The purpose of this item is to provide the key points from OPR's *Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing Senate Bill 743* to Member Agencies.

A brief overview of the highlights of the *Preliminary Discussion Draft* is provided below.

Background

- Currently, environmental review of transportation impacts under CEQA focuses on delay to vehicles at intersections and roadway segments, measured by level of service (LOS). Mitigation measures for LOS impacts typically involve increasing roadway capacity.
- Pursuant to SB 743, the focus of transportation analysis will shift from vehicle delay to the amount and distance of vehicle travel associated with the project, typically measured by “vehicle miles traveled” (VMT). Other relevant considerations include the effects of the project on transit, bicycle and pedestrian modes and the safety of all travelers.
- Once the new transportation guidelines are adopted, vehicle delay will no longer be considered to be an environmental impact under CEQA.

Proposed Transportation Impact Criteria

- **Analysis of Land Use Projects:** A development project that results in vehicle miles traveled greater than the regional average of the land use type may indicate a significant impact. OPR’s guidance recommends that the threshold be set based on the average for the MPO region. Certain types of projects may be presumed to have less than significant transportation impacts:
 - Projects within ½ mile of a Major Transit Stop or High Quality Transit Corridor, as defined in statute (see Attachment A).
 - Projects that result in a net decrease in VMT.
 - Land use plans that are consistent with the Sustainable Communities Strategy.
- **Analysis of Transportation Projects:** New general purpose highway or arterial lanes, and other projects that induce vehicle travel, may have significant impacts. Certain transportation projects may be presumed to have less than significant impacts:
 - Projects to improve safety or operations, undertake maintenance or rehabilitation, provide grade separations from rail or improve transit operations.
 - New managed lanes (e.g. HOV, Express Lanes) included in the Regional Transportation Plan.
 - Transit, bicycle and pedestrian projects, including transit priority lanes.
- **Analysis of Safety:** New language on the analysis of safety noting that increased crossing exposure of bicyclists and pedestrians to auto traffic and increased vehicle speeds could constitute significant impacts.
- **Mitigation/Alternatives:** Potential mitigation measures to reduce VMT include improving or increasing access to transit and implementing Transportation Demand

Management (TDM) measures to reduce vehicle trips. Project alternatives that could reduce VMT include locating in an area of the region that exhibits low VMT, locating near transit, increasing project density, increasing the mix of uses, and/or increasing connectivity.

Adoption Schedule

- OPR will accept comments on the *Preliminary Discussion Draft* until October 10, 2014.
- After a full public vetting, OPR will submit a draft to the Natural Resources Agency for formal rulemaking, which includes additional public review.
- The new rules would go into effect after the Natural Resources Agency adopts the new *CEQA Guidelines* and the package undergoes review by the Office of Administrative Law. The updated *CEQA Guidelines* will apply prospectively to new projects that have not already commenced environmental review.

Phased Implementation

- The new procedures will apply immediately in areas within ½ mile of a Major Transit Stop or High Quality Transit Corridor, as defined in statute (see Attachment A).
- Lead agencies may elect to adopt the procedures anywhere else under their jurisdiction, provided they update their own procedures.
- On January 1, 2016, the new procedures apply to all projects statewide.

As the Congestion Management Agency (CMA), transit provider, and CEQA Lead Agency for transit and highway capital projects, VTA will play an important role in implementing SB 743 in Santa Clara County, including providing comments on OPR's draft guidelines.

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Memo No. 4609

Attachment A – Definitions of Major Transit Stop and High Quality Transit Corridor

- 21064.3. "Major transit stop" means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
- 65088.1 (e). For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

Updating Transportation Impacts Analysis in the CEQA Guidelines

*Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing
Senate Bill 743 (Steinberg, 2013)*

Governor's Office of Planning and Research
8/6/2014



Senate Bill 743 (Steinberg, 2013)

Excerpt of Public Resources Code § 21099

(b) (1) The Office of Planning and Research shall prepare, develop, and transmit to the Secretary of the Natural Resources Agency for certification and adoption proposed revisions to the guidelines adopted pursuant to Section 21083 establishing **criteria for determining the significance of transportation impacts** of projects within transit priority areas. Those criteria shall **promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses**. In developing the criteria, the office shall recommend potential metrics to measure transportation impacts that **may include, but are not limited to, vehicle miles traveled**, vehicle miles traveled per capita, automobile trip generation rates, or automobile trips generated. The office may also establish criteria for models used to analyze transportation impacts to ensure the models are accurate, reliable, and consistent with the intent of this section.

(2) Upon certification of the guidelines by the Secretary of the Natural Resources Agency pursuant to this section, **automobile delay**, as described solely by level of service or similar measures of vehicular capacity or traffic congestion **shall not be considered a significant impact on the environment** pursuant to this division, except in locations specifically identified in the guidelines, if any.

(3) This subdivision does not relieve a public agency of the requirement to analyze a project's potentially significant transportation impacts related to air quality, noise, safety, or any other impact associated with transportation. The methodology established by these guidelines shall not create a presumption that a project will not result in significant impacts related to air quality, noise, safety, or any other impact associated with transportation. Notwithstanding the foregoing, the adequacy of parking for a project shall not support a finding of significance pursuant to this section.

(4) This subdivision **does not preclude the application of local general plan policies, zoning codes, conditions of approval, thresholds, or any other planning requirements** pursuant to the police power or any other authority.

(5) **On or before July 1, 2014**, the Office of Planning and Research shall circulate **a draft** revision prepared pursuant to paragraph (1).

(c) (1) The Office of Planning and Research **may adopt guidelines** pursuant to Section 21083 **establishing alternative metrics to the metrics used for traffic levels of service for transportation impacts outside transit priority areas**. The alternative metrics may include the retention of traffic levels of service, where appropriate and as determined by the office.

(2) This subdivision shall not affect the standard of review that would apply to the new guidelines adopted pursuant to this section.

Executive Summary

On September 27, 2013, Governor Brown signed [Senate Bill 743](#) (Steinberg, 2013). Among other things, SB 743 creates a process to change the way we analyze transportation impacts under the California Environmental Quality Act (Public Resources Code section 21000 and following) (CEQA). Currently, environmental review of transportation impacts focuses on the delay that vehicles experience at intersections and on roadway segments. That delay is often measured using a metric known as “level of service,” or LOS. Mitigation for increased delay often involves increasing capacity (i.e. the width of a roadway or size of an intersection), which may increase auto use and emissions and discourage alternative forms of transportation. Under SB 743, the focus of transportation analysis will shift from driver delay to reduction of greenhouse gas emissions, creation of multimodal networks and promotion of a mix of land uses.

SB 743 requires the Governor’s Office of Planning and Research (OPR) to amend the CEQA Guidelines (Title 14 of the California Code of Regulations sections and following) to provide an alternative to level of service for evaluating transportation impacts. The alternative criteria must “promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.” (New Public Resources Code Section 21099(b)(1).) Measurements of transportation impacts may include “vehicle miles traveled, vehicle miles traveled per capita, automobile trip generation rates, or automobile trips generated.” (*Ibid.*)

This document contains a **preliminary discussion draft** of changes to the CEQA Guidelines implementing SB 743. In developing this preliminary discussion draft, OPR consulted with a wide variety of potentially affected stakeholders, including local governments, metropolitan planning organizations, state agencies, developers, transportation planners and engineers, environmental organizations, transportation advocates, academics, and others. OPR released its [preliminary evaluation](#) of different alternatives for public review and comment in December 2013. Having considered all [comments](#) that it received, and conducted additional research and consultation, OPR now seeks public review of this preliminary discussion draft.

This document contains background information, a narrative explanation of the proposed changes, text of the proposed changes, and appendices containing more detailed background information.

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Analyzing Transportation Impacts

Proposed New Section 15064.3 and Proposed Amendments to Appendix F

Background

Californians drive approximately 332 *billion* vehicle miles each year. That driving accounts for 36 percent of all greenhouse gases in the state. (California Air Resources Board, [First Update to the Climate Change Scoping Plan](#) (May 2014).) Meanwhile, existing roadway networks are deteriorating. While new development may pay the capital cost of installing roadway improvements, neither the state nor local governments are able to fully fund operations and maintenance. (See, e.g., Nichols Consulting Engineers, [California Statewide Local Streets and Roads Needs Assessment](#) (January 2013).) While the health benefits of walking, bicycling and transit use are becoming more well-known, planning has literally pushed those other modes aside. Why?

Traffic studies used in CEQA documents have typically focused on one thing: the impact of projects on traffic flows. By focusing solely on delay, environmental studies typically required projects to build bigger roads and intersections as “mitigation” for traffic impacts. That analysis tells only part of the story, however.

Impacts on pedestrians, bicyclists and transit, for example, have not typically been considered. Projects to improve conditions for pedestrians, bicyclist and transit have, in fact, been discouraged because of impacts related to congestion. Requiring “mitigation” for such impacts in the CEQA process imposes increasing financial burdens, not just on project developers that may contribute capital costs for bigger roadways, but also on taxpayers that must pay for maintenance and upkeep of those larger roads. Ironically, even “congestion relief” projects (i.e., bigger roadways) may only help traffic flow in the short term. In the long term, they attract more and more drivers (i.e., induced demand), leading not only to increased air pollution and greenhouse gas emissions, but also to a return to congested conditions. (Matute and Pincetl, [“Use of Performance Measures that Prioritize Automobiles over Other Modes in Congested Areas;”](#) Handy and Boarnet, [“DRAFT Policy Brief on Highway Capacity and Induced Travel,”](#) (April 2014).) Under current practice, none of these impacts are considered in a typical project-level environmental review.

Such impacts have not completely escaped notice, however. For many years, local governments, transportation planners, environmental advocates and others have encouraged the Governor’s Office of Planning and Research (OPR) to revise the CEQA Guidelines to reframe the analysis of transportation impacts away from capacity. In 2009, the Natural Resources Agency revised the Appendix G checklist to focus more on multimodal, “complete streets” concepts. (Natural Resources Agency, [Final Statement of Reasons: Amendments to the State CEQA Guidelines Addressing Analysis and Mitigation of Greenhouse Gas Emissions Pursuant to SB97](#) (December 2009).)

Just last year, the Legislature passed, and Governor Brown signed into law, [Senate Bill 743](#) (Steinberg, 2013), which requires OPR to develop alternative methods of measuring transportation impacts under CEQA. At a minimum, the new methods must apply within areas that are served by transit; however, OPR may extend the new methods statewide. Once the new transportation guidelines are adopted, automobile delay will no longer be considered to be an environmental impact under CEQA. SB 743 requires OPR to circulate a first draft of the new guidelines by July 1, 2014. The preliminary discussion draft below satisfies that requirement.

Before turning to a detailed explanation of the proposed text, OPR urges reviewers to consider the following:

- This is a ***preliminary discussion draft*** of a proposal that responds to SB 743. It reflects the information and research contained in OPR’s [Preliminary Evaluation of Alternative Methods of Transportation Analysis](#) (December 2013), as well as [comments](#) submitted on that evaluation and informal consultation with stakeholder groups across the state. However, OPR expects this draft to evolve, perhaps substantially, in response to this larger vetting and review process.
- Because this is a preliminary discussion draft, reviewers may notice some terms that should be defined, or concepts that should be further explored. OPR invites your suggestions in that regard.
- This proposal involves changes to the CEQA Guidelines. Because the CEQA Guidelines apply to all public agencies, and all projects, throughout the state, they generally must be drafted broadly. Similarly, this proposal reflects CEQA’s typical deference to lead agencies on issues related to methodology. The background paper accompanying this proposal, however, provides additional detail on a sample methodology for conducting an analysis, lists models capable of estimating vehicle miles traveled, and ideas for mitigation and alternatives. We invite reviewers to let us know if greater or less detail should be included in the new Guidelines.

This preliminary discussion draft consists of several parts. First, it contains a proposed new section 15064.3 of the CEQA Guidelines, which itself contains several subdivisions. Second, it proposes amendments to Appendix F (Energy Impacts) to describe possible mitigation measures and alternatives. Each of these components is described below.

Explanation of Proposed New Section 15064.3

OPR proposes to add a new section 15064.3 to the CEQA Guidelines to provide new methods of measuring transportation impacts. OPR initially considered whether to put the new methods in an appendix or in a new section of the Guidelines. OPR chose the latter, because experience with Appendix F, which requires analysis of energy impacts, has shown that requirements in appendices may not be consistently applied in practice.

Having decided to add a new section to the Guidelines, the next question was where to put it. As required by SB 743, the new guidelines focus on “determining the significance of transportation impacts.” Section 15064 of the CEQA Guidelines contains general rules regarding “determining the

significance of the environmental effects caused by a project.” Since the new Guideline section focuses on the specific rules regarding transportation impacts, OPR determined that it would be appropriate to place the new rules close to the section containing the general rules. Also, the new section 15064.3 would be contained within Article 5 of the Guidelines, which address “preliminary review of projects and conduct of initial study,” and therefore would be relevant to both negative declarations and environmental impact reports.

The proposed new section 15064.3 contains several subdivisions, which are described below.

Subdivision (a): Purpose

Subdivision (a) sets forth the purpose of the entire new section 15064.3. First, the subdivision clarifies that the primary consideration, in an environmental analysis, regarding transportation is the amount and distance that a project might cause people to drive. This captures two measures of transportation impacts: auto trips generated and trip distance. These factors are important in an environmental analysis for the reasons set forth in the background materials supporting vehicle miles traveled as a transportation metric. These factors were also identified by the legislature in SB 743. (Pub. Resources Code § 21099(b)(1).) Specifying that trip generation and vehicle miles traveled are the primary considerations in a transportation analysis is necessary because impacts analysis has historically focused on automobile delay.

The second sentence in subdivision (a) also identifies impacts to transit and the safety of other roadway users as relevant factors in an environmental analysis. Impacts to transit and facilities for pedestrians and bicyclists are relevant in an environmental impacts analysis because deterioration or interruption may cause users switch from transit or active modes to single-occupant vehicles, thereby causing energy consumption and air pollution to increase. Further, impacts to human safety are clearly impacts under CEQA. (Pub. Resources Code § 21083(b)(3) (a significance finding is required if “a project will cause substantial adverse effects on human beings, either directly or indirectly”).) Finally, SB 743 requires the new guidelines to promote “multimodal transportation” and to provide for analysis of safety impacts. (Pub. Resources Code § 21099(b)(1), (b)(3).)

The third sentence clarifies that air quality and noise impacts related to transportation may still be relevant in a CEQA analysis. (Pub. Resources Code § 21099(b)(3) (the new guidelines do “not relieve a public agency of the requirement to analyze a project’s potentially significant transportation impacts related to air quality, noise, safety, or any other impact associated with transportation”).) However, those impacts are typically analyzed in the air quality and noise sections of environmental documents. Further, there is nothing in SB 743 that requires analysis of noise or air quality in a transportation section of an environmental document. In fact, the content of any environmental document may vary provided that any required content is included in the document. (State CEQA Guidelines § 15120(a).)

Finally, the last sentence clarifies that automobile delay is not a significant effect on the environment. This sentence is necessary to reflect the direction in SB 743 itself that vehicle delay is not a significant environmental impact. (Pub. Resources Code § 21099(b)(2) (“Upon certification of the guidelines by the Secretary of the Natural Resources Agency pursuant to this section, automobile delay, as described

solely by level of service or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment pursuant to this division, except in locations specifically identified in the guidelines, if any”).) As noted above, traffic-related noise and air quality impacts, for example, may still be analyzed in CEQA and mitigated as needed. Mitigation would consist of measures to reduce noise or air pollutants, however, and not necessarily the delay that some vehicles may experience in congestion.

Subdivision (b): Criteria for Analyzing Transportation Impacts

While subdivision (a) sets forth general principles related to transportation analysis, subdivision (b) focuses on specific criteria for determining the significance of transportation impacts. It is further divided into four subdivisions: (1) vehicle miles traveled and land use projects, (2) induced travel and transportation projects, (3) safety, and (4) methodology.

The lead-in sentences to these subdivisions clarify two things. First, CEQA’s general rules regarding the determination of significance apply to all potential impacts, including transportation impacts. These general rules include the necessity to consider context and substantial evidence related to the project under consideration, as well as the need to apply professional judgment. These rules are contained in section 15064 of the CEQA Guidelines, which is included as a cross-reference in subdivision (b). The second lead-in sentence clarifies that the new section 15064.3 contains rules that apply specifically to transportation impacts.

Subdivision (b)(1): Vehicle Miles Traveled and Land Use Projects

The first sentence in subdivision (b)(1) states that vehicle miles traveled is generally the most appropriate measure of transportation impacts. It uses the word “generally” because OPR recognizes that the CEQA Guidelines apply to a wide variety of project types and lead agencies. Therefore, this sentence recognizes that in appropriate circumstances, a lead agency may tailor its analysis to include other measures.

SB 743 did not authorize OPR to set thresholds, but it did direct OPR to develop Guidelines “for determining the significance of transportation impacts of projects[.]” (Pub. Resources Code § 21099(b)(2).) Therefore, to provide guidance on determining the significance of impacts, subdivision (b)(1) describes factors that might indicate whether the amount of a project’s vehicle miles traveled may be significant, or not.

For example, a project that results in vehicle miles traveled that is greater than the regional average might be considered to have a significant impact. Average in this case could be measured using an efficiency metric such as per capita, per employee, etc. Travel demand models can provide information on those regional averages. “Region” refers to the metropolitan planning organization or regional transportation plan area within which the project is located. Notably, because the proposed text states that greater than regional average “may indicate a significant impact,” this subdivision would not prevent a local jurisdiction from applying a *more stringent* threshold. (Pub. Resources Code § 21099(e) (the new Guidelines do not “affect the authority of a public agency to establish or adopt thresholds of

significance that are more protective of the environment”).) Note, this potential finding of significance would not apply to projects that are otherwise statutorily or categorically exempt.

Why regional average? First, the region generally represents the area within which most people travel for their daily needs. Second, focusing on the region recognizes the many different contexts that exist in California. Third, pursuant to SB 375, metropolitan planning organizations throughout the state are developing sustainable communities strategies as part of their regional transportation plans, and as part of that process, they are developing data related to vehicle miles traveled. Fourth, average vehicle miles traveled per capita, per employee, etc., can be determined at the regional level from existing data. Finally, because SB 375 requires all regions to reduce region-wide greenhouse gas emissions related to transportation, projects that move the region in the other direction may warrant a closer look.

Subdivision (b)(1) also gives examples of projects that might have a less than significant impact with respect to vehicle miles traveled. For example, projects that locate in areas served by transit, where vehicle miles traveled is generally known to be low, may be considered to have a less than significant impact. (See, e.g., California Air Pollution Control Officers Association, “[Quantifying Greenhouse Gas Mitigation Measures](#),” (August 2010).) Further, projects that are shown to decrease vehicle miles traveled, as compared to existing conditions, may be considered to have a less than significant impact. Such projects might include, for example, the addition of a grocery store to an existing neighborhood that enables existing residents to drive shorter distances. Notably, in describing these factors, the Guidelines use the word “may” to signal that a lead agency should still consider substantial evidence indicating that a project may still have significant vehicle miles traveled impacts. For example, the addition of regional serving retail to a neighborhood may draw customers from far beyond a single neighborhood, and therefore might actually increase vehicle miles traveled overall. Similarly, a project located near transit but that also includes a significant amount of parking might indicate that the project may still generate significant vehicle travel.

Most of the examples in this subdivision are most relevant to specific development projects. Land use plans, such as specific plans or general plans, might be considered to have a less than significant effect at the plan level if they are consistent with an adopted sustainable communities strategy.

Subdivision (b)(2): Induced Travel and Transportation Projects

While subdivision (b)(1) addresses vehicle miles traveled associated with land use projects, subdivision (b)(2) focuses on impacts that result from certain transportation projects. Specifically, research indicates that adding new traffic lanes in areas subject to congestion tends to lead to more people driving further distances. (Handy and Boarnet, “[DRAFT Policy Brief on Highway Capacity and Induced Travel](#),” (April 2014).) This is because the new roadway capacity may allow increased speeds on the roadway, which then allows people to access more distant locations in a shorter amount of time. Thus, the new roadway capacity may cause people to make trips that they would otherwise avoid because of congestion, or may make driving a more attractive mode of travel. Research also shows that extending new roadway capacity, like the addition of water or sewer infrastructure, may remove barriers to growth in undeveloped areas. Subdivision (b)(2) would therefore require lead agencies that add new physical roadway capacity in congested areas to consider these potential growth-inducing impacts.

Subdivision (b)(2) also clarifies that not all transportation projects would be expected to cause increases in vehicle miles traveled. For example, projects that are primarily designed to improve safety or operations would not typically be expected to create significant impacts. The same is true of pedestrian, bicycle and transit projects, including those that require reallocation or removal of motor vehicle lanes.

Subdivision (b)(3): Local Safety

Subdivision (b)(3) recognizes that vehicle miles traveled may not be the only impacts associated with transportation. While vehicle miles traveled may reflect regional concerns, transportation impacts may also be felt on a local level. The convenience of drivers and the layout of local roadway systems are issues that can, and likely will continue to be, addressed in local planning processes. Safety impacts, as noted above, are local impacts that are appropriate in a CEQA analysis.

Specifically, subdivision (b)(3) clarifies that lead agencies should consider whether a project may cause substantially unsafe conditions for various roadway users. The potential safety concern must be one that affects many people, not just an individual. Further, the potential safety concern must relate to actual project conditions, and not stem solely from subjective fears of an individual. Subdivision (b)(3) includes a non-exclusive list of potential factors that might affect the safety of different roadway users.

Subdivision (b)(4): Methodology

Subdivision (b)(4) provides guidance on methodology. First, it clarifies that analysis of a project's vehicle miles traveled is subject to the rule of reason. In other words, a lead agency would not be expected to trace every possible trip associated with a project down to the last mile. Conversely, to the extent that available models and tools allow, a lead agency would be expected to consider vehicle miles traveled that extend beyond the lead agency's political boundaries. (See, e.g., State CEQA Guidelines § 15151 ("An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible".)) This clarification is needed because under current practice, some lead agencies do not consider the transportation impacts of their own projects that may be felt within adjacent jurisdictions.

Subdivision (b)(4) also recognizes the role for both models and professional judgment in estimating vehicle miles traveled. Many publicly available models are available that can estimate the amount of vehicle miles traveled associated with a project. Models, however, are only tools. A model relies on certain assumptions and its use may, or may not, be appropriate given a particular project and its context. For similar reasons, model outputs may need to be revised. Thus, subdivision (b)(4) expressly recognizes the role of professional judgment in using models. Notably, this is consistent with general CEQA rules in determining significance. (See, e.g., State CEQA Guidelines § 15064(b) (determining significance "calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data".)) To promote transparency, subdivision (b)(4) requires that any adjustments to model inputs or outputs be documented and explained. Further, this documentation should be made plain in the environmental document itself.

Subdivision (c): Mitigation and Alternatives

Subdivision (c) restates the general rule that when a lead agency identifies a significant impact, it must consider mitigation measures that would reduce that impact. The selection of particular mitigation measures, however, is always left to the discretion of the lead agency. Further, OPR expects that agencies will continue to innovate and find new ways to reduce vehicular travel. Therefore, OPR proposes to identify several potential mitigation measures and alternatives in existing Appendix F (regarding energy impacts analysis), and include a cross-reference to Appendix F in subdivision (c). Subdivision (c) also makes explicit that this section does not limit any public agency's ability to condition a project pursuant to other laws. For example, while automobile delay will not be treated as a significant impact under CEQA, cities and counties may still require projects to achieve levels of service designated in general plans or zoning codes. (Pub. Resources Code § 21099(b)(4) ("This subdivision [requiring a new transportation metric under CEQA] does not preclude the application of local general plan policies, zoning codes, conditions of approval, thresholds, or any other planning requirements pursuant to the police power or any other authority".)) Similarly, with regard to projects that have already undergone environmental review, subdivision (c) clarifies that nothing in these proposed rules would prevent a lead agency from enforcing previously adopted mitigation measures. In fact, within the bounds of other laws, including adopted general plans, lead agencies have discretion to apply or modify previously adopted mitigation measures. (*Napa Citizens for Honest Government v. Napa County Bd. of Sup.* (2001) 91 Cal. App. 4th 342, 358 (because "mistakes can be made and must be rectified, and ... the vision of a region's citizens or its governing body may evolve over time... there are times when mitigation measures, once adopted, can be deleted".)) Notably, deletion of measures imposed solely to address automobile delay should not require any additional environmental review because section 21099 of the Public Resources Code states that automobile delay is not a significant impact under CEQA.

Subdivision (d): Applicability

OPR recognizes that the procedures proposed in this section may not be familiar to all public agencies. OPR also recognizes that this section proposes a new way to evaluate transportation impacts. Therefore, to allow lead agencies time to familiarize themselves with these new procedures, OPR proposes a phased approach to implementation. Doing so will also allow OPR to continue studying the application of vehicle miles traveled in the environmental review process, and to propose further changes to this section if necessary.

Subdivision (d) explains when these new rules will apply to project reviews. The first sentence restates the general rule that changes to the CEQA Guidelines apply prospectively to new projects that have not already commenced environmental review. (See State CEQA Guidelines § 15007.)

The second sentence provides that the new procedures will apply immediately upon the effective date of these Guidelines to projects located within one-half mile of major transit stops and high quality transit corridors. Those transit-served areas have been the focus of planning under SB 375 and jurisdictions containing such areas may be more likely to be familiar with tools that estimate vehicle miles traveled.

The third sentence allows jurisdictions to opt-in to these new procedures, regardless of location, provided that they update their own CEQA procedures to reflect the rules in this section. (See State CEQA Guidelines § 15022.) This is intended to provide certainty to project applicants and the public regarding which rules will govern project applications. Notably, a lead agency's adoption of updates to its own CEQA procedures will not normally be considered a project that requires its own environmental review. (See *California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2014) 218 Cal. App. 4th 1171, 1183-1192 (certiorari granted on other grounds).)

Finally, the last sentence states that after January 1, 2016, the rules in this section will apply statewide.

Explanation of Amendments to Appendix F: Energy Impacts

OPR proposes to provide suggestions of potential mitigation measures and alternatives that might reduce a project's vehicle miles traveled in Appendix F of the State CEQA Guidelines. Appendix F provides detailed guidance on conducting an analysis of a project's energy impacts. Inclusion of the list of suggested measures in Appendix F is proposed for at least two reasons. First, vehicle miles traveled may be a relevant consideration in the analysis and mitigation of a project's energy impacts. Second, the list of potential mitigation measures is lengthy and is more appropriate for an appendix than the body of the Guidelines.

Notably, the suggested mitigation measures and alternatives were largely drawn from the California Air Pollution Control Officers Association's guide on [Quantifying Greenhouse Gas Mitigation Measures](#). That guide relied on peer-reviewed research on the effects of various mitigation measures, and provides substantial evidence that the identified measures are likely to lead to quantifiable reductions in vehicle miles traveled.

Explanation of Amendments to Appendix G: Transportation

OPR proposes several changes to the questions related to transportation in Appendix G to conform to the proposed new Section 15064.3. First, OPR proposes to revise the question related to "measures of effectiveness" so that the focus is more on the circulation element and other plans governing transportation. Second, OPR proposes to revise the question that currently refers to "level of service" to focus instead on a project's vehicle miles traveled. Third, OPR proposes to recast the question related to design features so that it focuses instead on whether a roadway project would tend to induce additional travel. Fourth, OPR proposes to revise the question related to safety to address the factors described in subdivision (b)(3) of the proposed new Section 15064.3.

Text of Proposed New Section 15064.3

Proposed New Section 15064.3. Determining the Significance of Transportation Impacts; Alternatives and Mitigation Measures

(a) Purpose.

When analyzing a project's potential environmental impacts related to transportation, primary considerations include the amount and distance of automobile travel associated with the project. Other relevant considerations include the effects of the project on transit and non-motorized travel and the safety of all travelers. Indirect effects of project-related transportation, such as impacts to air quality and noise, may also be relevant, but may be analyzed together with stationary sources in other portions of the environmental document. A project's effect on automobile delay does not constitute a significant environmental impact.

(b) Criteria for Analyzing Transportation Impacts.

Section 15064 contains general rules governing the analysis, and the determination of significance, of environmental effects. Specific considerations involving transportation impacts are described in this section. For the purposes of this section, "vehicle miles traveled" refers to distance of automobile travel associated with a project.

(1) Vehicle Miles Traveled and Land Use Projects. Generally, transportation impacts of a project can be best measured using vehicle miles traveled. A development project that is not exempt and that results in vehicle miles traveled greater than regional average for the land use type (e.g. residential, employment, commercial) may indicate a significant impact. For the purposes of this subdivision, regional average should be measured per capita, per employee, per trip, per person-trip or other appropriate measure. Also for the purposes of this subdivision, region refers to the metropolitan planning organization or regional transportation planning agency within which the project is located. Development projects that locate within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor generally may be considered to have a less than significant transportation impact. Similarly, development projects, that result in net decreases in vehicle miles traveled, compared to existing conditions, may be considered to have a less than significant transportation impact. Land use plans that are either consistent with a sustainable communities strategy, or that achieve at least an equivalent reduction in vehicle miles traveled as projected to result from implementation of a sustainable communities strategy, generally may be considered to have a less than significant impact.

(2) Induced Vehicle Travel and Transportation Projects. To the extent that a transportation project increases physical roadway capacity for automobiles in a congested area, or adds a new roadway to the network, the transportation analysis should analyze whether the project will induce additional automobile travel compared to existing conditions. The addition of general purpose highway or arterial lanes may indicate a significant impact except on rural roadways where the primary purpose is to improve safety and where speeds are not significantly altered. Transportation projects that do not add physical roadway capacity for automobiles, but instead are for the primary purpose of improving safety or operations, undertaking maintenance or rehabilitation, providing rail grade separations, or improving transit operations, generally would not result in a significant transportation impact. Also, new managed lanes (i.e. tolling, high-occupancy lanes, lanes for transit or freight vehicles only, etc.), or short auxiliary lanes, that are consistent with the transportation projects in a Regional Transportation Plan and Sustainable Communities Strategy, and for which induced travel was already adequately analyzed, generally would not result in a significant transportation impact. Transportation projects (including lane priority for transit, bicycle and pedestrian projects) that lead to net decreases in vehicle miles traveled, compared to existing conditions, may also be considered to have a less than significant transportation impact.

(3) Local Safety. In addition to a project's effect on vehicle miles traveled, a lead agency may also consider localized effects of project-related transportation on safety. Examples of objective factors that may be relevant may include:

(A) Increase exposure of bicyclists and pedestrians in vehicle conflict areas (i.e., remove pedestrian and bicycle facilities, increase roadway crossing times or distances, etc.).

(B) Contribute to queuing on freeway off-ramps where queues extend onto the mainline.

(C) Contribute to speed differentials of greater than 15 miles per hour between adjacent travel lanes.

(D) Increase motor vehicle speeds.

(E) Increase distance between pedestrian or bicycle crossings.

(4) Methodology. The lead agency's evaluation of the vehicle miles traveled associated with a project is subject to a rule of reason; however, a lead agency generally should not confine its evaluation to its own political boundary. A lead agency may use models to estimate a project's vehicle miles traveled, and may revise those estimates to reflect professional judgment based on substantial evidence. Any assumptions used to estimate vehicle miles traveled and any revisions to model outputs should be documented and explained in the environmental document prepared for the project.

(c) Alternatives and Mitigation.

Examples of mitigation measures and alternatives that may reduce vehicle miles travelled are included in Appendix F. Neither this section nor Appendix F limits the exercise of any public agency's discretion provided by other laws, including, but not limited to, the authority of cities and counties to condition project approvals pursuant to general plans and zoning codes. Previously adopted

measures to mitigate congestion impacts may continue to be enforced, or modified, at the discretion of the lead agency.

(d) Applicability.

The provisions of this section shall apply prospectively as described in section 15007. Upon filing of this section with the Secretary of State, this section shall apply to the analysis of projects located within one-half mile of major transit stops or high quality transit corridors. Outside of those areas, a lead agency may elect to be governed by the provisions of this section provided that it updates its own procedures pursuant to section 15022 to conform to the provisions of this section. After January 1, 2016, the provisions of this section shall apply statewide.

Note: Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Sections 21099 and 21100, Public Resources Code; *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal. App. 4th 173.

Text of Proposed Amendments to Appendix F

Appendix F

Energy Conservation

I. Introduction

The goal of conserving energy implies the wise and efficient use of energy. The means of achieving this goal include:

- (1) decreasing overall per capita energy consumption,
- (2) decreasing reliance on fossil fuels such as coal, natural gas and oil, and
- (3) increasing reliance on renewable energy sources.

In order to assure that energy implications are considered in project decisions, the California Environmental Quality Act requires that EIRs include a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy (see Public Resources Code section 21100(b)(3)). Energy conservation implies that a project's cost effectiveness be reviewed not only in dollars, but also in terms of energy requirements. For many projects, cost effectiveness may be determined more by energy efficiency than by initial dollar costs. A lead agency may consider the extent to which an energy source serving the project has already undergone environmental review that adequately analyzed and mitigated the effects of energy production.

II. EIR Contents

Potentially significant energy implications of a project shall be considered in an EIR to the extent relevant and applicable to the project. The following list of energy impact possibilities and potential conservation measures is designed to assist in the preparation of an EIR. In many instances specific items may not apply or additional items may be needed. Where items listed below are applicable or relevant to the project, they should be considered in the EIR.

A. Project Description may include the following items:

1. Energy consuming equipment and processes which will be used during construction, operation and/or removal of the project. If appropriate, this discussion should consider the energy intensiveness of materials and equipment required for the project.
2. Total energy requirements of the project by fuel type and end use.

3. Energy conservation equipment and design features.
4. Identification of energy supplies that would serve the project.
5. Total estimated daily vehicle trips to be generated by the project and the additional energy consumed per trip by mode.

B. Environmental Setting may include existing energy supplies and energy use patterns in the region and locality.

C. Environmental Impacts may include:

1. The project's energy requirements and its energy use efficiencies by amount and fuel type for each stage of the project including construction, operation, maintenance and/or removal. If appropriate, the energy intensiveness of materials maybe discussed.
2. The effects of the project on local and regional energy supplies and on, requirements for additional capacity.
3. The effects of the project on peak and base period demands for electricity and other forms of energy.
4. The degree to which the project complies with existing energy standards.
5. The effects of the project on energy resources.
6. The project's projected transportation energy use requirements and its overall use of efficient transportation alternatives.

D. Mitigation Measures may include:

1. Potential measures to reduce wasteful, inefficient and unnecessary consumption of energy during construction, operation, maintenance and/or removal. The discussion should explain why certain measures were incorporated in the project and why other measures were dismissed.
2. The potential of siting, orientation, and design to minimize energy consumption, including transportation energy, increase water conservation and reduce solid-waste.
3. The potential for reducing peak energy demand.
4. Alternate fuels (particularly renewable ones) or energy systems.
5. Energy conservation which could result from recycling efforts.

6. Potential measures to reduce vehicle miles traveled include, but are not limited to:

- a. Improving or increasing access to transit.**
- b. Increasing access to common goods and services, such as groceries, schools, and daycare.**
- c. Incorporating affordable housing into the project.**
- d. Improving the jobs/housing fit of a community.**
- e. Incorporating neighborhood electric vehicle network.**
- f. Orienting the project toward transit, bicycle and pedestrian facilities.**
- g. Improving pedestrian or bicycle networks, or transit service.**
- h. Traffic calming.**
- i. Providing bicycle parking.**
- j. Limiting parking supply.**
- k. Unbundling parking costs.**
- l. Parking or roadway pricing or cash-out programs.**
- m. Implementing a commute reduction program.**
- n. Providing car-sharing, bike sharing, and ride-sharing programs.**
- o. Providing transit passes.**

E. Alternatives should be compared in terms of overall energy consumption and in terms of reducing wasteful, inefficient and unnecessary consumption of energy. **Examples of project alternatives that may reduce vehicle miles traveled include, but are not limited to:**

- 1. Locating the project in an area of the region that already exhibits below average vehicle miles traveled.**
- 2. Locating the project near transit.**
- 3. Increasing project density.**
- 4. Increasing the mix of uses within the project, or within the project's surroundings.**
- 5. Increasing connectivity and/or intersection density on the project site.**

6. Deploying management (e.g. pricing, vehicle occupancy requirements) on roadways or roadway lanes.

F. Unavoidable Adverse Effects may include wasteful, inefficient and unnecessary consumption of energy during the project construction, operation, maintenance and/or removal that cannot be feasibly mitigated.

G. Irreversible Commitment of Resources may include a discussion of how the project preempts future energy development or future energy conservation.

H. Short-Term Gains versus Long-Term Impacts can be compared by calculating the project's energy costs over the project's lifetime.

I. Growth Inducing Effects may include the estimated energy consumption of growth induced by the project.

Note: Authority cited: Sections 21083, **21083.05** and 21087, Public Resources Code. Reference: Sections 21000-21176. Public Resources Code.

Text of Proposed Amendments to Appendix G

The following is an excerpt of Section XVI of existing Appendix G, as proposed to be amended to conform to proposed Section 15064.3:

[...]

XVI. TRANSPORTATION/~~TRAFFIC~~ -- Would the project:

- a) Conflict with an ~~applicable~~ plan, ordinance or policy ~~establishing measures of effectiveness for the addressing the safety or~~ performance of the circulation system, including transit, roadways, bicycle lanes and pedestrian paths? ~~taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?~~
- b) Cause vehicle miles traveled (per capita, per service population, or other appropriate measure) that exceeds the regional average for that land use? ~~Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?~~
- c) Result in substantially unsafe conditions for pedestrians, bicyclists, transit users, motorists or other users of public rights of way by, among other things, increasing speeds, increasing exposure of bicyclists and pedestrians in vehicle conflict areas, etc.? ~~a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?~~
- d) Substantially induce additional automobile travel by increasing physical roadway capacity in congested areas (i.e., by adding new mixed-flow lanes) or by adding new roadways to the network? ~~increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?~~
- e) Result in inadequate emergency access?
- f) ~~Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?~~

[...]

Providing Input

This is a preliminary discussion draft, which we expect to change for the better through public input. We hope that you will share your thoughts and expertise in this effort.

When and Where to Submit Comments

Input may be submitted electronically to CEQA.Guidelines@ceres.ca.gov. While electronic submission is preferred, suggestions may also be mailed or hand delivered to:

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

Please submit all suggestions before **October 10, 2014 at 5:00 p.m.**

Tips for Providing Effective Input

OPR would like to encourage robust engagement in this update process. We expect that participants will bring a variety of perspectives. While opposing views may be strongly held, discourse can and should proceed in a civil and professional manner. To maximize the value of your input, please consider the following:

- In your comment(s), please clearly identify the specific issues on which you are commenting. If you are commenting on a particular word, phrase, or sentence, please provide the page number and paragraph citation.
- Explain why you agree or disagree with OPR's proposed changes. Where you disagree with a particular portion of the proposal, please suggest alternative language.
- Describe any assumptions and support assertions with legal authority and factual information, including any technical information and/or data. Where possible, provide specific examples to illustrate your concerns.
- When possible, consider trade-offs and potentially opposing views.
- Focus comments on the issues that are covered within the scope of the proposed changes. Avoid addressing rules or policies other than those contained in this proposal.
- Consider quality over quantity. One well-supported comment may be more influential than one hundred form letters.
- Please submit any comments within the timeframe provided.

Update on SB 743 Changes to CEQA Transportation Analysis

VTA Congestion Management Program and Planning Committee

September 2014



SB 743 (Steinberg, 2013) calls for changes to:

- Transportation analysis under the California Environmental Quality Act (CEQA)
- Transportation analysis under the Congestion Management Program (CMP)
- CEQA streamlining provisions for land use development projects

On August 6, 2014, the Governor's Office of Planning and Research (OPR) released the *Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing Senate Bill 743* (available at http://www.opr.ca.gov/s_sb743.php)

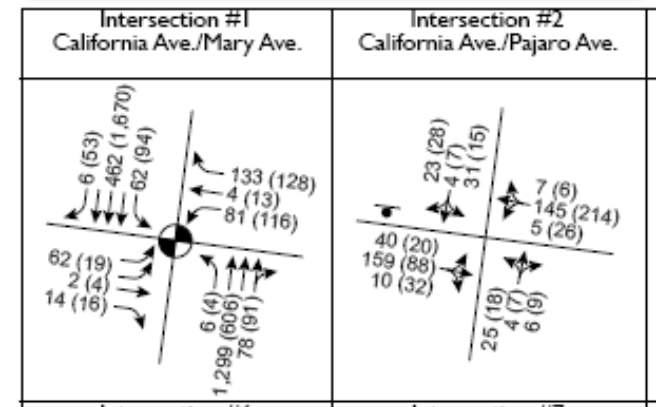
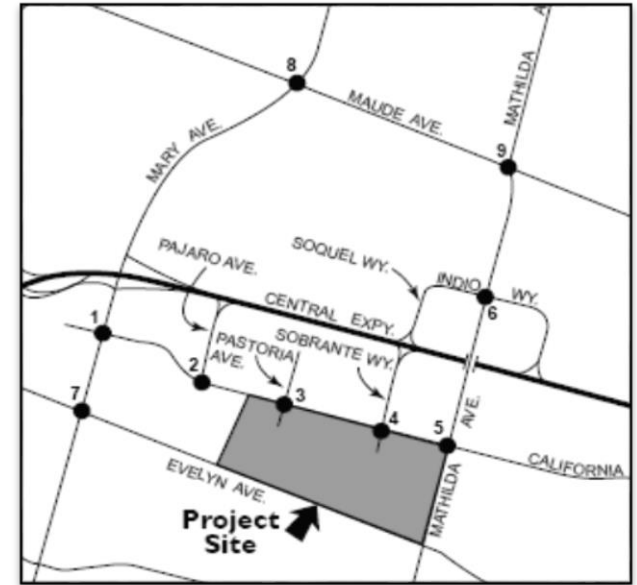
- Currently, environmental review of transportation impacts under the California Environmental Quality Act (CEQA) focuses on delay to vehicles at intersections and roadway segments, measured by level of service (LOS). Mitigation measures for LOS impacts typically involve increasing roadway capacity.
- Pursuant to SB 743, the focus of transportation analysis will shift from vehicle delay to “vehicle miles traveled” (VMT). Other relevant considerations will include the effects of the project on transit, bicycle and pedestrian modes and the safety of all travelers.
- Once the new transportation guidelines are adopted, vehicle delay will no longer be considered to be an environmental impact under CEQA.

Level of Service (LOS) measures delay at individual intersections and roadway segments:

1. A traffic study estimates the number of auto trips and where they will go
2. Those trips are overlaid onto baseline traffic
3. LOS is calculated and assigned a grade (A to F)

Mitigation is triggered at LOS thresholds

- **CEQA** – Most Lead Agencies use LOS as threshold for significant transportation impacts
- **Congestion Management Program (CMP)** – Per state legislation, VTA has established the CMP threshold of LOS E
- **Local Policies** – Local agencies have LOS thresholds in general plans and other policies



Source: Transportation Impact Analysis (TIA) Report submitted to VTA, 2013

OPR sites a number of reasons to replace LOS with a new metric:

- Bias against infill
- Scale of analysis too small
- LOS mitigation is problematic
- Transit, biking and walking are inadequately considered
- Methodology may be imprecise
- Measures delay but not access
- Widened roads are expensive to construct and maintain

Source: OPR presentation, March 2014

Arguments have been made in favor of retaining LOS:

- Methodology is tried and tested; agencies are comfortable with it
- LOS analysis is useful in roadway congestion analysis
- LOS should be retained for consistency with federal and local requirements
- Methodology can be modified to account for non-auto modes

Source: Response letters from ITE and CCTA to OPR's Preliminary Evaluation of Alternative Transportation Metrics, February 2014

OPR's *Preliminary Discussion Draft* (August 6, 2014) contains the following recommendations for the CEQA analysis of transportation impacts of **land use projects**:

- A development project that results in VMT greater than the regional average of the land use type may indicate a significant impact.
- Certain projects may be presumed to have less than significant impacts:
 - Projects within ½ mile of frequent transit, as defined in statute;
 - Projects that result in a net decrease in VMT;
 - Land use plans consistent with the Sustainable Communities Strategy.

OPR's *Preliminary Discussion Draft* (August 6, 2014) contains the following recommendations for the CEQA analysis of transportation impacts of **transportation projects**:

- New general purpose highway or arterial lanes, and other projects that induce vehicle travel, may have significant impacts.
- Certain projects may be presumed to have less than significant impacts:
 - Safety, operations, maintenance, rehabilitation, and rail grade separation projects;
 - Managed lanes (e.g. HOV, Express Lanes) included in the Regional Transportation Plan;
 - Transit, bicycle and pedestrian projects, including transit priority lanes.
- New language on the analysis of safety stating that increased crossing exposure of bicyclists and pedestrians to auto traffic and increased vehicle speeds could constitute significant impacts.

OPR's *Preliminary Discussion Draft* (August 6, 2014) contains the following recommendations for **mitigation measures** and **project alternatives**:

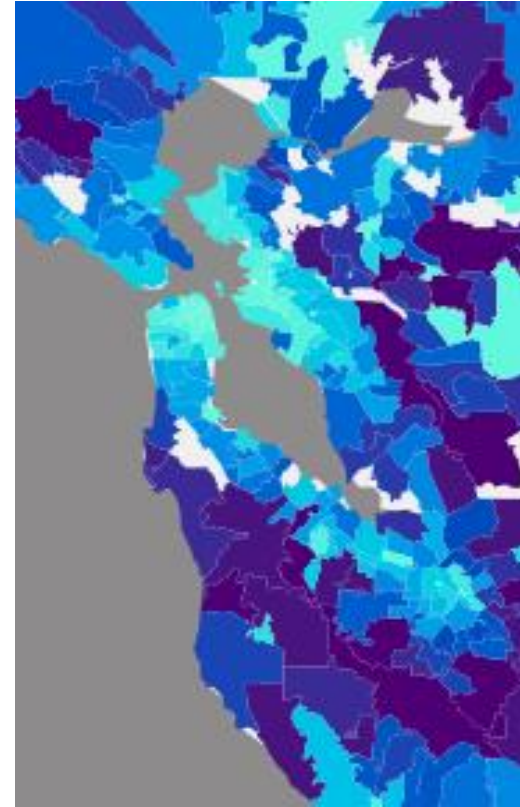
- Potential mitigation measures to reduce VMT include improving or increasing access to transit and implementing Transportation Demand Management (TDM) measures to reduce vehicle trips.
- Project alternatives that could reduce VMT include locating in an area of the region that exhibits low VMT, locating near transit, increasing project density, increasing the mix of uses, and/or increasing connectivity.

SB 743 could have far-reaching implications for VTA :

- New CEQA transportation criteria for transit and highway capital projects
- Changes to VTA CEQA Guidelines
- Potential need to update CMP transportation thresholds
- Uncertainty during implementation

... And for VTA Member Agencies:

- New CEQA transportation criteria for transportation and land use projects
- CEQA streamlining of land use development projects
- Uncertainty during implementation



VMT per Capita by Zip Code (coolclimate.berkeley.edu/maps)



OPR has identified the following **adoption schedule**:

- OPR released the *Preliminary Discussion Draft* on August 6. Comments will be accepted until **October 10, 2014**.
- OPR will submit a draft after public vetting to the Natural Resources Agency for rulemaking (additional public review).
- The new rules would go into effect after the Natural Resources Agency adopts the new *CEQA Guidelines* and the package undergoes review by the Office of Administrative Law.

OPR proposes a **phased implementation** process:

- The new procedures will apply immediately in areas within ½ mile of a Major Transit Stop or High Quality Transit Corridor, as defined in statute.
- Lead agencies may “opt in” to the procedures anywhere else under their jurisdiction, provided they update their own procedures.
- On January 1, 2016, the new procedures apply to all projects statewide.

Questions and Discussions

- 21064.3. "Major transit stop" means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
- 65088.1 (e). For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.