SB 743 IMPLEMENTATION

A STEP-BY-STEP APPROACH TO IMPLEMENTING VEHICLE-MILES TRAVELED IN LOCAL PLANNING & ENVIRONMENTAL REVIEW

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California Senate Bill 743 (SB 743) represents a new paradigm in development planning across the state. Adopted in 2013, the law changes how transportation impacts are measured in the review of plans and projects under the California Environmental Quality Act (CEQA).

SB 743 removes automobile delay—typically measured by traffic level of service (LOS)—as a significant environmental impact, and directs the selection of a new measurement that better addresses the state's goals on climate change and multimodal transportation. Since 2014, the Governor's Office of Planning and Research (OPR) has recommended that vehicle-miles traveled (VMT) replace LOS as the primary measure of transportation impacts.

This guide summarizes the key benefits of SB 743 and provides a step-by-step guide to help local governments implement a new framework for transportation planning and development. It concludes with a review of the initial challenges posed by the law.

KEY BENEFITS OF SB 743

SB 743 not only changes the mechanics of transportation impact assessment, but also the underlying policy objectives that incentivize and guide both public and private development. This promises to benefit local governments in several ways, including:

- Allowing CEQA to facilitate the implementation of multimodal transportation plans (including road widening) rather than often working against it.
- Providing flexibility for impact fees to advance a variety of policy goals.
- Adding certainty to the development process, lowering development cost and encouraging economic growth.

NEW METHODS FOR IMPACT ASSESSMENT

Conventional traffic impact studies (TISs) that measure vehicle congestion-based LOS no longer will be required for CEQA review (unless lead agencies continue to adopt plans and/or policies that set LOS targets). Instead, projects will be assessed by the VMT they generate relative to existing conditions. In most cases, this process will be faster and less expensive than conventional studies.

Project VMT has been a routine calculation since 2011, when SB 97 added emissions analysis to CEQA review. It is a relatively simple, model-based assessment, determined largely by the location, type and intensity of development, as well as regional land use and transportation factors.

As a baseline for comparison, OPR recommends using the existing VMT of the surrounding region and/or city. This information typically is available from regional travel demand models or the *California Statewide Travel Demand Model.*

To determine whether VMT impacts are significant, OPR generally recommends a threshold of 15% below the VMT per capita of the surrounding region and/or city. OPR acknowledges that this was intended to achieve general consistency with both the Caltrans statewide target for VMT reduction (15% by 2020) and the urban regional targets for greenhouse gas (GHG) emissions reductions established under SB 375 (13-16% for passenger vehicles by 2035).

Specifically, OPR recommended that VMT impacts be deemed significant if they exceed the following thresholds, by project type:

- Residential: Project VMT exceeds 15% below the existing regional household VMT per capita in both the region *and* the city.
- Office: Project VMT exceeds 15% below existing regional VMT per employee.
- Retail: Project results in a net increase in total area VMT.
- Mixed-Use: Evaluate each component independently using the above thresholds.

AN APPROACH FOR LOCAL GOVERNMENTS

SB 743 promises to simplify CEQA analysis at the project level. However, developing an implementation framework will require coordinated planning by regional and local governments, aimed at:

- Ensuring that GHG and VMT reduction targets are consistent with all applicable plans and policies.
- Assigning each jurisdiction a fair and realistic share of the required reductions.
- Providing a method to replace revenue lost by the elimination of LOS-based impact fees.

This section provides a step-by-step guide for local jurisdictions.

Step 1: Develop a Climate Action Plan (CAP) that Achieves GHG-Reduction Targets

Each region and local jurisdiction should develop plans that achieve their applicable GHG-reduction targets for transportation sources under SB 375. Generally this requires two primary planning documents:

- Regional: A regional sustainable communities strategy (SCS) that addresses transportation, and shows how the region will achieve its state-mandated GHG reduction targets.
- Local: A local climate action plan (CAP) that addresses both land use and transportation, and shows how the local jurisdiction will achieve its share of the regional GHG reductions.

In the absence of city-specific targets in the SCS, local governments may estimate their fair-share contributions to the regional goal, which is how the City of San Diego designed its *Climate Action Plan*.

Step 2: Set VMT Thresholds Consistent with the GHG-Reducing Plan

Once the GHG-reducing plan identifies specific VMT reductions, the local government should adopt these as the thresholds of significance for VMT impacts. This will ensure consistency between general plans and GHG plans.

VMT thresholds of significance should be consistent with GHG-reduction goals.

Each region or jurisdiction also should establish "baseline" conditions against which future reductions will be measured. OPR has not provided specific guidance on these methods, meaning they may remain at the discretion of lead agencies.

Step 3: Consider Setting GHG & VMT Targets by Community (Optional, but Recommended)

Regional SCSs should establish GHG and VMT targets for each local jurisdiction or sub-region. This will account for sub-regional variations and ensure local consistency with the region's GHG and VMT goals.

Similarly, larger cities and jurisdictions should consider establishing community-specific targets for GHG and VMT, tailored to each community's local conditions and ability to contribute to the larger goal. This approach recognizes that an urban community like Uptown San Diego—which is very close to regional job centers and provides numerous mobility options—can more feasibly reduce GHG and VMT than a suburban community like Rancho Bernardo.

While this is not required, it will allow local governments to implement their general plans and CAPs much more efficiently, with less overall cost.

Step 4: Develop Multimodal Transportation Plans

Local jurisdictions should develop multimodal transportation plans that meet the targets of SB 375 as established in their CAPs. In urbanized areas where VMT impacts are unlikely, these multimodal plans will establish the basis for collecting transportation impact fees from new development.

Step 5: Perform a Nexus & Fee Study to Provide a Mitigation Mechanism for Direct & Cumulative Impacts

In transportation, historical reliance on automobile delay (LOS) as an impact has meant that impact fees typically fund roadway capacity increases aimed at reducing congestion.

Under SB 743, however, fees assessed for VMT impacts could contribute to the implementation of multimodal transportation plans including transit, active transportation and programs such as transportation demand management (TDM). Roadway capacity projects also could be included.

Whereas historically impact fees have only mitigated for cumulative impacts, under SB 743 they should be used to mitigate both direct and cumulative impacts. This will facilitate project-level VMT mitigation, as the project would be paying into a larger VMT-reducing strategy.

The Nexus Myth

There is a misconception that nexus is difficult to establish for VMT on a project-level basis. However, the underlying difficulty is not measuring VMT at a specific location, but rather adapting our current mitigation methods to this new measure of impact.

CEQA has long recognized that development and associated traffic leads to increases in GHG emissions. VMT is analogous to GHG in this context, as it is a direct result of generating additional travel demand. Mitigating for incremental increases in VMT therefore lends itself to measures providing roughly proportional reductions in VMT. A nexus and fee study will facilitate project-level mitigation for these new impacts. Most importantly, it will devise a methodology for the calculation of impact fees to help implement VMT-reducing plans.

Developers would simply calculate their impact fees—providing more certainty in the entitlement process, promoting economic development and providing funding for the planned multimodal transportation network.

This approach also eliminates the need for complex TISs for each project; instead, developers would simply calculate their fees based on modeled VMT projections. This will provide more certainty in the entitlement process, promote economic development and provide much-needed funding for the planned transportation network.

Step 6: Update (or Eliminate) TIS Guidelines & VMT Thresholds for Non-Conformant Uses

Once the state finalizes and adopts revisions to the CEQA Guidelines, local governments will need to evaluate their TIS guidelines for consistency with the new standards.

However, given the relative specificity of OPR's proposal—featuring both a metric and recommended thresholds of significance for multiple uses—updating TIS guidelines may not be necessary. Instead, local governments may choose simply to abandon their old guidelines in favor of a simpler VMT-based method. The City of San Francisco already has adopted VMT as its local standard for transportation impacts, providing an early model for other jurisdictions.

Step 7: Perform a Programmatic EIR, Including Findings of Fact & Statement of Overriding Considerations

Many local jurisdictions already conduct programmatic EIRs to support their general and community plans. These comprehensive documents also can address the implications of the transportation mitigation approach discussed above, by disclosing potential unmitigated impacts related to:

- Any location where the proposed plan does not meet capacity-based LOS standards.
- Collecting fair-share impact fees to mitigate for direct impacts, which would not actually mitigate the specific impact (only constructing an actual improvement that avoids the impact would do so).
- Partial funding related either to charging new development only for additional deficiencies related to growth, or to limiting the fees to not deter development.
- Reducing capacity-based LOS standards within the community (if applicable) and/or revising previously adopted TIS guidelines.

Section 15091 of the CEQA Guidelines requires that no public agency approve or carry out a project for which an applicable programmatic EIR identifies one or more significant effects, unless the agency prepares findings to address each significant effect. A "findings of fact" document lists each of the significant effects identified by the programmatic EIR, and provides the lead agency's determinations on whether the proposed mitigation measures would reduce those effects below the established levels of significance.

Additionally, Section 15093 requires that, when a local government approves a project that will have significant and unavoidable adverse environmental effects, the approving agency must make a statement of overriding considerations. This document presents the agency's rationale for approving the project based on its merits, despite the environmental consequences.

INITIAL CHALLENGES OVERCOME

The step-by-step approach outlined above attempts to address many of the initial challenges posed by SB 743. A brief summary of these challenges is below.

GHG Targets & VMT Thresholds Must Align to Ensure Consistency with GHG Mandates

California's regional and local governments are responding to SB 375 by adopting new transportation and land use plans that reduce GHG emissions through a number of strategies. One key strategy is VMT reductions, which generally vary by region and city.

Given these local variations, OPR's recommendation for a one-size-fits-all significance threshold is almost certainly inconsistent with the VMT-reduction strategies contained in local and regional plans. Step 2 above addresses the need for consistency.

Not Every Region & Community Will Be Able to Reduce VMT Equally

Just as the state Air Resources Board (ARB) recognized that GHG-reduction targets should be regionally tailored under SB 375, OPR should recognize the same for VMT. As shown in Table 1, ARB assigned targets based on each region's existing conditions and relative ability to achieve reductions.

OPR acknowledges that its recommended significance thresholds were broadly devised to be consistent with several state laws and policies, including SB 375. However, applying uniform thresholds assumes that each region—and each local jurisdiction within each region—should contribute in equally to VMT reductions. This blanket application is insensitive to widely varying regional and local conditions.

Steps 1, 2 and 3 above address this issue from the perspective of local governments.

Region	*2035 GHG Target*
Sacramento	– 16%
San Francisco Bay Area	– 15%
Los Angeles	– 13%
San Diego	– 13%
San Joaquin Valley	– 10%
San Luis Obispo	– 8%
Monterey Bay	– 5%
Tahoe	– 5%
Santa Barbara	0
Shasta	0
Butte	+ 1%

Table 1: SB 375 Regional GHG Emission Reduction Targets. *Tailored targets ensure each region is assigned a fair and realistic share of reductions. (ARB, 2011)*

While Making Infill Development Easier, the Change to VMT Can Result in Lost Transportation Impact Fees

Based on preliminary conceptual data provided by the San Diego Association of Governments (SANDAG), Fig. 1 shows census tracts above and below the average VMT per capita for the region and City of San Diego. The maps illustrate the substantial influence that project location has on VMT impacts.

As anticipated—and consistent with one of OPR's stated goals—the per capita VMT in much of the region's urbanized area is already below the regional average by 15% or more, as shown by the blue areas of Fig. 1. This means that any new development in these areas, regardless of size or intensity, could avoid significant transportation impacts.[1] This makes infill development easier to implement under CEQA.

However, the resulting loss of potential transportation impact fees could be in the tens or even hundreds of millions of dollars. Fortunately, as illustrated in the step-by-step guide above, local governments can compensate for this loss by revising the purpose and application of transportation impact fees—allowing those fees to advance local policy goals by funding multimodal improvements. Steps 4-6 address this.

Even the Smallest Project in a Rural or Urbanizing Area May Require an EIR

Fig. 1 also indicates in red and pink where a project, no matter how small, could result in a transportation impact based on the VMT metric and proposed threshold. As anticipated, SB 743 makes these rural, often sprawling development projects more difficult to entitle under CEQA, potentially requiring lengthy and expensive environmental impact reports (EIRs).

However, utilizing the approach outlined above, new development in rural areas could be mitigated to a Negative Declaration level, assuming they conform to the overall plan.

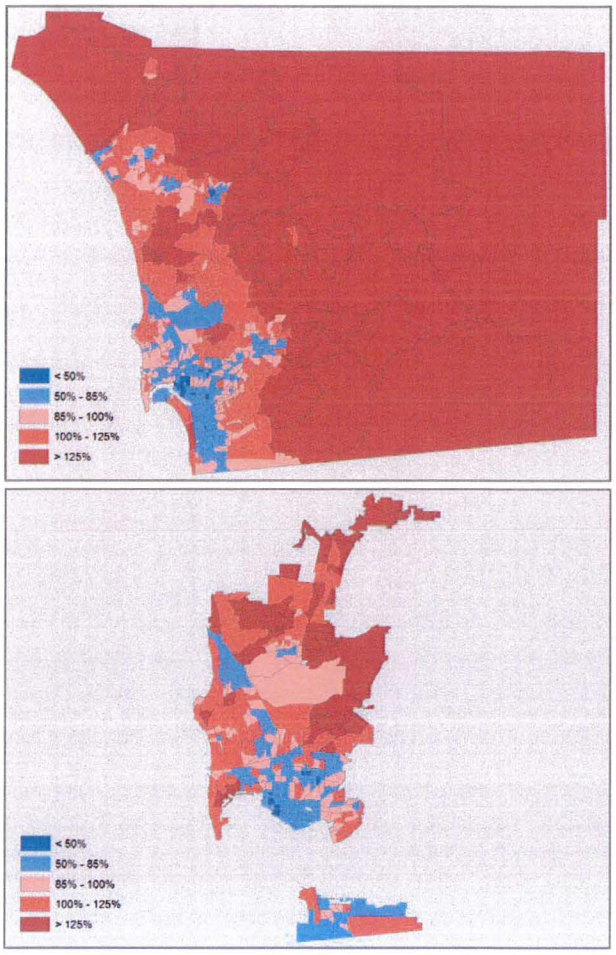

Fig. 1: VMT per Capita vs. Regional & City of San Diego Averages. *The tracts in blue have VMT per capita below 85% of the regional/city averages—meaning new development likely would not trigger a transportation impact. (Interpreted from preliminary data from SANDAG.)*

Reducing & Mitigating for VMT Impacts Requires New Solutions

Under current congestion-based LOS metrics, applying mitigation is fairly straightforward: As roadway capacity is a key determinant of LOS, projects can improve LOS simply by adding capacity where impacts occur.

VMT, however, cannot be reduced simply by adding roadway capacity. (In fact, adding capacity generally tends to *increase* VMT due to induced demand.) Rather, VMT depends upon individual mode choices and the distances between trip origins and

[1] OPR recommends a determination of significance if a residential project exceeds 15% below *both* regional and city VMT per capita. Therefore, any project with impacts below *either* threshold would be deemed less than significant.

destinations, which in turn depend upon factors beyond the control of any single project:

- Land Use Patterns: The locations and densities of housing, jobs, recreation and other activity centers throughout the region. (Fig. 1 illustrates the large influence of land use on VMT.)
- Transportation Network: The quantity, and relative quality, of travel options available.

These factors are deeply embedded into the fabric of a region, and generally only change on a long-term basis through the actions of public agencies. Therefore no individual project is likely to be able to mitigate its VMT impacts by constructing one—or even several—bike/pedestrian improvements, transit stops, or other facilities. Moreover, authority does not rest with an individual project to develop VMT-reducing transportation or land use plans. As a result, developers and cities will need to address VMT impacts in new ways.

On strategy is to include project-specific measures to reduce VMT impacts below the level of significance. OPR has asserted that "15% reductions in VMT are typically achievable at the project level in a variety of place types," citing a 2010 report from the California Air Pollution Control Officers Association (CAPCOA), excerpted in Fig. 2.

However, while the CAPCOA report provides a good starting point, more locally specific, evidence-based

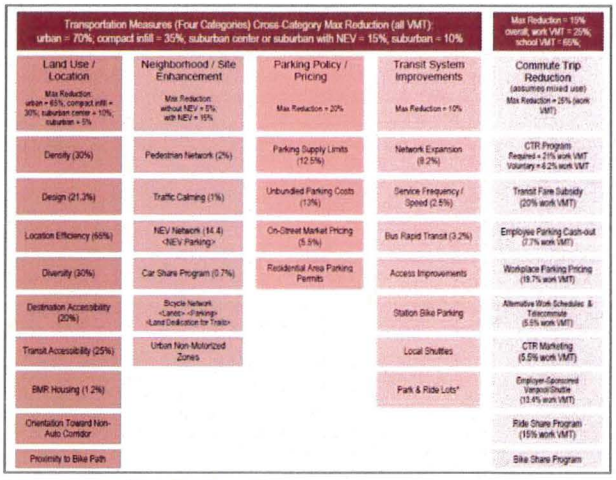

Fig. 2: VMT-Reducing Transportation Strategies. *This general guidance will require more locally focused study to be an effective mitigation tool. (CAPCOA, 2010)*

studies likely would be needed to make this an effective mitigation tool. Its key limitations include:

- Generalized VMT-reduction predictions that are far from certain at the project level, both technically and legally. In practice, their effectiveness would vary greatly by region and depend upon a host of external factors.
- Many suggested strategies for individual projects—such as limiting parking supply or unbundling parking and housing costs—that cannot be implemented without also changing local development codes.

Determining the Best Method to Estimate GHG and VMT

Regional and local plans generally use one of two methods to calculate VMT and GHG emissions:

- A travel demand model that directly projects VMT and GHG.
- A spreadsheet-based approach, either post-processed from model outputs or derived from policy directives (e.g. achieve a 20% walking mode share).

The best models for evaluating transportation-related impacts are new "activity-based" models that are sensitive to factors including:

- Multipurpose trips (or "tours").
- Active transportation networks.
- Transportation systems management facilities.
- Travel demand management (TDM) programs.
- The "5 D's" of transportation planning: density, diversity, design, destination and distance.

For best results, all local governments with access to an activity-based travel demand model should use this model to evaluate their plans' conformance with GHG and VMT targets.

Such advanced models are already deployed in several regions, and the *California Statewide Travel Demand Model* also offers activity-based projections. In San Diego, SANDAG's new *Activity Based Model* produces output for both VMT and GHG, and is available to local governments.

In the absence of these advanced modeling capabilities, regional and local governments may develop their own post-processing methods to calculate VMT and GHG emissions using older travel demand models. The key objective is to capture as many effects as possible from the multimodal elements listed at left that affect GHG and VMT.

An alternate—or perhaps complementary—approach is to develop a framework in which individual projects mitigate impacts by making fair-share contributions to the implementation of VMT-reducing transportation or land use plans. The step-by-step approach above discusses how this might be done.

Local Policies on Traffic or Parking May Conflict with the Goal to Reduce VMT

SB 743 only modifies the CEQA process, which is just one element of project review. Many, if not most, local governments currently have active plans, policies and ordinances that set congestion-based LOS targets as well as minimum parking requirements. These policies tend to increase automobile usage and VMT, and therefore may conflict with the new CEQA requirements.

Depending on specific local conditions, it is possible that some projects will be unable to fulfill both the CEQA requirements on VMT as well as local policies on traffic and parking. Local governments therefore need to review their existing plans and policies to ensure that development projects still have viable pathways to approval. Steps 2 and 6 above discuss this further.