



INSTITUTE FOR LOCAL GOVERNMENT

Promoting Good Government at the Local Level

Understanding California's Sustainable Communities and Climate Protection Act of 2008 (SB 375): A Local Official's Guide

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The Institute prepared this analysis of SB 375 to help local officials understand how the law applies to their cities and counties. We welcome feedback regarding what additional topics could be included in the frequently ask questions section, as well as any areas in the explanation that could be clearer. Comments may be transmitted via the following:

- Email to info@ca-ilg.org (put "SB 375 Guide Comments" in the subject)
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To view this document online, visit www.ca-ilg.org/SB375LegalAnalysis.

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About This Guide

A key premise of the Institute for Local Government's sustainability program efforts is the value of *voluntary* action by local agencies to undertake sustainability policy initiatives. These include policies that will reduce greenhouse gas emissions, conserve energy and other natural resources, save money, and improve the health of local communities and their residents.

Toward that end, the Institute has developed a number of policy resources designed to help local officials evaluate what makes sense in their individual communities in these areas. See www.ca-ilg.org/climate_practices.

Local agencies act within the policy context, however, of state and federal laws. For example, reducing greenhouse gas emissions is a priority at the state level in California. As a result, it is helpful for local officials as they ponder their own initiatives, to understand how state policy affects these areas.

This guide examines how the **Sustainable Communities and Climate Protection Act of 2008** (sometimes known by its legislative identity: SB 375)¹ specifically affects local agencies. The idea is, with this knowledge in hand, local agency officials can evaluate

- 1) How the state law affects their local agencies, and
- 2) What additional sustainability activities may make sense for their local communities.

This guide focuses on the greenhouse gas emissions reduction aspect of SB 375. SB 375 also made important changes to housing element law which this guide will not be addressing. The Institute hopes to find funding to also offer resources to local officials on the housing element-related aspects of SB 375.

Companion Resource

Another law, **California Global Warming Solutions Act of 2006** (sometimes known by its legislative identity: AB 32),² is worthy of local officials' attention as it relates to sustainability and greenhouse gas emissions reduction. For the Institute for Local Government analysis of that law's impacts on local agencies, see www.ca-ilg.org/AB32LegalAnalysis.

SB 375 Overview

“SB 375” is a state law enacted in 2008 relating to regional land use and transportation planning policies. Its formal name is The Sustainable Communities and Climate Protection Act of 2008.³ It is a complex law, affecting a number of regional planning activities.

This legal analysis explains, in plain language terms, what SB 375 means for metropolitan planning organizations and county and city officials and how it relates to other laws promoting sustainability. Specifically, this guide explains the following:

1. The policy background against which SB 375 was adopted.
2. The metropolitan planning organizations' obligations to prepare: a) a “sustainable community strategy” and if necessary b) an “alternative planning strategy.”
3. How SB 375 connects local environmental analyses required under the California Environmental Quality Act to regional transportation plans.
4. How city and county officials and their constituents can influence the regional planning process.

At the end, the guide also answers frequently asked questions and offers a glossary of key terms relating to SB 375.

In the most general terms, SB 375 requires regional transportation planning agencies (called “metropolitan planning organizations”) to carry out planning with California’s statewide greenhouse gas emissions goals in mind.⁴ More specifically the state’s 18 metropolitan planning organizations must adopt plans that, if implemented, will help each region achieve their respective target for reducing greenhouse gas emissions from automobiles and light trucks.⁵ The California Air Resources Board, using a detailed public process, sets each region’s regional greenhouse gas reduction targets.⁶

What Is a “Metropolitan Planning Organization”?

Metropolitan planning organizations are creatures of federal law.⁷ They are regional agencies whose decision-makers are local elected officials: city council members and members of boards of supervisors from the region.⁸

The Federal Highway Administration Act requires that urban areas have such decision-making bodies to carry out continuing, cooperative, and comprehensive multimodal transportation planning processes.⁹ These processes must include developing a metropolitan transportation plan and a transportation improvement program (“TIP”) that “encourages and promotes the safe and efficient development, management and operation of surface transportation systems....”¹⁰

Metropolitan planning organizations receive federal and state funds for region-wide transportation projects.¹¹

In California, the four largest metropolitan planning organizations are: Southern California Association of Governments (SCAG, which includes the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, Ventura and their cities); San Diego Area Association of Governments (SANDAG which includes San Diego county and its cities); SACOG (El Dorado, Placer, Sacramento, Sutter, Yolo and Yuba and 22 cities within those counties); and the Metropolitan Transportation Commission (which includes the nine counties of the San Francisco Bay Area and the cities within those counties).¹²

See table on page 11 for a list of metropolitan planning organizations in California.

Understanding the Policy Context in Which SB 375 Was Adopted

Greenhouse Gas Reduction Targets and Policies

As early as 2005, California set ambitious goals to reduce greenhouse gas emissions. That year, Governor Arnold Schwarzenegger issued **Executive Order S-3-05**, which set goals for reducing greenhouse gas emissions to

- 1) 1990 levels by the year 2020, and
- 2) 80 percent below 1990 levels by 2050.¹³

The following year, **AB 32, The Global Warming Solutions Act of 2006**, provided a policymaking framework for achieving greenhouse gas reductions to meet the state's goals. AB 32 gives the California Air Resources Board (sometimes referred to as either CARB or the ARB) the authority to administer the law through a variety of tools, including the authority to regulate "sources"¹⁴ of greenhouse gas emissions that contribute to climate change.

Passenger vehicles and light trucks are two of the "sources" of greenhouse gas emissions subject to Air Resources Board regulation.¹⁵ In fact, such vehicles account for 30 percent of the greenhouse gas emissions in California.¹⁶

The Air Resources Board has taken regulatory steps to encourage cleaner vehicle technologies and increased use of low-carbon fuels to reduce greenhouse gas emission reductions from automobiles and light trucks.¹⁷ However, these measures alone cannot achieve the overall transportation-related reductions needed to achieve the state's goal to reduce California's greenhouse gas emissions to 1990 levels by the year 2020.¹⁸

SB 375 supplements these steps with measures to achieve further reductions in greenhouse gas emissions from transportation sources.¹⁹ SB 375 is predicated on the premise that greenhouse gas reductions from the regional plans required by SB 375 will result in Californians driving fewer miles as a consequence of changed land use patterns and improved transportation systems. These reduced vehicle miles driven by Californians will in turn result in reduced greenhouse gas emissions.²⁰

Who Is on the Air Resources Board?

The Air Resources Board (ARB) is part of the California Environmental Protection Agency. The ARB consists of 11 individuals appointed by the Governor on the basis of their demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with air pollution problems.

- Six members must meet specific qualifications related science, medicine, and engineering.
- Two of the six are members of the public.
- Five members must be from regional air quality management or air pollution districts throughout the state. Because of the membership of these districts, this means that these five members have tended to be city and county elected officials who serve on specified air district boards.²¹

Land Use Planning Laws

Counties and cities begin the land use decision-making process by adopting and keeping up to date a “**general plan.**” A general plan is the comprehensive, long-term plan that guides the physical development of land within city and county borders.²² A general plan addresses many subjects including land uses, noise, transportation, conservation, housing, open-space, and public safety.²³

The general plan guides land use decisions, as well as decisions about the other subjects addressed in the general plan.²⁴ In addition, only cities and counties have the legal authority to approve what will be built on a vacant piece of property, how a building in need of rehabilitation will be transformed, and whether a piece of property is suitable for commercial, industrial, or residential use, as long as those decisions are consistent with the local agency’s general plan.²⁵

SB 375 does not change existing law that gives cities and counties land-use decision making authority.

California’s housing element law requires each city and county to adopt a housing element which explains how the city or county will accommodate its fair share of its area’s regional housing need.²⁶ The fair share number is referred to as a “**regional housing needs allocation**” (sometimes referred to by its acronym “RHNA”). A city or county’s regional housing needs allocation is allocated to it by its council of governments in its regional housing allocation plan.²⁷ A community’s regional housing

needs allocation number represents its fair share of the regional housing need for all economic segments of the community.

Federal Transportation Planning and Air Quality Policies

SB 375 ties into federal air quality and transportation planning requirements.

Federal law requires metropolitan planning organizations to prepare and adopt a **regional transportation plan** (sometimes referred to by its acronym "RTP").²⁸ Among other elements, a regional transportation plan includes a transportation improvement program which is a list of capital and non-capital transportation projects for the region and a financial element which explains how the region will allocate state and federal funds to these projects.

A metropolitan planning organization must review and update its regional transportation plan at least every four years in air quality nonattainment and maintenance areas; in attainment areas, the cycle is at least every five years.²⁹ Federal law explains what the plan must contain.³⁰ In addition, its regional transportation plan must conform to the regional transportation plan guidelines adopted by the California Transportation Commission.³¹

When a metropolitan planning organization in a non-attainment area adopts its plan, it must make a "conformity determination" in accordance with the Clean Air Act and the Environmental Protection Agency transportation conformity regulations.³² The purpose of the "conformity determination" is to ensure that federal funding and approval are given to transportation plans, programs, and projects that are consistent with the air quality goals in the federal Clean Air Act. These goals are established in a state implementation plan, which is adopted by the Air Resources Board.³³

"Conformity" means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of air quality goals.³⁴ A conformity determination must be based upon "the most recent planning assumptions"³⁵ in force at the time the conformity analysis begins. The determination must satisfy the requirements of the law using the planning assumptions available at the time the conformity analysis begins.³⁶ Assumptions must be derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the metropolitan planning organization.³⁷

The federal government's approval process looks for land use and transportation decisions that will actually occur. Thus, under existing federal law, a regional transportation plan that projects air quality improvements must show how land use and transportation policies will achieve those improvements.³⁸

What Is A “Greenhouse Gas?”

Under AB 32, a “greenhouse gas” includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.”³⁹ AB 32 is based upon the premise that greenhouse gases pose a serious threat to the economic well-being, public health, natural resources, and the environment in California.”⁴⁰

Key Elements of SB 375: Regional Greenhouse Gas Reduction Targets, Sustainable Communities Strategies and Alternative Planning Strategies

Background

Three key planning components make up SB 375's efforts to reduce regional transportation-related greenhouse gases:

- Preparation and adoption of regional greenhouse gas reduction targets;⁴¹
- Preparation of a sustainable communities strategy to achieve the target, which becomes part of the regional transportation plan;⁴²
- Preparation of a supplemental strategy (and "alternative planning strategy") if the sustainably communities strategy does not achieve the reductions called for in the regional targets.⁴³

This section explains each component, as well as the parameters for Air Resources Board review of the metropolitan planning organizations' strategies.

Regional Greenhouse Gas Emissions Reduction Targets

SB 375 directs the Air Resources Board to establish greenhouse gas emissions reduction targets for each of the state's metropolitan planning regions by September 30, 2010.⁴⁴ To help develop the regional targets, the Air Resources Board appointed a "Regional Targets Advisory Committee" comprised of 21 members with representatives from metropolitan planning organizations, air districts, local agencies, transportation agencies, the public, as well as representatives from homebuilders, environmental, affordable housing and environmental justice organizations.

As part of the regional target setting process, each of the major metropolitan planning organizations⁴⁵ recommended targets for its region for 2020 and 2035.⁴⁶ At this writing, the Air Resources Board staff is proposing targets that mostly agree with those proposed by the four largest metropolitan planning organizations. The exception is the 2035 target for the southern California area.

What If a Region is Not in One of the 18 Metropolitan Planning Organizations Covered in SB 375?

SB 375 covers the 18 metropolitan planning agencies in California, which account for the overwhelming majority of California residents, but not all. Other areas have county transportation planning agencies that also prepare and adopt regional transportation plans directed at achieving a coordinated and balanced regional transportation system.⁴⁷ These transportation plans have a number of elements, including a financial element.⁴⁸

In those financial elements, SB 375 requires both metropolitan planning organizations and county transportation planning agencies to consider certain financial incentives for cities or counties that have specified kinds of farmland, open space, habitat and park areas.⁴⁹ SB 375 also requires transportation planning agencies to consider financial assistance to counties relating to policy decisions for growth to occur within their cities.⁵⁰

Moreover, cities and counties outside of the boundaries of the 18 metropolitan planning organizations may still voluntarily adopt policies and programs to reduce greenhouse gas emissions through their land use and transportation planning activities. See www.ca-ilg.org/ClimatePractices for informational resources relating to that option.

Sustainable Communities Strategy

SB 375 requires metropolitan planning organizations to each adopt a “sustainable communities strategy” for the region.⁵¹ The purpose of the strategy is to explain how the region will achieve its assigned greenhouse gas emission reduction target, if there is a feasible way to do so.

The sustainable communities strategy must do the following things:

- Identify the general location of uses, residential densities, and building intensities within the region;⁵²
- Identify areas within the region sufficient to house all the population of the region over the course of the planning period;⁵³
- Identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region;⁵⁴
- Identify a transportation network to service the transportation needs of the region;⁵⁵

- Gather and consider the best practically available scientific information regarding resource areas and farmland in the region;⁵⁶ and
- Provide a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce greenhouse gas emissions from automobiles and light trucks to achieve, if feasible,⁵⁷ the greenhouse gas emission reductions target approved by the Air Resources Board.⁵⁸

The process must include the public participation plan for development and adoption of the sustainable communities strategy (see discussion on page 16 for more information about the public participation process).⁵⁹

Information about the procedure for adopting, and contents of, a sustainable communities strategy can be found in the regional transportation plan guidelines adopted by the California Transportation Commission.⁶⁰

Alternative Planning Strategy

If a sustainable communities strategy is unable to achieve the region's greenhouse gas emissions reductions target, a metropolitan planning organization must prepare an "alternative planning strategy" which does the following:

- Demonstrates how the greenhouse gas emissions target would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies;⁶¹
- Identifies the principal impediments to achieving the targets within the sustainable communities strategy;⁶² and
- Describes how the development patterns, measures and policies in the alternative planning strategy are the most "practicable" choices for achievement of the targets.⁶³

In addition, the strategy may include an alternative development pattern for the region that includes each of the components required to be included in the sustainable communities strategy described above.⁶⁴

The alternative planning strategy is not part of the regional transportation plan. Thus, the contents do not need to be "internally consistent" with the other elements of the regional transportation plan, such as the funding provisions. The federal law applicable to regional transportation plans continues to apply, "except to the extent that

compliance will prevent achievement of the greenhouse gas emission reduction targets."⁶⁵

California Metropolitan Planning Organizations⁶⁶

Metropolitan Planning Organization	Counties
Association of Monterey Bay Area Governments	Monterey, San Benito, Santa Cruz
Butte County Association of Governments	Butte *
Council of Fresno County of Governments	Fresno *
Kings County Association of Governments	Kings *
Kern Council of Governments	Kern *
Madera County Transportation Commission	Madera *
Merced County Association of Governments	Merced *
Metropolitan Transportation Commission/ Association of Bay Area Governments	Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma **
Sacramento Area Council of Governments	El Dorado, Placer, Sacramento, Sutter, Yolo, Yuba
San Diego Association of Governments	San Diego
San Joaquin Council of Governments	San Joaquin *
San Luis Obispo Council of Governments	San Luis Obispo
Santa Barbara County Association of Governments	Santa Barbara
Shasta County Regional Transportation Planning Agency	Shasta
Southern California Association of Governments	Imperial, Los Angeles, Orange, Riverside, San Bernardino, Ventura ***
Stanislaus Council of Governments	Stanislaus *
Tulare County Association of Governments	Tulare *

Key:

* Two or more of these counties may work together to develop regional goals and/or multiregional sustainable communities strategy or alternative planning strategy. If goals are adopted, then each individual sustainable communities strategy must be consistent with goals.⁶⁷

** In the Bay Area, the responsibility for the sustainable communities strategy/alternative planning strategy is split between the Association of Bay Area Governments and the Metropolitan Transportation Commission.⁶⁸

*** In the Southern California Association of Government region, sub-regions may adopt sustainable communities strategies for inclusion in the region's sustainable communities strategy.⁶⁹

Air Resources Board Review of Sustainable Communities Strategies and Alternative Planning Strategies

Each metropolitan planning organization must submit its sustainable communities strategy and alternative planning strategy (if one is adopted) to the Air Resources Board for review. The Air Resources Board's authority to review the both plans is limited⁷⁰ to "acceptance or rejection of the ...determination that the strategy submitted would, if implemented, achieve the greenhouse gas emission reduction targets established by the state board."⁷¹

If the Air Resources Board determines that a region's submitted sustainable communities strategy would not achieve the targets, then the metropolitan planning organization must revise its initial sustainable communities strategy or adopt an alternative planning strategy and submit/re-submit, as appropriate.⁷² The key is for one of the strategies to achieve the region's greenhouse gas reduction targets.⁷³ The sustainable communities strategy remains a part of the regional transportation plan even if it does not achieve the region's targeted greenhouse gas reductions.

SB 375 and the California Environmental Quality Act

To provide an incentive for local agencies to conform their general plans and zoning to their region's sustainable communities strategy, SB 375 offers "streamlined" environmental review processes under the California Environmental Quality Act.⁷⁴ SB 375 does not otherwise require a city or county's general plan to be consistent with the sustainable communities strategy or alternative planning strategy.

About the California Environmental Quality Act

The California Environmental Quality Act (sometimes referred to by its acronym "CEQA")⁷⁵ is a state law which requires that state and local governments evaluate public and private projects to determine whether they will have a significant impact on the environment.⁷⁶ If significant impacts are identified, then the California Environmental Quality Act requires that state and local governments determine whether measures can be imposed on the projects which reduce the significant impact.⁷⁷

General Eligibility for Streamlined Review

Under SB 375, certain housing development projects with access to public transit are eligible for partial or full California Environmental Quality Act exemptions.⁷⁸ SB 375 refers to these projects as "transit priority projects" (sometimes referred to by the acronym TPPs).⁷⁹

In order to qualify as a transit priority project, the project must be consistent with an "accepted" sustainable communities strategy or alternative planning strategy.⁸⁰ "Accepted" means that the Air Resources Board has accepted the metropolitan planning organization's determination that the strategy would achieve the region's greenhouse gas emission reduction targets.⁸¹

The transit priority projects must also be at least 50 percent residential and must have a net density of at least 20 units per acre and be located within one-half mile of a major transit stop or high quality transit corridor.⁸²

Eligibility for Complete Exemption

To be entirely exempt from California Environmental Quality Act review, the “transit priority project” must meet numerous requirements. These include but are not limited to:

- Being adequately served by existing utilities,
- Meeting certain stringent energy efficiency and water conservation standards,
- Not impacting wetland or wildlife habitats
- Not impacting historic resources
- Includes affordable housing in the project or pays an in lieu fee; or provides public open space equal to or greater than 5 acres per 1,000 residents;
- Not exceeding eight acres or 200 residential units.⁸³

A transit priority project that meets these criteria (and others specified in SB 375) is called a “sustainable communities project.”⁸⁴ Such a project may proceed through the project review process without further environmental review under the California Environmental Quality Act.

Eligibility for Partial Exemption

If a transit priority project does not meet the detailed standards to qualify as a “sustainable communities project,” (and hence complete California Environmental Quality Act exemption), the project may still be eligible for streamlined environmental review.

To be eligible for such streamlined review, the project must incorporate all feasible mitigation measures, performance standards, or criteria set forth in prior applicable environmental review documents.⁸⁵ A transit priority project that meets these criteria (and others specified by SB 375) is eligible to be reviewed under a process called a “sustainable communities assessment.”⁸⁶

Unlike a full environmental analysis, a sustainable communities assessment need *not* include an analysis of the following aspects of the project:

- The project’s growth-inducing impacts;

- Cumulative or project-specific impacts from car and light-duty truck trips on greenhouse gas emissions or the regional transportation network; or
- Reduced residential density alternatives to address such project impacts.⁸⁷

The new “sustainable communities assessment” is similar to the California Environmental Quality Act’s mitigated negative declaration. Both require the agency approving the California Environmental Quality Act document to:

- 1) Adopt findings that all potentially significant or significant effects required to be identified in the initial study have been identified and analyzed; and
- 2) With respect to each significant effect, find that changes or alterations have been required in or incorporated into the project that avoid or mitigate the significant effects to a level of insignificance.⁸⁸

However, the California Environmental Quality Act’s requirement to evaluate the cumulative or project-specific impacts from passenger cars on greenhouse gas emissions may make it challenging to adopt a mitigated negative declaration.⁸⁹ The “sustainable communities assessment” addresses this challenge by relying on the project’s consistency with the region’s sustainable communities strategy or alternative planning strategy and bypasses this hurdle. This may create an incentive for project consistency.

General Note on Greenhouse Gas Analysis under the California Environmental Quality Act

The State of California provides guidance on what must be included in an environmental analysis; this guidance is known as the “CEQA Guidelines.”⁹⁰ In 2007, SB 97 amended the California Environmental Quality Act to require the guidelines to address greenhouse gas emissions.⁹¹ The changes to the guidelines have been made and became effective on March 18, 2010.

Local Officials' Roles in SB 375

Local Agency Officials Serve on Governing Boards of Metropolitan Planning Organizations

Each metropolitan planning organization is governed by a board of locally elected city council members and members of boards of supervisors.⁹² See sidebar on page 11 for the composition of metropolitan planning organizations.

Public Participation Requirements for Regional Transportation Plans

Under state and federal law, metropolitan planning organizations must adopt and implement a public participation plan for their regional transportation plans.⁹³ These requirements predate SB 375.

The goal of the public participation plan is to provide opportunities for those interested in the regional transportation plan to be involved. The plan must provide “a process for providing citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with reasonable opportunities to be involved in the metropolitan transportation planning process.”⁹⁴

SB 375's Additional Public Participation Requirements

In addition to these requirements, the public participation plan for development and adoption of the sustainable communities strategy required by SB 375 must include all of the following:

- Outreach to encourage the active participation of a broad range of stakeholder groups in the planning process.
- Consultation with congestion management agencies, transportation agencies and transportation commissions.
- Informational meetings in each county within the region for members of the board of supervisors and city councils on the proposed sustainable communities strategy and alternative planning strategy, if any. The purpose of these meetings is to early input from locally elected officials including key land use and planning assumptions.⁹⁵

- Workshops in each county throughout the region to provide the public with the information and tools necessary to provide a clear understanding of the issues and policy choices.
- Preparation and circulation of a draft sustainable communities strategy and alternative planning strategy (if one is prepared) not less than 55 days before the regional transportation plan is adopted.
- At least three public hearings on the draft sustainable communities strategy and alternative planning strategy.⁹⁶

Resource for Further Information

Understanding SB 375: Public Participation Requirements describes the minimum public participation requirements regional and local agencies must meet in developing their transportation and housing plans under SB 375. This guide is available at www.ca-ilg.org/SB375andPublicParticipation.

Many agencies have chosen to go beyond these minimum requirements, particularly in the development of “regional blueprints,” or long-range visions for growth that involve extensive public engagement efforts. For more information on tips for public participation in regional planning, visit www.ca-ilg.org/sb375PublicEngagement.

Frequently Asked Questions

1. *What are the differences between sustainable communities strategy and the alternative planning strategy?*

A sustainable communities strategy is a required element of regional transportation plans prepared by each of the 18 metropolitan planning organizations. Its goal is to achieve the region's target for reductions in greenhouse gas emissions by integrating land use planning and transportation improvements and programs.

A sustainable communities strategy must be included in the regional transportation plan whether or not it achieves the targeted reductions in greenhouse gas emissions.

An alternative planning strategy is prepared only if the sustainable communities strategy does **not** achieve the targeted reduction in greenhouse gas emissions. An alternative planning strategy must achieve the targeted reductions. An alternative planning strategy is not part of a regional transportation plan, however.

2. *Why Would a Sustainable Communities Strategy Not Meet Regional Greenhouse Reduction Targets?*

Two provisions of federal law may make it difficult – despite a metropolitan planning organization's best efforts-- for a sustainable communities strategy to achieve the targeted greenhouse gas emissions reductions.

- A. **Reconciling Federal Requirements with State Aspirations:** Under the federal Clean Air Act, a metropolitan planning organization may not adopt a regional transportation plan (required by the federal Clean Air Act) unless it determines that the plan conforms to the national ambient air quality standards for ozone and carbon monoxide.⁹⁷ This determination must be based upon "the most recent planning assumptions."⁹⁸ These assumptions come from city and county general plans. Air quality professionals call this a "conformity determination."

The sustainable communities strategy is a part of the regional transportation plan. This means that if local planning assumptions do not (yet) support the changes that will be required to reduce vehicle miles traveled to achieve the targeted greenhouse gas emission reductions, then the conformity determination cannot be made.

- B. **Funding Availability:** Federal law does not permit a regional transportation plan to include a transportation project in the transportation implementation

plan unless the metropolitan planning organization is able to identify a likely source of funding for the project. Transportation and air quality planners call this a “financial constraints analysis.” This means that if funding is not available for transportation projects that would be necessary to achieve the targeted greenhouse gas emission reductions, those projects cannot be included in the transportation implementation plan.

Neither the conformity determination nor the financial constraints analysis apply to the alternative planning strategy because the alternative planning strategy is not required to be part of the federal regional transportation plan. Thus, it is not subject to the federal law that regulates the contents of the regional transportation plan.

3. *What role does the Air Resources Board have in the implementation of SB 375?*

SB 375 gives the Air Resources Board two specific jobs.

- A. The Air Resources Board establishes the greenhouse gas emission reduction targets for each region served by a metropolitan planning organization. A draft of these targets was published on August 9, 2010. The final regional targets must be adopted by September 30, 2010. SB 375 specifies a process the Air Resources Board must follow in setting the regional greenhouse gas reduction targets.
- B. The Air Resources Board performs a limited review of each metropolitan planning organization's adopted sustainable communities strategy or alternative planning strategy. The Air Resources Board may only accept or reject a metropolitan planning organization's determination that the plan will achieve the region's target. The Air Resources Board may not issue conditional strategy approvals or otherwise interfere in any way with local decision-making. The Air Resources Board's review must be completed within 60 days.

4. *What impact, if any, does SB 375 have on transportation funding?*

SB 375 makes explicit existing authority⁹⁹ which allows a metropolitan planning organization to impose policies or conditions on transportation funding.

As an operational matter, SB 375 requires the regional transportation plan to be internally consistent. This means that the “action element” and the “financial element” of the regional transportation plan must be consistent with the sustainable communities strategy, since the sustainable communities strategy is part of the regional transportation plan.

As a consequence, decisions about transportation funds allocations must be consistent with the sustainable communities strategy, the strategy's proposed development patterns, and its transportation policies.

5. *What changes does SB 375 make to the housing element law in order to integrate housing and transportation planning?*

The main change made by SB 375 is to lengthen the housing element adoption cycle from five years to eight years. This means that instead of adopting a housing element every five years, SB 375 permits cities and counties to adopt housing elements every eight years.

The reason for the change is that regional transportation plans in non-attainment areas are adopted every four years. Adopting a housing element every eight years will allow the regional allocation of housing need to align with the development pattern and transportation policies included in the sustainable communities strategy.

Metropolitan planning organizations in areas that are in compliance with the federal Clean Air Act can choose to adopt a regional transportation plan every four years to make it easier for them to coincide with the new eight-year housing element period.

6. *Must a city or county amend its general plan to conform to the sustainable communities strategy or alternative planning strategy?*

No. Nothing in SB 375 requires a city or county to change its land use policies or decisions.

However, two parts of SB 375 *encourage* a city and county to do so.

- A. The provisions related to California Environmental Quality Act streamlining for transportation priority projects require that the transportation priority project (transit priority projects) receiving streamlined review be consistent with a sustainable communities strategy or alternative planning strategy that has been determined to achieve the greenhouse gas emissions reductions targets.

The idea is that streamlined California Environmental Quality Act review is attractive to local agencies or the development community, or both, and would therefore provide an incentive to bring the general plan in alignment with the sustainable communities strategy.

- B. A metropolitan planning organization's transportation funding decisions must be consistent with the sustainable communities strategy. Therefore, for a city or

county transportation project to be eligible for funding, it must be consistent with the sustainable communities strategy. Note that this is true whether or not the sustainable communities strategy achieves the targeted reductions in greenhouse gas emissions.

As a result, if a county or city wants to take advantage of streamlined environmental review or be eligible for transportation project funding through the regional transportation planning process, it might decide to make the necessary changes to its planning policies in order to be consistent with the metropolitan planning organization's strategy for reducing greenhouse gases.

7. *What is the relationship between SB 375 and AB 32 (the Global Warming Solutions Act of 2006)?*

AB 32 established the overall legal and policy framework to reduce California's greenhouse gas emissions to 1990 levels by the year 2020. The Air Resources Board may regulate sources of greenhouse gas emissions to achieve this goal. Sources include passenger vehicles and light trucks. The Climate Scoping Plan adopted by the Air Resources Board as part of its AB 32 duties specifically refers to SB 375 as part of the strategy for reducing greenhouse gas emissions from passenger vehicles and light trucks.

SB 375 is a separate law that requires metropolitan planning organizations to create strategies to achieve the state's greenhouse reduction targets through regional transportation planning and funding. It also offers streamlined review under the California Environmental Quality Act as an incentive for project proponents and counties and cities to conform their planning decisions to the region's strategies.

8. *Is there anything that can be done if a city, county, environmental organization or other person is dissatisfied with the sustainable communities strategy or alternative planning strategy?*

There are three ways sustainable communities strategy could be subject to legal challenge:

- (1) SB 375 requires the sustainable communities strategy to include certain specific information. If, for example, the sustainable communities strategy fails to include "areas within the region sufficient to house all the population of the region,"¹⁰⁰ then a challenge would ask a court to order the metropolitan planning organization to adopt a sustainable communities strategy that meets SB 375's statutory requirements.¹⁰¹

- (2) SB 375 requires a metropolitan planning organization to adopt a public participation plan for development of the sustainable communities strategy and alternative planning strategy that includes certain specific elements.¹⁰² If the metropolitan planning organization fails to adopt a public participation plan, or if the plan does not, for example, include “outreach efforts to encourage the active participation of a broad range of stakeholder groups in the planning process,” then a challenge would ask a court to order the metropolitan planning organization to adopt a sustainable communities strategy that meets SB 375’s statutory requirements.¹⁰³
- (3) Prior to adopting a sustainable communities strategy, the metropolitan planning organization must quantify the reduction in greenhouse gas emissions projected to be achieved by the sustainable communities strategy and identify the difference, if any, between the amount of the reduction and the target for the region established by the state board.¹⁰⁴ If substantial evidence in the record fails to support the metropolitan planning organization’s quantification, a challenge could be brought pursuant to section 1094.5 of the Code of Civil Procedure asking a court to order the metropolitan planning organization to rescind its findings.
9. *SB 375 requires that the “... sustainable communities strategy must 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.”¹⁰⁵ What does the phrase “if there is a feasible way to do so” mean?*

“Feasible” is defined in SB 375 almost identically to the definition of “feasible” in the California Environmental Quality Act.¹⁰⁶ It means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.¹⁰⁷

The requirement of feasibility is one of the differences between a sustainable communities strategy and an alternative planning strategy. The alternative planning strategy must 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 are the most “practicable” choices for achievement of the targets.¹⁰⁸ The alternative planning strategy is not subject to the “feasible” test.

10. *What if a metropolitan planning organization disagrees with the Air Resources Board about whether or not its sustainable communities strategy (or alternative planning strategy) achieves the regional targets?*

The Air Resources Board's review of a sustainable communities strategy or alternative planning strategy is 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 for the region. If the board rejects the decision of the metropolitan planning organization, then the metropolitan planning organization must revise its strategy or adopt an alternative planning strategy and resubmit to the Air Resources Board.

There are two potential sources of disagreement between a metropolitan planning organization and the Air Resources Board:

- A. If the Air Resources Board were to require that certain revisions be made in the sustainable communities strategy/alternative planning strategy, the Air Resources Board would be exceeding its statutory authority. The metropolitan planning organization would have the option of bringing an administrative mandate action to have a court so state.¹⁰⁹
- B. If the Air Resources Board rejected the metropolitan planning organization's determination that the sustainable communities strategy or alternative planning strategy would achieve the region's target for greenhouse gas reductions, the issue is whether the Air Resources Board's decision is based on substantial evidence. If the metropolitan planning organization believes not, it would have the option of bringing an administrative mandate action to have a court resolve the disagreement.¹¹⁰

11. *Is there a way a metropolitan planning organization can enhance the likelihood of Air Resource Board approval of its sustainable communities strategy?*

The metropolitan planning organization must submit a description to the Air Resources Board of the technical methodology it intends to use to estimate the greenhouse gas reductions resulting from its sustainable communities strategy/alternative planning strategy.¹¹¹ The Air Resources Board must respond to the metropolitan planning organization in a timely manner. The response must include a specific description of any aspects of the methodology it concludes will not yield accurate estimates of greenhouse gas emissions and suggest remedies. If a metropolitan planning organization can work together with the Air Resources Board to agree upon an acceptable technical methodology, there is less likelihood that the Air Resources Board will disagree with the metropolitan planning organization's ultimate conclusion.

Glossary

Air Resources Board: The California Air Resources Board is a state agency is comprised of representatives of regional air quality management districts and air pollution control districts (who are city and county officials), the automotive industry; physician member, the legal community, and three public members.¹¹² Its director is appointed by the Governor.¹¹³ Some of its major regulatory areas include climate change (including AB 32 implementation), energy and mobile sources of air pollution and particulate matter, smoke management; and toxics.¹¹⁴ The Air Resources Board also has some responsibilities in the implementation of SB 375.¹¹⁵

Alternative Planning Strategy: The alternative planning strategy must be prepared by a metropolitan planning organization if the sustainable communities strategy is unable to reduce greenhouse gas emissions to achieve the greenhouse gas emission reduction targets established by the Air Resources Board.¹¹⁶ The alternative planning strategy shows how those greenhouse gas emission targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies.¹¹⁷ The alternative planning strategy is a separate document from the regional transportation plan, but it may be adopted concurrently with the regional transportation plan.¹¹⁸

California Environmental Quality Act (acronym CEQA-- pronounced "See-qwa"): The California Environmental Quality Act is a state law which requires that state and local governments evaluate public and private projects to determine whether they will have a significant impact on the environment.¹¹⁹ If significant impacts are identified, then the California Environmental Quality Act requires that state and local governments determine whether measures can be imposed on the project which can mitigate the significant impact.¹²⁰

Greenhouse Gas (GHG): This is a term used to refer to all of the following gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Greenhouse gases are measured in tons or million metric tons of carbon dioxide equivalents (sometimes indicated as MMT CO₂e).¹²¹

Metropolitan Planning Organization: A metropolitan planning organization is "the policy board of an organization created and designated to carry out metropolitan transportation planning."¹²² It is a regional organization governed by locally elected officials but is a creature of federal transportation law.¹²³ A metropolitan planning organization is the recipient of federal and state funds for region-wide and local transportation projects.¹²⁴ In turn, it determines which transportation projects will receive those funds.

The four largest metropolitan planning organizations are: Southern California Association of Governments (acronym: SCAG and covering the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, Ventura and their cities); San Diego Association of Governments (acronym: SANDAG and covering San Diego counties and cities); Sacramento Council of Governments (acronym: SACOG and covering El Dorado, Placer, Sacramento, Sutter, Yolo, Yuba and twenty-two cities in those counties); and Metropolitan Transportation Commission (acronym MTC and covering the San Francisco Bay Area, including the nine counties and cities within that region).¹²⁵

Regional Housing Needs Allocation (acronym: RHNA--pronounced "Rē'-na"):

Regional housing needs allocation is the fair share of the regional housing need for all economic segments of the community.¹²⁶ Each city and county in a region receives its allocation of the regional housing need from the council of governments for that region.¹²⁷ California law related to housing elements requires that each city and county include an inventory in its housing element that identifies sites that can accommodate its regional housing needs allocation.¹²⁸ If the inventory of existing sites cannot accommodate the need, then the housing element must include a program to re-zone sites to accommodate the need.¹²⁹

Regional Transportation Plan: A regional transportation plan is an action-oriented and pragmatic plan that presents clear, concise policy guidance to local and state officials about achieving a coordinated and balanced regional transportation system.¹³⁰ The regional transportation plan is adopted by metropolitan planning organizations and transportation planning agencies and is subject to both state and federal law.¹³¹

Statewide Greenhouse Gas Emission Limit: The maximum allowable level of statewide greenhouse gas emissions in 2020 as determined by the Air Resources Board.¹³² In December 2007, the Board approved the 2020 emissions limit of 427 million metric tons of carbon dioxide equivalent of greenhouse gases.¹³³

Sustainable Communities Strategy: The sustainable communities strategy is a mandatory element of the regional transportation plan which, when integrated with the transportation network and other transportation measures and policies, will reduce the greenhouse gas emissions from automobiles and light trucks in the region, if there is a feasible way to do so, to achieve the greenhouse gas emission reduction targets approved by the Air Resources Board.¹³⁴

The sustainable communities strategy identifies the general location of uses, residential densities, and building intensities in the region; identifies areas within the region sufficient to house all the population of the region; identifies areas within the region sufficient to house an eight-year projection of the regional housing need; identifies a transportation network to service the transportation needs of the region; gathers and

considers the best practically available scientific information regarding resource areas and farmland; and considers the state housing goals.¹³⁵

Endnotes

¹ The Sustainable Communities and Climate Protection Act of 2008 amended the Government and Public Resources Codes. Specifically it amended sections 65080, 65400, 65583, 65584.01, 65584.02, 65584.04, 65587, and 65588 of, and added sections 14522.1, 14522.2, and 65080.01 to, the Government Code. With respect to the Public Resources Code, it amended section 21061.3 of that code, added section 21159.28 to that code, and added Chapter 4.2 (commencing with Section 21155) to Division 13 of that code.

² That law added division 25.5 (commencing with section 38500) to the California Health and Safety Code, relating to air pollution (specifically greenhouse gas emissions).

³ See Section 5 of Chapter 354, Statutes of 2009 ("Chapter 728 of the Statutes of 2008 shall be known and may be cited as the Sustainable Communities and Climate Protection Act."), available at http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0551-0600/sb_575_bill_20091011_chaptered.html.

⁴ See Cal. Gov't Code § 65080(b)(2)(A).

⁵ See Cal. Gov't Code § 65080(b)(2)(B).

⁶ See Cal. Gov't Code § 65080(b)(2)(A)(i).

⁷ 23 U.S.C. § 134; 28 C.F.R. § 450.104.

⁸ 28 C.F.R. § 450.310.

⁹ 28 C.F.R. § 450.310.

¹⁰ 23 C.F.R. § 450.300.

¹¹ 23 C.F.R. § 450.308.

¹² With the exception of the Metropolitan Transportation Commission, each of the other major metropolitan planning organizations are also the councils of governments for their region. In the Bay Area, duties are split between the Association of Bay Area Governments (the council of governments) and the Metropolitan Transportation Commission (the metropolitan planning organization).

¹³ Executive Order S-3-05 Order #1, available at <http://gov.ca.gov/executive-order/1861/>.

¹⁴ AB 32 defines "greenhouse gas emission source" to mean "any source, or category of sources, of greenhouse gas emissions whose emissions are at a level of significance, as determined by the state board, that its participation in the program established [by AB 32] will enable the state board to effectively reduce greenhouse gas emissions and monitor compliance with the statewide greenhouse gas emissions limit." See Cal. Health & Safety Code § 38505(i).

¹⁵ See Cal. Health & Safety Code § 38505(i).

¹⁶ See Section 1(a) of SB 375, Chapter 728, Statutes of 2008, available at http://info.sen.ca.gov/cgi-bin/pagequery?type=sen_bilinfo&site=sen&title=Bill+Information.

¹⁷ 13 Cal. Code of Regs. § 2260; 17 Cal. Code of Regs. §§ 1961, 1961.1.

¹⁸ See Section 1(c) of SB 375, Chapter 728, Statutes of 2008, available at http://info.sen.ca.gov/cgi-bin/pagequery?type=sen_bilinfo&site=sen&title=Bill+Information.

¹⁹ Nothing in SB 375 reduces the authority of the Air Resources Board under AB 32 to adopt regulations to reduce greenhouse gas emissions from automobiles and light trucks through altering driving patterns. Pages C-74 through C-82 of the AB 32 Scoping Plan is called “Regional Transportation-Related Greenhouse Gas Targets.” This section of the plan notes that SB 375 “reflects the importance of achieving significant additional greenhouse gas reductions from changed land use patterns and improved transportation to help achieve the goals of AB 32.”

²⁰ See Section 1(c) of SB 375 (Chapter 728, Statutes of 2008), available at http://info.sen.ca.gov/cgi-bin/pagequery?type=sen_bilinfo&site=sen&title=Bill+Information.

²¹ Cal. Health & Safety Code § 39510 (specifying that of the five members from regional air districts, one must be a board member from the South Coast Air Quality Management District, one a board member from the Bay Area Air Quality Management District, one a board member from the San Joaquin Valley Unified Air Pollution Control District, one a board member from the San Diego County Air Pollution Control District, and one a board member of any other district.)

²² See Cal. Gov’t Code § 65300.

²³ See Cal. Gov’t Code § 65302.

²⁴ *Leshar Communications, Inc. v. City of Walnut Creek*, 52 Cal. 3d 531, 540 (1990); *Neighborhood Action Group for the Fifth District v. County of Calaveras*, 156 Cal. App. 3d 1176, 1183 (1984).

²⁵ See Cal. Const. art. XI, § 7.

²⁶ SB 375 also made changes to housing element law. The changes that have a direct impact on the climate change goals of the bill and are discussed in the guide. See, for example, the answer to frequently asked question 5 on page 21. Changes made to the required contents of the housing element are not directly related to the climate change goals of the bill and are not included as part of this guide.

²⁷ See Cal. Gov’t Code 65584.05. There are twenty-five councils of governments in California. A council of governments is a joint powers authority of cities and counties established to perform certain mandates imposed by the federal and state governments.

²⁸ 23 C.F.R § 450.306.

²⁹ 23 C.F.R. § 450.322. A “non-attainment area” means any geographic region of the United States that has been designated by the federal Environmental Protection Agency as a nonattainment area under section 107 of the Clean Air Act for any pollutants for which [National Ambient Air Quality Standards \(NAAQS\)](#) exist. See 23 C.F.R. § 450.104.

³⁰ 23 U.S.C. § 134(h); 23 C.F.R. § 450.322(f).

³¹ See Cal. Gov't Code § 65080(d).

³² 23 C.F.R. § 450.322(l); 40 C.F.R. § 93.104.

³³ See Cal. Health & Safety Code § 39602 (designating Air Resources Board as the state agency responsible for the preparation of the state implementation plan required by the Clean Air Act (42 U.S.C., Sec. 7401 and following). See also 40 C.F.R. § 52.220 (California's State Implementation Plan).

³⁴ 23 C.F.R. § 450.104.

³⁵ See also Cal. Gov't Code § 65080(b)(2)(B).

³⁶ 23 C.F.R. § 450.104.

³⁷ 40 C.F.R. § 93.110. See discussion in conjunction with Frequently Asked Question No. 2.

³⁸ 40 C.F.R. § 93.110.

³⁹ See Cal. Health & Safety Code § 38505(g).

⁴⁰ See Cal. Health & Safety Code § 38501(a).

⁴¹ See Cal. Gov't Code § 65080(b)(2)(A).

⁴² See Cal. Gov't Code § 65080(b)(2)(B).

⁴³ See Cal. Gov't Code § 65080(b)(2)(I).

⁴⁴ On August 9, 2010, the Air Resources Board staff published "Proposed Regional Greenhouse Gas Emission Reduction Targets for Automobiles and Light Trucks pursuant to Senate Bill 375." The Staff Report will be considered by the Air Resources Board on September 23, 2010.

⁴⁵ Those organizations are SANDAG (San Diego Association of Governments); SCAG (Southern California Association of Governments); MTC (Metropolitan Transportation Commission); and SACOG (Sacramento Council of Governments).

⁴⁶ See Cal. Gov't Code § 65080(b)(2)(ii). The links to the recommendations forwarded by each of the metropolitan planning organizations can be found on the ARB website at <http://www.arb.ca.gov/cc/sb375/mpo/info.htm>.

⁴⁷ See Cal. Gov't Code § 65080(a). See also Cal. Gov't Code §§ 29532, 29532.1 (relating to funding for such agencies, which is the code section Government 65080(a) cross references).

⁴⁸ See Cal. Gov't Code § 65080(b)(4).

⁴⁹ See Cal. Gov't Code § 65080(b)(4)(C), which says:

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 towards the greenhouse gas emission reduction targets by implementing policies for growth to occur within their cities.

See Cal. Gov't Code § 65080.01(a) and (b), for definitions of "resource areas" and "farmland."

⁵⁰ See Cal. Gov't Code § 65080(b)(4)(C) (requiring planning agencies to "also consider financial assistance for counties to address countywide service responsibilities in counties that contribute towards the greenhouse gas emission reduction targets by implementing policies for growth to occur within their cities.")

⁵¹ See Cal. Gov't Code 65080(b)(2)(B).

⁵² See Cal. Gov't Code § 65080(b)(2)(i). A sustainable communities strategy and alternative planning strategy does not regulate the use of land. See Cal. Gov't Code § 65080(b)(2)(j).

⁵³ See Cal. Gov't Code § 65080(b)(2)(B)(i).

⁵⁴ See Cal. Gov't Code § 65080(b)(2)(B)(ii). See Cal. Gov't Code § 65080(b)(2)(F), requiring that the council of government's regional housing needs allocation plan be consistent with the sustainable communities strategy. This means that the housing needs allocation plan must be integrated into the metropolitan planning organizations' sustainable communities strategy which seeks to achieve the targeted reductions in greenhouse gas emissions. Prior to SB 375, the housing needs allocation plan did not need to take into account the impact of the allocation of housing units throughout the region on greenhouse gas emissions.

See Cal. Gov't Code 65584.05.

⁵⁵ See Cal. Gov't Code § 65080(b)(2)(B)(iv).

⁵⁶ See Cal. Gov't Code § 65080(b)(2)(B)(v). See Cal. Gov't Code § 65080.01 for definitions of "resource areas" and "farmland."

⁵⁷ See Cal. Gov't Code § 65080.01(c) (defining "feasible").

⁵⁸ See Cal. Gov't Code § 65080(b)(2)(B)(vii).

⁵⁹ See Cal. Gov't Code § 65080(b)(2)(F).

⁶⁰ See <http://www.dot.ca.gov/hq/tpp/offices/orip/rtp/index.html>

⁶¹ See Cal. Gov't Code § 65080(b)(2)(H).

⁶² See Cal. Gov't Code § 65080(b)(2)(I).

⁶³ See Cal. Gov't Code § 65080(b)(2)(H)(iii).

⁶⁴ See Cal. Gov't Code § 65080(b)(2)(I).

⁶⁵ See Cal. Gov't Code § 65080(b)(2)(H)(iv). For further information on the interaction between the federal law and SB 375 requirements, please see frequently asked question 2 on page 19.

⁶⁶ This chart is taken from the paper prepared by the California State Association of Counties entitled "SB 375 (Steinberg): Addressing Greenhouse Gas Emissions from the Transportation Sector via Regional Transportation Plans."

⁶⁷ See Cal. Gov't Code § 65080(b)(2)(M).

⁶⁸ See Cal. Gov't Code §§ 65080(b)(2)(A)(i), (ii), (iii), (v), (vi) (ABAG's responsibilities) 65080(b)(2)(A)(viii) (MTC's responsibilities), 65080(b)(2)(A)(vii) (joint responsibilities).

⁶⁹ See Cal. Gov't Code § 65080(b)(2)(C).

⁷⁰ For example, the state Department of Housing and Community Development is charged with determining whether a city or county's housing element substantially complies with the housing element law. The Air Resources Board's review is limited to whether the sustainable communities strategies or alternative planning strategy achieve the reduction targets in accordance with the methodology used to measure emission reductions.

⁷¹ See Cal. Gov't Code § 65080(b)(2)(I)(ii).

⁷² See Cal. Gov't Code § 65080(b)(2)(j)(iii).

⁷³ See Cal. Gov't Code § 65080(b)(2)(I)(iii).

⁷⁴ See Cal. Pub. Res. Code §§ 21155, 21155.1, 21155.2, and 21155.3.

⁷⁵ See Cal. Pub. Res. Code § 21000 and following.

⁷⁶ See Cal. Pub. Res. Code § 21000 and following.

⁷⁷ See Cal. Pub. Res. Code § 21000 and following.

⁷⁸ See Cal. Pub. Res. Code § § 21155.1 and 21155.2.

⁷⁹ See Cal. Pub. Res. Code § 21155.

⁸⁰ See Cal. Pub. Res. Code § 21155(a).

⁸¹ See Cal. Gov't Code § 65080(b)(2)(J)(ii).

⁸² See Cal. Pub. Res. Code § 21155.

⁸³ See Cal. Pub. Res. Code § 21155.

⁸⁴ See Cal. Pub. Res. Code § 21155.1.

⁸⁵ See Cal. Pub. Res. Code § 21155.2(a).

⁸⁶ See Cal. Pub. Res. Code § 21155.2.

⁸⁷ See Cal. Pub. Res. Code § 21155.2.

⁸⁸ 14 Cal. Code of Regs. § 15074.

⁸⁹ 14 Cal. Code of Regs. § 15126.

⁹⁰ See Cal. Pub. Res. Code § 21083. The CEQA Guidelines are codified at 14 Cal. Code of Regs. § 15000 and following and are available online at: <http://www.califaep.org/resources/Documents/FINAL%20CEQA%20Handbook%20HighQuality.pdf> (2010 CEQA Statute and Guidelines).

⁹¹ See Cal. Pub. Res. Code § 21083.05. Appendix G to the CEQA Guidelines is the Environmental Checklist Form, used by public agencies to meet the requirements for an initial study when the criteria set forth in the CEQA Guidelines have been met. Appendix G includes a new Section VII – Greenhouse Gas Emissions and asks: “Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?” and “Would the project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?”

⁹² 23 C.F.R. 450.322.

⁹³ 23 C.F.R. 450.210.

⁹⁴ 23 C.F.R. § 450.322.

⁹⁵ See Cal. Gov't Code § 65080(b)(2)(E).

⁹⁶ See Cal. Gov't Code § 65080(b)(2)(E).

⁹⁷ 40 C.F.R. § 93.104(b).

⁹⁸ 40 C.F.R. § 93.111.

⁹⁹ See Cal. Gov't Code § 65080(b)(2)(B)(vii).

¹⁰⁰ See Cal. Gov't Code § 65080(b)(2)(B)(iii).

¹⁰¹ Such a challenge would be brought pursuant to section 1085 of the Code of Civil Procedure.

¹⁰² See Cal. Gov't Code § 65080(b)(2)(F).

¹⁰³ Such a challenge would be brought pursuant to section 1085 of the Code of Civil Procedure.

¹⁰⁴ See Cal. Gov't Code § 65080(b)(2)(H).

¹⁰⁵ See Cal. Gov't Code § 65080(b)(2)(B)(vii).

¹⁰⁶ 14 Cal. Code of Regs. § 15364.

¹⁰⁷ See Cal. Gov't Code § 65080.01(c).

¹⁰⁸ See Cal. Gov't Code § 65080(b)(2)(H)(iv).

¹⁰⁹ See Cal. Civ. Proc. Code § 1094.5.

¹¹⁰ See Cal. Code Civ. Proc. § 1094.5.

¹¹¹ See Cal. Gov't Code § 65080(b)(2)(I).

¹¹² See Cal. Health & Safety Code § 39510.

¹¹³ See Cal. Health & Safety Code § 39511.

¹¹⁴ See Cal. Health & Safety Code § 39003.

¹¹⁵ See Cal. Gov't Code § 65080(b)(2)(A).

¹¹⁶ See Cal. Gov't Code § 65080(b)(2)(I).

¹¹⁷ See Cal. Gov't Code § 65080(b)(2)(I).

¹¹⁸ See Cal. Gov't Code § 65080(b)(2)(I).

¹¹⁹ See Cal. Pub. Res. Code § 21080.1.

¹²⁰ See Cal. Pub. Res. Code § 21155.

¹²¹ See Cal. Health & Safety Code § 38505(g).

¹²² 23 U.S.C. § 134; 23 C.F.R. § 450.104.

¹²³ 23 C.F.R. § CFR § 450.300 (implementing the Federal Highway Administration Act and requiring that a metropolitan planning organization be designated for each urbanized area to carry out a continuing, cooperative, and comprehensive multimodal transportation planning process; the process must include the development of a metropolitan transportation plan and a transportation improvement program (TIP) that "encourages and promotes the safe and efficient development, management and operation of surface transportation systems....").

¹²⁴ 23 C.F.R. § 450.308.

¹²⁵ With the exception of the Metropolitan Transportation Commission, each of the other major metropolitan planning organizations (MPOs) are also the councils of governments (COG) for their region. In the Bay Area, duties are split between ABAG (the COG) and MTC (the MPO).

¹²⁶ See Cal. Gov't Code § 65584.05.

¹²⁷ See Cal. Gov't Code § 65584.05.

¹²⁸ See Cal. Gov't Code § 65583.2.

¹²⁹ See Cal. Gov't Code § 65583(c)(1).

¹³⁰ See Cal. Gov't Code § 65080(a).

¹³¹ See Cal. Gov't Code § 65080(a).

¹³² See Cal. Health & Safety Code § 38505(h).

¹³³ The Air Resources Board approved the limit by its Resolution 07-55 adopted December 6, 2007.

¹³⁴ See Cal. Gov't Code § 65080(b)(2)(B).

¹³⁵ See Cal. Gov't Code § 65080(b)(2)(B).