

Summary of Legal Framework of SB743 and Technical Background Information

Legal Framework of SB743

On September 27, 2013, Governor Brown signed Senate Bill 743 (Steinberg, 2013). Among other things, SB 743 creates a process to change analysis of transportation impacts under the California Environmental Quality Act (Public Resources Code section 21000 and following).

To help aid lead agencies with SB 743 implementation, Governor's Office of Planning and Research (OPR) produced the *Technical Advisory on Evaluating Transportation Impacts in CEQA* (December 2018). The *Technical Advisory* helps lead agencies think about the variety of implementation questions they face with respect to shifting to a Vehicle Miles Traveled (VMT) metric.

The purpose of the *Technical Advisory* is to provide advice and recommendations, which agencies and other entities may use at their discretion. The guidance is not a recipe for SB 743 implementation since lead agencies must still make their own specific decisions about methodology, thresholds, and mitigation (i.e., each lead agency will bake a different looking and tasting SB 743 cake). Further, the document was intended to include guidance that would further statewide goals tied largely to greenhouse (GHG) reduction and does not attempt to balance or resolve potential conflicts between state goals with lead agency goals such as those expressed in local agency general plans.

Lead agencies will benefit from reflecting on the two legislative intent statements contained in the SB 743 statute.

1. More appropriately balance the needs of congestion management with statewide goals related to infill development, promotion of public health through active transportation, and reduction of greenhouse gas emissions.
2. Ensure that the environmental impacts of traffic, such as noise, air pollution, and safety concerns, continue to be properly addressed and mitigated through the California Environmental Quality Act.

These statements are important because they provide direction to OPR and to lead agencies. For OPR, the direction is largely about what new metrics should achieve. For lead agencies, the direction is about expected changes in transportation analysis (and related technical areas) plus what factors to consider for significance thresholds.

To implement this intent, SB 743 contains amendments to current congestion management law that allows cities and counties to effectively opt-out of the LOS standards that would otherwise apply. However, SB 743 does not prevent a city or county from continuing to analyze delay or LOS as part of other plans (i.e. the general plan), fee programs, or on-going network monitoring,

but these metrics will no longer constitute the sole basis for CEQA impacts. Cities or counties can still use vehicle LOS outside of the CEQA process if they determine it is an important part of their transportation analysis process. The most common applications will likely occur for jurisdictions wanting to use vehicle LOS to size roadways in their general plan or determine nexus relationships for their impact fee programs. Jurisdictions can also continue to condition projects to build transportation improvements through the entitlement process in a variety of ways, such as using general plan consistency findings.

The CEQA Guidelines and the associated *Technical Advisory* are largely consistent with the legislative direction noted above such that impacts to transportation has shifted from a focus on changes to the driving experience to changes associated with driving. This new view presents an impact filter intended to promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses. VMT can help identify how projects (land development and infrastructure) influence accessibility (i.e., access to places and people) and emissions so its selection is aligned with the objectives of SB 743. Accessibility is an important planning objective in many communities but so is travel time or delay experienced by users.

Background on the California Environmental Quality Act

The California Environmental Quality Act (CEQA) was enacted in 1970. This statute requires identification of any significant environmental impacts of state or local action including approval of new development or infrastructure projects. The process of identifying these impacts is typically referred to as the environmental review process. A fundamental component of CEQA analysis is the determination of whether a project has the potential to significantly affect the physical environment. This determination requires careful judgment on the part of the lead agency and is based on scientific and factual data to the extent possible.

Level of Service and Vehicle Miles Traveled

LOS refers to “Level of Service,” a metric that assigns a letter grade to network performance. The typical application in cities is to measure the average amount of delay experienced by vehicle drivers at an intersection during the most congested time of day and assign a report card range from LOS A (fewer than 10 seconds of delay) to LOS F (more than 80 seconds of delay). The amount of delay is calculated relative to the amount of time to traverse the intersection if a vehicle is the sole vehicle on the road, and it arrives at a green light.

Traffic has long been a consideration in CEQA. In 1990, the Legislature linked implementation of congestion management plans, including LOS requirements, with CEQA. LOS has been an explicit part of CEQA analysis since at least the late 1990’s, when the sample environmental checklist in the CEQA Guidelines asked whether a project would exceed LOS standards. (See former CEQA Guidelines, App. G. § XV, 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). Because of the linkage of the CEQA environmental checklist and LOS, historically, the Town and other jurisdictions have used Level of Service (LOS) as the significant impact threshold for transportation analysis under CEQA.

VMT refers to “Vehicle Miles Traveled,” a metric that accounts for the number of vehicle trips generated plus the length or distance of those trips. For transportation impact analysis, VMT is generally expressed as VMT per capita for a typical weekday. For instance, the 2012 average daily VMT per capita for the nine county Bay Area region was 15.3 miles per person per day.

Town of Los Gatos’ current policies and requirements for transportation impact analysis

The *Los Gatos 2020 General Plan* includes the following transportation policies:

Policy TRA-3.4 which states “New projects shall not cause the level of service for intersections to drop more than one level if it is at Level A, B, or C and not drop at all if it is at D or below.”

Policy TRA-3.5 which states “If project traffic will cause any intersection to drop more than one level if the intersection is at LOS A, B, or C, or to drop at all if the intersection is at LOS D or below, the project shall mitigate the traffic so that the level of service will remain at an acceptable level.”

Policy TRA-3.6 which states “Pedestrian and bicycle safety shall not be compromised to improve or maintain the level of service of an intersection.”

The Town’s *Traffic Impact Policy* (#1-05, March 2017) provides guidance in implementing the provisions of the Town Municipal Code, Chapter 15, Article VII, Traffic Impact Mitigation Fee. The Policy also defines the traffic impact analysis procedure, including the requirement of traffic impact analysis reports be consistent with the Transportation Impact Analysis Guidelines adopted by the Santa Clara Valley Transportation Authority.

The Town adopted a *Complete Streets Policy* in February 2019 (#3-01).

Additional Information

Governor's Office of Planning and Research Transportation Impacts (SB 743) website:

<http://opr.ca.gov/ceqa/updates/sb-743/>

Technical Advisory on Evaluating Transportation Impacts in CEQA, December 2018

http://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf

Town of Los Gatos *Traffic Impact Policy*

<https://www.losgatosca.gov/DocumentCenter/View/18175/1-05-Traffic-Impact-Policy?bidId=>

Town of Los Gatos *Complete Streets Policy*

<https://www.losgatosca.gov/DocumentCenter/View/22433/3-01-Complete-Streets-Policy>