

Transportation Solutions Defense and Education Fund

P.O. Box 151439 San Rafael, CA 94915 415-331-1982

July 28, 2017
to: sb375update2017

Mary Nichols, Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: 2017 Regional Target Update Draft Environmental Analysis

Dear Ms. Nichols:

The Transportation Solutions Defense and Education Fund (TRANSDEF) is an environmental non-profit dedicated to the regional planning of transportation, land use and air quality. Our focus is on reducing the impacts of transportation on the climate. We have commented on previous versions of the Scoping Plan and Regional Targets. These comments address Appendix E, the Draft Environmental Analysis (EA). Page references are to the Staff Report, Proposed Update to the SB 375 Greenhouse Gas Emission Reduction Targets, unless otherwise noted. A previously submitted letter commenting on the merits of the proposed Targets Update is herein incorporated by reference.

Our organization has been involved in the development of RTPs at MTC for the past 23 years. We created what we believe to be the first published Sustainable Communities Strategy: the TRANSDEF Smart Growth Alternative, which was modeled in MTC's 2005 RTP EIR. We were active participants in the Working Group that revised the CTC's RTP Guidelines in response to the adoption of AB 32 and SB 375.

Introductory Comments

The EA for the proposed regional targets must acknowledge the on-going shift in international policy regarding vehicle use. News just broke that Britain will ban fossil fuel-powered vehicles by 2040:

Environment Secretary Michael Gove said the changes are part of a \$3.9-billion clean air strategy, adding there was no alternative to embracing new technology. "We can't carry on with diesel and petrol [gasoline] cars," he said, "not just because of the health problems that they cause, but also because the emissions that they cause would mean that we would accelerate climate change, do damage to our planet and the next generation."

... French President Emmanuel Macron's government announced this month that it also would ban the sale of all diesel and gas cars by 2040. (Los Angeles Times, 7/27/17.)

Another sign of the times is the recent announcement by the Chief Executive Officer of Royal Dutch Shell Plc that the next car he buys will be a plug-in. (Bloomberg Markets, 7/27/17.) In comparison to these announcements, the proposal for SB 375 regional GHG emissions target updates is positively timid:

At the personal travel level, CARB staff's proposed targets are equivalent to **reducing VMT a half a mile per person per day**. (p. 22, emphasis added.)

In some ways, it is easier to understand the Trump Administration than ARB, because at least one knows what USEPA wants to do. The State's premier climate change agency, on the other hand, is working at cross-purposes, proposing to adopt targets that do not achieve its own statutory requirements. Nonetheless, the EA, the agency's purportedly unbiased analysis of its own work, does not disclose any impacts from that.

The EA Fails to Acknowledge MPO Resistance to SB 375 Compliance

These inadequate proposed targets, which admittedly are unable to generate sufficient emissions reductions to meet State emissions reduction targets, are the result of staff's acceptance of the Business as Usual assumptions of the MPOs. A process based on setting targets that "are not out of reach for regions and local governments" (p. E-15) requires taking a hard look at what the MPOs claim is feasible in their submissions. That has not happened.

ARB has not established that MPOs are making good faith efforts at GHG emissions reduction. TRANSDEF's experience commenting on recent EIRs is that local and regional agencies are routinely approving plans that include significant increases in VMT and GHG emissions--without the slightest concern.

Using MTC as an example:

- The freshly adopted 2017 EIR shows no signs of VMT reduction. To the contrary, drive-alone trips will increase by 21% by 2040. As a result, GHG emissions are projected to increase by 20%, prior to off-model adjustments. (MTC RTP/SCS DEIR, Tables 2.1-15 and 2.5-10 (p. 2.5-40)).
- Mode shares remain static through 2040, indicating that new residents are not projected to use transit any more than at present. This indicates that the SCS has had **no** beneficial effect on VMT or GHG emissions. (*Id.*, Table 2.1-15.)
- The DEIR claims that "There are no additional land use strategies available to feasibly bridge the gap between the proposed Plan GHG emissions and 2030 (and beyond) targets." (*Id.*, p. 2.5-43.)

MTC claims to have "no additional land use strategies" while refusing to require counties to submit projects to the RTP that are consistent with a regional strategy. It continues to widen highways to accommodate single-occupant vehicles, and funds extravagant transit megaprojects rather than cost-effective projects. This is an agency that has firmly rejected its duty under SB 375 to plan for "changed land use patterns and improved transportation." To give MPOs targets that are "not out of reach" is to condone their Business as Usual ways, which flout the law. That makes ARB vulnerable to the charge of failure to perform its mandated duties.

Existing GHG Reduction Strategies

California's Existing GHG Reduction Strategies are not working well in the transportation sector. Passenger vehicles are by far the largest GHG source category that is **still increasing**. (ARB 2017 Edition of California GHG Emissions Inventory, p. 4.) Staff's ignorance of the basics of transportation sector GHGs may well be contributing to that poor performance:

In the meantime, MPOs need resources to invest early in infrastructure planning to lay the groundwork for long-term change. The dwindling federal and State funding that is available to MPOs is primarily directed to building and maintaining roadways. Additional discretionary funding for transit and active transportation capital projects is needed. (p. D-10.)

Using MTC again as an example of MPO efforts, TRANSDEF sees **no groundwork** being laid for long-term change in the RTP/SCS just adopted this week. As indicated in this quote, funding "is primarily directed to building and maintaining roadways." The only reason additional funding is needed is because MPOs refuse to stop supporting Business as Usual. Not only is no long-term change in progress, these investments directly contribute to the increased VMT and GHG emissions projected for 2040. The **absolute last reason** why ARB should be calling for MPOs to receive additional funding is so that they can continue their current GHG-increasing efforts.

The transportation and land use priorities of the local jurisdictions may occasionally conflict with an MPO's regional priorities identified in the RTP/SCS. This practice also has implications for the SB 375 targets that could be a factor leading to a wide range of targets among the MPOs. (*Id.*)

The first sentence quoted here may well be the understatement of the Century. However, local priorities cannot be allowed to sabotage the State's effort to reduce emissions. Giving communities lower targets would allow them to shirk their responsibility for adding emissions to a global problem.

A major reason why VMT and passenger vehicle GHGs continue to increase is that the State enables MPOs to continue Business as Usual: expanding capacity for solo

drivers. Example: The HOV Toll Lanes entry in Table 2-2, the Summary of Potential Continuation or Expansion of Existing GHG Reduction Strategies in Future RTP/SCS Updates (p. E-25.) The sole purpose of HOV Toll Lanes is to provide more highway capacity for solo drivers. Any credible plan to reduce transportation GHG emissions would necessarily shift all funding from roadway expansion to transit expansion. Deleting this entry in the matrix will make larger emissions reduction targets feasible.

Inadequate Scope of Environmental Analysis

The scope of environmental analysis of the Project--the proposed regional targets--is so truncated that it does not serve its asserted informational role:

The scope of analysis in this Draft EA is intended to help focus public review and comments on the Target Update, and ultimately to inform the Board of the environmental benefits and adverse impacts before Board action on the proposal. This analysis focuses on reasonably foreseeable potentially significant adverse and beneficial impacts on the physical environment resulting from reasonably foreseeable compliance responses to the Target Update. (p. E-10.)

The Board cannot possibly be adequately informed if the EA analyzes only the Project's "reasonably foreseeable compliance responses." The EA fails to analyze the Project's overall compliance with SB 375, SB 32, the Executive Orders, the Scoping Plan (either the 2014 version or the 2017 draft) or any of the other components of the Regulatory Setting identified in Table 10 (p. E-199).

In particular, the EA's Cumulative Impacts analysis (p. E-128) fails to analyze the impact of the proposed target on overall state-wide GHG emissions from cars and light trucks. These emissions are not quantified. This lack is not excused by the programmatic nature of the analysis. Because the **sole purpose** of the Project is to address these emissions, the EA lacks absolutely critically important information needed by Board Members. The staff report is also silent on whether the targets will result in significant additional GHG reductions from changed land use patterns and improved transportation. It never makes that analysis, despite that being the key to what is required by SB 375. (See Alternatives Analysis section, below.)

Overall, the Target Update would result in an additional reduction of GHG emissions of over 10 million metric tons of carbon dioxide (CO₂) per year in 2035 compared to the current targets. (p. E-76.)

The EA offers no other quantitative analysis of the overall impact of the proposed 19.9% aggregate per capita targets (p. 23). No quantitative context is provided to make it possible to compare those emissions reductions to the total GHG emissions reductions required to achieve the called-for 25% reduction, to determine the significance of the shortfall in emissions reductions:

CARB staff's top-down analysis estimates that SB 375 and other VMT reduction strategies need to provide a 25 percent reduction in statewide per capita greenhouse gas emissions relative to 2005 by 2035 to meet these goals... (p. E-22.)

The proposed per capita targets could result in GHG emissions reductions that are low enough to impede attainment of SB 32 targets. The EA fails to analyze this critical impact.

Alternatives Analysis

Using MTC's recently adopted RTP/SCS as an example of "the level of detail that would be contained in subsequent environmental review when MPOs act to update their RTP/SCS" (p. E-146), ARB's proposed targets must have been framed within a context of overall expectations of little to no change in mode shares, and a large increase in VMT in each of the regions. This is an acceptance of local and regional policy implementation failure that TRANSDEF finds not only unacceptable but legally inadequate in the context of environmental review.

TRANSDEF disputes the claim that:

CARB staff found no comments suggesting an alternative comprehensive approach to meet the State's long-term goals. (p. E-147.)

One obvious Alternative that should have been studied is assigning targets to reduce each region's total GHG emissions from cars and light trucks, the idea that was rejected in 2010. TRANSDEF opined then, and in each of its subsequent comment letters, that the decision to use per capita targets masks the net increases in total regional GHG emissions (when calculated without subtracting reductions from state-level measures) that occur as a result of population growth, even if the previously adopted per capita targets are met. TRANSDEF recently wrote staff (letter is attached) because plan EIRs typically misstate total GHG emissions, making it appear that GHG emissions are fine.

The listing of Project Objectives (pp. 147-148) fails to mention the foundational intention of SB 375:

...greenhouse gas emissions from automobiles and light trucks can be substantially reduced by new vehicle technology and by the increased use of low carbon fuel. However, even taking these measures into account, it will be necessary to achieve **significant additional** greenhouse gas reductions from changed land use patterns and improved transportation. Without improved land use and transportation policy, California will not be able to achieve the goals of AB 32. (Chapter 728, Statutes of 2008, Section 1(c) and (i), emphasis added.)

All Alternatives needed to be evaluated against this Objective to determine whether total regional emissions from cars and light trucks will actually be reduced as a result of the SCS (and not the State measures), to confirm that SB 375 is being implemented.

Alternative 4 Analysis

Alternative 4, the Substantially More Stringent Targets Alternative, would set "MPO 2035 targets to a level that would meet the full VMT reduction needs assumed in the 2017 Scoping Plan Update." (p. E-148, referring to the 25 percent reduction in statewide per capita greenhouse gas emissions relative to 2005 by 2035, p. E-22.) TRANSDEF asserts that SB 375 mandates ARB to adopt targets that accomplish at least that. TRANSDEF strongly disagrees with the analysis of Alternative 4:

Under Alternative 4, CARB anticipates many MPOs will prepare an APS. To date, no MPO has prepared and relied on an APS, so the impacts are unknown. By using an APS rather than an RTP/SCS, however, it would be less certain that actual gains of target increases would ever come to fruition... (p. E-148.)

... if targets were substantially more stringent than proposed levels under the Target Update, the actual gains of that increase would be less likely to ever come to fruition. In a situation where most MPOs adopt APSS, status quo development patterns could continue for the foreseeable future because the incentives designed to support SB 375 would no longer be attainable. (p. E-149.)

As we stated in our merits comments, which used MTC as an example, we seriously doubt that any MPO has achieved actual or projected emissions reductions from the implementation of an SCS. Because California has not seen any VMT or GHG emissions reductions yet under the lax conditions of current policy (see 2017 Edition of California GHG Emissions Inventory), future VMT reductions under similarly lax conditions are very unlikely. TRANSDEF is unaware of any significant mode shift so far resulting from SB 375. VMT has continued to climb. That makes the conclusion "less certain" actually preposterous in contrast to what is currently being achieved: zero.

We also note the absence of any projects in our region that have been processed under CEQA streamlining, severely undercutting the assertion that "the incentives designed to support SB 375" have had any effect at all. Even worse, the very argument "regional and local governments relying upon an APS will [not] be able to successfully compete and implement projects" (p. E-148) is actually an argument for those agencies to not rely on an APS.

TRANSDEF strongly objects to the assumptions implicit in the statement "setting targets that ensure the majority of MPOs must rely on an APS over the long term to meet targets." (pp. E-148-149.) ARB is implying in this statement that MPOs cannot possibly

be expected to give up their capital programs that increase highway and arterial capacity while underfunding transit. The classic example of this is SANDAG's first RTP/SCS, which suffered badly in the courts. The entire analysis is impermissibly poisoned by status quo thinking.

Conclusion

The EA fails to disclose the impacts resulting from adopting the proposed targets, which do not meet the requirements for reducing GHG emissions set out by the latest scientific analysis, as represented in the 2017 draft Scoping Plan. The EA's analysis of Alternative 4, which would achieve those requirements, is fatally flawed. The EA is therefore legally inadequate to support an adoption of the proposed targets.

Sincerely,

/s/ DAVID SCHONBRUNN

David Schonbrunn,
President

Attachment: TRANSDEF Letter to ARB re: EMFAC and SB 375

Transportation Solutions Defense and Education Fund

P.O. Box 151439 San Rafael, CA 94915 415-331-1982

April 18, 2017
By E-Mail

Cynthia Marvin, Division Chief
Transportation and Toxics Division
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Re: EMFAC's SB 375 Compatibility

Dear Ms. Marvin:

The Transportation Solutions Defense and Education Fund, TRANSDEF, is an environmental non-profit advocating for the regional planning of transportation, land use and air quality, with a focus on climate change. In our recent reviews of the Bay Area Clean Air Plan FEIR and 2017 Plan Bay Area DEIR, we have identified a serious error in the analysis of regional GHG emissions that we believe is the result of inadequate support and guidance from ARB.

Both of these documents find that, because regional emissions declined, the respective plans have no significant CEQA impacts on regional GHG emissions. Table 3.3-4 (p. 3.3-6) of the CAP FEIR offers no projection of regional emissions beyond 2020, making it useless in identifying the effectiveness of the CAP for climate protection. Both the CAP FEIR Table 3.3-4 and Table 2.5-11 (p. 2.5-41) of the PBA DEIR rely on EMFAC for calculating transportation GHGs. EMFAC's outputs include the state-level Scoping Plan measures in its projection of future GHG levels.

TRANSDEF asserts that these analyses fail to comply with the legislative intent of SB 375, as expressed in these legislative findings:

...greenhouse gas emissions from automobiles and light trucks can be substantially reduced by new vehicle technology and by the increased use of low carbon fuel. However, even taking these measures into account, it will be necessary to achieve **significant additional** greenhouse gas reductions from changed land use patterns and improved transportation. Without improved land use and transportation policy, California will not be able to achieve the goals of AB 32. (Chapter 728, Statutes of 2008, Section 1(c) and (i), emphasis added.)

Adding back the state-level emissions reductions into the PBA regional totals produces a 7.6% increase in regional emissions, rather than the claimed 13% reduction. (Note that this calculation includes the claimed reductions for MTC Climate Initiatives Program, which will be the subject of future DEIR comments, due to our scepticism about the validity of these "measures.")

It should be obvious that **increases in regional emissions threaten the Scoping Plan's effectiveness in achieving state climate targets**. This is precisely why the Legislature enacted SB 375. TRANSDEF respectfully requests that ARB provide MPOs with guidance as to the proper methodology for evaluating regional GHG emissions, and make an SB 375 version of EMFAC available to make it easy for MPOs to calculate regional emissions without the reductions that come from state-level Scoping Plan measures.

Conclusion

Bay Area regional GHG emissions keep growing, despite the explicit legislative intent of SB 375 to mandate MPOs to secure emissions reductions beyond those accomplished at the state level. The growth in regional VMT is undoing the emissions reductions being achieved by the state and endangering the state's attainment of its climate targets.

We appreciate this opportunity to call ARB's attention to a serious structural defect in its administration of SB 375, and look forward to a response.

Sincerely,

/s/ DAVID SCHONBRUNN

David Schonbrunn,
President
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CC:

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