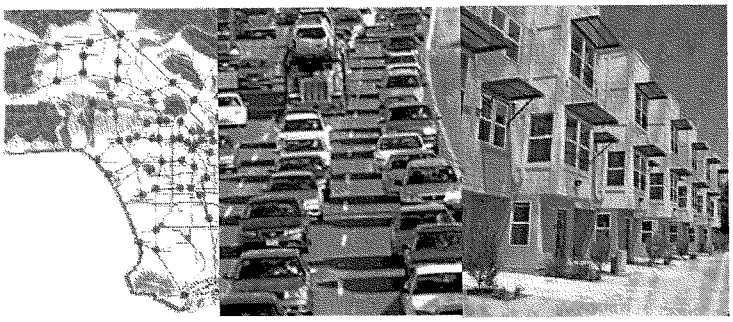
*See pages 2 and 6 for SB375 impact on housing elements

REGIONAL PLANNING AND CLIMATE CHANGE

Understanding SB 375



SB 375 aligns three major planning processes - land use planning, transportation planning and funding, and State housing mandates - and seeks to reduce greenhouse gas emissions.

The passage of SB 375 has focused new attention on regional planning in California, leading many State, regional, and local officials to ask how land use, transportation, and housing planning will be affected by this new law. This brochure provides some initial answers to that question.

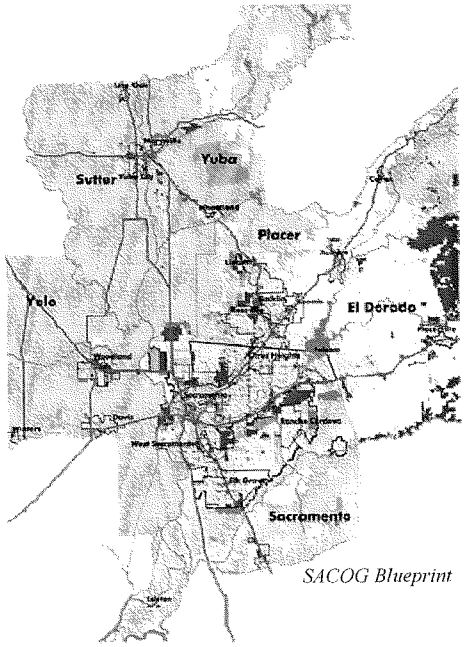
SB 375 is a complex piece of legislation that has raised many questions about how it will be implemented and how effective it will be ultimately in addressing climate change.

This brochure summarizes SB 375 (and clean-up legislation SB 575) and explains who will implement it and how it is likely to change the transportation and land use planning process. It dispels some common myths about SB 375 and tries to clarify the implications of the new law.

SB 375 builds on existing laws and processes by keeping decision-making at the local level. SB 375 is intended to provide for local flexibility by achieving AB 32 goals through incentives, rather than new regulations or penalties.

SB 375 At-a-Glance

- Implements AB 32 to reduce greenhouse gas (GHG) emissions by reducing vehicle miles traveled through land use planning.
- Applies to the 18 Metropolitan Planning Organizations (MPO) in California.
- Adds a Sustainable Communities Strategy (SCS) element to regional transportation plans (RTP).
  - An SCS is a regional development plan similar to a regional blueprint.
  - An SCS must be internally consistent with RTP transportation funding elements.
  - An SCS must feasibly meet GHG emission reduction targets set by the California Air Resources Board (CARB).
- Permits a separate Alternative Planning Strategy (APS) when GHG targets cannot be feasibly met through an SCS.
- Provides certain CEQA streamlining and transportation funding incentives for transportation and development projects consistent with an SCS or APS.
- Increases coordination between regional transportation and housing planning.
- Requires consistency among the Regional Housing Needs Allocation (RHNA) and an RTP and SCS or an APS.
- Changes the frequency of RHNA and housing element updates from five to eight years.
- Increases penalties for failure to meet update deadlines or rezone adequate housing sites.



SACOG Blueprint

SB 375 adds to an RTP a land use component that will likely resemble a regional blueprint. Regional blueprints strive to balance transportation planning with land use planning, housing needs, resource protection, and other planning issues in order to achieve more sustainable regional growth patterns and improve quality of life.

Prepared by mintierharnish planning consultants

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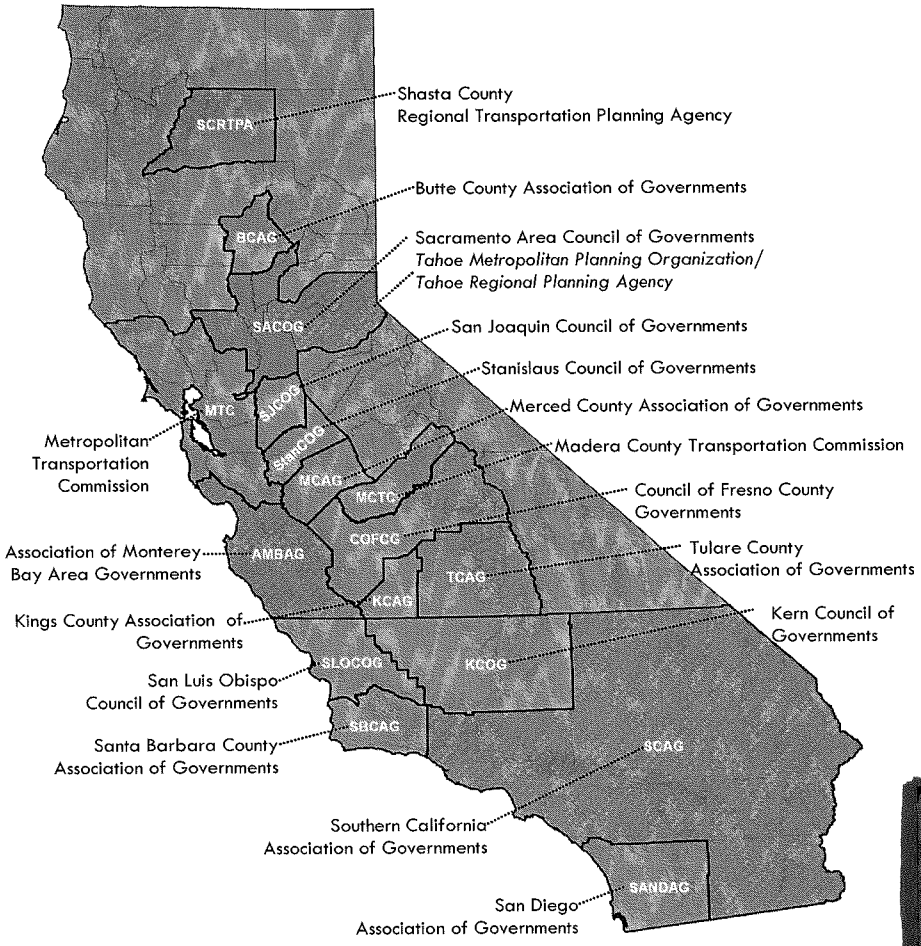
Item 9
(8 Pages)

November 2009

Metropolitan Planning Organizations Responsible for Implementing SB 375

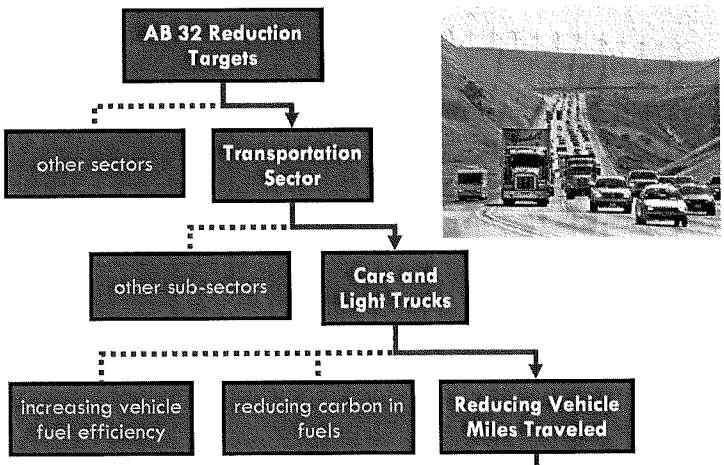


Who is involved?

SB 375 involves agencies and stakeholders from State, regional, and local government, as well as property owners and developers. SB 375 focuses on the 18 Metropolitan Planning Organizations (MPOs) in California, which include 36 counties and almost 98 percent of the state's population.

- California Air Resources Board (CARB), California Transportation Commission (CTC), and Caltrans establish GHG reduction targets and review regional GHG emission reduction plans.
- MPOs prepare either a Sustainable Communities Strategy (SCS) or Alternative Planning strategy (APS) and coordinate RHNA with transportation plans.
- Local governments continue to exercise land use approval authority, but they will be eligible for priority transportation funding or CEQA streamlining where plans or projects are consistent with an SCS or APS.

Which GHG emissions does SB 375 reduce?



While AB 32 GHG 2020 reduction targets involve all sectors of emissions, SB 375 focuses on reducing GHG emissions from the transportation sector. SB 375 aims to reduce vehicle-miles-traveled by cars and light trucks, by linking regional transportation planning to land use and housing to change growth patterns.

How are the RHNA Process and Housing Elements affected by SB 375?

SB 375 changes the timing and process for determining RHNA and updating housing elements. It also increases penalties for failure to meet update deadlines or rezone adequate housing sites.

Timing
SB 375 establishes an eight-year cycle for RHNA determinations and housing element adoption to match up with the timing for GHG reduction targets and RTP preparation.

Process and Requirements
SB 375 requires that MPOs determine the RHNA consistent with an SCS or APS. Housing elements are required to be adopted within new mandated deadlines. Cities and counties must rezone the sites identified in elements for specific residential uses within three years. Housing elements must include an implementation schedule, as well as an annual hearing and report to review implementation progress.

Penalties
Cities and counties that do not adopt their housing element within the mandated timelines will be required to update their element every four years instead of eight. Cities and counties that do not rezone residential sites consistent with their housing element within three years will be vulnerable to legal sanctions and court-imposed jurisdiction over certain land use actions.

Prepared by mintierharnish

What is a Sustainable Communities Strategy?

A Sustainable Communities Strategy (SCS) is a regional development plan similar to the recent regional blueprint efforts. The primary SCS objective is to reduce GHG emission by influencing land use patterns to reduce vehicle miles traveled. An SCS will include data analysis, maps and charts, goals and policies, quantified objectives, and an implementation program. An SCS will likely address such topics as air quality, transportation, complete streets, transit, biking, walking, land use, housing, mixed use, open space protection, and farmland preservation. An SCS must: be based on realistic planning assumptions; be consistent with adopted general plans and spheres of influence; and consider natural resources and farmland. Similar to a general plan, it must also be internally consistent with the transportation and financing elements of the RTP. Finally, an SCS must meet established GHG reduction targets. Local plans and development projects consistent with an SCS will be eligible for CEQA streamlining and be given priority for transportation funding.

What is an Alternative Planning Strategy?

If an SCS is unable to achieve the GHG emissions reduction targets (and many likely will not), an MPO must prepare an APS showing how the targets may be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies. This will most likely occur when an MPO, after considering existing environmental conditions, adopted general plans, and population growth projections, is unable to prepare an adequate SCS. An APS is similar to an SCS in most respects. It will address the same range of topics, include the same type of information and analysis, and have the same local plan consistency requirement. However, an APS is **not** part of or required to be consistent with an RTP. Local plans and development projects consistent with an APS will be eligible for CEQA streamlining. However, an MPO and local plans and development projects will **not** be given priority for transportation funding.

While encouraged, local city and county general plans and land use decisions are NOT required to be consistent with an SCS or APS. Incentives are available to those communities that are consistent.

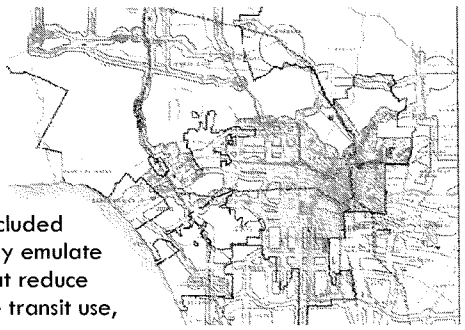
What incentives are available?

SB 375 includes incentives for projects that are consistent with an adopted SCS or APS. Residential/mixed-use projects and Transportation Priority Projects (TPPs) that meet certain requirements are eligible for CEQA streamlining. ***It should be noted that the CEQA streamlining criteria contained in SB 375 are extremely detailed.***

CEQA analysis for residential/mixed-use projects found consistent with an SCS or APS is not required to describe growth-inducing impacts, project specific impacts from cars and light trucks on global warming, or alternatives that address the effects of cars and light trucks.

CEQA analysis for TPPs found consistent with an SCS or APS may be eligible for a full CEQA exemption. TPPs may also be eligible for a Sustainable Communities Environmental Assessment (SCEA) exemption. The SCEA exemption excludes requirements to analyze growth-inducing impacts, project-specific impacts on global warming from cars and light trucks, and alternatives that address the effects of cars and light trucks. Finally, TPPs may be exempt from additional traffic mitigation measures if local governments adopt specific traffic mitigation measures for TPPs.

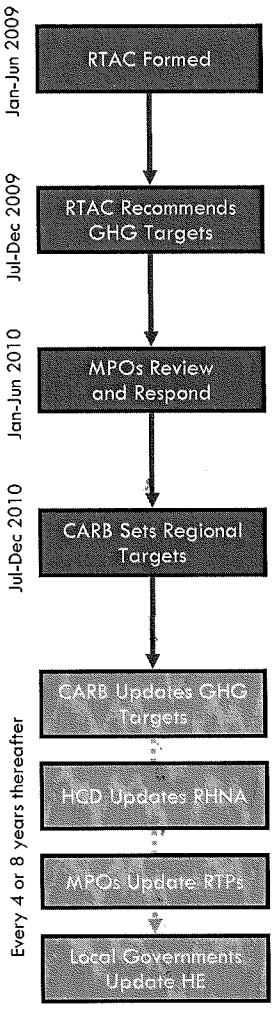
How will an SCS/APS look?



An SCS or APS will likely resemble a regional blueprint plan. It will use a combination of diagrams, policies, and actions that would achieve the regional GHG emissions target. Measures included in an SCS or APS will likely emulate policies and programs that reduce vehicle miles and increase transit use, biking, and walking.

An SCS or APS is not just a land use plan. Infrastructure and additional transportation measures and policies are required in both. In addition, an SCS or APS may include growth limits and environmental protections. In the case of an APS, policies and programs must also recognize resource constraints that may limit implementation.

SB 375: Getting Started



Initial steps in the process to implement SB 375 include the following:

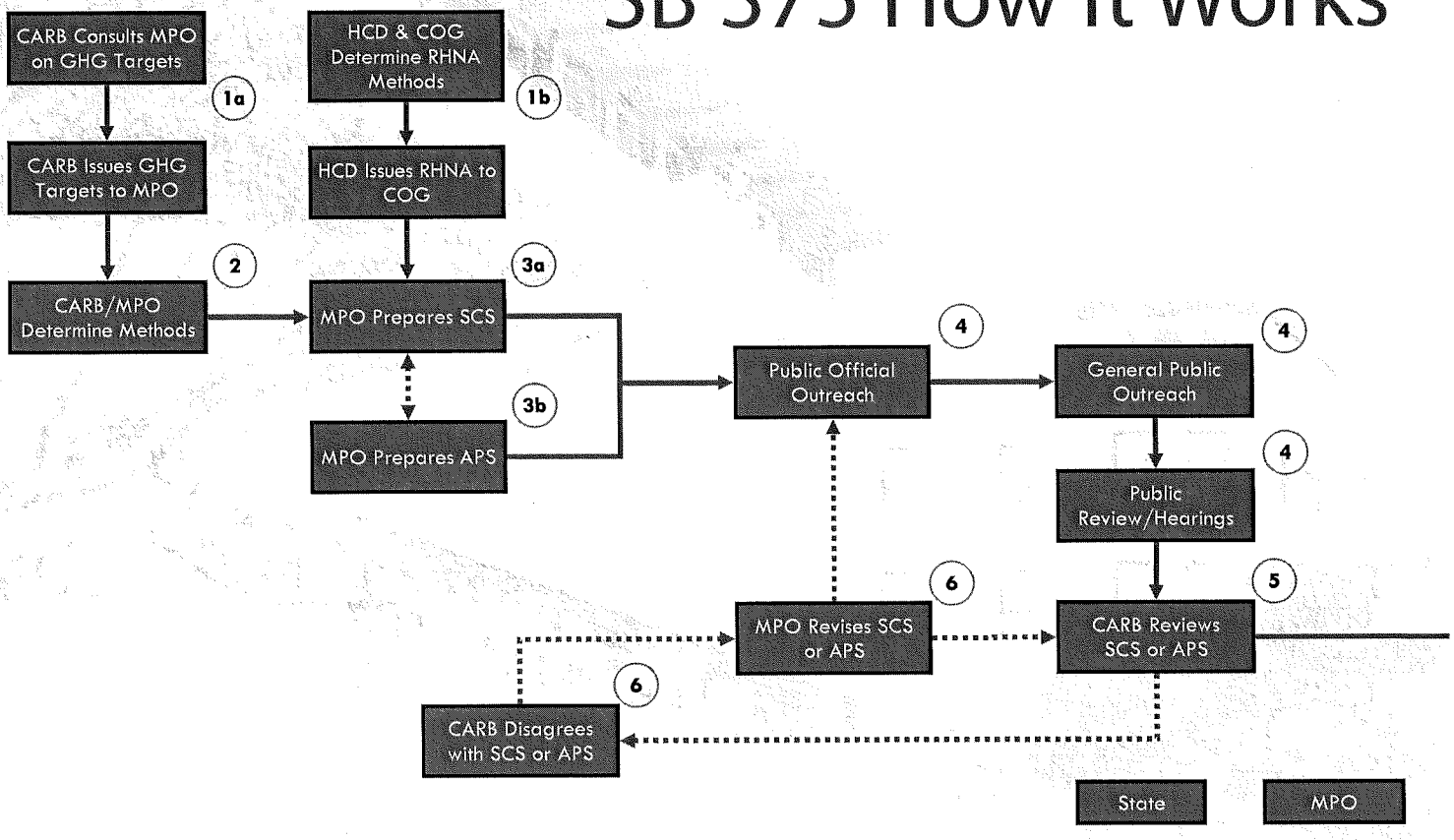
- In early 2009 CARB formed the Regional Target Advisory Committee (RTAC) made up of representatives of various agencies and stakeholders.
- In Fall 2009 the RTAC made initial recommendations to CARB on setting GHG reduction targets.
- In early 2010 CARB, CTC, and Caltrans will prepare GHG reduction analysis guidelines for MPOs.
- In the second half of 2010 CARB will work with MPOs to set GHG reduction targets for 2020 and 2035 based on Regional Target Advisory Committee (RTAC) recommendations.

In 2011 MPOs will begin RTP planning cycles that include preparation of the SCS/APS. Every four or eight years thereafter:

- CARB will update GHG reduction targets;
- HCD will update RHNA;
- MPOs will update the RTPs; and
- Cities and counties will update their housing elements.

The next four pages detail the process of implementing SB 375.

SB 375 How It Works



1a CARB and MPO Collaborate

- CARB consults MPO on the quantification and distribution of GHG reduction targets.
- Next, CARB issues GHG reduction targets to MPO.

1b HCD and COG Collaborate

- HCD consults with COG regarding RHNA assumptions and methodologies.
- Next, HCD issues RHNA to COG.

2 CARB/MPO Determine Methods

- CARB works with MPO to determine a methodology the MPO will use to analyze and quantify GHG reductions to meet GHG emissions reduction targets.

3a MPO Prepares SCS

- MPO then prepares a draft SCS that can feasibly meet GHG reduction targets and is consistent with other elements of the RTP and RHNA.

3b MPO Prepares APS

- If SCS cannot feasibly meet GHG reduction targets, an MPO may revise the SCS to meet the targets or prepare an APS.
- An APS is separate from the RTP, but consistent with the RHNA, and shows how the targets may be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies.

4 Public Outreach, Review, and Hearings

- First, MPO must conduct at least two informational meetings on the draft SCS or APS for local elected officials (members of the board of supervisors and city councils) in each county within its region.
- Next, MPO must conduct a public workshop, consistent with Federal law, that includes a broad range of stakeholder groups. Workshops must provide the public with a clear understanding of the issues and policy choices. Three workshops are required for counties with a population greater than 500,000.
- Finally, MPO must hold at least three public hearings on the SCS or APS in multi-county regions, and two public hearings in single-county regions. The draft SCS or APS must be circulated at least 55 days before the adoption of the RTP.
- As part of the outreach process, MPO must establish a mechanism for public notices, access to information, and updates.

5 CARB Review and Decision

- After the public review process is complete, CARB reviews the draft SCS or APS.
- CARB can agree or disagree with MPO methodology and findings that the plan can feasibly achieve the regional GHG reduction targets. However, CARB does not "approve" either plan.
- CARB must complete its review and make determinations within 60 days.

6 SCS or APS Rejected

- If CARB disagrees with an SCS or APS, it must provide its reasons and make recommendations to remedy deficiencies.
- MPO must revise the SCS or APS. If the MPO prepared an SCS, it may change its strategy and prepare an APS.
- MPO must then resubmit the plan to CARB for review until CARB agrees with the methodology and findings.

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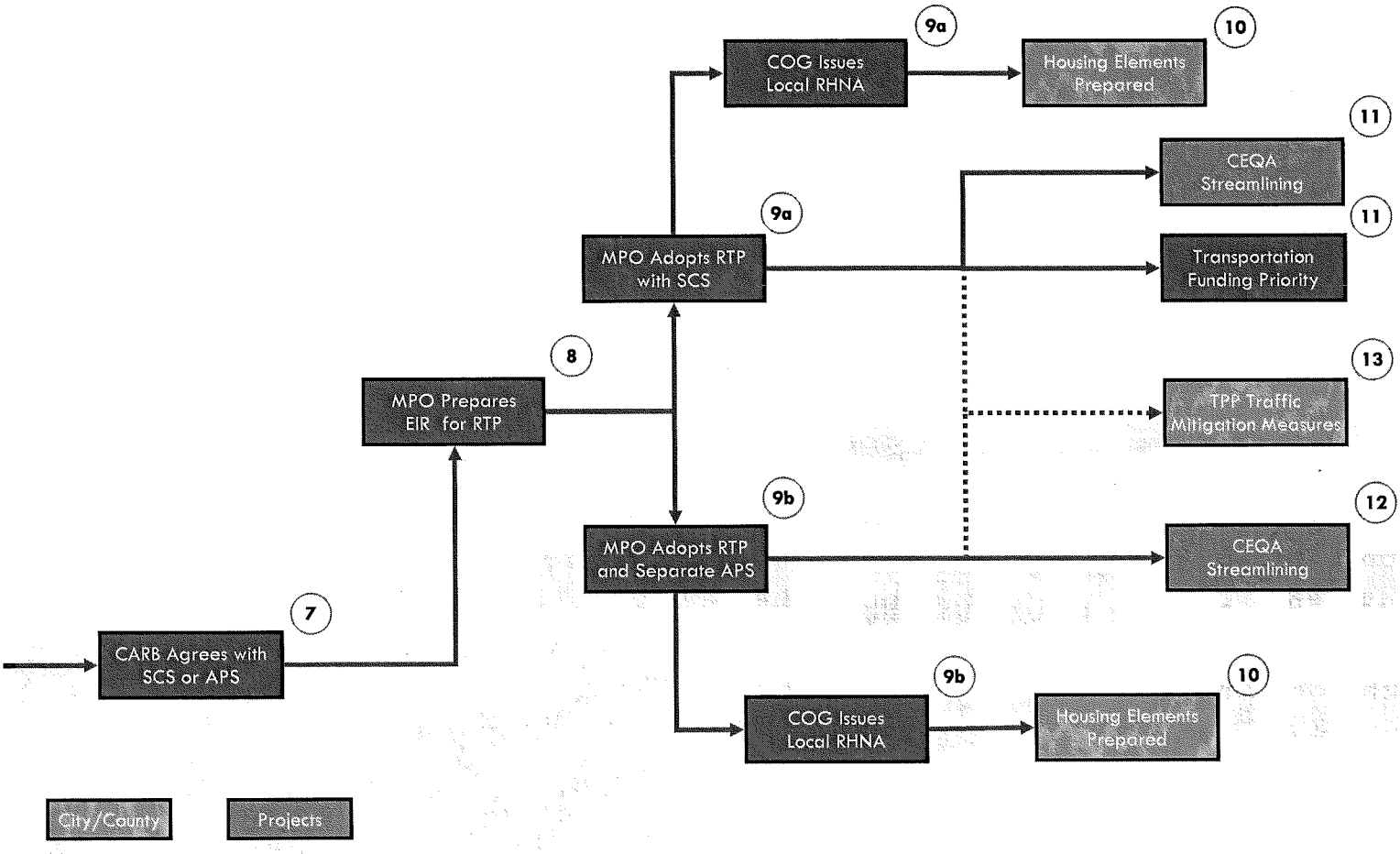


7 CARB Agrees with SCS or APS

- If CARB agrees with the approach outlined in the SCS or APS, MPO integrates the SCS into the RTP ensuring internal consistency with the other RTP elements.

8 Review of RTP

- MPO then submits the RTP for State and Federal review and approval, and conducts applicable environmental review.
- If MPO prepared an SCS, it is included in the RTP.
- If MPO prepared an APS, it is not included in the RTP and not subject to State and Federal review or environmental review.

9a MPO Adopts RTP with SCS

- After review of the RTP that includes the SCS, MPO adopts the RTP.
- COG then issues an RHNA that is consistent with the RTP and SCS to cities and counties within its region.

9b MPO Adopts RTP and Separate APS

- After review of the RTP, MPO adopts the RTP and separately adopts the APS.
- COG then issues RHNA that is consistent with the APS to cities and counties within its region.

10 Local Governments (Cities/Counties)

- Local governments (i.e., cities and counties) receive an RHNA from COG and prepare Housing Element.
- ***See the next page for details on the Housing Element process under SB 375.***

11 RTP with SCS Incentives

- Upon adoption of the RTP that includes an SCS, consistent residential/mixed-use projects and TPPs become eligible for CEQA streamlining.
- Transportation funding priority is also available to MPO, jurisdictions, and projects that are consistent with the RTP and SCS.

12 RTP with APS Incentives

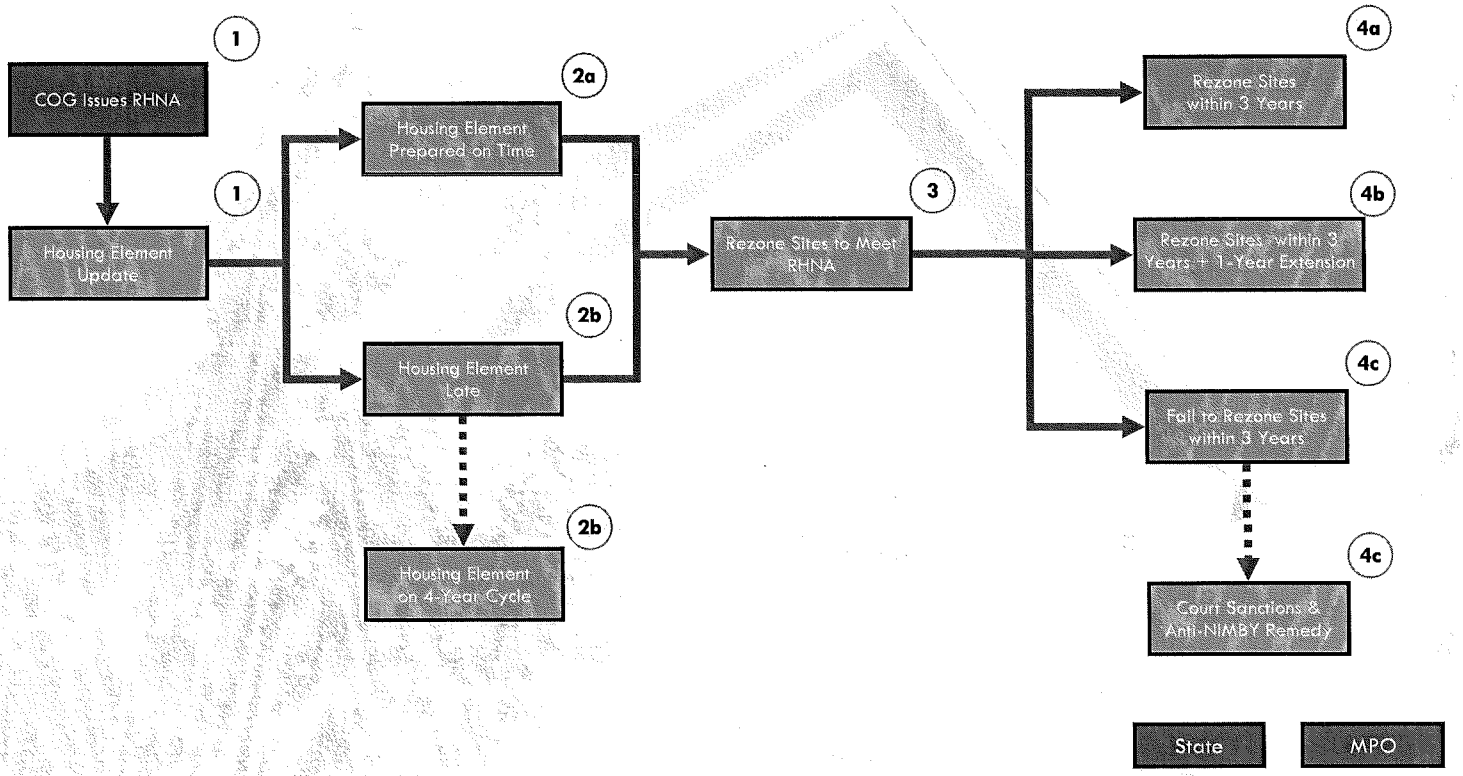
- Upon adoption of the RTP and separate APS, consistent residential/mixed-use and TPPs become eligible for CEQA streamlining.
- Transportation funding priority is not given to MPOs that only have an APS.

13 Traffic Mitigation Measures

- Local governments can also prepare traffic mitigation measures to provide additional CEQA streamlining for TPPs. The measures must be consistent with the RTP and SCS or APS.
- ***See the next page for details on the process for projects to receive incentives.***



SB 375 For Housing Elements *



(1) COG issues RHNA

- Upon adoption of every other RTP (i.e., every eight years), COG issues the RHNA to cities and counties. The RHNA projection period is for ten years and the planning period is eight years. The RHNA must be consistent with the RTP and SCS or separate APS.
- Each jurisdiction has 18 months from the adoption of the RTP to prepare and submit its Housing Element to the California Department of Housing and Community Development (HCD). HCD must provide comments on the Housing Element within 60 days.
- After addressing HCD comments, jurisdictions have 90 days to adopt (or self-certify) the Housing Element.

(2a) Housing Element Prepared on Time

- If the Housing Element is prepared on time (i.e., 120 days after the statutory deadline), it is adopted by the local jurisdiction and certified by HCD.

(2b) Housing Element NOT Updated on Time

- If the Housing Element is not prepared within 120 days after the statutory deadline, the local jurisdiction housing element time frame is reset from every 8 years to every 4 years.

(3) Rezone Sites

- If Housing Element identifies sites for rezoning to meet the RHNA, jurisdiction must rezone sites within 3 years of adoption or 90 days after receipt of HCD comments, whichever is earlier.

(4a) Rezone Sites within 3 years

- If a jurisdiction rezones its sites within 3 years, no further provisions apply.

(4b) Rezone Sites within 3 Years Plus 1-year Extension

- A 1-year extension to rezone sites is available to local jurisdictions if 75 percent of rezonings are complete and one of the following is presented in a public hearing and adopted in a resolution with supporting findings:
  - Action or inaction beyond the control of the local agency;
  - Infrastructure deficiencies are present due to fiscal or regulatory restraints; and
  - Major revisions to its general plan are needed to accommodate housing-related policies of an SCS or APS.
- If a jurisdiction rezones its sites within 4 years, no further provisions apply.

(4c) Fail to Rezone Sites within 3 years or 3 years plus 1-year Extension

- If a jurisdiction does not rezone its sites within 3 years or 3 years with a 1-year extension, it is vulnerable to challenges under the Housing Accountability Act (i.e., Anti-NIMBY law) and court sanctions.

Housing Element Cycle Starts Over

- The Housing Element cycle starts over, simultaneously with the RTP update schedule.
- Local jurisdictions must annually report on Housing Element implementation.
- Housing Elements must be updated every 4 years for those that did **not** meet statutory deadlines and every eight years for those that did meet their statutory deadlines.

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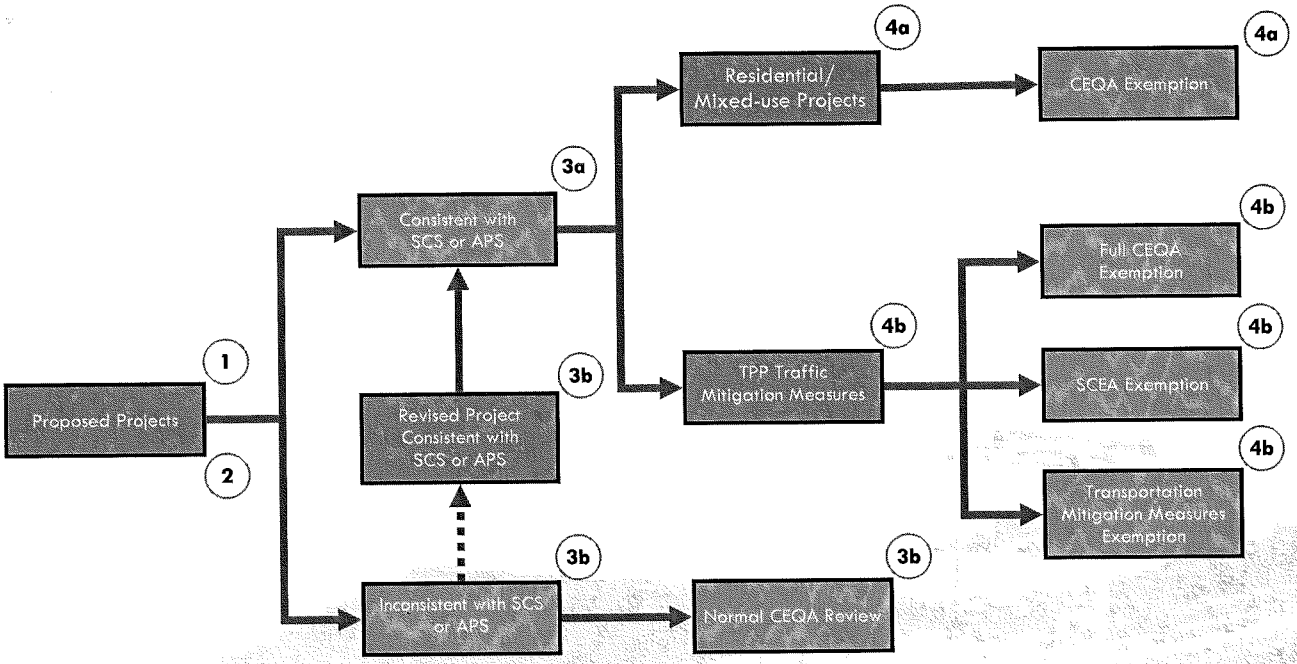
SB 375 For Projects



(1) Project proposed

- A development project is proposed in a jurisdiction where MPO has an adopted RTP that includes an SCS or an adopted RTP and separately adopted APS.

(2) Determine Consistency with SCS or APS

- The development project applicant requests CEQA streamlining available through SB 375.
- During development review the local jurisdiction and MPO determine if the project is consistent with the SCS or APS.

(3a) Consistent with SCS or APS

- If the development project is consistent with the SCS or APS, the jurisdiction and MPO determine the applicable CEQA streamlining available under SB 375.
- Projects may be eligible for residential/mixed-use CEQA streamlining or Transportation Priority Project (TPP) CEQA streamlining.

(3b) Inconsistent with SCS or APS

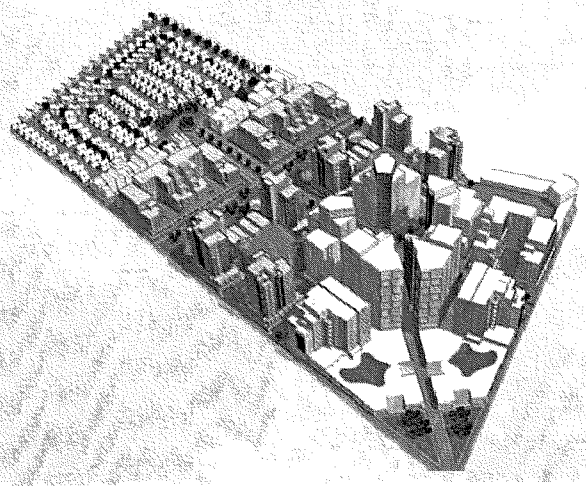
- If the development project is inconsistent with an SCS or APS, it is not eligible for CEQA streamlining.
- The development project applicant may revise the project to be consistent with the SCS or APS or go through the normal CEQA review process.

(4a) Residential/Mixed-use Projects

- A development project that is determined to be consistent with SB 375 requirements for residential/mixed-use projects is eligible for CEQA exemptions.
- If the project is consistent with an RTP that includes an SCS, the project is eligible to receive priority for transportation funding through an MPO.

(4b) Transportation Priority Projects (TPP)

- Development projects that are determined to be consistent with SB 375 requirements for Transportation Priority Projects (TPP) are eligible for CEQA exemptions including:
  - Full exemption;
  - Sustainable Communities Environmental Assessment (SCEA) exemption; or
  - Transportation Mitigation Measures Exemption. For this exemption, the local jurisdiction must have adopted traffic mitigation measures for TPPs that are consistent with the RTP and SCS or APS.
- If the project is consistent with an RTP that includes an SCS, the project is also eligible to receive priority for transportation funding through an MPO.



SB 375 Special Concessions

SB 375/575 includes several special considerations for certain regions, projects, and programs.

Transportation Projects

Certain transportation projects are exempt from SB 375:

- 2007 and 2009 Statewide Transportation Improvement Program (STIP) projects.
- Prop 1B projects.
- Sales tax-funded project listed before December 31, 2008.

Sub-regional SCS/APS

- In a multi-county MPO, a sub-regional COG or County Transportation Commission may prepare a sub-regional SCS/APS.

San Joaquin Valley MPOs

- Encourages cooperation among the eight single-county MPOs in the San Joaquin Valley (SJCOG, StanCOG, MCAG, MCTC, COFOG, KCAG, TCAG, and KCOG).
- Permits two or more MPOs to prepare a multi-regional SCS/APS.

Southern California Association of Governments (SCAG)

- Within the SCAG region, a sub-regional COG or County Transportation Commission may prepare a sub-regional SCS/APS.
- SCAG is responsible for conducting outreach and assuring SCS/APA statutory consistency.
- SCAG must include sub-regional SCSs/APAs in its regional SCS/APA if consistent with RTP requirements and Federal law.

Tahoe Regional Planning Agency (TRPA) (multi-state MPO)

- May use the Regional Plan for Lake Tahoe Region for its SCS/APS.

Coastal Cities

- Coastal cities must consider low- and moderate-income housing needs in the Coastal Zone.

Non-MPOs and Air Quality Attainment Areas

- Areas of the state that do not have MPOs or are in attainment for air quality may opt into the eight-year RHNA cycle.

Let us help you...

California is experiencing a major shift in environmental policy (i.e., AB 32, SB 97, SB 375) and witnessing its impact on how we plan and develop our communities in a more sustainable way. Many of our clients have found themselves at the center of climate change-related issues, legal threats, and increased environmental scrutiny.

Through our extensive experience helping cities and counties prepare general plans, Mintier Harnish has developed creative and effective approaches to dealing with global warming and climate change while planning for a more sustainable future. Our expertise places our clients at the forefront of climate change-readiness, including: mitigating greenhouse gas emissions and climate change impacts, identifying and exploiting carbon sequestration resources, preparing legally-defensible plans and environmental documents, and creating climate action plans and strategies.

Mintier Harnish is uniquely qualified to address your climate change needs with services that include:

- Updating General Plans to be climate change-ready.
- Preparing Climate Actions Plans (CAPs) and Strategies.
- Developing regional plans (e.g., SCS, APS).
- Assisting in regional planning efforts.
- Quantifying baseline greenhouse gas emissions inventories and establishing reduction targets for communities.
- Preparing realistic goals, policies, implementation programs, and actions to:
  - reduce greenhouse gas emissions;
  - adapt to regional climate change impacts; and
  - exploit local carbon sequestration resources.
- Analyzing greenhouse gas reduction and sustainability measures for costs and benefits.
- Monitoring the effectiveness of policies and programs in reducing greenhouse gas emissions and preparing for climate change impacts.
- Developing and conducting custom public outreach programs on global warming, climate change, and sustainability.

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