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Subject: California Environmental Quality Act Guidelines - Transportation Amendments and Additions
Date: Thursday, March 15, 2018 12:14:48 PM
Attachments: [San Francisco Letter CEQA Guidelines Update Transportation.pdf](#)

Dear Mr. Calfee,

Please see attached letter for collective feedback from several City and County of San Francisco agencies. Thank you for this opportunity to provide input on transportation revisions to the CEQA Guidelines. Please contact me for any follow up regarding the contents within the letter.

Sincerely,

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Christopher Calfee
Deputy Secretary and General Counsel
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Deputy Secretary Calfee,

We write on behalf of several San Francisco agencies to comment on the proposed regulatory text for transportation amendments and additions to the California Environmental Quality Act (CEQA) Guidelines. We wish to thank the staff of the California Natural Resources Agency, the Governor's Office of Planning and Research (OPR), and other agencies for leading and participating in the development of the SB 743 implementation guidelines. We commend this comprehensive effort to develop proposed updates to the transportation analysis guidance, which has involved extensive research, outreach, and participation in hundreds of public meetings. Developing guidance that seeks to balance the wishes and needs of a large and diverse set of stakeholders is a profound challenge.

San Francisco is a strong supporter of Senate Bill 743 provisions that require the CEQA Guidelines amendments and additions to transportation (public resources code sections 21099 seq.). We worked closely with OPR on prior versions of proposed CEQA Guidelines update to implement SB 743 provisions. In February 2016, we submitted a letter to OPR in which we expressed our agreement with the overall guidance provided in their January 2016 proposal.¹ Additionally, in a letter to OPR in July 2016, our late Mayor Lee, along with the mayors of three other major California urban centers, voiced their support for OPR's January 2016 proposal. Around the time of those two letters, San Francisco took a leadership position when we became the first county in California to remove automobile delay and adopt Vehicle Miles Traveled (VMT) as a measurement of transportation impacts in CEQA.² We recognized that the prior paradigm of automobile delay was not allowing for the development and maintenance of a high-quality environment now and in the future, a legislative intent of CEQA; and it conflicted with numerous state, regional, and local plans, ordinances, and policies. Two years later, we

¹ In that letter, San Francisco provided context of its unique position and experience in implementing CEQA and provided comments to OPR regarding clarifying language in the proposed CEQA Guidelines and associated technical advisory. We are repeating unaddressed CEQA Guidelines comments herein, but we are not repeating other unaddressed comments herein that relate to the associated technical advisory. City and County of San Francisco, Comments on OPR's *Revised Proposal on Updates to the CEQA Guidelines on Evaluating Transportation Impacts in CEQA* (January 20, 2016), February 29, 2016.

² San Francisco Planning Commission Resolution 19579 and associated staff report, March 3, 2016. Available online here: <http://sf-planning.org/align-modernize-environmental-review>. This resolution will continue to guide the City's role as a lead and responsible agency; although the City may need to amend the resolution if the resulting adopted CEQA Guidelines amendments and additions do not align with local policies or SB 743 intent.

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are seeing the benefits of this change as numerous transportation projects and infill developments that previously would have gone through time-consuming, costly vehicular level of service analysis with no beneficial environmental outcomes, are on the ground, approved, or under construction.³

San Francisco is still a supporter of elements of the California Natural Resources Agency’s proposed regulatory text for transportation. San Francisco also appreciates the outreach conducted by OPR between their January 2016 proposal and November 2017 proposal. However, we believe that the November 2017 proposal which informed the resources agency regulatory text regarding transportation projects and safety is inconsistent with the legislative text, and undermines SB 743. In this letter, San Francisco offers its comments concerning those items first, followed by additional clarifying comments. San Francisco is happy to work with you and OPR further regarding our comments and recommended amendments to meet the legislative intent of CEQA and SB 743.

Transportation projects that induce VMT should be required to analyze VMT

The draft purpose section states that “vehicle miles traveled is the most appropriate measure of transportation impacts.” The draft section goes on to state: “For roadway capacity projects, agencies have the discretion to determine the appropriate measure of transportation impact consistent with CEQA and other applicable requirements.” We believe that the second statement is inconsistent with SB 743 and CEQA; that both statements are internally inconsistent; and that these inconsistencies can create considerable legal uncertainty.

The California legislature found and declared in SB 743 that new transportation methodologies under CEQA, “are needed for evaluating transportation impacts that are better able to promote the state’s goals of reducing greenhouse gas emissions and traffic-related air pollution, promoting the development of a multimodal transportation system, and providing clean, efficient access to destinations” (Chapter 386, section 1(a)(2)). These goals were reiterated under Section 21099(b)(1), which states that the criteria for determining the significant of transportation impacts “shall promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.”

Recognizing the move away from older transportation methodologies, Section 21099(b)(2) states that automobile delay shall no longer be considered a significant impact on the environment pursuant to CEQA, except in *locations* specifically identified in the guidelines, if any. Roadway capacity projects are a *type* of project, not a *location* of

³ For transportation, this includes the approval and/or construction of safety and active transportation improvement projects that the City is providing or will provide soon along some of our streets with the highest concentrations of severe and fatal traffic injuries: 6th, 7th, 8th, Turk, and Upper Market streets.

a project. Roadway capacity projects located in one area of a region (e.g., outside a transit priority area) affect VMT in other areas of a region (e.g., inside a transit priority area), and vice versa. As documented in OPR's thematic responses and the resources agency initial statement of reasons regarding a geographic application exception, OPR and the resources agency recommend not including a location exception because of numerous concerns regarding lack of environmental protection, confusion, and litigation risk.⁴ Therefore, including an exception for transportation projects to this requirement would not only conflict with SB 743, but also OPR and the resources agency's own rationale for geographic applicability.

As documented with substantial evidence on OPR's website, roadway expansion projects are a primary source of emissions as they induce vehicle travel and sprawl development and more VMT results in higher crash exposure. Examples of this relationship quoted from OPR's January 2016 proposal:

- "As explained in detail in the Preliminary Evaluation of Alternatives, and in the Preliminary Discussion Draft, [the] vehicle miles traveled [metric] directly relates to emissions of air pollutants, including greenhouse gases, energy usage, and demand on infrastructure, as well as indirectly to many other impacts including public health, water usage, water quality and land consumption. Some comment[er]s expressed desire to maintain the status quo, and disagreement with the policy of analyzing vehicle miles traveled. However, none of the comments offered any evidence that vehicle miles traveled is not a measure of environmental impact. Moreover, none of the comments produced any credible evidence that level of service is a better measure of environmental impact, or would better promote the statutory goals set forth in CEQA." (page I:3)
- "A large number of peer reviewed studies have demonstrated a causal link between highway capacity increases and VMT increases. Of these approximately twenty provide quantitative estimate of the magnitude of the induced VMT phenomenon; of those, nearly all find substantial induced VMT." (page III.28)
- "The fundamental relationship between VMT and safety is summarized by Yeo et al (2014): 'Multiple traffic safety studies showed that higher VMT was positively associated with the occurrence of traffic crashes or fatalities (e.g., Ewing et al, 2002, 2003; NHTSA 2011). The causal relationship between the mileage of total vehicle trips and crash occurrences can be explained by probability. With higher VMT, it is more likely that more crashes will occur (Jang et. al. 2012).'" (page III.40)

⁴ Refer to OPR, "Thematic Responses to Comments," November 2017 (page 4) and the Natural Resources Agency, "Initial Statement of Reasons" (Attachment 1, pages 26 and 27).

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As stated by these materials and not disputed with evidence by the latest proposal, VMT is an appropriate metric to understand the impacts of increasing roadway capacity. By leaving it up to agency discretion⁵ to use VMT for transportation projects, the State CEQA Guidelines may be giving a false sense of legal protection in deeming it unnecessary to evaluate VMT impacts, because a demonstrated relationship exists between roadway capacity enhancements and growth in VMT. In addition, it creates confusion and potential legal uncertainty to presume one type of transportation project (e.g., transit) would have less than significant impact using a vehicle miles traveled metric, while another type of transportation project (e.g., highway capacity) that substantially increases VMT may not have significant impacts because of the use of a different metric. Furthermore, it ignores the aforementioned secondary effects (emissions, safety, etc.) that a highway capacity project could have on adjacent jurisdictions and the region and creates a different assessment with different outcomes throughout the state, despite the interconnectedness of the transportation systems. Therefore, lead agencies must also measure transportation projects under VMT analysis, despite their location, to ensure their impacts to state, regional, and local goals are addressed in a way that advances the achievement of a lower VMT future.

CEQA does not prevent a lead agency that wants to adopt a transportation project with significant VMT impacts (e.g., highway widening projects mentioned within regional bond measures) from doing so. Instead, CEQA requires the lead agency to fully identify and disclose those impacts; identify mitigation measures and alternatives that reduce the harmful environmental effects associated with substantial increases in VMT; and, finally adopt a statement of overriding considerations if the lead agency rejects those measures or alternatives that reduce VMT. But, if the guidelines allow lead agencies discretion to adopt other thresholds for roadway capacity projects, and ignore any VMT impacts these projects will cause, these impacts will remain unstudied, undisclosed, and unmitigated, in direct contradiction of the purposes of CEQA, generally, and SB 743, in particular.

Therefore, we recommend the resources agency include similar language to the January 20, 2016 language drafted by OPR in Section 15064.3 regarding induced vehicle travel. The resources agency should also consider reinstating the January 20, 2016 language drafted by OPR in Appendix G. Agencies can continue to analyze vehicular level of service in addition to VMT at their discretion, outside assessments for CEQA.

⁵ All lead agencies have discretion to determine the appropriate measure of impacts (CEQA Guidelines section 15064.7). Therefore, it is unclear the purpose of including language regarding this discretion in the new transportation section of the CEQA Guidelines, as this similar language is not provided in similar resource topic sections (i.e., greenhouse gas emissions and archeological and historical resources).

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Exclusion of safety from CEQA Guidelines

In California, over 3,000 people die annually in traffic collisions. Traffic collisions are the number one cause of death for people between the ages of 15 and 34 years. The Caltrans 2015-2020 Strategic Management Plan states that the “safety of our workers and users of California’s transportation system is our number one priority.” These statistics and this statement outline why we agree with OPR that agencies should address transportation safety comprehensively. That’s why San Francisco has adopted a Vision Zero goal to eliminate traffic deaths and reduce severe injuries on our streets. CEQA requires an analysis of physical environmental effects, and thus, lead agencies should analyze the potential for a project to cause physical harm to persons on the transportation system. Additionally, more VMT is associated with more crash occurrences. While we agree with OPR that many different factors are involved in attaining safety outcomes, the environmental analysis should acknowledge those factors and make a determination, without speculating, whether a project impacts safety. San Francisco has analyzed transportation safety impacts in CEQA for years and defines “potentially hazardous conditions” as engineering aspects (e.g., speed, turning movements, complex designs, substantial distance between street crossing, sight lines) that may cause collisions and result in serious or fatal physical injury that could reasonably affect many people. Therefore, we recommend the resources agency include similar language as the January 20, 2016 language drafted by OPR in Section 15064.3 and Appendix G XVI.(a) regarding safety, and add a new section to clarify its importance.

Map-based screening for land use projects, accounting for project features, should be used for presumption of impacts

We agree that all land use projects, regardless of location, should use VMT to analyze impacts. In San Francisco, “generally” projects that are within proximity of the transit definitions in section (b)(1) may have less than significant VMT impacts. However, that is not often the case throughout California if transit agencies only provide transit service during peak commute hours and in San Francisco and throughout the state if the project includes features that induce VMT. Such features include an oversupply of vehicular parking.⁶ Therefore, we recommend the resources agency provide clarifying language to reflect this evidence.

⁶ Research that substantiates this statement includes Chris McCahill and Norman Garrick, “Effects of Parking Provision on Automobile Use in Cities: Inferring Causality”, Transportation Research Board, November 13, 2015; Daniel G. Chatman, “Does Transit-Oriented Development Need the Transit”, ACCESS, Fall 2015; Zhan Guo, “Residential Street Parking and Car Ownership”, Journal of the American Planning Association, Winter 2013; Rachel Weinberger, “Death by a thousand curb-cuts: Evidence on the effect of minimum parking requirements on the choice to drive”, Transport Policy, March 2012; Kyle Gebhart, “Wasteful Parking Supply in East Harlem: An Analysis of Parking Occupancy and Mode Usage at East River Plaza in New York City”, First Place, American Planning Association, Transportation Planning Division Competition, December 16, 2011.

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Methodology clarifications

We recommend the resources agency include the January 20, 2016 language drafted by OPR regarding “political boundary”. The definition of environment (section 15360) is the “area in which significant effects would occur” regardless of the political boundary. In addition, we recommend the resources agency clarifies that any assumptions used to estimate VMT need not be included in the environmental document, but instead can be included in the administrative record per other provisions of CEQA (e.g., see sections 15088.5, 15126.6). These assumptions, particularly if they are within a travel demand model, can be extensive (e.g., hundreds or thousands of pages) and would conflict with other provisions of CEQA (e.g., section 15141). Lastly, it is unclear the relevance of section 15151, standard of adequacy of EIRs, to this section. We recommend the resources agency includes similar language to that provided in the new section 15064.4(c) for this section instead.

Applicability date

Substantial evidence exists today that substantial VMT could result in a significant impact, including from roadway capacity projects. If someone comments on an environmental document asking for VMT analysis or presenting substantial evidence indicating a significant VMT impact, the lead agency should not ignore that comment and point to the applicability date for support. The last major change to CEQA regarding greenhouse gas analysis did not include such a future applicability date.

While we appreciate the enormity of implementing this change in many jurisdictions throughout the state, we are concerned the applicability date is inconsistent with CEQA. Although the CEQA Guidelines are just that, a guide, most lead agencies follow the guidance therein and courts give deference to that guidance. By providing a future applicability date though, the CEQA Guidelines may give lead agencies the false impression of legal protection, in circumstances that there is not ample evidence that a project that produces a substantial amount of VMT may have significant impacts on the environment. Therefore, we recommend the resources agency includes language that encourages lead agencies to consider implementing these changes sooner.

Public Transit

We recommend the resources agency add language to clarify that transit means public transit, as opposed to lead agencies making land use and impact significance decisions on the proliferation of private transit services whose future is more uncertain and unreliable.

Appendix N

The resources agency should also update the checklist associated with Appendix N of the CEQA Guidelines to reflect the changes associated with Appendix G.

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Notes:

-existing CEQA Guidelines text

-Underline and ~~strikethrough~~ is resource agency's text

-**Double bold underline** and ~~double bold strikethrough~~ is San Francisco's edits

San Francisco proposed edits

(a) Purpose.

This section describes specific considerations for evaluating a project's transportation impacts. Generally, vehicle miles traveled is the most appropriate measure of transportation impacts. For the purposes of this section, "vehicle miles traveled" refers to the amount and distance of automobile travel attributable to a project. Other relevant considerations may include the effects of the project on **public** transit and non-motorized travel **and the safety of all travelers. Except as provided in subdivision (b)(2) below (regarding roadway capacity), a** A project's effect on automobile delay ~~does~~ **shall** not constitute a significant environmental impact.

(b) Criteria for Analyzing Transportation Impacts.

(1) Land Use Projects. Vehicle miles traveled exceeding an applicable threshold of significance may indicate a significant impact. Generally, projects **that exhibit low vehicle miles traveled characteristics and within areas that exhibit low vehicle miles traveled or** one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor should be presumed to cause a less than significant ~~transportation vehicle miles traveled~~ impact. Projects that decrease vehicle miles traveled in the project area compared to existing conditions should be considered to have a less than significant ~~transportation vehicle miles traveled~~ impact.

(2) Transportation Projects. Transportation projects that reduce, or have no impact on, vehicle miles traveled should be presumed to cause a less than significant ~~transportation vehicle miles traveled~~ impact. **For roadway capacity projects, agencies have discretion to determine the appropriate measure of transportation impact consistent with CEQA and other applicable requirements. Roadway capacity projects may induce automobile travel, and vehicle miles traveled, compared to existing conditions. Transportation projects that substantially induce automobile travel may indicate a significant vehicle miles traveled impact.** To the extent that ~~such impacts the potential for induced travel~~ **have** ~~has~~ already been adequately addressed at a programmatic level, a lead agency may tier from that analysis as provided in Section 15152.

(3) Other considerations. A project that may conflict with a plan, ordinance or policy addressing the circulation system and adopted for the purpose of avoiding or mitigating an environmental effect, including the safety or performance of public transit, roadways, bicycle lanes and pedestrian paths (except for automobile delay) may indicate a significant transportation impact.

~~(3 4)~~ Qualitative Analysis. If existing models or methods are not available to estimate the vehicle miles traveled for the particular project being considered, a lead agency may analyze the project's vehicle miles traveled qualitatively. Such a qualitative analysis would evaluate factors such as the availability of **public transit, proximity to other destinations, etc.** For many projects, a qualitative analysis of construction traffic may be appropriate.

~~(4 5)~~ Methodology. A lead agency has discretion to choose the most appropriate methodology to evaluate a project's vehicle miles traveled, including whether to express the change in absolute terms, per capita, per household or in any other measure. **A lead agency 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, **and limitations of a particular model or methodology** should be documented and explained in the environmental document prepared for the project **or in the administrative record, which may include incorporation by reference in the environmental document prepared for the project.** ~~The standard of adequacy in Section 15151 shall apply to the analysis described in this section.~~

(c) Applicability.

The provisions of this section shall apply prospectively as described in section 15007. A lead agency may elect **and is advised** to be governed by the provisions of this section immediately. Beginning on July 1, 2019, the provisions of this section shall apply statewide.

XVII. TRANSPORTATION/TRAFFIC.

Would the project:

- a) ~~Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of addressing the circulation system~~ **and adopted for the purpose of avoiding or mitigating an environmental effect,** including **performance and safety of public transit, roadways, bicycle lanes and pedestrian paths (except for automobile delay)?** 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?

Conclusion


This concludes our comments on the transportation amendments and additions to the CEQA Guidelines. Thank you for this opportunity to provide input. Your consideration of our comments is appreciated and we welcome any questions or comments you might have. Please contact Wade Wietgreffe at (415) 575-9050 or at Wade.Wietgreffe@sfgov.org regarding this matter.

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Sincerely,

City and County of San Francisco



John Rahaim, Director
Planning Department



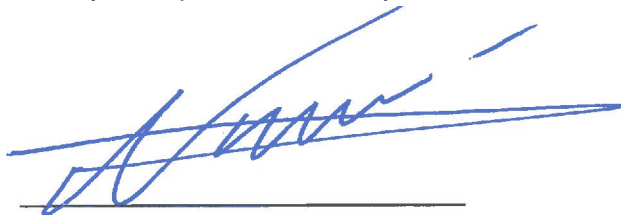
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