

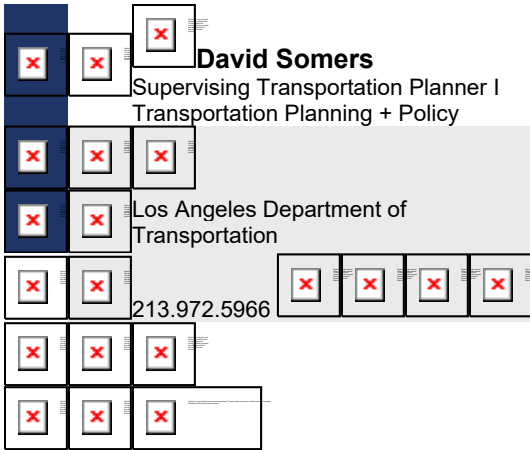
Lockey, Heather@CNRA

From: David Somers <david.somers@lacity.org>
Sent: Wednesday, March 14, 2018 3:46 PM
To: Calfee, Christopher@CNRA; CEQA Guidelines@CNRA
Cc: Carranza, Tomas; Rubina Ghazarian; Arthi Varma
Subject: City of Los Angeles comment on CEQA rule-making pursuant to SB 743
Attachments: CityofLA_SB743_CommentLetter_CEQAguidelines_031418.pdf

Good afternoon Chris.

Please see our attached comment letter on behalf of the Los Angeles Department of Transportation (LADOT) and the Los Angeles Department of City Planning (DCP). As a soon-to-be early adopter of VMT, we appreciate the opportunity to provide informed feedback to the Natural Resources Agency on the CEQA formal rule-making process pursuant to SB 743.

Many thanks,



"I slept and dreamt that life was joy. I awoke and saw that life was service. I acted and behold, service was joy." - [Rabindranath Tagore](#)

Notice: I am off every other Friday

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March 14, 2018

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

Subject: Proposed CEQA Guideline Implementing SB743 – LADOT and DCP Comments

Dear Mr. Calfee:

The City of Los Angeles Departments of Transportation (LADOT) and City Planning (DCP) appreciate the opportunity to review the “Proposed CEQA Guideline Implementing SB743,” released by the Office of Planning and Research (OPR) in November 2017. The proposed guideline, submitted to the Natural Resources Agency for final rulemaking and adoption, introduces a new section to CEQA (15064.3) that establishes vehicle-miles-traveled (VMT) as the most appropriate measure of transportation impacts. Our departments acknowledge OPR’s leadership during these past four years in carrying out the difficult task of recommending transformational changes that shift how cities and regions evaluate transportation impacts.

The proposed guideline to implement SB743 is a crucial step toward realizing climate policy priorities shared by both the State and the City of Los Angeles. SB743 has the potential to transform the way transportation and infrastructure projects are delivered. Until the guidelines are implemented, the state environmental process will remain disconnected from climate policy objectives. This change provides cities and the State with a new tool to address numerous mutual goals including achieving climate action targets, increasing livability and access, and addressing the affordable housing crisis. We recognize the responsibility of local jurisdictions to plan for future development in areas that will result in low VMT outcomes. The State’s leadership in advancing to a VMT-based metric will help achieve this outcome. Along with our overall strong support of OPR’s recommendations, we offer the following comments:

1. Land Use Projects

- We concur with OPR’s recommendation that all land use projects, not just those within transit priority areas (TPA), should be required to use a VMT metric. We understand that some agencies have requested that VMT replace the LOS metric only for infill projects within TPAs, while retaining LOS as the metric for projects outside of them. Such an approach may have significant flaws on both technical and legal grounds. Restricting the VMT analysis to projects that are within TPAs will likely undermine the streamlining objectives of SB743 for

infill projects. Since the scope of many traffic studies extend beyond a one-half mile radius, project impacts under LOS analysis would be hard to determine based on a TPA boundary. This bifurcated approach may result in legal challenge for an infill project within a TPA shown to aggravate congestion on roadway facilities that fall outside of the TPA. In addition to creating legal uncertainty, this approach would also create a new burden for infill projects that choose to evaluate both VMT and LOS, whereas land use projects that are far from transit access would have more limited LOS analysis (as they do today). The result would only further the existing incentive under CEQA to reward projects far from transit and high employment areas, while overburdening projects in a TPA area. This approach would be inconsistent with intended outcomes of SB743. VMT is the appropriate tool to review land use projects on the basis of transportation efficiency and its close association with GHG emissions. We urge the Natural Resources Agency to preserve the existing framework to apply VMT as the transportation metric under CEQA for all land use projects.

- We are concerned that the language in Section (b)(1) is overly-conclusive that projects within 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 impact. Land use factors that influence travel behavior can vary greatly, even within TPAs, and more so within high quality transit areas. Many areas throughout the state that could meet this definition currently consist of very low residential density and low transit utilization. Yet, by definition, they would qualify for a presumption of less than significance based on proximity to a transit stop with a corresponding bus service that operates within minimum 15-minute peak headways. Major cities, such as Los Angeles, are developing sketch modeling tools that can easily and quickly demonstrate the VMT performance of land use projects. The language in the proposed Guideline urges agencies to conclude less than significant impact without supporting evidence, which may unnecessarily expose infill projects to legal challenge. To better protect from legal challenges and support transparency, we recommend that lead agencies should have greater discretion to determine when a project would be presumed to have less than significant impacts based on supporting evidence.

2. Transportation Projects

While the Guideline stresses that VMT is the most appropriate measure of transportation impacts, the proposed language in Section 15064.4(b)(2) recommends agency discretion in determining the appropriate measure of transportation impact for roadway capacity projects. SB743 states that automobile delay shall no longer be considered a significant impact on the environment pursuant to CEQA. It further provides that exceptions may be made for locations, though nowhere does it mention an exception could be made based on project types. Therefore, including an exception for transportation projects from the need to evaluate VMT may conflict with the direction in SB743. A lead agency's decision to exclusively retain a LOS-based analysis for transportation projects still may not prevail in the face of a legal challenge, thereby giving the agency discretion dubious value.

OPR has compiled research substantiating the induced VMT associated with roadway expansion projects, which is included on Page 20 of the "Technical Advisory on Evaluating Transportation Impacts in CEQA" released in November 2017. The CEQA Guidelines deferring to agencies to determine which metrics to consider when evaluating a transportation project's impact may provide misleading direction where evidence is available that a project will result in increased

VMT. This presents challenges since VMT is found to be the appropriate metric that satisfies the intent of SB743. In addition, the decision to exempt a class of projects on policy grounds is the domain of the legislature, which have the ability to exempt the evaluation of specific roadway projects of state priority by statute under Division 13, Chapter 2.6 of the California Public Resources Code.

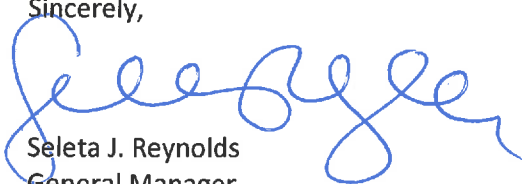
We suggest that the Natural Resources Agency support CEQA Guideline language that provides lead agencies with the best guidance in making full disclosure under law and not subject projects from unwarranted legal challenges considering the evidence available in the record. If a lead agency wants to adopt a transportation project with significant VMT impacts (e.g., highway widening projects), then CEQA does not prevent this. Instead, CEQA will require a lead agency to identify mitigation measures and alternatives that reduce the harmful environmental effects associated with increases in VMT and adopt a statement of overriding considerations if the lead agency rejects those measures or alternatives that reduce VMT. Therefore, we recommend the Secretary reinstitute the January 20, 2016 language drafted by OPR in Section 15064.3 regarding induced vehicle travel. Agencies can continue to analyze LOS in addition to VMT, at their discretion, but outside of their CEQA assessments.

3. Timing

We understand that some agencies are concerned with the pace of the anticipated transition once the new CEQA Guideline takes effect. Over the past three years, LADOT has worked to develop a VMT evaluation methodology, in collaboration with the Los Angeles Department of City Planning, to transition the City to evaluate VMT. This program was funded by a grant from the Strategic Growth Council with the goal that Los Angeles could lead the way and serve as a model to other agencies transitioning to this new approach in evaluating transportation impacts under CEQA. In the months ahead, LADOT will finalize its VMT Calculator, a sketch model tool that evaluates the VMT impacts of development projects seeking entitlements within the City's jurisdiction. LADOT will gladly participate in webinars or workshops to share lessons learned and to demonstrate its new VMT tools to assist other agencies in preparing for this important transition.

We appreciate the efforts and leadership of the Office of Planning and Research and the State in crafting this guidance and look forward to helping advance the practice throughout the state. Thank you for considering our recommendations.

Sincerely,



Seleta J. Reynolds
General Manager
Department of Transportation



Vincent P. Bertoni, AICP
Director of Planning
Department of City Planning