

Streamlining the California Environmental Quality Act to Implement SB375

Proposal by the
Urban Land Institute
San Francisco District Council

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About the Urban Land Institute

The mission of the Urban Land Institute (ULI) is to provide leadership in the responsible use of land and in creating and sustaining thriving communities worldwide. ULI is committed to:

- Bringing together leaders from across the fields of real estate and land use policy to exchange best practices and serve community needs;
- Fostering collaboration within and beyond ULI's membership through mentoring, dialogue, and problem solving;
- Exploring issues of urbanization, conservation, regeneration, land use, capital formation, and sustainable development;
- Advancing land use policies and design practices that respect the uniqueness of both built and natural environments;
- Sharing knowledge through education, applied research, publishing, and electronic media; and
- Sustaining a diverse global network of local practice and advisory efforts that address current and future challenges.

Established in 1936, the Institute today has more than 29,000 members worldwide, representing the entire spectrum of the land use and development disciplines. ULI relies heavily on the experience of its members. It is through member involvement and information resources that ULI has been able to set standards of excellence in development practice. The Institute has long been recognized as one of the world's most respected and widely quoted sources of objective information on urban planning, growth, and development.

Urban Land Institute and SB 375

ULI, already a thought leader in land use, has issued a number of reports on the importance of better land use decision-making, including *Growing Cooler, Moving Cooler, Putting the Pieces Together, California 2020*, and, in June 2010, the report *SB375 Impact Analysis*.

SB 375 was signed into law on September 30, 2008. This bill links land use decisions to transportation funding decisions in a way that is unprecedented in California. The vehicle for this coordination is a new regional land use plan called a Sustainable Communities Strategy (SCS) which is being formulated in each of the 18 regions of California by the Metropolitan Planning Organization for each region.

The June 2010 *SB375 Impact Analysis* found that this approach to land use planning will substantially improve the alignment of planning and public funding decisions to produce better quality development that is more responsive to market and economic forces. The report recommended three measures to enhance effective implementation of SB375:

1. **Enhance Transit Certainty:** State and regional policies should enhance transit service levels and the investment necessary to keep pace with the anticipated increase in urban and suburban density.
2. **Align State, Regional and Local Agencies:** The SB375 planning process should be conducted in a manner that enhances cooperation and alignment among the many actors in land use decisionmaking to reduce inconsistencies and conflicts.
3. **CEQA Streamlining:** The California Environmental Quality Act (CEQA) should be reexamined and refined to streamline entitlement approvals for the specific land use and transportation projects consistent with the SB375 Sustainable Community Strategies. Such refinements can reduce the burden of excessive documentation while still providing desired environmental protection.

It is this third implementation measure that the proposal in this report addresses.

The proposal is the recommendations of a CEQA Streamlining Work Group coordinated by the Sustainability Committee of the Urban Land Institute's San Francisco District Council. Members of this work group are:

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The Streamlining Work Group crafted this proposal over the course of 3 months of work from January 2011 through April 2011. The work group hopes that the proposal will engage the interest and active support of other stakeholders advocating measures to produce more sustainable community development.

Introduction

Under SB 375, the state's eighteen Metropolitan Planning Organizations (MPO's) (the regional agencies through which Federal and State transportation funding flows) must develop "Sustainable Communities Strategies" (SCSs) to achieve quantified targets set by the California Air Resources Board for reducing greenhouse gas (GHG) emissions through more efficient development and better coordination among regional and local agencies. The SCS for each region is a component of the Regional Transportation Plan (RTP) that allocates transportation funding to projects in the region. If the SCS is adequate to achieve the GHG targets, then no further planning is necessary. If not, the region submits a separate "Alternative Planning Strategy" (APS) that shows how the target could be achieved.

SB375 will encourage higher density, infill development within urban growth boundaries located near transit. This focus will reduce sprawl and place housing, commercial uses and jobs closer together. It will result in more compact development patterns consistent with the demands of consumers and with greater emphasis on use of transit and less need to rely on private vehicle travel.

Unfortunately, the 1970 California Environmental Quality Act's (CEQA) law, as currently utilized by local governments and by opposition groups across the State, makes the implementation of the land use goals of SB 375 very difficult. The Streamlining Work Group considered several areas of concern where CEQA undermines SB375:

- CEQA enhances the ability of the opponents of urban infill to impose undue time, cost and complexity on proposed infill projects. This dynamic encourages developers to seek places on our regions' fringes with no neighbors and less risk of opposition, thus encouraging urban sprawl.
- In many cases, CEQA analyses focus not on environmental issues but on other broader service delivery concerns. The most common mitigation measures adopted do not relate to environmental issues (such as water/air quality or endangered species) but rather to quality-of-life concerns about infrastructure and service deficiencies such as traffic, noise, and school service shortages. While these issues are important, they really should be addressed at the general plan or community-wide level, not at the project level.

- CEQA tends to encourage incremental, project-by-project analysis and fails to address regional impacts of individual project decisions. The piecemeal application of CEQA to individual projects without consideration of regional impacts results in actions detrimental to environmental quality. For example, lowering a residential project's density may help mitigate local traffic congestion at the expense of compounding regional congestion by pushing development to outlying areas. Considering such effects, some critics have charged that CEQA's project-level focus is "the antithesis of sustainability on the scale of the metropolitan region and the State".

Existing SB375 Streamlining Provisions

Recognizing these shortcomings, SB375, as enacted in 2008, already attempts to streamline the CEQA process by removing project-by-project CEQA review for qualifying projects and relying, instead, on prior analysis that exempts projects already considered in the broader analysis. There are, essentially, two approaches that SB375 takes to reducing project-by-project review:

- **Exemptions:** The first type of CEQA streamlining included in SB 375 provides for a reduced requirement to conduct a CEQA analysis for Transportation Priority Projects (TPP"s) that are consistent with the SCS or APS. In addition to consistency, these projects must meet three additional requirements: (1) contain at least 50% residential use; commercial use, if any, must have floor area ratio (FAR) of not less than 0.75; (2) have a minimum net density of 20 units per acre; and (3) be located within one-half mile of a major transit stop or high quality transit corridor included in an RTP.
- **Tiering:** The other streamlining measure in SB375 applies to projects that have already been analyzed under a CEQA assessment that was conducted for the SCS or APS. For a project deemed consistent with the SCS or APS, the lead agency is not required to reference, describe, or discuss growth-inducing environmental impacts, project specific cumulative impacts, or a reduced residential density alternative.¹

¹ More specifically, a residential or mixed-use project which is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in an SCS (or APS, if it is

Additional Streamlining Needs

The streamlining provisions under SB375 are clearly a step in the right direction but they fail to go far enough to induce substantially more infill or transit oriented development.

Specifically, the Work Group identified several major shortcomings in the statutory language that enables both exemptions from further CEQA review as well as the reliance on prior CEQA analysis for tiering.

1. The criteria for projects qualifying for an exemption either as a Transit Priority Project (TPP) or a residential infill project with prior CEQA analysis are too narrow or too stringent.
2. The authority to exempt a project with prior CEQA analysis exists in law already, but its use has been constrained by a lack of clarity in the authority and conditions for implementation.
3. The authority to exempt a project already analyzed in the CEQA analysis done for the Regional Transportation Plan, Sustainable Community Strategy, or Alternative Planning Strategy is unclear both for local and regional agencies.
4. The ability to exempt infill projects within specially designated infill development opportunity areas (such as priority development areas in the Bay Area, or smart growth centers in the San Diego Area) is unclear.
5. The language defining the prerequisite criteria that projects must meet for qualifying for tiering or exemptions in wetlands, hazardous waste, building code compliance, toxic exposure and seismic safety fails to provide for the possibility of mitigating these concerns through incorporation of design elements that address these concerns.

In general, the Work Group found that the existing language streamlining CEQA review of infill and transit oriented projects failed to go far enough in creating

produced) is not required to reference, describe, or discuss (1) growth-inducing impacts; or (2) project specific or cumulative impacts from cars and light-duty truck trips on global warming or the regional transportation network if the project incorporates the mitigation measures required by an applicable prior environmental document. In addition, an EIR prepared for this type of project is not required to reference, describe, or discuss a reduced residential density alternative to address the effects of car and light-duty truck trips generated by the project.

clarity for public agencies and developers to avail themselves of the streamlining options. The authority for streamlining is simply not clear enough or the criteria for exercising it too stringent.

For instance, the definition of a Transit Priority Project (TPP) under SB 375 provides a long list of standards that must be met before a project can be designated as a TPP, including that it contain not more than 200 residential units, that it can be served by existing utilities, that buildings are 15% more energy efficient than required under state law and use 25% less water than the regional average, and that it provides either 5 acres or more of open space per 1,000 residents or 20% housing for moderate income residents, 10% housing for low income residents, or 5% for very low income (or in-lieu fees sufficient to develop the equivalent number of units).

Few development projects would meet all these TPP standards. Even if they did, local agencies and developers must choose to take up the exemption and research indicates that fewer than 15% of developers took up prior exemptions for infill projects provided under state law.

The Work Group hopes that their proposals to strengthen the streamlining of CEQA for SB375 type projects will increase the use of exemptions for these types of projects and of reliance on prior CEQA analysis for tiering project approvals.

Proposed Measures to Further Streamline CEQA for SB375 Implementation

The accompanying proposed statutory changes represent the Streamlining Work Group's initial proposal for enhancing the ability to streamline infill and transit oriented projects. These changes are summarized below:

- **Exemptions:** The proposals to enhance exemptions from further CEQA review revise the language already in SB375 to simplify and broaden the criteria necessary to qualify for exemption, including requirements related to: utilities; wetlands; biological resources; hazardous materials; health risks; and energy efficiency.
 - An important change is that the revised language allows for bigger projects: 600-unit projects on twenty acres, rather than 200 units on eight acres.

- There are also revisions to non-SB 375 exemptions, both in contemplation of the fact that sustainable community strategies may not come "online" for a substantial time period, and that infill may be desirable even in areas not contemplated in a strategy. There are two main statutory exemptions for infill that currently exist: (1) a streamlining provision for infill projects consistent with a planning or zoning EIR, which provides that a focused EIR may be prepared; and (2) an infill exemption for projects that comply with a lengthy list of requirements, including consistency with a planning or zoning EIR.
- Regarding revisions to the non-SB 375 provisions, they are somewhat more complex than the SB 375 criteria. For example, requirements concerning wetlands, health risks, utilities, etc., were left in, and the maximum project size was increased over the existing cap (i.e., from 100 units to 400 units; note this is less than the 600-unit project permitted under our revised SB 375 provisions). The reason is to highlight the importance of the SB 375 exemption and ensure it remains relevant. The Work Group felt that making the non-SB375 project criteria more stringent was simply good public policy favoring projects specifically designated within the SB375 planning process.
- Finally, the Work Group is suggesting a change to the CEQA Guidelines to recognize that urban infill projects outside city limits deserve the same categorical exemption treatment as such projects within city limits. CEQA Guidelines section 15332 exempts in-fill development within city limits meeting the conditions of consistency with the general plan and zoning that are no more than five acres which do not have value as habitat or would not result in significant impacts on traffic noise, air or water quality and can be served by municipal services. The suggested change would extend this exemption to projects outside city limits.
- **Tiering:** The tiering proposals enhance the ability to rely on approvals that occurred as a result of prior CEQA analysis by specifically:
 - Stipulating that if an adequate plan-level CEQA review is conducted for an infill development opportunity area designated by the regional agency under a Regional Sustainable Community Strategy (SCS) pursuant to Senate Bill 375 (SB 375), and a specific plan together with CEQA documentation for development is subsequently prepared within one of these areas, projects conforming to the provisions of

these plans, proposed within 10 years of the specific plan's adoption, would be fully exempt from further review under CEQA.

- Clarifies that EIRs certified by regional agencies on Regional Transportation Plans (RTP), Sustainable Community Strategies (SCS) and Alternative Planning Strategies (APS), can be used by its member jurisdictions as a first-tier document to streamline CEQA review of the transportation and greenhouse gas impacts of subsequent plans and projects. This will help assure the efficient and clean movement of people and goods in the region based on the land use and transportation assumptions built into the RTP by local agency members.
- Clarifies that local traffic engineering and analysis should not be performed through CEQA, but through sensible local planning done in the context of the region.
- Once a regional SCS or APS is completed, and a CEQA review has been completed on a district and/or community plan within a regionally-established priority development area, subsequent projects conforming to the adopted local plan, and meeting or exceeding any minimum density and/or floor area ratio standards established in the regional and local plans, will be exempt from further CEQA review. This exemption will be in place for the life of the plan or until it can be shown that the underlying capacity assumptions for the plan have been met or exceeded, whichever comes first.
- Clarifies that localities relying on a regionally-adopted EIR as a first-tier document that identifies significant and unavoidable impacts could rely on a negative declaration, mitigated negative declaration or statutory or categorical exemptions as a second-tier document, in spite of other CEQA provisions that might limit the ability to use other CEQA processes (example: Section 21094).
- Clarifies that the “standard of consistency” for tiering off of a prior environmental document must not meet a strict compliance standard, rather it meets a standard of general consistency.

Conclusion

The Work Group's proposals simply enhance the ability of individual infill and transit oriented projects that meet the criteria of sustainable development under SB375 to proceed through the entitlement process relying on prior regional and local jurisdictional community or area wide CEQA determinations. These proposals, in no way, remove the requirement that impacts be analyzed, they simply place the burden of analysis on the regional or community-wide planning process and allow individual projects to be considered within that broader context.

Streamlining development approvals for the type of development encouraged by SB375 will lower the entitlement risk and foster greater developer interest in proceeding with these types of projects.

Public policies that encourage sustainable development should be embraced by all stakeholders who are advocating better quality development. These include environmental groups, developers, local government and community groups.

The proposals by the Streamlining Work Group hopefully can serve as a starting point for discussion among a coalition of such groups that could be the basis of legislation to enact change.

The next section shows the specific statutory and administrative language changes proposed by the Work Group.

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EXEMPTIONS FOR TRANSIT PRIORITY PROJECTS

SB 375 – CALIFORNIA PUBLIC RESOURCES CODE (CEQA) PROVISIONS

CHAPTER 4.2 (Sections 21155 – 21155.3).

21155. (a) This chapter applies only to a transit priority project or a project within an area designated by a regional agency as an infill development opportunity area that is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(b) For purposes of this chapter, a transit priority project shall (1) contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75; (2) provide a minimum net density of at least 20 dwelling units per acre; and (3) be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in Section 21064.3, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. A project shall be considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.

21155.1.

If the legislative body finds, after conducting a public hearing, that a transit priority project meets all of the requirements of subdivisions (a) and (b) ~~and one of the requirements of subdivision (c)~~, then the transit priority project is declared to be a sustainable communities project and shall be exempt from this division.

(a) The transit priority project complies with all of the following environmental criteria:

(1) ~~The transit priority project and other projects approved prior to the approval of the transit priority project but not yet built can be adequately served by existing utilities, and the transit priority project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.~~

(2) (A) The site of the transit priority project does not contain wetlands ~~or riparian areas~~ and does not have significant value as a wildlife habitat, and the transit

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(A) If a release of a hazardous substance is found to exist on the site, the release shall be removed or any significant effects of the release shall be mitigated to a level of insignificance. ~~in compliance~~ Compliance with state and federal requirements shall constitute mitigation to a level of insignificance.

(B) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance. ~~in compliance~~ Compliance with state and federal requirements shall constitute mitigation to a level of insignificance.

(5) The transit priority project does not have a significant effect on historical resources pursuant to Section 21084.1.

(6) The transit priority project site is not subject to any of the following:

(A) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(B) An unusually high risk of fire or explosion from materials stored or used on nearby properties.

(C) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(D) Seismic risk as a result of being within a delineated earthquake fault ~~zone~~, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan, ~~or~~ zoning ordinance, building code, or other regulations contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone. Compliance with the applicable general plan, zoning ordinance, building code, or other regulations shall constitute satisfaction of mitigation to a level of insignificance.

(E) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan, ~~or~~ zoning ordinance, building code, or other regulations contains provisions to mitigate the risk of a landslide or flood. Compliance with the applicable general plan, zoning ordinance, building code, or other regulations shall constitute satisfaction of mitigation to a level of insignificance.

~~(7) The transit priority project site is not located on developed open space.~~

~~(A) For the purposes of this paragraph, "developed open space" means land that meets all of the following criteria:~~

~~(i) Is publicly owned, or financed in whole or in part by public~~

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funds.

~~_____ (ii) Is generally open to, and available for use by, the public.~~

~~_____ (iii) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.~~

~~_____ (B) For the purposes of this paragraph, "developed open space" includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired with public funds dedicated to the acquisition of land for housing purposes.~~

~~_____ (8) The buildings in the transit priority project are 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations and the buildings and landscaping are designed to achieve 25 percent less water usage than the average household use in the region.~~

(b) The transit priority project meets all of the following land use criteria:

(1) The site of the transit priority project is not more than ~~twentyeight~~ acres in total area.

(2) The transit priority project does not contain more than ~~600200~~ residential units.

(3) The transit priority project does not result in any net loss in the number of affordable housing units within the project area.

~~_____ (4) The transit priority project does not include any single level building that exceeds 75,000 square feet.~~

~~_____ (5) Any applicable mitigation measures or performance standards or criteria set forth in the prior environmental impact reports, and adopted in findings, have been or will be incorporated into adopted for the regional transportation plan and which are specifically required to be adopted in the transit priority project.~~

~~_____ (6) The transit priority project is determined not to conflict with nearby operating industrial uses.~~

~~_____ (7) The transit priority project is located within one-half quarter mile of a rail transit station or a ferry terminal included in a regional transportation plan or within one-quarter mile of a high-quality transit corridor included in a regional transportation plan.~~

~~(c) The transit priority project meets at least one of the following three criteria:~~

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~~_____ (16) The transit priority project provides public open space equal to or greater than one-half acre per 1,000 residents of the project or satisfies an open space development impact fee or similar in lieu fee. The transit priority project meets both of the following:~~

~~_____ (A) At least 20 percent of the housing will be sold to families of moderate income, or not less than 10 percent of the housing will be rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.~~

~~_____ (B) The transit priority project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.~~

~~_____ (2) The transit priority project developer has paid or will pay in lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to paragraph (1).~~

~~_____ (3) The transit priority project provides public open space equal to or greater than five acres per 1,000 residents of the project.~~

~~_____ (c) For a project that is within an area designated by the regional agency as an infill development opportunity area, if the legislative body has certified an environmental impact report for an adopted specific plan, community plan, or other area-wide plan within the priority development area, and the legislative body finds, after conducting a public hearing, that the project within the infill development opportunity area is generally consistent with the area-wide plan, and meets the following requirements, the project within this area shall be exempt from this division:~~

~~_____ (i) The project within the infill development opportunity area complies, or can demonstrate compliance through the use of mitigation measures, with all applicable local, state, and federal environmental laws and regulations.~~

~~_____ (ii) The project within the priority development area does not have a significant effect, after application of mitigation measures, on historical resources previously designated as such by a recognized local, state, or federal designating body.~~

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21155.2. (a) A transit priority project, or a project within an area designated by the regional agency as an infill development opportunity area, that has incorporated all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports and adopted in findings made pursuant to Section 21081, shall be eligible for either the provisions of subdivision (b) or (c).

(b) A transit priority project that satisfies the requirements of subdivision (a) may be reviewed through a sustainable communities environmental assessment as follows:

(1) An initial study shall be prepared to identify all significant or potentially significant impacts of the transit priority project or an area designated by the regional agency as an infill development opportunity area, other than those which do not need to be reviewed pursuant to Section 21083.3 and 21159.28 based on substantial evidence in light of the whole record. The initial study shall identify any cumulative effects that have been adequately addressed and mitigated pursuant to the requirements of this division in prior applicable certified environmental impact reports. Where the lead agency determines that a cumulative effect has been adequately addressed and mitigated, that cumulative effect shall not be treated as cumulatively considerable for the purposes of this subdivision.

(2) The sustainable communities environmental assessment shall contain measures that either avoid or mitigate to a level of insignificance all potentially significant or significant effects of the project required to be identified in the initial study.

(3) A draft of the sustainable communities environmental assessment shall be circulated for public comment for a period of not less than 30 days. Notice shall be provided in the same manner as required for an environmental impact report pursuant to Section 21092.

(4) Prior to acting on the sustainable communities environmental assessment, the lead agency shall consider all comments received.

(5) A sustainable communities environmental assessment may be approved by the lead agency after conducting a public hearing, reviewing the comments received, and finding that:

(A) All potentially significant or significant effects required to be identified in the initial study have been identified and analyzed.

(B) With respect to each significant effect on the environment required to be identified in the initial study, either of the following apply:

(i) Changes or alterations have been required in or incorporated into the project that avoid or mitigate the significant effects to a level of insignificance.

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(ii) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

(6) The legislative body of the lead agency shall conduct the public hearing or a planning commission may conduct the public hearing if local ordinances allow a direct appeal of approval of a document prepared pursuant to this division to the legislative body subject to a fee not to exceed five hundred dollars (\$500).

(7) The lead agency's decision to review and approve a transit priority project or a project within a regionally designated infill development opportunity area with a sustainable communities environmental assessment shall be reviewed under the substantial evidence standard.

(c) A transit priority project that satisfies the requirements of subdivision (a) may be reviewed by an environmental impact report that complies with all of the following:

(1) An initial study shall be prepared to identify all significant or potentially significant effects of the transit priority project other than those that do not need to be reviewed pursuant to Section 21159.28 based upon substantial evidence in light of the whole record. The initial study shall identify any cumulative effects that have been adequately addressed and mitigated pursuant to the requirements of this division in prior applicable certified environmental impact reports. Where the lead agency determines that a cumulative effect has been adequately addressed and mitigated, that cumulative effect shall not be treated as cumulatively considerable for the purposes of this subdivision.

(2) An environmental impact report prepared pursuant to this subdivision need only address the significant or potentially significant effects of the transit priority project on the environment identified pursuant to paragraph (1). It is not required to analyze off-site alternatives to the transit priority project. It shall otherwise comply with the requirements of this division.

21155.3. (a) The legislative body of a local jurisdiction may adopt traffic mitigation measures that would apply to transit priority projects or projects within a regionally designated infill development opportunity area. These measures shall be adopted or amended after a public hearing and may include requirements for the installation of traffic control improvements, street or road improvements, and contributions to road improvement or transit funds, transit passes for future residents, or other measures that will avoid or mitigate the traffic impacts of those transit priority projects.

(b) (1) A transit priority project or project within a regionally designated infill development opportunity area that is seeking a discretionary approval is

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not required to comply with any additional mitigation measures required by paragraph (1) or (2) of subdivision (a) of Section 21081, for the traffic impacts of that project on intersections, streets, highways, freeways, or mass transit, if the local jurisdiction issuing that discretionary approval has adopted traffic mitigation measures in accordance with this section.

(2) Paragraph (1) does not restrict the authority of a local jurisdiction to adopt feasible mitigation measures with respect to the effects of a project on public health or on pedestrian or bicycle safety.

(c) The legislative body shall review its traffic mitigation measures and update them as needed at least every five years

EXEMPTIONS FOR URBAN INFILL UNDER CEQA GUIDELINES

Amend CEQA Guidelines section 15332 as follows to remove the requirement that a infill project qualifying for a categorical exemption be within city limits:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs ~~within city limits~~ on a project site of no more than 5 acres substantially surrounded by urban uses.
- (c) The project site has no value, as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

QUALIFIED EXEMPTION BASED ON PREVIOUS PLANNING OR ZONING EIR

Public Resources Code section 21158.5.

(a) Where a project consists of multiple-family residential development of not more than ~~100~~400 units or a residential and commercial or retail mixed-use development of not more than ~~100~~450,000 square feet which complies with all of the following, a focused environmental impact report shall be prepared, notwithstanding that the project was not identified in a master environmental impact report:

(1) Is consistent with a general plan, specific plan, community plan, or zoning ordinance for which an environmental impact report was prepared within five years of the certification of the focused environmental impact report.

(2) The lead agency cannot make the finding described in subdivision (c) of Section 21157.1, a negative declaration or mitigated negative declaration cannot be prepared pursuant to Section 21080, 21157.5, or 21158, and Section 21166 does not apply.

(3) Meets one or more of the following conditions:

(A) The parcel on which the project is to be developed is surrounded by immediately contiguous urban development.

(B) The parcel on which the project is to be developed has been previously developed with urban uses.

(C) The parcel on which the project is to be developed is within one-half mile of an existing rail transit station, major transit stop as defined in Section 21064.3, or a high quality transit corridor, as defined in Section 21155(b).

(4) The lead agency cannot make a determination and finding as described in subsection (c) of this Section.

(b) A focused environmental impact report prepared pursuant to this section shall be limited to a discussion of potentially significant effects on the environment specific to the project, or which substantial new information shows will be more significant than described in the prior environmental impact report. No discussion shall be required of alternatives to the project, cumulative impacts of the project, or the growth inducing impacts of the project.

(c) If the a proposed subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158, that was not identified in the master environmental impact report and, based upon the information contained in the initial study, the subsequent project is within the scope of the project covered by the master environmental impact report, the lead agency may determine and find that no new environmental document nor findings pursuant to Section 21081 shall be required by this division. Prior to approving or carrying out the proposed subsequent project, the lead agency shall provide notice of this fact pursuant to Section 21092 and incorporate all feasible mitigation measures or feasible

**QUALIFIED EXEMPTION BASED ON PREVIOUS PLANNING OR ZONING
EIR**

alternatives set forth in the master environmental impact report which are appropriate to the project. Whenever a lead agency approves or determines to carry out any subsequent project pursuant to this section, it shall file a notice pursuant to Section 21108 or 21152.

GENERAL CRITERIA FOR ARRAY OF HOUSING EXEMPTIONS, TO BE READ IN CONJUNCTION WITH SECTION 21159.24

Public Resources Code section 21159.21. A housing project qualifies for an exemption from this division pursuant to Section 21159.22, 21159.23, or 21159.24 if it meets the criteria in the applicable section and all of the following criteria:

(a) The project is consistent with any applicable general plan, specific plan, and local coastal program, including any mitigation measures required by a plan or program, as that plan or program existed on the date that the application was deemed complete and with any applicable zoning ordinance, as that zoning ordinance existed on the date that the application was deemed complete, except that a project shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the project site has not been rezoned to conform with a more recently adopted general plan.

(b) Community-level environmental review has been adopted or certified.

(c) The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.

(d) The site of the project does not contain wetlands, does not have any value as a wildlife habitat, and the project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete. For the purposes of this subdivision, “wetlands” has the same meaning as in Section 328.3 of Title 33 of the Code of Federal Regulations and “wildlife habitat” means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(e) The site of the project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.

(f) The site of the project is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

(1) If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(2) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(g) The project does not have a significant effect on historical resources

GENERAL CRITERIA FOR ARRAY OF HOUSING EXEMPTIONS, TO BE READ IN CONJUNCTION WITH SECTION 21159.24

pursuant to Section 21084.1.

(h) The project site is not subject to any of the following:

(1) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(2) An unusually high risk of fire or explosion from materials stored or used on nearby properties.

(3) Risk of a material public health exposure at a level that would exceed, after the incorporation of project design elements and the applicable regulatory background, the standards applicable statewide that are established by any state or federal agency.

(4) Within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.

(5) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

(i) (1) The project site is not located on developed open space unless provisions are made to replace any impacted acreage of developed open space on a 1:1 ratio, either on or off the project site.

(2) For the purposes of this subdivision, “developed open space” means land that meets all of the following criteria:

(A) Is publicly owned, or financed in whole or in part by public funds.

(B) Is generally open to, and available for use by, the public.

(C) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.

(3) For the purposes of this subdivision, “developed open space” includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired by public funds dedicated to the acquisition of land for housing purposes.

(j) The project site is not located within the boundaries of a state

GENERAL CRITERIA FOR ARRAY OF HOUSING EXEMPTIONS, TO BE READ IN CONJUNCTION WITH SECTION 21159.24

conservancy.

21159.24. (a) Except as provided in subdivision (b), this division does not apply to a project if all of the following criteria are met:

(1) The project is a residential project as defined in subdivision (d) or mixed-use project on an infill site ~~though, if the project proposes a mix of uses other than those described in subdivision (d), it must meet the use ratios and densities set forth in Section 21155(b)(1)-(2).~~

(2) The project is located within an urbanized area.

(3) The project satisfies the criteria of Section 21159.21.

(4) Within five years of the date that the application for the project is deemed complete pursuant to Section 65943 of the Government Code, community-level environmental review was certified or adopted.

(5) The site of the project is not more than ~~four~~ 12 acres in total area.

(6) The project does not contain more than ~~100~~ 400 residential units.

(7) Either of the following criteria are met:

(A) (i) At least 10 percent of the housing is sold to families of moderate income, or not less than 10 percent of the housing is rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.

(ii) The project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs determined pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code.

(B) The project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to subparagraph (A).

(8) The project is within one-half mile of an existing rail transit station, major transit stop as defined in Section 21064.3, or a high quality transit corridor, as defined in Section 21155(b)~~a major transit stop.~~

~~(9) The project does not include any single level building that exceeds 100,000 square feet.~~

GENERAL CRITERIA FOR ARRAY OF HOUSING EXEMPTIONS, TO BE READ IN CONJUNCTION WITH SECTION 21159.24

(199) The project promotes higher density infill housing. A project with a density of at least 20 units per acre shall be conclusively presumed to promote higher density infill housing. A project with a density of at least 10 units per acre and a density greater than the average density of the residential properties within 1,500 feet shall be presumed to promote higher density housing unless the preponderance of the evidence demonstrates otherwise.

(b) Notwithstanding subdivision (a), this division shall apply to a development project that meets the criteria described in subdivision (a), if any of the following occur:

(1) There is a reasonable possibility that the project will have a project-specific, significant effect on the environment due to unusual circumstances.

(2) Substantial changes with respect to the circumstances under which the project is being undertaken that are related to the project have occurred since community-level environmental review was certified or adopted.

(3) New information becomes available regarding the circumstances under which the project is being undertaken and that is related to the project, that was not known, and could not have been known, at the time that community-level environmental review was certified or adopted.

(c) If a project satisfies the criteria described in subdivision (a), but is not exempt from this division as a result of satisfying the criteria described in subdivision (b), the analysis of the environmental effects of the project in the environmental impact report or the negative declaration shall be limited to an analysis of the project-specific effect of the projects and any effects identified pursuant to paragraph (2) or (3) of subdivision (b).

(d) For the purposes of this section, “residential” means a use consisting of either of the following:

(1) Residential units only.

(2) Residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15 percent of the total floor area of the project.

TIERING FOR INFILL PROJECTS

CEQA PROVISIONS (NON-SB 375)

21068.5. “Tiering” or “tier” means the coverage of general matters and environmental effects in an environmental impact report prepared for a policy, plan, program, regional transportation plan, or ordinance followed by narrower or site-specific environmental impact reports which incorporate by reference the discussion in any prior environmental impact report and which concentrate on the environmental effects which (a) are capable of being mitigated, or (b) were not analyzed as significant effects on the environment in the prior environmental impact report.

21093. (a) The Legislature finds and declares that tiering of environmental impact reports will promote construction of needed housing and other development projects by (1) streamlining regulatory procedures, (2) avoiding repetitive discussions of the same issues in successive environmental impact reports, and (3) ensuring that environmental impact reports prepared for later projects which are generally consistent with a previously approved policy, plan, program, regional transportation plan, or ordinance concentrate upon environmental effects which may be mitigated or avoided in connection with the decision on each later project. The Legislature further finds and declares that tiering is appropriate when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous environmental impact reports.

(b) To achieve this purpose, environmental impact reports shall be tiered whenever feasible, as determined by the lead agency.

65080. (a) Each transportation planning agency designated under Section 29532 or 29532.1 shall prepare and adopt a regional transportation plan directed at achieving a coordinated and balanced regional transportation system, including, but not limited to, mass transportation, highway, railroad, maritime, bicycle, pedestrian, goods movement, and aviation facilities and services. The plan shall be action-oriented and pragmatic, considering both the short-term and long-term future, and shall present clear, concise policy guidance to local and state officials. The regional transportation plan shall consider factors specified in Section 134 of Title 23 of the United States Code. Each transportation planning agency shall consider and incorporate, as appropriate, the transportation plans of cities, counties, districts, private organizations, and state and federal agencies.

(b) The regional transportation plan shall be an internally consistent document and shall include all of the following:

(1) A policy element that describes the transportation issues in the region, identifies and quantifies regional needs, and describes the desired short-range and long-range transportation goals, and pragmatic objective and policy statements. The objective and policy statements shall be consistent with the funding estimates of the

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financial element. The policy element of transportation planning agencies with populations that exceed 200,000 persons may quantify a set of indicators including, but not limited to, all of the following:

(A) Measures of mobility and traffic congestion, including, but not limited to, daily vehicle hours of delay per capita and vehicle miles traveled per capita.

(B) Measures of road and bridge maintenance and rehabilitation needs, including, but not limited to, roadway pavement and bridge conditions.

(C) Measures of means of travel, including, but not limited to, percentage share of all trips (work and nonwork) made by all of the following:

- (i) Single occupant vehicle.
- (ii) Multiple occupant vehicle or carpool.
- (iii) Public transit including commuter rail and intercity rail.
- (iv) Walking.
- (v) Bicycling.

(D) Measures of safety and security, including, but not limited to, total injuries and fatalities assigned to each of the modes set forth in subparagraph (C).

(E) Measures of equity and accessibility, including, but not limited to, percentage of the population served by frequent and reliable public transit, with a breakdown by income bracket, and percentage of all jobs accessible by frequent and reliable public transit service, with a breakdown by income bracket.

(F) The requirements of this section may be met utilizing existing sources of information. No additional traffic counts, household surveys, or other sources of data shall be required.

(2) A sustainable communities strategy prepared by each metropolitan planning organization as follows:

(A) No later than September 30, 2010, the State Air Resources Board shall provide each affected region with greenhouse gas emission reduction targets for the automobile and light truck sector for 2020 and 2035, respectively.

TIERING FOR INFILL PROJECTS

(i) No later than January 31, 2009, the state board shall appoint a Regional Targets Advisory Committee to recommend factors to be considered and methodologies to be used for setting greenhouse gas emission reduction targets for the affected regions. The committee shall be composed of representatives of the metropolitan planning organizations, affected air districts, the League of California Cities, the California State Association of Counties, local transportation agencies, and members of the public, including homebuilders, environmental organizations, planning organizations, environmental justice organizations, affordable housing organizations, and others. The advisory committee shall transmit a report with its recommendations to the state board no later than September 30, 2009. In recommending factors to be considered and methodologies to be used, the advisory committee may consider any relevant issues, including, but not limited to, data needs, modeling techniques, growth forecasts, the impacts of regional jobs-housing balance on interregional travel and greenhouse gas emissions, economic and demographic trends, the magnitude of greenhouse gas reduction benefits from a variety of land use and transportation strategies, and appropriate methods to describe regional targets and to monitor performance in attaining those targets. The state board shall consider the report prior to setting the targets.

(ii) Prior to setting the targets for a region, the state board shall exchange technical information with the metropolitan planning organization and the affected air district. The metropolitan planning organization may recommend a target for the region. The metropolitan planning organization shall hold at least one public workshop within the region after receipt of the report from the advisory committee. The state board shall release draft targets for each region no later than June 30, 2010.

(iii) In establishing these targets, the state board shall take into account greenhouse gas emission reductions that will be achieved by improved vehicle emission standards, changes in fuel composition, and other measures it has approved that will reduce greenhouse gas emissions in the affected regions, and prospective measures the state board plans to adopt to reduce greenhouse gas emissions from other greenhouse gas emission sources as that term is defined in subdivision (i) of Section 38505 of the Health and Safety Code and consistent with the regulations promulgated pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(iv) The state board shall update the regional greenhouse gas emission reduction targets every eight years consistent with each metropolitan planning organization's timeframe for updating its regional transportation plan under federal law until 2050. The state board may revise the targets every four years based on changes in the factors considered under clause (iii). The state board shall exchange technical information with the Department of Transportation, metropolitan planning organizations, local governments, and affected air districts and engage in a consultative process with public and private stakeholders prior to updating these targets.

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(v) The greenhouse gas emission reduction targets may be expressed in gross tons, tons per capita, tons per household, or in any other metric deemed appropriate by the state board.

(B) Each metropolitan planning organization shall prepare a sustainable communities strategy, subject to the requirements of Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, including the requirement to utilize the most recent planning assumptions considering local general plans and other factors. The sustainable communities strategy shall (i) identify the general location of uses, residential densities, and building intensities within the region, (ii) identify areas within the region sufficient to house all the population of the region, including all economic segments of the population, over the course of the planning period of the regional transportation plan taking into account net migration into the region, population growth, household formation and employment growth, (iii) identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region pursuant to Section 65584, (iv) identify a transportation network to service the transportation needs of the region, (v) gather and consider the best practically available scientific information regarding resource areas and farmland in the region as defined in subdivisions (a) and (b) of Section 65080.01, (vi) consider the state housing goals specified in Sections 65580 and 65581, (vii) set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce the greenhouse gas emissions from automobiles and light trucks to achieve, if there is a feasible way to do so, the greenhouse gas emission reduction targets approved by the state board, and (viii) allow the regional transportation plan to comply with Section 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506).

(C) (i) Within the jurisdiction of the Metropolitan Transportation Commission, as defined by Section 66502, the Association of Bay Area Governments shall be responsible for clauses (i), (ii), (iii), (v), and (vi) of subparagraph (B), the Metropolitan Transportation Commission shall be responsible for clauses (iv) and (viii) of subparagraph (B); and the Association of Bay Area Governments and the Metropolitan Transportation Commission shall jointly be responsible for clause (vii) of subparagraph (B).

(ii) Within the jurisdiction of the Tahoe Regional Planning Agency, as defined in Sections 66800 and 66801, the Tahoe Metropolitan Planning Organization shall use the Regional Plan for the Lake Tahoe Region as the sustainable community strategy, provided that it complies with clauses (vii) and (viii) of subparagraph (B).

(D) In the region served by the multicounty transportation planning agency described in Section 130004 of the Public Utilities Code, a subregional council of governments and the county transportation commission may work together to propose the sustainable communities strategy and an alternative planning strategy, if one is prepared pursuant to subparagraph (I), for that subregional

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area. The metropolitan planning organization may adopt a framework for a subregional sustainable communities strategy or a subregional alternative planning strategy to address the intraregional land use, transportation, economic, air quality, and climate policy relationships. The metropolitan planning organization shall include the subregional sustainable communities strategy for that subregion in the regional sustainable communities strategy to the extent consistent with this section and federal law and approve the subregional alternative planning strategy, if one is prepared pursuant to subparagraph (I), for that subregional area to the extent consistent with this section. The metropolitan planning organization shall develop overall guidelines, create public participation plans pursuant to subparagraph (F), ensure coordination, resolve conflicts, make sure that the overall plan complies with applicable legal requirements, and adopt the plan for the region.

(E) The metropolitan planning organization shall conduct at least two informational meetings in each county within the region for members of the board of supervisors and city councils on the sustainable communities strategy and alternative planning strategy, if any. The metropolitan planning organization may conduct only one informational meeting if it is attended by representatives of the county board of supervisors and city council members representing a majority of the cities representing a majority of the population in the incorporated areas of that county. Notice of the meeting or meetings shall be sent to the clerk of the board of supervisors and to each city clerk. The purpose of the meeting or meetings shall be to discuss the sustainable communities strategy and the alternative planning strategy, if any, including the key land use and planning assumptions to the members of the board of supervisors and the city council members in that county and to solicit and consider their input and recommendations.

(F) Each metropolitan planning organization shall adopt a public participation plan, for development of the sustainable communities strategy and an alternative planning strategy, if any, that includes all of the following:

(i) Outreach efforts to encourage the active participation of a broad range of stakeholder groups in the planning process, consistent with the agency's adopted Federal Public Participation Plan, including, but not limited to, affordable housing advocates, transportation advocates, neighborhood and community groups, environmental advocates, home builder representatives, broad-based business organizations, landowners, commercial property interests, and homeowner associations.

(ii) Consultation with congestion management agencies, transportation agencies, and transportation commissions.

(iii) Workshops throughout the region to provide the public with the information and tools necessary to provide a clear understanding of the issues and policy choices. At least one workshop shall be held in each county in the region. For counties with a population greater than 500,000, at least three workshops shall be held. Each workshop, to the extent practicable, shall include

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urban simulation computer modeling to create visual representations of the sustainable communities strategy and the alternative planning strategy.

(iv) Preparation and circulation of a draft sustainable communities strategy and an alternative planning strategy, if one is prepared, not less than 55 days before adoption of a final regional transportation plan.

(v) At least three public hearings on the draft sustainable communities strategy in the regional transportation plan and alternative planning strategy, if one is prepared. If the metropolitan transportation organization consists of a single county, at least two public hearings shall be held. To the maximum extent feasible, the hearings shall be in different parts of the region to maximize the opportunity for participation by members of the public throughout the region.

(vi) A process for enabling members of the public to provide a single request to receive notices, information, and updates.

(G) In preparing a sustainable communities strategy, the metropolitan planning organization shall consider spheres of influence that have been adopted by the local agency formation commissions within its region.

(H) Prior to adopting a sustainable communities strategy, the metropolitan planning organization shall quantify the reduction in greenhouse gas emissions projected to be achieved by the sustainable communities strategy and set forth the difference, if any, between the amount of that reduction and the target for the region established by the state board.

(I) If the sustainable communities strategy, prepared in compliance with subparagraph (B) or (D), is unable to reduce greenhouse gas emissions to achieve the greenhouse gas emission reduction targets established by the state board, the metropolitan planning organization shall prepare an alternative planning strategy to the sustainable communities strategy showing how those greenhouse gas emission targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies. The alternative planning strategy shall be a separate document from the regional transportation plan, but it may be adopted concurrently with the regional transportation plan. In preparing the alternative planning strategy, the metropolitan planning organization:

(i) Shall identify the principal impediments to achieving the targets within the sustainable communities strategy.

(ii) May include an alternative development pattern for the region pursuant to subparagraphs (B) to (G), inclusive.

(iii) Shall describe how the greenhouse gas emission reduction targets would be achieved by the alternative planning strategy, and why the development pattern, measures, and policies in the alternative planning strategy

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are the most practicable choices for achievement of the greenhouse gas emission reduction targets.

(iv) An alternative development pattern set forth in the alternative planning strategy shall comply with Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, except to the extent that compliance will prevent achievement of the greenhouse gas emission reduction targets approved by the state board.

(v) For purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), an alternative planning strategy shall not constitute a land use plan, policy, or regulation, and the inconsistency of a project with an alternative planning strategy shall not be a consideration in determining whether a project may have an environmental effect.

(J) (i) Prior to starting the public participation process adopted pursuant to subparagraph (F), the metropolitan planning organization shall submit a description to the state board of the technical methodology it intends to use to estimate the greenhouse gas emissions from its sustainable communities strategy and, if appropriate, its alternative planning strategy. The state board shall respond to the metropolitan planning organization in a timely manner with written comments about the technical methodology, including specifically describing any aspects of that methodology it concludes will not yield accurate estimates of greenhouse gas emissions, and suggested remedies. The metropolitan planning organization is encouraged to work with the state board until the state board concludes that the technical methodology operates accurately.

(ii) After adoption, a metropolitan planning organization shall submit a sustainable communities strategy or an alternative planning strategy, if one has been adopted, to the state board for review, including the quantification of the greenhouse gas emission reductions the strategy would achieve and a description of the technical methodology used to obtain that result. Review by the state board shall be limited to acceptance or rejection of the metropolitan planning organization's determination that the strategy submitted would, if implemented, achieve the greenhouse gas emission reduction targets established by the state board. The state board shall complete its review within 60 days.

(iii) If the state board determines that the strategy submitted would not, if implemented, achieve the greenhouse gas emission reduction targets, the metropolitan planning organization shall revise its strategy or adopt an alternative planning strategy, if not previously adopted, and submit the strategy for review pursuant to clause (ii). At a minimum, the metropolitan planning organization must obtain state board acceptance that an alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets established for that region by the state board.

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(K) Neither a sustainable communities strategy nor an alternative planning strategy regulates the use of land, nor, except as provided by subparagraph (J), shall either one be subject to any state approval. Nothing in a sustainable communities strategy shall be interpreted as superseding the exercise of the land use authority of cities and counties within the region. Nothing in this section shall be interpreted to limit the state board's authority under any other provision of law. Nothing in this section shall be interpreted to authorize the abrogation of any vested right whether created by statute or by common law. 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. Nothing in this section requires a metropolitan planning organization to approve a sustainable communities strategy that would be inconsistent with Part 450 of Title 23 of, or Part 93 of Title 40 of, the Code of Federal Regulations and any administrative guidance under those regulations. Nothing in this section relieves a public or private entity or any person from compliance with any other local, state, or federal law.

(L) Nothing in this section requires projects programmed for funding on or before December 31, 2011, to be subject to the provisions of this paragraph if they (i) are contained in the 2007 or 2009 Federal Statewide Transportation Improvement Program, (ii) are funded pursuant to Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2, or (iii) were specifically listed in a ballot measure prior to December 31, 2008, approving a sales tax increase for transportation projects. Nothing in this section shall require a transportation sales tax authority to change the funding allocations approved by the voters for categories of transportation projects in a sales tax measure adopted prior to December 31, 2010. For purposes of this subparagraph, a transportation sales tax authority is a district, as defined in Section 7252 of the Revenue and Taxation Code, that is authorized to impose a sales tax for transportation purposes.

(M) A metropolitan planning organization, or a regional transportation planning agency not within a metropolitan planning organization, that is required to adopt a regional transportation plan not less than every five years, may elect to adopt the plan not less than every four years. This election shall be made by the board of directors of the metropolitan planning organization or regional transportation planning agency no later than June 1, 2009, or thereafter 54 months prior to the statutory deadline for the adoption of housing elements for the local jurisdictions within the region, after a public hearing at which comments are accepted from members of the public and representatives of cities and counties within the region covered by the metropolitan planning organization or regional transportation planning agency. Notice of the public hearing shall be given to the general public and by mail to cities and counties within the region no later than 30 days prior to the date of the public hearing. Notice of election shall be promptly given to the Department of Housing and Community Development. The metropolitan planning organization or the regional transportation planning agency shall complete its next regional transportation plan within three years of the notice of election.

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(N) For purposes of environmental review under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), an environmental impact report prepared by a metropolitan planning organization for a sustainable communities strategy or alternative planning strategy may be used by local agencies within its jurisdiction as a first-tier document to streamline environmental review of transportation, land use and greenhouse gas impacts of local plans and projects generally consistent with the sustainable communities strategy or alternative planning strategy. Any environmental impact report prepared for a sustainable communities strategy or alternative planning strategy and certified by a metropolitan planning organization shall be deemed adequate for reliance by local agencies for the life of the sustainable communities strategy or alternative planning strategy, unless the underlying capacity assumptions for the plan have been met or exceeded.

(O) Two or more of the metropolitan planning organizations for Fresno County, Kern County, Kings County, Madera County, Merced County, San Joaquin County, Stanislaus County, and Tulare County may work together to develop and adopt multiregional goals and policies that may address interregional land use, transportation, economic, air quality, and climate relationships. The participating metropolitan planning organizations may also develop a multiregional sustainable communities strategy, to the extent consistent with federal law, or an alternative planning strategy for adoption by the metropolitan planning organizations. Each participating metropolitan planning organization shall consider any adopted multiregional goals and policies in the development of a sustainable communities strategy and, if applicable, an alternative planning strategy for its region.

(3) An action element that describes the programs and actions necessary to implement the plan and assigns implementation responsibilities. The action element may describe all transportation projects proposed for development during the 20-year or greater life of the plan. The action element shall consider congestion management programming activities carried out within the region.

(4) (A) A financial element that summarizes the cost of plan implementation constrained by a realistic projection of available revenues. The financial element shall also contain recommendations for allocation of funds. A county transportation commission created pursuant to Section 130000 of the Public Utilities Code shall be responsible for recommending projects to be funded with regional improvement funds, if the project is consistent with the regional transportation plan. The first five years of the financial element shall be based on the five-year estimate of funds developed pursuant to Section 14524. The financial element may recommend the development of specified new sources of revenue, consistent with the policy element and action element.

(B) The financial element of transportation planning agencies with populations that exceed 200,000 persons may include a project cost breakdown for all projects proposed for development during the 20-year life of the plan

TIERING FOR INFILL PROJECTS

that includes total expenditures and related percentages of total expenditures for all of the following:

- (i) State highway expansion.
- (ii) State highway rehabilitation, maintenance, and operations.
- (iii) Local road and street expansion.
- (iv) Local road and street rehabilitation, maintenance, and operation.
- (v) Mass transit, commuter rail, and intercity rail expansion.
- (vi) Mass transit, commuter rail, and intercity rail rehabilitation, maintenance, and operations.
- (vii) Pedestrian and bicycle facilities.
- (viii) Environmental enhancements and mitigation.
- (ix) Research and planning.
- (x) Other categories.

(C) The metropolitan planning organization or county transportation agency, whichever entity is appropriate, shall consider financial incentives for cities and counties that have resource areas or farmland, as defined in Section 65080.01, for the purposes of, for example, transportation investments for the preservation and safety of the city street or county road system and farm-to-market and interconnectivity transportation needs. The metropolitan planning organization or county transportation agency, whichever entity is appropriate, shall also consider financial assistance for counties to address countywide service responsibilities in counties that contribute toward the greenhouse gas emission reduction targets by implementing policies for growth to occur within their cities.

(c) Each transportation planning agency may also include other factors of local significance as an element of the regional transportation plan, including, but not limited to, issues of mobility for specific sectors of the community, including, but not limited to, senior citizens.

(d) Except as otherwise provided in this subdivision, each transportation planning agency shall adopt and submit, every four years, an updated regional transportation plan to the California Transportation Commission and the Department of

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Transportation. A transportation planning agency located in a federally designated air quality attainment area or that does not contain an urbanized area may at its option adopt and submit a regional transportation plan every five years. When applicable, the plan shall be consistent with federal planning and programming requirements and shall conform to the regional transportation plan guidelines adopted by the California Transportation Commission. Prior to adoption of the regional transportation plan, a public hearing shall be held after the giving of notice of the hearing by publication in the affected county or counties pursuant to Section 6061.

(e) For purposes of environmental review under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), an environmental impact report prepared by a transportation planning agency for a regional transportation plan may be used by the metropolitan planning organization within its jurisdiction as a first-tier document to streamline environmental review of the sustainable communities strategy or alternative planning strategy. Any environmental impact report prepared for a regional transportation plan and certified by a transportation planning agency shall be deemed adequate for reliance by the metropolitan planning organization for the life of the regional transportation plan, unless the underlying capacity assumptions for the plan have been met or exceeded.