

California and SB 375 (Steinberg):

Carbon Caps, Transportation, Housing and CEQA

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Bob Wyman

LATHAM & WATKINS



Land Use . . . The Final Frontier

These are the voyages of the Star Ship California. Its eight-year mission: to explore strange new ideas, to seek out new forms of energy and design new civilizations - *to boldly go where no one has gone before.*

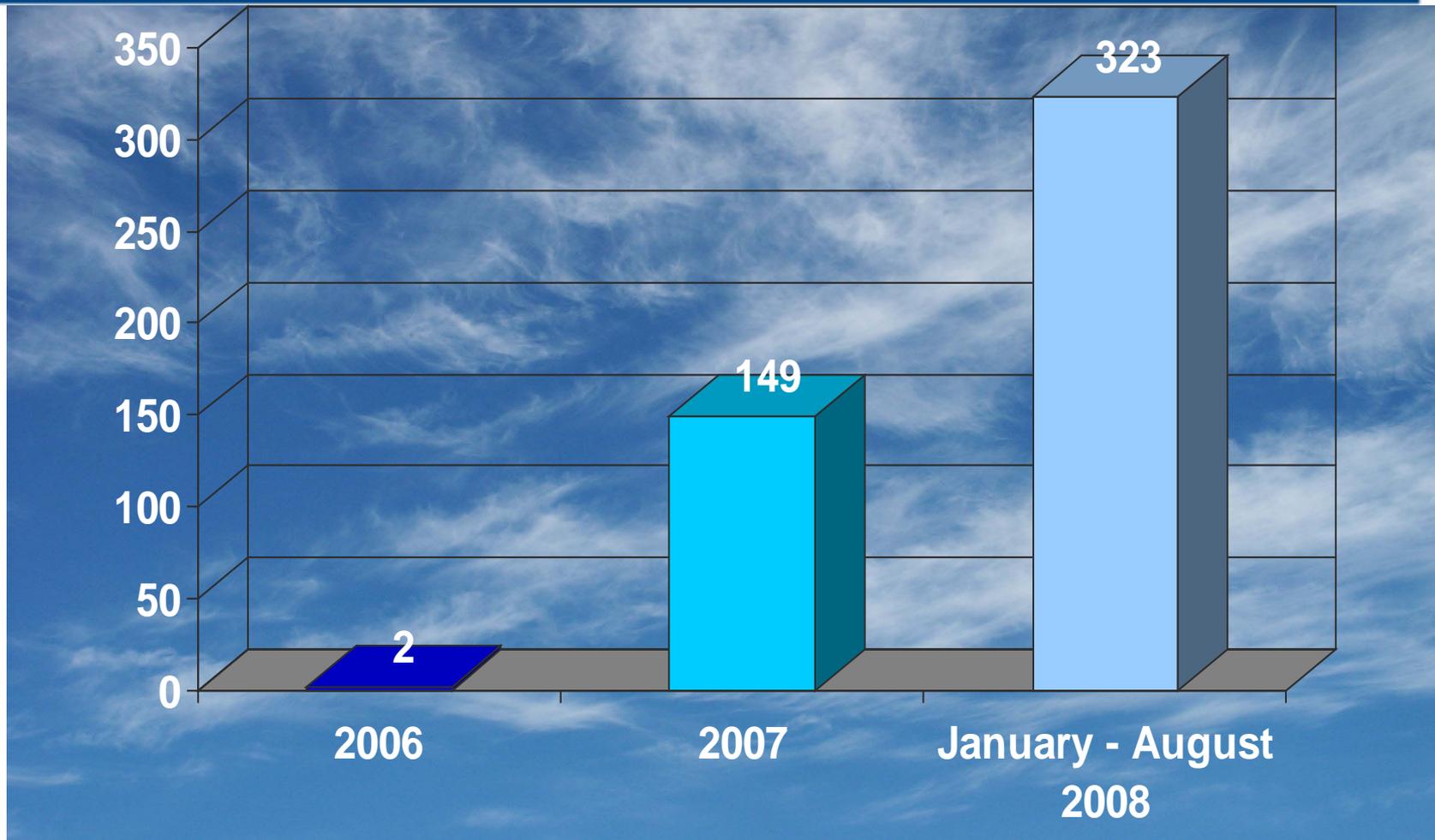
California Backdrop

- California Environmental Quality Act (CEQA)
 - A recent explosion of EIRs addressing greenhouse gas emissions
 - CARB-proposed GHG “significance” level – 7,000 annual tons
- AB32 and ARB Scoping Plan
 - 1990 Emission Levels by 2020 (30% BAU reduction, from 596 MMT to 422 MMT)
 - 80% below 1990 levels by 2050 (aspirational) (to ~85 MMT)
 - 174 million metric tons (MMT) of GHG reductions required by 2020:
 - 5 MMT from regional transportation and land use strategies
 - 21.3 MMT from the state’s 33% renewables portfolio standard
 - 15 MMT from the state’s low 10% carbon fuel standard
 - 31.7 from the state’s light duty vehicle standards (Pavley)
 - 26.3 from the state’s energy-efficiency programs

CEQA

- Requires environmental impact report (EIR) for state or local agency action that may significantly affect the environment.
- Establishes a duty to avoid or minimize environmental damage where feasible
- A project's GHG-related impacts can be cumulatively considerable

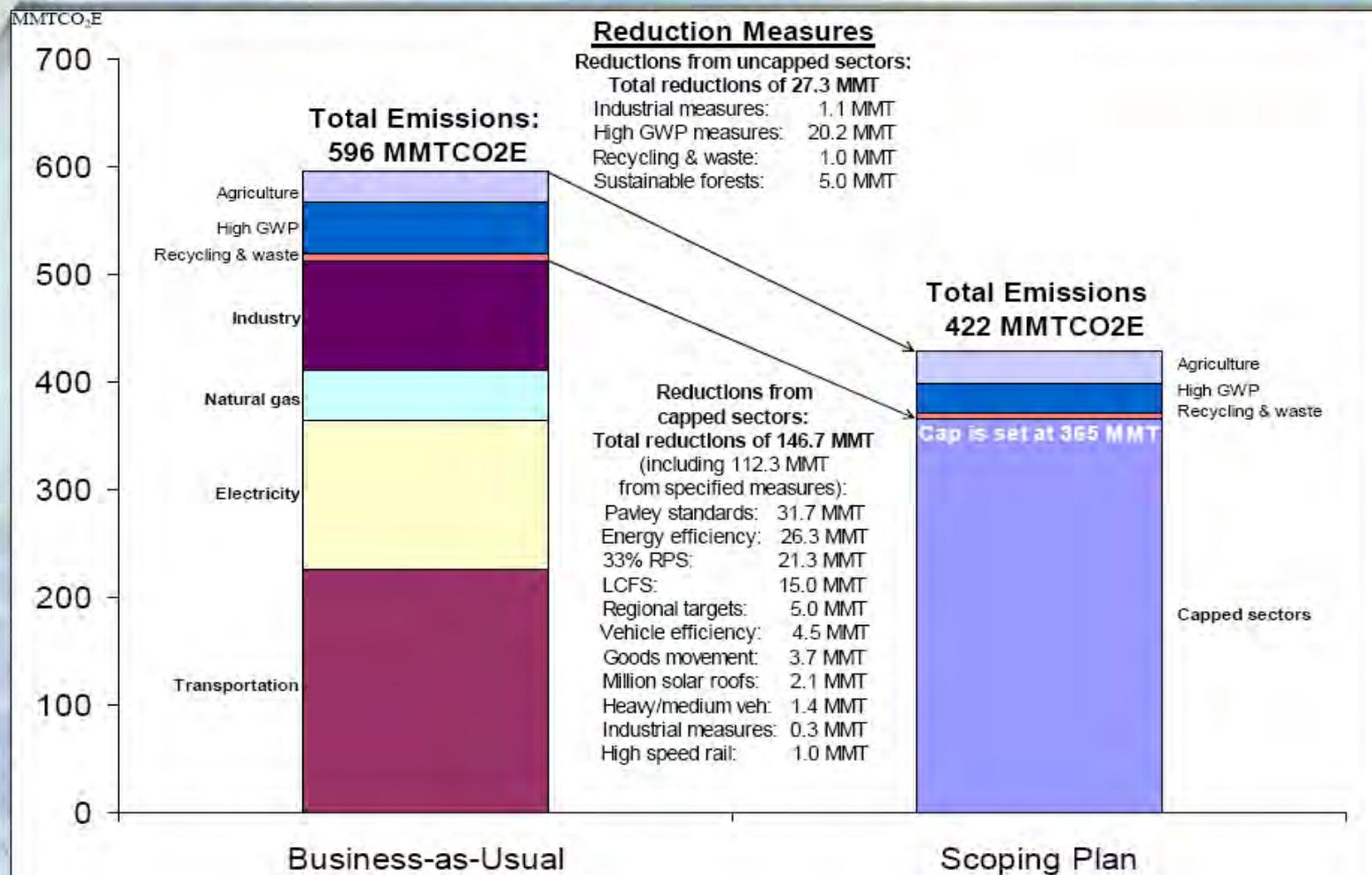
EIRs Addressing Climate Change



Illustrative CEQA Mitigation Measures

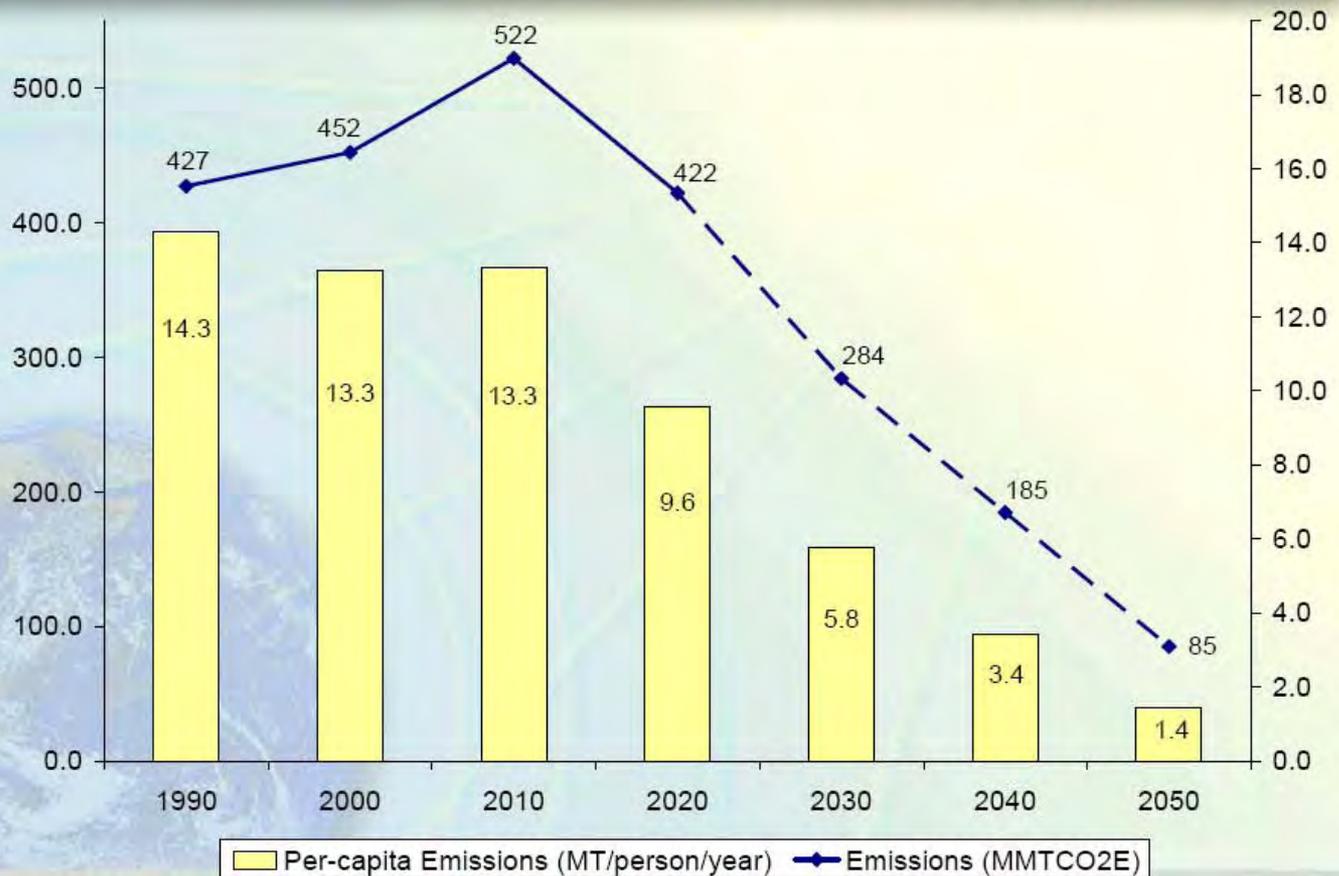
- Energy efficiency
 - Building design
 - Heating, lighting and controls
 - Cool roofs, pavement, shade trees
 - Energy management systems
 - LEDs for traffic, street, outdoor lighting
- Renewable energy
 - Solar and wind systems
 - Combined heat and power
- Water conservation and efficiency
- Solid waste measures
- Land use and transportation measures
 - Mixed use, infill, higher density development
 - Transit-oriented development
 - Pedestrian- and bike-only streets
- Carbon offsets

California 2020 GHG Emissions and Recommended Reduction Measures



Moving Toward 2050

A Clean Energy Future



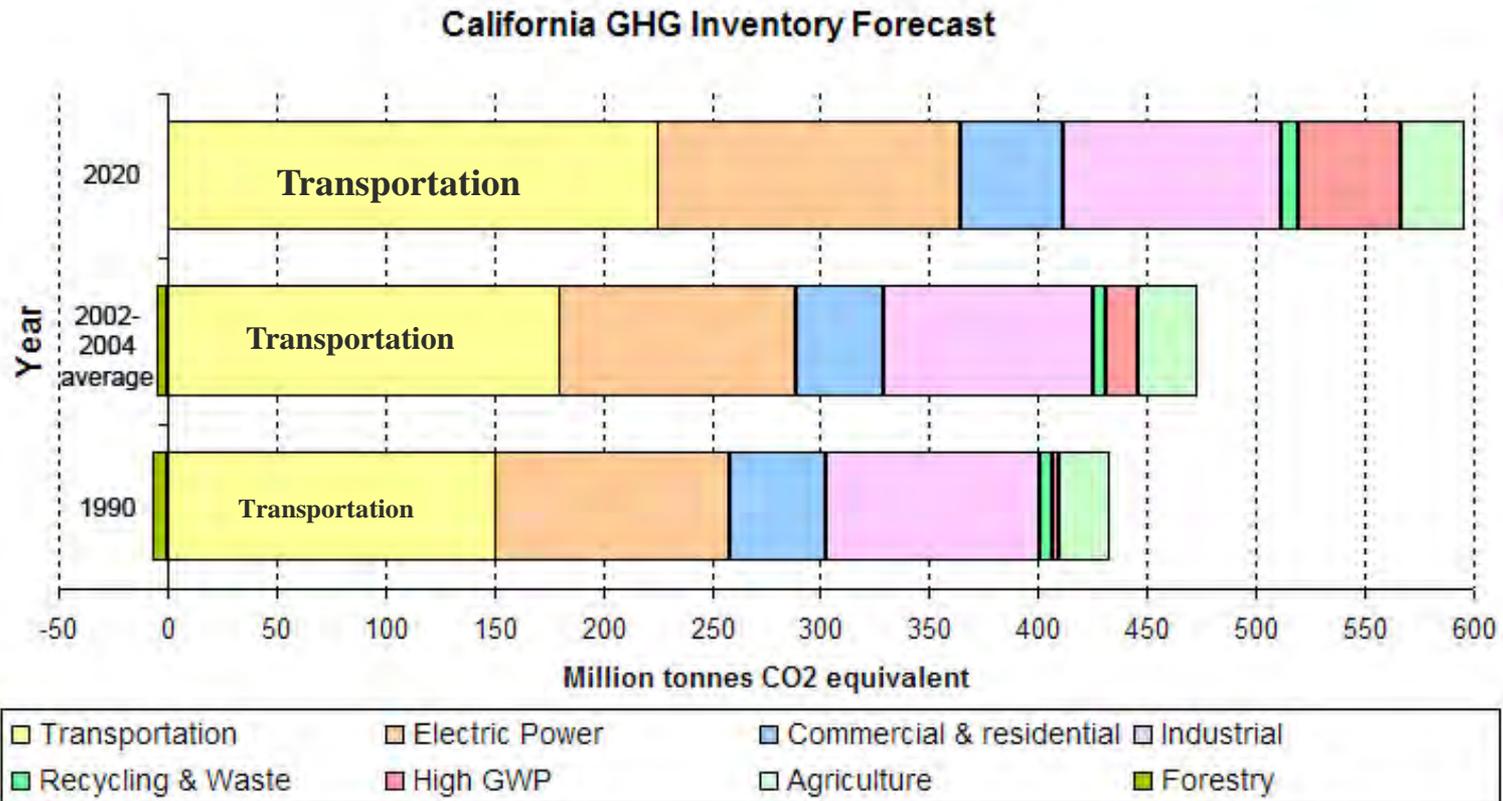
SB 375 Overview

- California's latest carbon legislation
 - Signed into law on September 30, 2008
- A means to achieve the goals of AB 32, the Global Warming Solutions Act of 2006 (Núñez)
 - For cars and light trucks
 - By reducing Greenhouse Gas (GHG) emissions
 - By promoting smart growth, transit-oriented development, and reducing sprawl

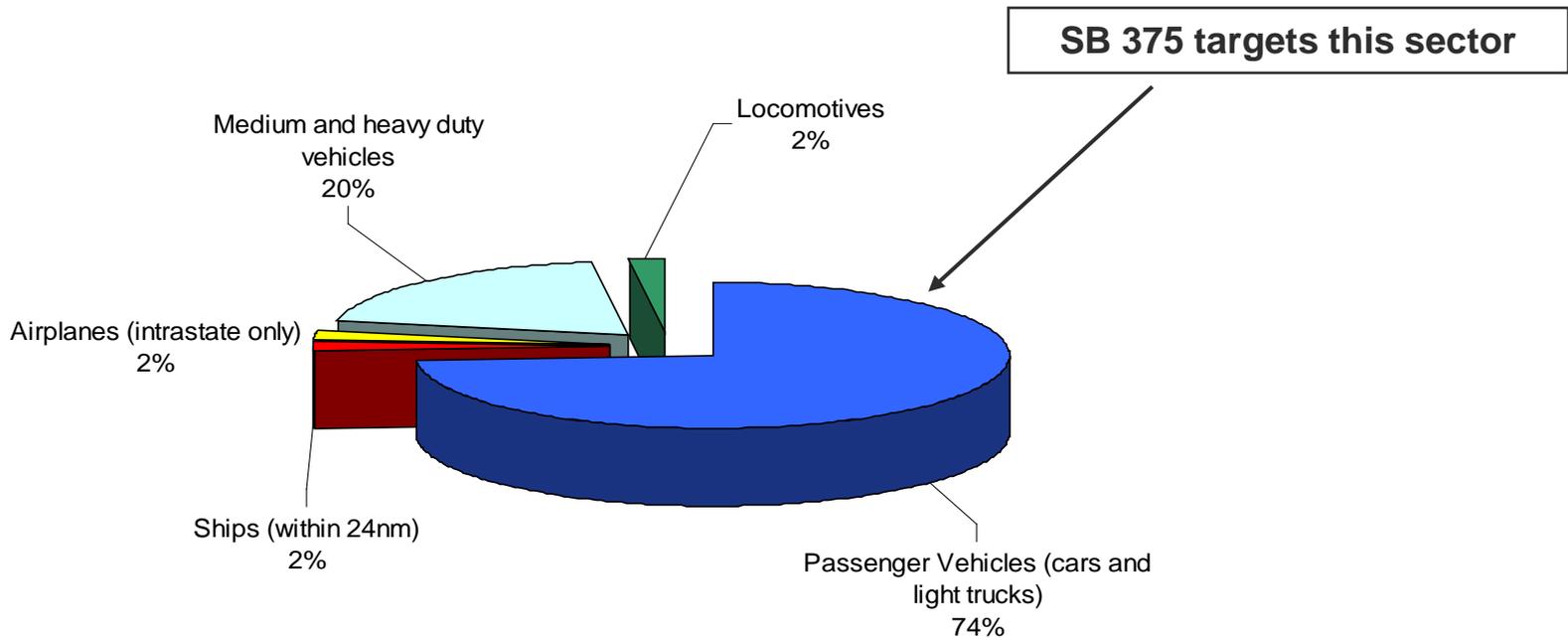
AB 32 (2006)

Global Warming Solutions Act of 2006

- Requires GHG emissions to be reduced to 1990 levels by 2020



GHG Emissions from Transportation

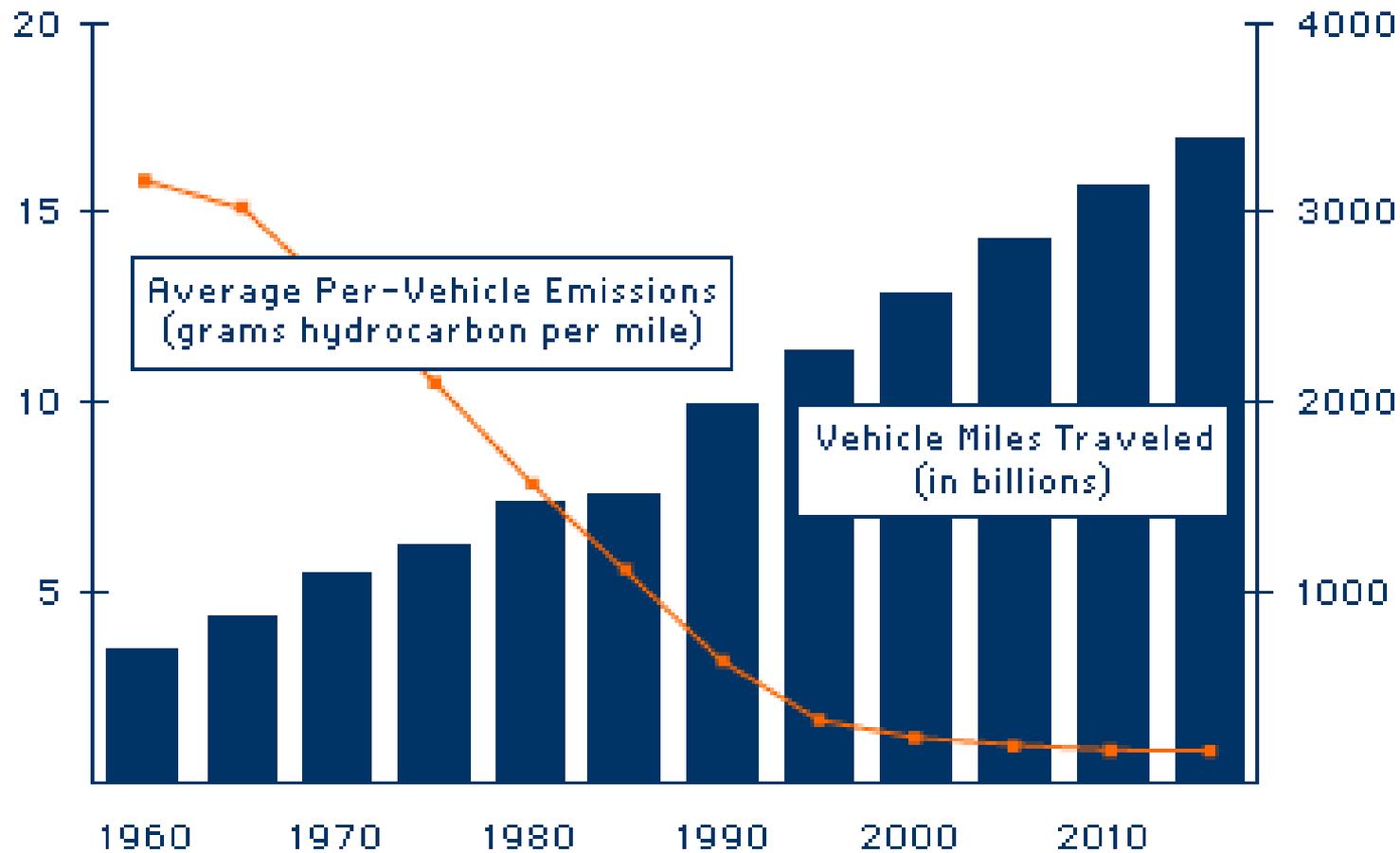


Ways to Reduce Carbon Emissions from Cars and Light Trucks

- Change the vehicles
- Change the fuels
- Reduce vehicle miles traveled
- Reduce traffic congestion

Focus of SB 375

Cars Are Getting Cleaner, but People Are Driving More



EPA OTAQ Web Site

SB 375: Legislative Declaration

- “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.*”

- SB 375, Section 1(c) (emphasis added)

Or, as Star Trek Would Have Put It:

- Mr. Scott: *“Mr. Spock, you said a while ago that there were always alternatives.”*
- Spock: *“Did I? . . . I may have been mistaken.”*
- Dr. McCoy: *“Well, at least I lived long enough to hear that.”*



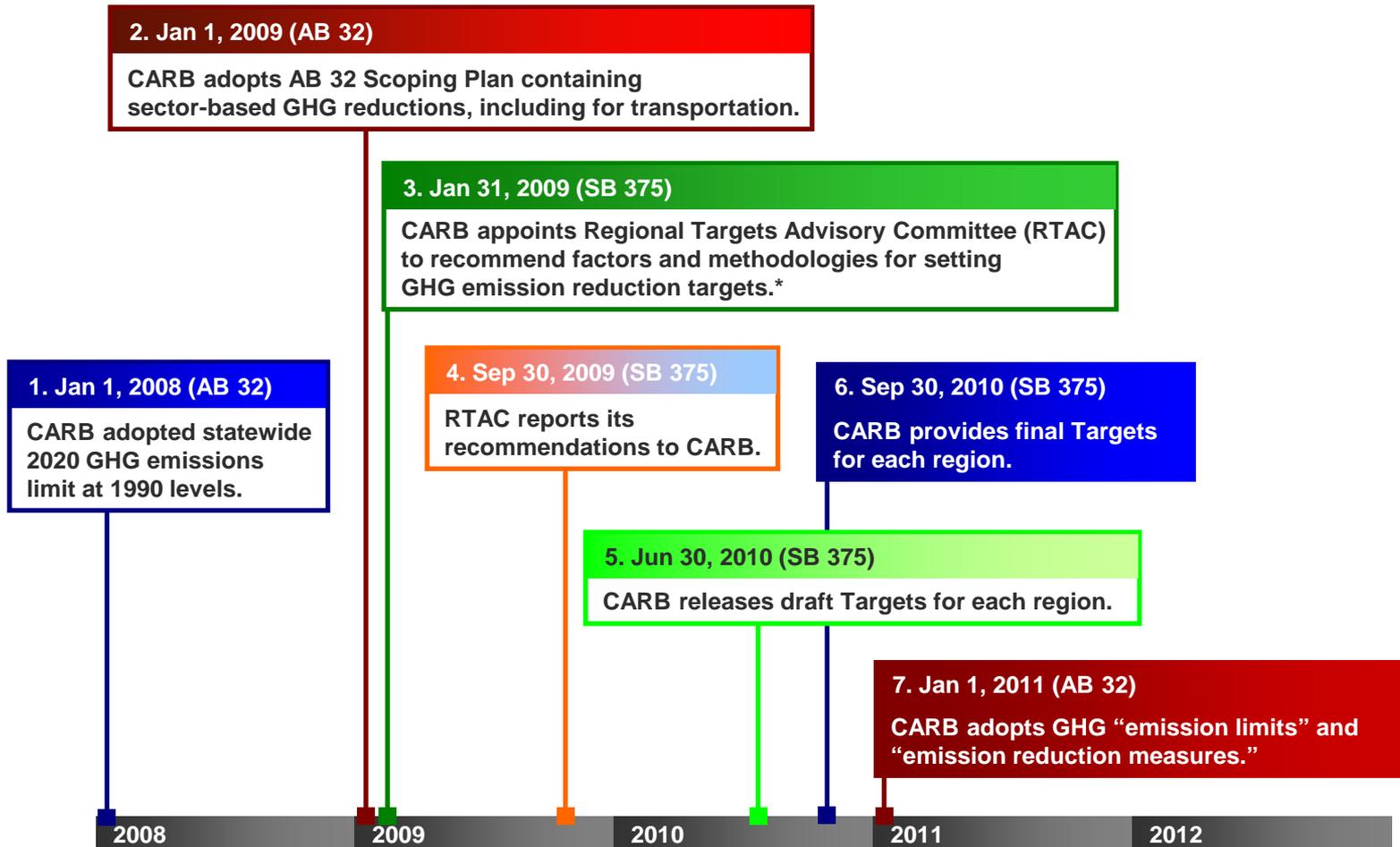
SB 375 in a Nutshell

- Travel Demand Model Guidelines
 - Requires the California Transportation Commission (CTC) to maintain guidelines for travel demand models
- Transportation Planning
 - Requires California Air Resources Board (CARB) to set regional greenhouse gas emission targets by September 30, 2010
 - Each region must incorporate its greenhouse emission target in its regional transportation plan (RTP)
 - Each region's RTP must include a Sustainable Community Strategy (SCS) or, in the alternative, adopt an Alternative Planning Strategy (APS)
- Housing Planning
 - Each region's Regional Housing Needs Allocation (RHNA) plan will be adjusted to "accommodate" the SCS or APS
- California Environmental Quality Act (CEQA) Reform
 - Creates incentives to implement the SCS or APS for:
 - (1) transit priority projects and
 - (2) residential and mixed-use residential projects

Travel Demand Modeling

- California Transportation Commission (CTC) Guidelines
 - Adopted on September 30, 2007 and revised on May 29, 2008 to address climate change and GHG emissions
- SB 375 requires CTC to consult with the California Air Resources Board (CARB)
- SB 375 encourages Metropolitan Planning Organizations (MPOs) to use the CTC Guidelines

Transportation Planning: *Timeline for Carbon Caps*



* These GHG emission reduction targets (hereinafter "Targets") referred to on this chart are for cars and light trucks only.

Transportation Planning:

Implementation Process for the SCS or APS

I. MPOs develop the SCS or APS

- Metropolitan Planning Organizations (MPOs) must incorporate a Sustainable Communities Strategy (SCS), as part of its Regional Transportation Plan (RTP)
 - SCS is the new element of the RTP
- If the SCS does not achieve the GHG emissions target, MPOs must develop an Alternative Planning Strategy (APS)

Transportation Planning:

Implementation Process for the SCS or APS

II. Submit Methodology to CARB

- MPOs must submit to CARB a description of the technical methodology it intends to use to estimate the GHG emissions from its SCS or APS

III. Participation

- SB 375 requires public and local official participation before MPOs adopt the SCS or APS
 - Local elected official workshops
 - MPOs must conduct at least two meetings in each county within the region for local elected officials
 - General public participation
 - At least one workshop must be held in each county in the region
 - For counties with a population greater than 500,000, at least three workshops must be held
 - Public hearings
 - At least three public hearings in multiple county regions
 - Two public hearings must be held in single county regions
 - Circulation of draft SCS/APS
 - A draft of the SCS or APS must be circulated at least 55 days before the adoption of the RTP

Transportation Planning:

Implementation Process for the SCS or APS

IV. Submit the SCS or APS to CARB

- Once adopted, MPOs must submit to CARB the SCS or APS for review
 - CARB's review is limited to acceptance or rejection of the SCS or APS
 - **Test:** does the SCS or APS achieve the target established by CARB?
 - CARB must complete its review within 60 days

V. Revise SCS or APS if CARB rejects it

- If CARB determines that the SCS would not achieve the GHG emission reduction target, MPOs must revise its SCS or adopt an APS (if not previously adopted) and submit it for review
 - At a minimum, the MPO must obtain CARB's acceptance that an APS would achieve the GHG emission target

Transportation Planning:

Sustainable Communities Strategy (SCS): Content

- Achieve the Carbon Target for the region, if feasible
- Address housing needs, distribution and intensities for all “economic segments of the population”
- Set forth a forecasted development pattern
- Identify a transportation network

Housing Planning

Synchronizes the RHNA and the RTP

Prior to SB 375:

- The Regional Housing Need Allocation (RHNA) plan – used by cities to **prepare and update the local housing element**
 - The Regional Transportation Plan (RTP) – used by MPOs, including the Southern California Associations of Governments (SCAG), to determine future transportation investment strategies
- The RHNA plan was based on the **short term forecast of households**
 - The RTP is based on the long term forecast of socioeconomic variables at the transportation analysis zone
- The RHNA plan was developed every **5 years**
 - The RTP is developed every **4 years**
- The RHNA plan and the RTP were developed on **different planning schedules**
 - The last RHNA was adopted by SCAG on **July 12 2007**, while the last RTP was adopted on **May 8, 2008**

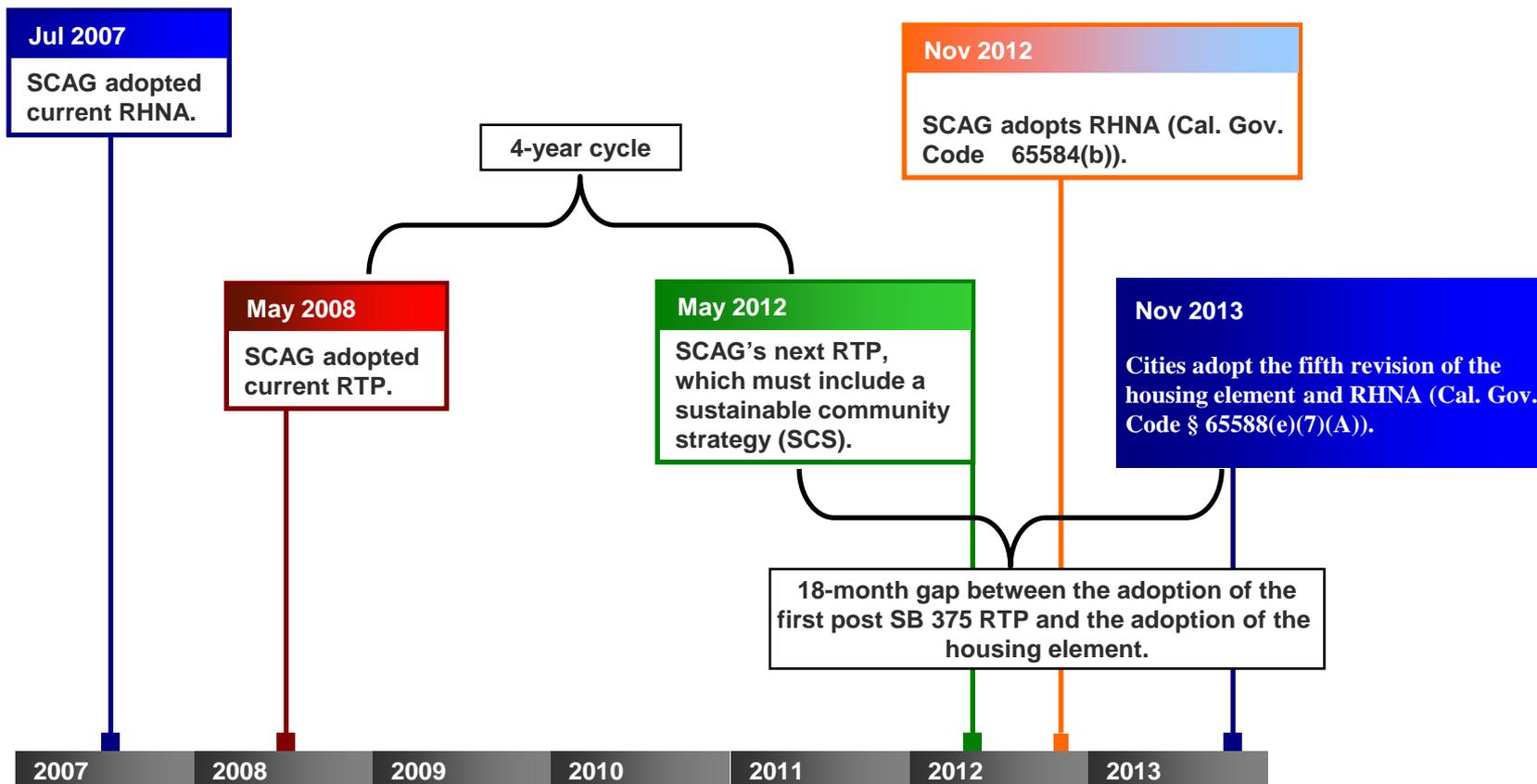
Pursuant to SB 375:

SCAG must now coordinate the RHNA plan with its long range growth forecast developed in the RTP

Non-attainment regions (i.e., SCAG) must revise their housing element every 8 years, thus synchronizing it with the RTP 4-year cycle

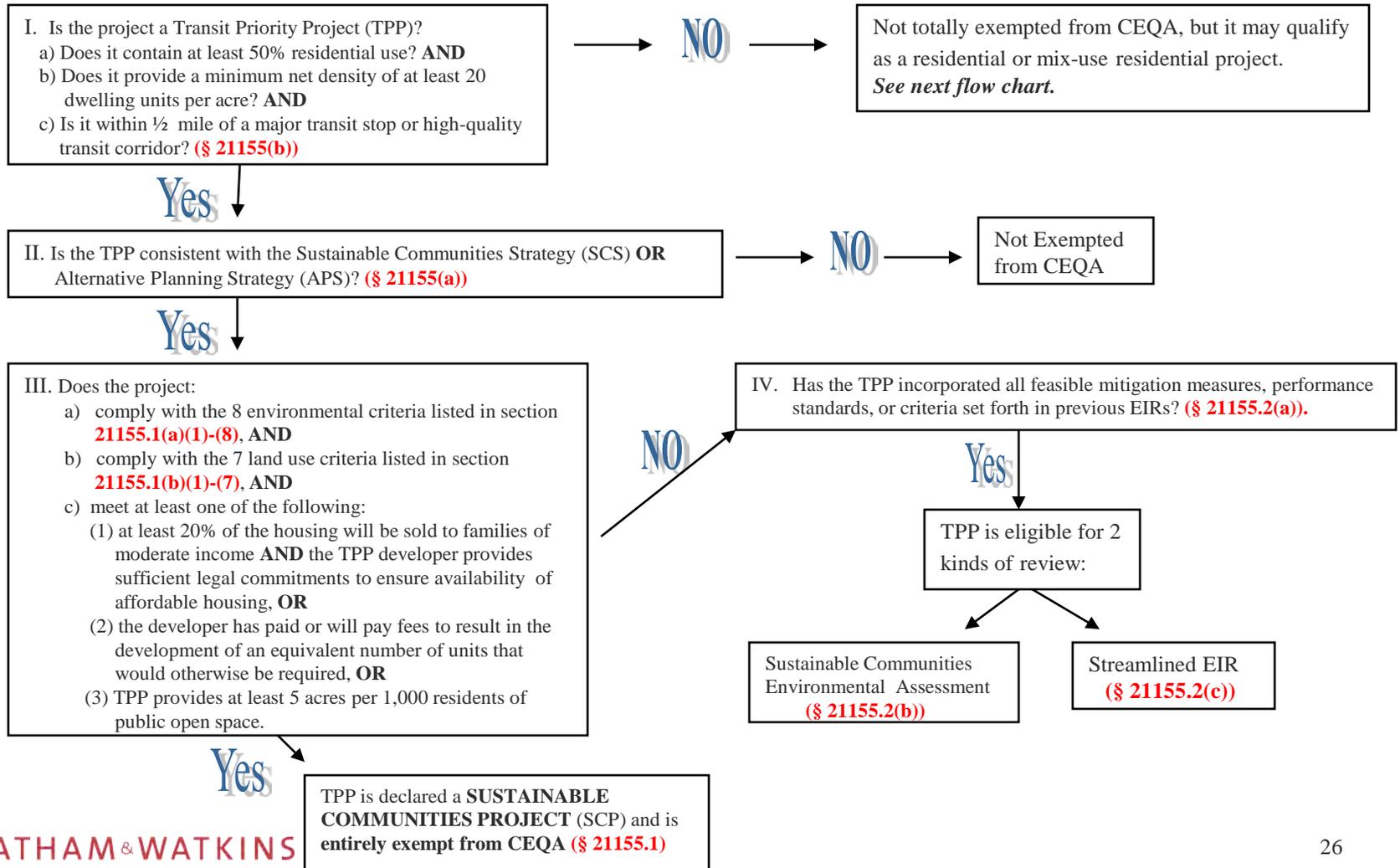
SCAG will adopt its next RTP in May 2012 and the next RHNA in November 2012

Southern California Association of Governments: RHNA Timeline



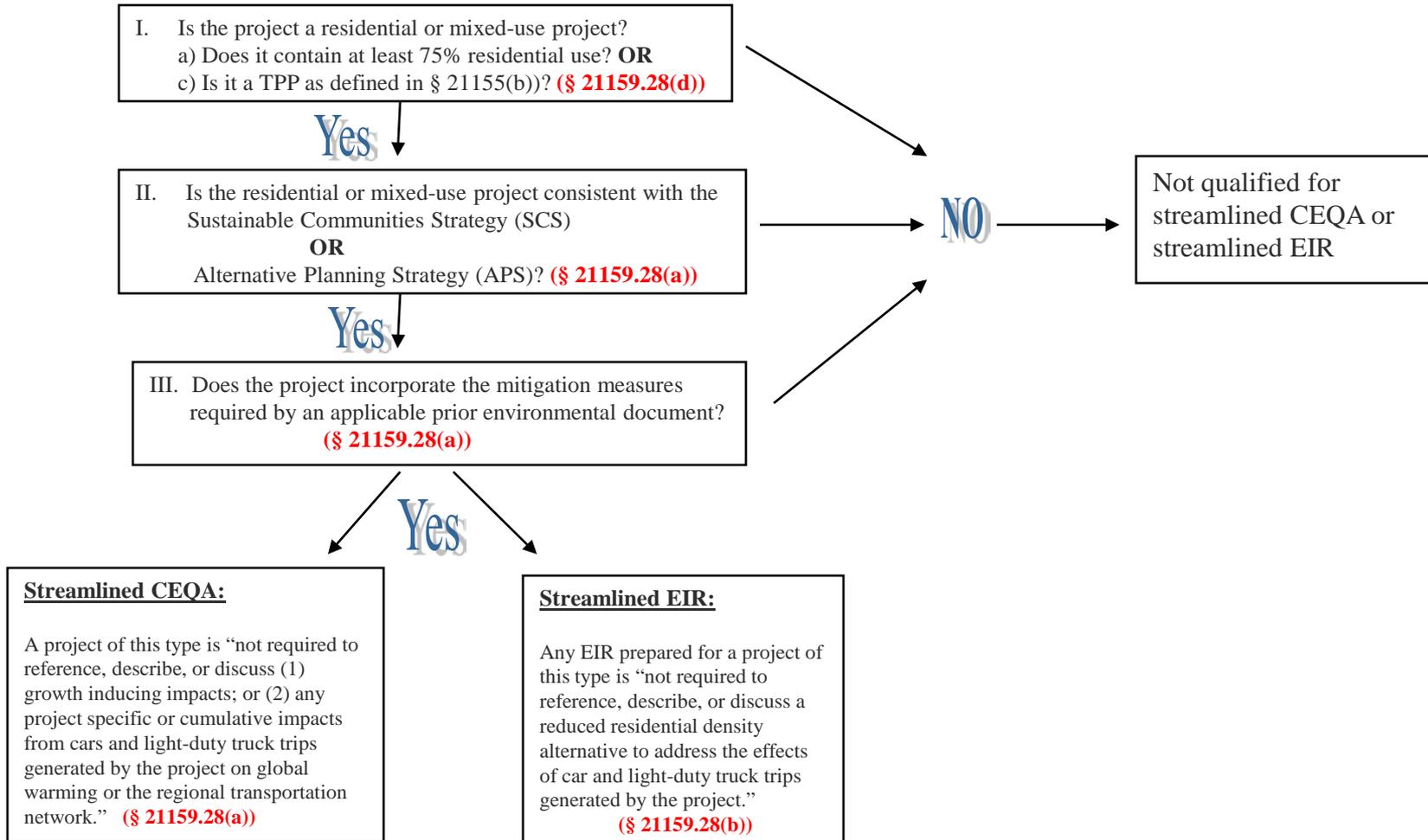
CEQA Reform

Transit Priority Projects (TPPs)

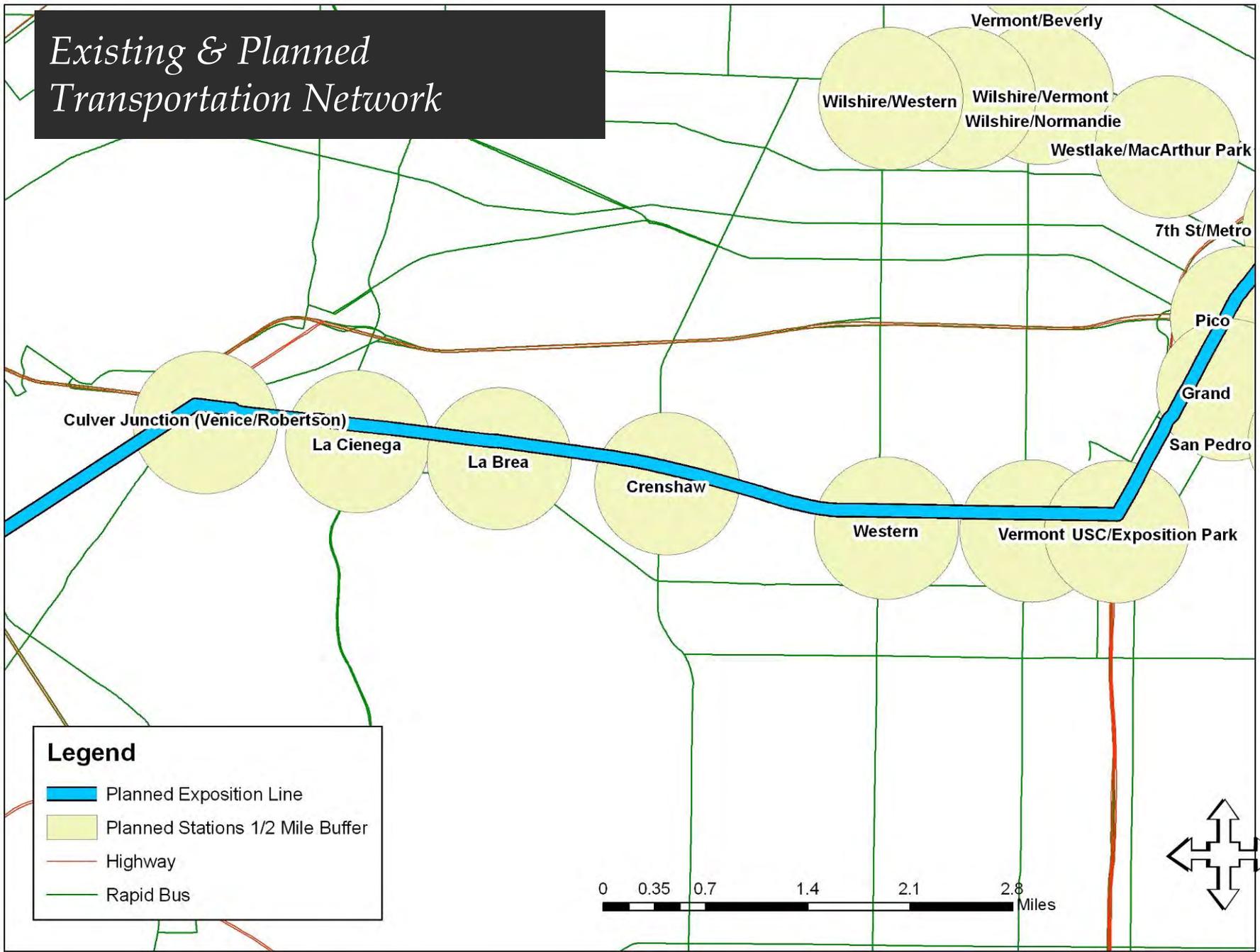


CEQA Reform

Residential or Mixed-Use Residential Projects



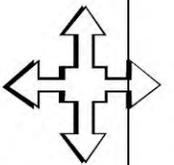
Existing & Planned Transportation Network



Legend

-  Planned Exposition Line
-  Planned Stations 1/2 Mile Buffer
-  Highway
-  Rapid Bus

0 0.35 0.7 1.4 2.1 2.8 Miles



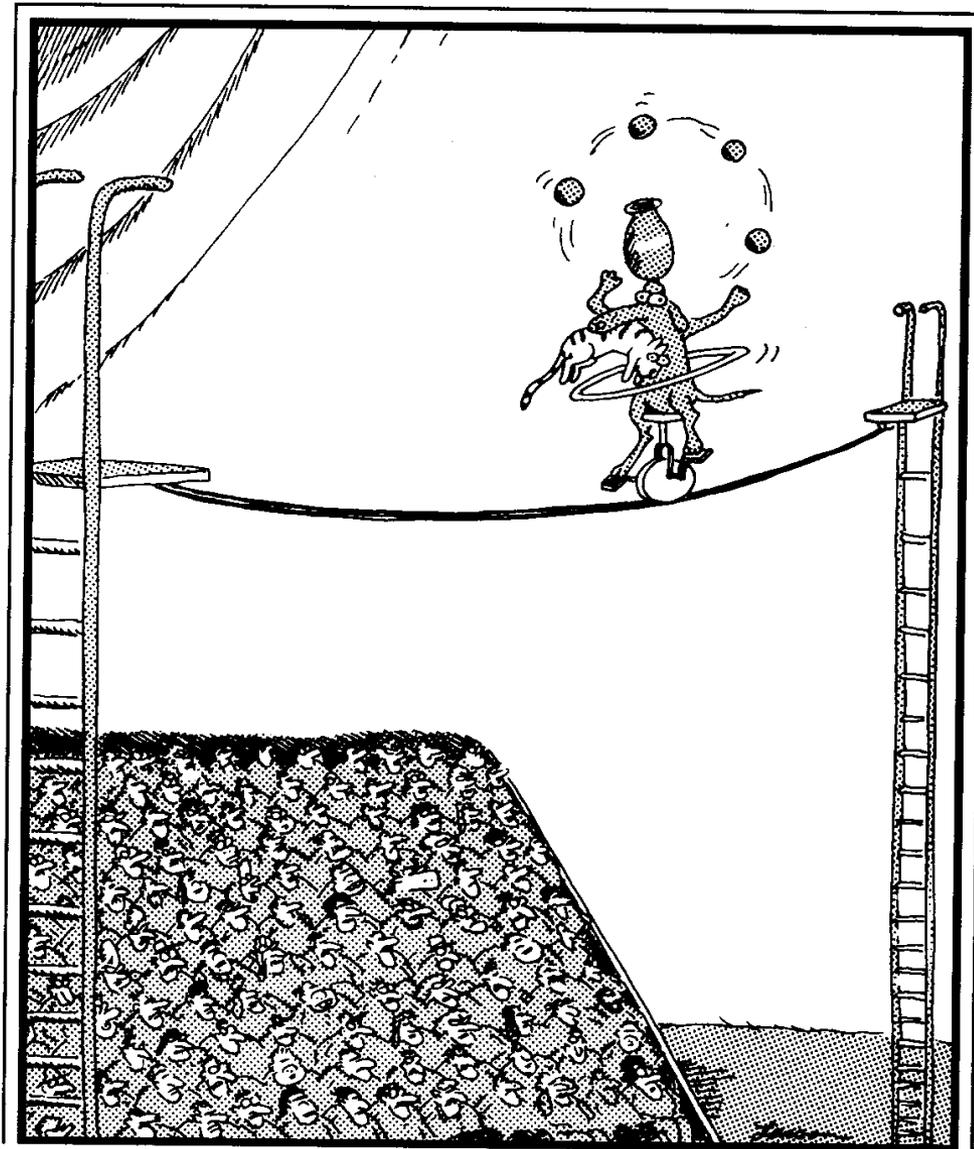
How Tough Will This Be?

- Typical Lifetimes of Capital Stock
 - Urban infrastructure 120-140+ years
 - Building stock 80 years
 - Coal-fired power plant 50 years
 - Oil Refineries 24 years
 - Heating and cooling 20 years
 - Passenger cars 15 years
 - Light bulbs 1 year

Source: OECD/IEA 2008



"That's why I never walk in front."



High above the hushed crowd, Rex tried to remain focused. Still, he couldn't shake one nagging thought: He was an old dog and this was a new trick.