

Lockey, Heather@CNRA

From: Marnie Primmer <edoccog@gmail.com>
Sent: Thursday, March 15, 2018 4:51 PM
To: CEQA Guidelines@CNRA
Subject: OCCOG Comments on Proposed Rulemaking
Attachments: OCCOG_CNRA_SB743_CommentltrFinal031518.pdf

Dear Mr. Calfee,

Thank you very much for the opportunity to provide comments on the guidelines proposed by the Governor's office of Planning and research (OPR). On behalf of the Orange County Council of Governments I respectfully submit these comments in the spirit of assisting the process to be successful while representing the concerns and interested of OCCOG's member agencies.

Best Regards,
marnie

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March 15, 2018

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

Re: Comments on Office of Planning and Research (OPR) Proposed SB 743 Implementation Guidelines

Dear Mr. Calfee:

On behalf of the Orange County Council of Governments, I am providing comments today on the November 2017 released OPR guidelines for implementing SB 743 statewide.

- 1) While we support the State's goal of reducing greenhouse gas emissions and promoting sustainable growth, we believe there is a disconnect between policy goals. On the one hand the State is funding multimodal transportation improvements, including active transportation and transit through the gas tax, and alternatively a potential future Vehicle Miles Traveled (VMT) tax, both of which rely on roadway users to fund the needed infrastructure improvements. On the other hand, we are actively discouraging the mechanism by which we will fund those improvements, many of which are needed to enhance the multi-modal transportation network and increase walkability, connections to jobs, and economic vitality of our neighborhoods. We disagree with the sentiment that VMT in and of itself is inherently bad.
- 2) We thank you for hosting six (6) meetings across California to discuss the policy implications of the changes being proposed by OPR. However, in a state of 37 million residents, who are served first and foremost by local jurisdictions, we have found a disturbing lack of awareness of the proposed changes and how these are likely to impact local planning efforts among city managers and planning staff. We urge you to expand the outreach already undertaken to ensure that you are fully engaging with the local jurisdictional stakeholders who will ultimately be responsible for implementing the mandates in these guidelines.
- 3) Furthermore, we are disappointed to hear that there is intent to move up the implementation date. We have been working under the belief that jurisdictions would be given a minimum two full years for implementation, and it is now our understanding that it is in fact July 1, 2019, a little over a year away. While the legislation was signed in 2013, the Guidelines and their interpretation have changed more than four times in the intervening time. One cannot plan for an eventuality that is evolving regularly. Therefore, we strongly urge you to reconsider standing by the original two years after the final rule-making for local agency compliance.



- 4) We have grave concerns that the “one size fits all” nature of OPR’s proposed guidelines will negatively impact the ability of our local jurisdictions to enter into development agreements that reflect the character and intent of their community. General Plans are meant to be an expression of the local community’s vision for its growth. Dictating the use of VMT analysis when Level of Service (LOS) would be more appropriate, seems to us to be a perversion of this purpose and takes away local control. We therefore respectfully request that VMT analysis requirement be applied only to land use projects in Transit Priority Areas (TPAs), defined as areas within ¼ mile of major transit stops and high-quality transit corridors, as authorized under SB 743 legislation. Outside of TPAs, local jurisdictions should have discretion in the use of VMT analysis, not as a state mandate as currently proposed.
- 5) In fact, we would argue that a huge impediment to economic prosperity throughout the State is traffic congestion. Our members tell us that the single greatest objection to new development heard at Planning Commission and City Council hearings is increasing traffic congestion. Yet these guidelines as currently proposed are removing traffic as a subject of significance in our environmental regulation, CEQA. This seems counterintuitive. Our belief is that replacing congestion and substituting VMT will result in greater congestion as congestion relief will not be an available tool in the CEQA project approval process. Greater congestion means more idling, poorer air quality and a general decline in quality of living in O.C. communities and others around the state.
- 6) While we believe the use of VMT analysis in high density transit corridors is appropriate, it is not an appropriate methodology for less transit-rich environments. Applied Statewide as opposed to being used primarily within Transit Priority Areas (TPAs) the use of VMT analysis over LOS could have more unintended consequences than community benefits. Because it removes traffic from consideration as an environmental impact we expect there will be more congestion, poorer air quality, diminished health, higher housing costs, and longer commutes. In fact, the very opposite of the goals we know you are attempting to achieve.
- 7) In Orange County for example, we have been seeing reductions in transit service across portions of our county consistently for the last several years. Studies have shown that transit riders will choose personal automobiles when their incomes increase to allow it. SCAG has just completed a study that shows TNC’s like Uber and Lyft are further deteriorating transit usage. And more than 80% of all commute trips within our county and between Orange County and the adjacent counties are accomplished by passenger car. That statistic hasn’t changed much over the past two decades, despite policy changes emanating from Washington and Sacramento meant to deter drive-alone commuting. Like homeownership, owning a car is part of the American Dream, and something many Californians aspire to. We urge you to reconsider policy that punishes residents of the economic engine of our state, like Orange County, who exercise their choice to use personal automobiles to meet their mobility needs.
- 8) We dispute the accuracy of the claim that VMT analysis will be less costly than LOS analysis. We are being told by practitioners that the cost of VMT studies will not be \$5,000 as



reported in the OPR guidelines, but in all likelihood will be priced at closer to the \$20,000 for LOS studies. The SB743 methodology is much different from and much more complex than the GHG analyses currently used in CEQA and cited in the NRA analysis. Factors that contribute to the increased cost include: the current GHG analyses don't have to use sophisticated traffic models; the SB743 method does to establish Regional Averages. The current GHG analyses use gross defaults for project factors; the SB743 methods use the outputs of the standard LOS traffic study methods for project factors.

- 9) And in any case, VMT analysis will be an additional step, not a replacement of existing LOS analysis under CEQA. Local agencies will have to conduct both VMT and LOS studies to satisfy CEQA and ensure that congestion is addressed. This is a duplicative increase not a substituted reduction. CEQA traffic studies, and the entire project development process will cost local agencies, project applicants and ultimately County residents, employees and taxpayers more.

- 10) The lack of clarity around SB743 implementation will be force communities to continue to use delay and level of service to monitor congestion. This will be accomplished outside of CEQA, and will create internal inconsistencies, questions, and litigation liabilities surrounding development approval processes and organic growth in O.C. communities. One example is the roadway capacity requirements for General Plan consistency vs. CEQA impact of roadway widening. These issues will be litigated with the local agency as the plaintiff. This means additional costs to local agencies, project delays, and ultimately more gridlock and higher costs for residents.

OCCOG respectfully requests the Natural Resources Agency's careful consideration of our comments and those of other local jurisdictions and regional MPO's prior to finalizing the rule-making for SB 743 implementation. We have been actively engaged in the Southern California Stakeholders Working Group on SB 743 implementation and we believe that the ultimate success of SB743 rests on the local jurisdictions. We sincerely hope that our comments will help make the ultimate guidelines easier to implement and lead to more successful outcomes for our communities.

Regards,

A handwritten signature in black ink that reads "Marnie O'Brien Primmer". The signature is written in a cursive, flowing style.

Marnie O'Brien Primmer
Executive Director

Cc: OCCOG Board of Directors, file