ASSOCIATION OF
ENVIRONMENTAL
PROFESSIONALS

February 29, 2016

Christopher Calfee, Senior Counsel
Governor's Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814
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VIA E-MAIL

Re: AEP Comments on OPR's January 20, 2016, *Revised Proposed Updates to the CEQA Guidelines on Evaluating Transportation Impacts in CEQA*

Dear Mr. Calfee:

On behalf of the Association of Environmental Professionals (AEP), I appreciate the opportunity to provide comments on the California Office of Planning and Research's (OPR) January 20, 2016, *Revised Proposed Updates to the CEQA Guidelines on Evaluating Transportation Impacts in CEQA* (the "Proposed Amendments"). AEP recognizes the tremendous effort required in drafting the Proposed Amendments, and we commend OPR for its leadership on this important issue.

AEP is a nonprofit organization of California's environmental professionals. AEP members are involved in every stage of the evaluation, analysis, assessment, and litigation of projects subject to the California Environmental Quality Act (CEQA). For over 30 years, AEP has dedicated itself to improving the technical expertise and professional qualifications of its membership, as well as educating the public on the value of California's laws protecting the environment, managing our natural resources, and promoting responsible land use and urban growth. AEP's membership is broad and diverse, incorporating environmental and legal professionals from public agencies, the private sector, and nongovernmental organizations.

AEP's specific comments on the Proposed Amendments associated with changes to the CEQA Guidelines are included as Attachment 1 hereto.

Our input on the Technical Advisory on Evaluating Transportation Impacts in CEQA is as follows:

- Under Section A (Introduction) (page 13). We recommend that this section include the following statement or something similar:
  "It is important to note that this advisory constitutes recommendations by OPR and is not to be interpreted as standards for compliance with CEQA and the CEQA Guidelines."

- Boundaries of the study area. We recommend that the advisory for establishing the study area note that the definition of the study needs to match the circumstances of the project as well as its region. There may be situations where a project's VMT influence may be beyond its jurisdictional boundaries and be tied to demographic and economic conditions that cross multiple boundaries (e.g., a large development project in Silicon Valley).

- Existing Conditions for Analysis in VMT (pages 18–20). The advisory is unclear as to what existing conditions or baseline is recommended to be the basis of a VMT analysis. While release of a Notice of Preparation is commonly used for determining the baseline for the environmental review analysis, the baseline condition for VMT is anticipated to improve statewide over time. Should a base year (such as those used in regional transportation plans/sustainable community strategies or in climate action plans that plan for improvements to VMT) be used rather than existing conditions?

- Use of the Statewide Travel Demand Model. We agree that use of the Statewide Travel Demand Model can be of assistance in performing a VMT analysis when a lead agency does not have a local or regional model tool. However, it is important to note that lead agencies can and should use local and regional model tools available to them, as they typically provide more detail than the Statewide Travel Demand Model. This should be clear in the advisory.

- 15 Percent Reduction in VMT (page 20). The utilization of a 15 percent reduction in VMT over existing conditions as a recommended threshold will result in requiring the preparation of an environmental impact report (EIR) for projects that would normally not require the preparation of an EIR. It is important to note that this VMT reduction would be greater than VMT reduction targets established in adopted regional transportation plans (RTPs)/sustainable community strategies (SCSs) such as the Sacramento Area Council of Governments' recently adopted Metropolitan Transportation Plan. It would seem that another approach would be to require projects to demonstrate compliance with regional transportation plan VMT reduction targets for future conditions, as this would be more tailored to the conditions of the region than a statewide reduction target.

- Screening Thresholds (pages 20–21). The use of screening criteria to streamline the decision whether to undertake VMT analysis can be a fair argument trap. See *Mejia v. City of Los Angeles* [fair argument for traffic impact required an EIR despite the project generating less traffic than the city's screening threshold for traffic impact analysis]. The advisory should instead identify that the lead agency needs to provide substantial evidence demonstrating no significant VMT impact for projects instead of using a threshold of 100 vehicles per day. Another option would be to use a greenhouse gas (GHG) numeric threshold such as the Bay Area AQMD's threshold of 1,100 metric tons

as a "proxy" to determine that VMT generated by a project is less than significant if the project does not result in a significant GHG emissions impact.

- Significance Threshold for Transportation Projects (pages 30–31). The relationship between the threshold proposed on pages 30–31 and the discussion of estimating VMT impacts from transportation projects is unclear. Is the numerical threshold identified in section 1 intended to be applied to the estimate of a transportation project's VMT prepared per section 2? Further, despite the justification described in the Technical Advisory, allowing a 4 percent statewide *increase* in VMT to form the basis for the threshold of significance for transportation projects seems inequitable when a residential project would be held to a threshold of a 15 percent *reduction* in average local/regional VMT. It would make sense to instead set the threshold for development projects so as not to exceed the average local/regional VMT and provide a stricter threshold for transportation projects. Arguably, because an increase in VMT equals increased GHG emissions, new transportation (i.e., major road) projects that contribute to any increase in statewide VMT should not be considered less than significant.

- Map-Based Screening (page 21). We agree that map-based screening is a useful tool if available to the lead agency. It is important to note that such a system can be data intensive and require regular maintenance. Not all local agencies will have either the requisite skill or the funding to undertake this approach.

- Mixed-Use Projects (page 24). We recommend that the advisory identify that mixed-use analysis utilize an internal capture rate to take credit for the mixed-use design and justify the capture rate with substantial evidence. Examples of capture rates should be provided in the advisory.

- RTP-SCS Consistency (pages 24–25). RTPs continue to contain numerous road projects that are potentially travel inducing. Location in an area contemplated for development in an SCS does not necessarily mean the site is travel efficient, nor is the converse true. Many SCSs depend on *future* transit improvements or service expansions to conclude that the SCS will reach its greenhouse gas reduction target. Reliance on future transit is inconsistent with proposed CEQA Guidelines Section 15064.3, subsection (b)(1), which establishes an assumption for projects that are near an *existing* major transit stop or along an *existing* high quality transit corridor. Further, SCSs lack detail regarding planned land uses (the land use diagrams are often unclear from the point of view of locating a particular development site) and are generally bereft of specific policies to guide future development. Finally, this reliance contradicts Government Code Section 65080(b)(2)(K), which states: "Nothing in this section shall require a city's or county's land use policies and regulations, including its general plan, to be consistent with the

regional transportation plan or an alternative planning strategy." The advisory should clarify what project types are appropriate for using the RTP-SCS consistency approach (e.g., development projects versus plans such as specific plans and general plans).

- Impacts to Transit (page 26). We recommend that the advisory include other impacts such as lost opportunities to connect to transit service and/or making pedestrian and bicycle access to transit unsafe.

- Recommendations for Considering Transportation Project VMT Effects (page 27). Seventh bullet – It should be noted that "road diet" projects have potential emergency access impacts due to potential restricted access. For example, a reduction in travel width separated by a fixed median to accommodate a road diet design could restrict the ability of an emergency vehicle to pass a curbside vehicle. Last bullet – We recommend that this bullet note that substantial evidence is needed to support a conclusion that additional lanes result in increased VMT. We also recommend that a bullet be added noting that roadway projects identified in RTPs and which are part of VMT reduction strategies for the region also do not require VMT analysis.

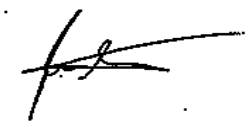
- Recommended Significance Threshold for Transportation Projects (page 31). The example methodology treats all transportation projects (irrelevant of project size) the same. The analysis should be more tailored.

- Suggested Alternatives and Mitigation Measures (pages 45–46). The measures identified are similar to, if not the same as, those included in the prior discussion draft. It should be clear in the advisory that some of these measures may not be feasible for all projects.

Thank you for the continued opportunity to play an active role in this process.

Should you have any questions or need additional information regarding our comments, please do not hesitate to contact me or our Capital lobbyist, Will Gonzalez, at (916) 930-0796 or will@gqhlobby.com.

Sincerely,



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Association of Environmental Professionals' (AEP) comments regarding the California Office of Planning & Research's (OPR) *Proposed Updates to the CEQA Guidelines on Evaluating Transportation Impacts in CEQA*

Suggested Changes and Input	
Proposed CEQA Guidelines 15064.3 (a)	**Rationale**
Section 15064.3. Determining the Significance of Transportation Impact~~s~~ 15064.3. (a) Purpose. Section 15064 contains general rules governing the analysis, and the determination of significance of, environmental effects. Specific considerations involving transportation impact~~s~~ are described in this section. ~~Generally, vehicle~~Vehicle miles traveled is the most appropriate measure of a project's potential transportation impact~~s~~. For the purposes of this section, "vehicle miles traveled" refers to the total ~~amount and~~ distance of ~~automobile~~on-road motorized vehicle travel attributable to a project, including travel by alternative fuel and electric vehicles. Other relevant considerations may include the effects of the project on transit and non-motorized travel, as they relate to vehicle miles traveled and the safety of all travelers. A project's effect on automobile delay does not constitute a significant environmental impact.	Referring this as "transportation impact," singular, to maintain consistency within the section. "Generally" implies that sometimes VMT is not the appropriate measure. That conflicts with SB 743's objective of eliminating automobile delay as the impact. This is intended to clarify that VMT measures the distance of miles traveled, not the volume of traffic. Also, VMT applies to more than just automobiles. The definition is expanded to cover on-road motorized vehicles, including alternative-fuel vehicles and electric vehicles. All contribute to GHG emissions, either directly or indirectly.
Proposed CEQA Guidelines 15064.3 (b)(1)	**Rationale**
(b) Criteria for Analyzing Transportation Impact~~s~~. Lead agencies may use thresholds of significance for vehicle miles traveled recommended by other public agencies or experts provided the threshold is supported by substantial evidence. (1) Vehicle Miles Traveled and Land Use Projects. A development project that results in vehicle miles traveled exceeding an applicable threshold of significance may indicate a significant impact. Generally, development projects that locate within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor may be presumed to cause a less than significant transportation impact. Similarly, development projects that ~~decrease~~do not increase vehicle miles traveled in the project area compared to existing conditions may be considered to have a less than significant transportation impact.	The project cannot be made responsible for mitigating existing VMT levels, but only for its contribution to those levels. The proposed language would prevent projects with *no increase* of VMT from being considered less than significant. The revision clarifies that no increase means no significant impact.
Proposed CEQA Guidelines 15064.3 (b)(2)	**Rationale**
(2) Induced Vehicle Travel and Transportation Projects. Additional lane miles may induce automobile travel, and vehicle miles traveled, compared to existing conditions. Transportation projects that reduce, or have no impact on, vehicle miles traveled may be presumed to cause a less than significant transportation impact. Examples of transportation projects that may have a less than significant impact on vehicle miles traveled include roadway rehabilitation and transit, bicycle, and pedestrian improvements. To the extent that the potential for induced travel has already been adequately analyzed at a programmatic level, a lead agency may incorporate that analysis by reference.	Important to identify project examples that would clearly have a less than significant transportation impact.
Proposed CEQA Guidelines 15064.3 (b)(3)	**Rationale**
(3) 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 transit, proximity to other destinations (such as homes, employment and services), area demographics, etc. For ~~many~~ some projects involving large-scale construction activities over an extended period of time, a qualitative analysis of construction traffic may be appropriate.	See clarifications. Not all projects will require a construction VMT analysis.

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Proposed CEQA Guidelines 15064.3 (b)(4)	**Rationale**
(4) Methodology. The lead agency's evaluation of the vehicle miles traveled associated with a project is ~~subject to a rule of reason~~ should be based on substantial evidence. A lead agency should not confine its evaluation to its own political boundary if the project would affect vehicle miles traveled over a larger area. 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~~ Key assumptions used to estimate vehicle miles traveled and any revisions to model outputs should be documented and explained in the environmental document prepared for the project will be part of the project's administrative record.	The methodology for the determination of VMT impacts needs to be based on substantial evidence. A project located in a county may indeed be evaluated by a VMT analysis of the county. The revision is intended to clarify that there are exceptions to the need to look beyond political boundaries. The proposal has the potential to add substantial explanatory language to the environmental document, even if to show that the project qualifies for a negative declaration or mitigated negative declaration. The revision would clarify that the documentation will be part of the administrative record.
Proposed CEQA Guidelines 15064.3 (c)	**Rationale**
The provisions of this section shall apply prospectively as described in section 15007. A lead agency may elect to be governed by the provisions of this section immediately ~~provided that it updates its own procedures pursuant to section 15022 to conform to the provisions of this section~~. After [two years from expected adoption date], the provisions of this section shall apply statewide. Note: Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Sections 21099 and 21100, Public Resources Code; *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal. App. 4th 173.	Very few agencies have adopted Section 15022 guidelines. Why not simply apply this to any agency that wants to use it right away? The proposal will limit its own applicability for 2 years in cases where the agency does not want to change its guidelines for whatever reason. There's no reason to create this uncertainty.
Proposed Amendments to Appendix G, XVI. TRANSPORTATION	**Rationale**
a) Conflict with a~~n applicable~~ plan, ordinance or policy ~~establishing measures of effectiveness for the~~ addressing the safety ~~or performance~~ of the circulation system, including transit, roadways, bicycle lanes, and pedestrian paths (excluding ~~except for~~ automobile level of service) that would result in an increase in accidents and injuries?~~, 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,~~ b) ~~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?~~ Cause substantial additional vehicle miles traveled (per capita, per service population, or other appropriate efficiency measure) as compared to existing and predicted future conditions? **c) ~~Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks~~**? Substantially induce additional automobile travel such that vehicle miles traveled will increase? ~~increase hazards due to a design feature (e.g., sharp curves or dangerous intersections)~~	Clarifications to the text to better address the intent of the changes. VMT should be evaluated under existing and future conditions.