

BCAG SB 743 Implementation – VMT Impact Significance Thresholds

Assessing Lead Agency Choices

BACKGROUND

This technical document summarizes the VMT impact significance threshold options and recommendations that could be used in Butte County to comply with SB 743. Selecting a threshold is a process that establishes what amount of VMT change would be considered unacceptable such that a significant impact would occur that requires mitigation. This is a difficult decision because VMT growth is a direct consequence of planned population and employment growth plus desired economic activity. In addition, VMT is the result of individual decisions on how to access destinations where activities occur such as employment, education, medical treatment, food purchase, physical and mental fitness, etc. These are all elements of economic productivity and lifestyle sustenance. So, what is the basis for deciding how much change in VMT attributable to land use and transportation projects is acceptable versus unacceptable?

To help answer this fundamental question, let's start with the general expectations of the CEQA Guidelines for adopting or using thresholds of significance.

15064.7 Thresholds of Significance.

- (a) A Threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.
- (b) Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in determination of the significance of environmental effects. Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence. Lead agencies may also use thresholds on a case-by-case basis as provided in Section 15064(b)(2).
- (c) When adopting or using thresholds of significance, a lead agency may consider thresholds of significance previously adopted or recommended by other public agencies or recommended by experts.

These general expectations help define a threshold and establish the process for creating them, but they do not help address the basic question above related to VMT change. For that guidance, some details are available in the original SB 743 statute and in the CEQA Guidelines Sections cited below.

*Public Resources Code (PRC) 21099(b)(1) The Office of Planning and Research shall prepare, develop, and transmit to the Secretary of the Natural Resources Agency for certification and adoption proposed revisions to the guidelines adopted pursuant to Section 21083 establishing criteria for determining the significance of transportation impacts of projects within transit priority areas. **Those criteria shall promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.** In developing the criteria, the office shall recommend potential metrics to measure transportation impacts that may include, but are not limited to, vehicle miles traveled, vehicle miles traveled per capita, automobile trip generation rates, or automobile trips generated. The office may also establish criteria for models used to analyze transportation impacts to ensure the models are accurate, reliable, and consistent with the intent of this section.*

21099(e) This section does not affect the authority of a public agency to establish or adopt thresholds of significance that are more protective of the environment.

15064.3(b) Criteria for Analyzing Transportation Impacts.

*(1) Land Use Projects. Vehicle miles traveled exceeding an applicable threshold of significance may indicate a significant impact. **Generally, projects within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor should be presumed to cause a less than significant transportation impact. Projects that decrease vehicle miles traveled in the project area compared to existing conditions should be presumed to have a less than significant transportation impact.***

*(2) Transportation Projects. **Transportation projects that reduce, or have no impact on, vehicle miles traveled should be presumed to cause a less than significant transportation impact.** For roadway capacity projects, agencies have discretion to determine the appropriate measure of transportation impact consistent with CEQA and other applicable requirements. To the extent that such impacts have already been adequately addressed at a programmatic level, such as in a regional transportation plan EIR, a lead agency may tier from that analysis as provided in Section 15152.*

This background material indicates that projects that would reduce baseline VMT should be presumed to have a less than significant impact. Whether this means that projects that cause an increase in VMT would have an automatic significant VMT impact is not clearly stated but could be implied. Projects locating in transit priority areas (TPAs) are called out separately as potentially deserving of the presumption for a less than significant VMT impact, but no evidence was provided to demonstrate why their added VMT would not result in the same adverse environmental effects of projects outside a TPA.

To complete the background material, state agencies have also developed the following guidance material containing threshold recommendations.

- *Technical Advisory on Evaluating Transportation Impacts in CEQA*, California Governor's Office of Planning and Research (OPR), December 2018.
- *California Air Resources Board 2017 Scoping Plan-Identified VMT Reductions and Relationship to State Climate Goals*, ARB, January 2019.
- *Vehicle Miles Traveled-Focused Transportation Impact Study Guide*, Caltrans, May 2020.

The OPR Technical Advisory is particularly important for lead agencies to consider in their threshold choices. PRC 21099(b)(1) directed OPR to revise the CEQA Guidelines to establish criteria for determining the significance of transportation impacts for the new metric, VMT. As noted above, the content of the CEQA Guidelines related to VMT significance thresholds is largely qualitative. Specific quantitative VMT significance thresholds are only provided in the OPR Technical Advisory. Whether the Technical Advisory threshold recommendations will carry the same legal weight as the CEQA Guidelines has not yet been tested in court. However, the Caltrans guidance above endorses use of the OPR threshold recommendations and the ARB threshold evaluation is also supportive of OPR's quantitative VMT thresholds.

With that background, the remainder of this document outlines three VMT significance threshold options for lead agencies in Butte County followed by specific recommendations based on current evidence. As evidence evolves, recommendations may change.

THRESHOLD OPTIONS

For purposes of this study, three threshold options are presented.

- Option 1 – Apply the CEQA Guidelines thresholds contained in 15064.3.
- Option 2 – Apply the OPR Technical Advisory thresholds for jurisdictions within a metropolitan planning organization (MPO) boundary.
- Option 3 – Apply a qualitative threshold based on interference with state VMT/GHG reduction goals.

Each threshold option is described in more detail below along with justification for its use.

Option 1 – CEQA Guidelines

As suggested above, the CEQA Guidelines Section 15064.3 can be interpreted as establishing a threshold where 'any' increase in VMT above baseline conditions would constitute a significant VMT impact. This threshold is recommended in the OPR Technical Advisory for retail land use projects. Caltrans also

supports this threshold for roadway capacity projects stating, “Within MPO areas..., a project that results in an increase in VMT when comparing the future build alternative to the future no-build alternative (i.e., the VMT is higher under the future build scenario) will generally be considered significant...”¹

This threshold has the strongest compliance with the CEQA Guidelines but would likely result in most projects having a significant VMT impact. While this would maximize the potential for mitigation to reduce VMT in Butte County it would come at the cost of performing more environmental impact reports (EIRs) instead of negative declarations that have been common in the past especially for small projects. This threshold would also ignore that VMT is connected to quality of life for which CEQA was intended to protect as noted below.

PRC 21000. LEGISLATIVE INTENT

The Legislature finds and declares as follows:

(b) It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man.

PRC 21001. ADDITIONAL LEGISLATIVE INTENT

The Legislature further finds and declares that it is the policy of the state to:

(d) Ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions.

The need for EIRs could be reduced for jurisdictions willing to perform general plan updates that address VMT impacts in the general plan EIR with the explicit objective of taking advantage of CEQA Guidelines Section 15183.² This section of the Guidelines relieves a project of additional environmental review if the environmental impact was adequately addressed in the general plan EIR (this means that project-level mitigation to lessen the VMT impact must be included) and the project is consistent with the general plan.

15183. Projects Consistent with a Community Plan or Zoning

(a) CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies.

¹ *Transportation analysis Under CEQA First Edition, Evaluating Transportation Impacts of State Highway System Projects*, California Department of Transportation, September 2020.

² A General Plan EIR can also be used to streamline project-level VMT analysis though other methods such as tiered EIRs (CEQA Guidelines Section 15152) and Program EIRs (CEQA Guidelines Section 15168).

The use of Section 15183 also addresses cumulative impacts as acknowledged in Section 15130(e).

15130. Discussion of Cumulative Impacts

(e) If a cumulative impact was adequately addressed in a prior EIR for a community plan, zoning action, or general plan, and the project is consistent with that plan or action, then an EIR for such a project should not further analyze that cumulative impact, as provided in Section 15183(j).

For Butte County jurisdictions, addressing transportation VMT impacts in the City or County General Plan EIR would streamline subsequent project CEQA reviews and could improve the ability of the jurisdiction to reduce VMT through mitigation programs (i.e., VMT impact fee program, exchange or bank).

Option 2 - OPR Technical Advisory

The OPR Technical Advisory contains VMT threshold recommendations that vary by type of project and type of land use as follows.

- Residential projects – A proposed project exceeding a level of 15 percent below existing (baseline) VMT per capita may indicate a significant transportation impact. Existing VMT per capita may be measured as regional VMT per capita or as city VMT per capita.³
- Office projects – A proposed project exceeding a level of 15 percent below existing (baseline) regional VMT per employee may indicate a significant transportation impact.
- Retail projects greater than 50,000 square feet – A net increase in total VMT may indicate a significant transportation impact.
- Mixed-use projects – Lead agencies can evaluate each component of a mixed-use project independently and apply the significance threshold for each project type included (e.g., residential and retail). Alternatively, a lead agency may consider only the project's dominant use. In the analysis of each use, a project should take credit for internal capture.
- Other project types – The OPR Technical Advisory recommends that lead agencies consider the CEQA statute and CEQA Guidelines sections cited above in the development of thresholds for other project types. In addition, the Technical Advisory advises avoiding projects or actions that would increase total VMT or encourage development in less travel-efficient locations. This information may indicate that any increase in total VMT could constitute a significant impact.
- Redevelopment projects – Where a project replaces existing VMT-generating land uses, if the replacement leads to a net overall decrease in VMT, the project would lead to a less-than-

³ All references to VMT in the OPR Technical Advisory only include passenger vehicle VMT. Commercial vehicle VMT is excluded.

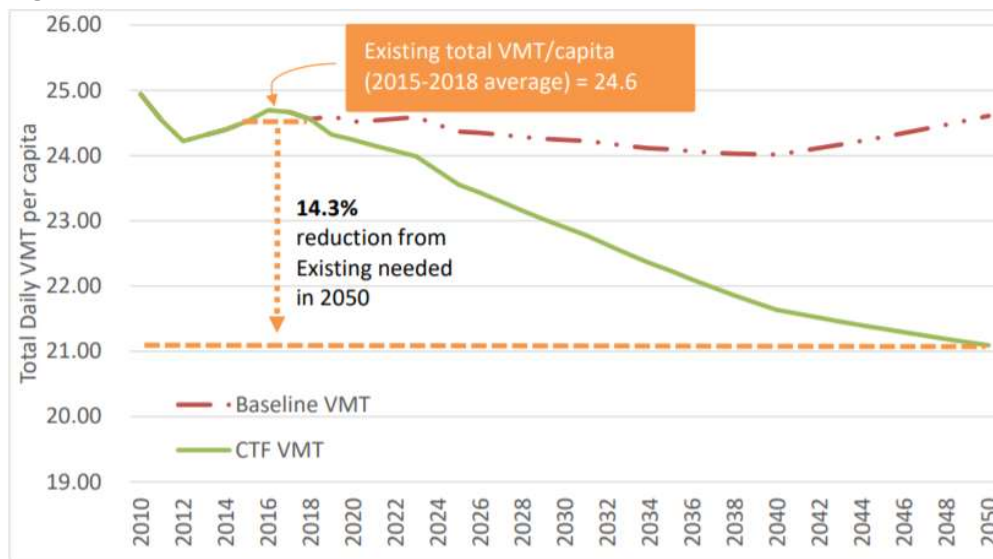
significant transportation impact. If the project leads to a net overall increase in VMT, then the thresholds described above should apply.

- Transportation projects – Lead agencies should develop a project-level threshold based on the VMT levels required to achieve the GHG reduction goals of the ARB 2017 Scoping Plan and Mobile Source Strategy. Based on analysis documented in *2017 Scoping Plan-Identified VMT Reductions and Relationship to State Climate Goals*, California Air Resources Board, January 2019, California has a VMT growth capacity of 6.5 percent by 2050 above a 2015-2018 baseline average. For Butte County, this equates to about 326,350 weekday VMT in 2050.

An important question raised by the land use specific thresholds is what evidence exists that treating retail (and potentially 'other project types') differently is justified? One VMT generated by retail has the same environmental impacts as one VMT generated by a residential use. OPR staff have also recommended during SB 743 office hours hosted by the agency that other non-residential land uses not listed above could use the net increase in total VMT threshold specified for retail. While adding retail land uses can contribute to shorter vehicle trip lengths for shopping trips, the new use will attract new employee and vendor vehicle trips that may result in higher VMT levels. Lead agencies should verify that potential reductions in VMT from redistributed shopping trips are sufficient to offset any new VMT generated by the employee and vendor vehicle trips.

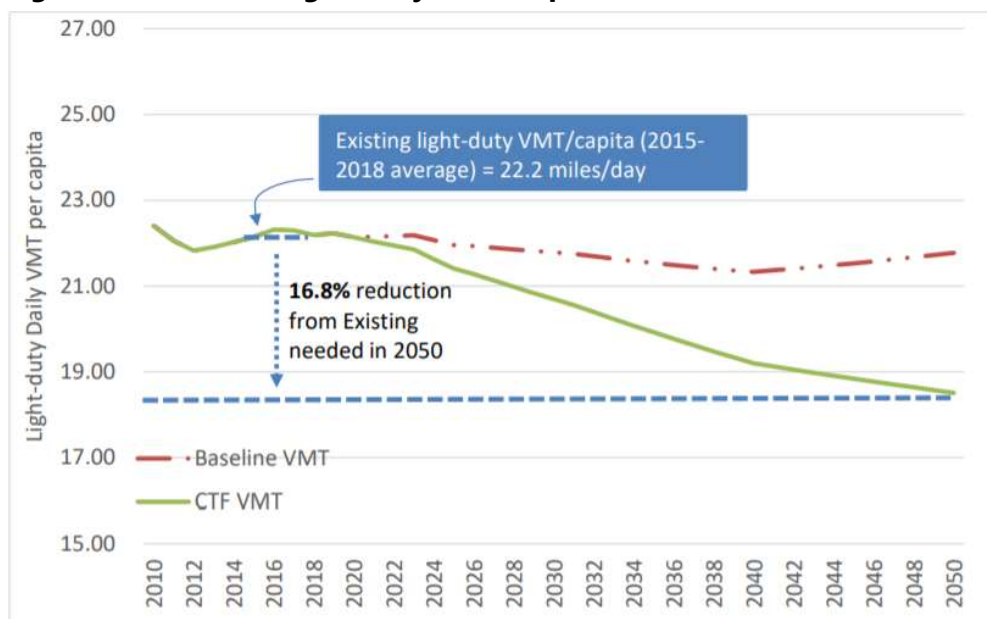
Another potential limitation of using the OPR Technical Advisory recommendations directly is that the 15 percent reduction is less than recommended by ARB in the *2017 Scoping Plan-Identified VMT Reductions and Relationship to State Climate Goals*, California Air Resources Board, January 2019. This document demonstrates that a reduction of 16.8 percent in light duty vehicle VMT per capita (or 14.3 percent if measuring total VMT per capita) is needed to achieve the state's GHG reduction goals (see Figures 1 and 2 below). Use of 16.8 in place of the 15 percent per capita above would help strengthen the OPR thresholds. This modified threshold could also be applied for 'retail' or 'other project types' since the ARB analysis was based on VMT from all sources. Doing so would avoid the potential disparate treatment problem noted above.

Figure 1: Statewide Total VMT/Capita



Source: 2017 Scoping Plan-Identified VMT Reductions and Relationship to State Climate Goals, ARB (pg. 10)
https://ww2.arb.ca.gov/sites/default/files/2019-01/2017_sp_vmt_reductions_jan19.pdf

Figure 2: Statewide Light-Duty VMT/Capita



Source: 2017 Scoping Plan-Identified VMT Reductions and Relationship to State Climate Goals, ARB (pg. 11)
https://ww2.arb.ca.gov/sites/default/files/2019-01/2017_sp_vmt_reductions_jan19.pdf

One benefit of relying on ARB percentages as part of the OPR thresholds is the CEQA Guidelines provision in Section 15064.7(c) highlighted below.

15064.7 Thresholds of Significance.

- (c) When adopting or using thresholds of significance, **a lead agency may consider thresholds of significance previously adopted or recommended by other public agencies or recommended by experts.**

ARB meets the criteria of being a public agency and having noted expertise in the areas of VMT and GHG emissions. Further, the recommended percentages above were developed in specific consideration of SB 743 requirements. ARB's *2017 Scoping Plan* (p. 11) provides that its recommendations "are non-binding, and intended as supportive documentation that can be used at a lead agency's discretion to help substantiate significance thresholds used for purposes of compliance with SB 743, and to help minimize occurrence of duplicate or redundant analysis across transportation and climate resource impact areas under CEQA."

Option 3 – Interference with State Ability to Meet VMT/GHG Reduction Goals

Considering the information above, expectations for VMT reduction are largely coming from the state as part of GHG reduction goals but without a specific legal requirement that a local agency reduce VMT levels. Local jurisdictions may value VMT reduction differently than the state, which could influence their decision about what amount of VMT change should be deemed unacceptable such that a significant impact would occur. Lead agencies have discretion to set their own thresholds as outlined in CEQA Guidelines Section 15064.

*15064.(b)(1) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. **An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.***

Therefore, the following VMT significance threshold is designed to help lead agencies balance local and state expectations.

- *The proposed project will cause a significant VMT impact if its implementation substantially interferes with achievement of VMT reduction goals of the state consistent with CARB's 2017 Scoping Plan.*

This threshold recognizes that VMT reduction is tied to state GHG reduction goals and allows a lead agency to assess VMT impacts of local projects based on whether they would interfere or prevent the state from taking actions necessary to reduce VMT consistent with state goals. The state has the authority to implement a wide variety of actions that could effectively reduce VMT such as higher gas taxes, a new

VMT tax, new tolls, etc. Local projects that do not interfere with this authority could reflect that outcome as part of their VMT impact analysis using this threshold. The project's environmental review document should still disclose relevant information about how the project's VMT performance compares to applicable threshold recommendations from state agencies such as OPR and ARB, but this information would not be used as the basis for a significance conclusion.

Other Options

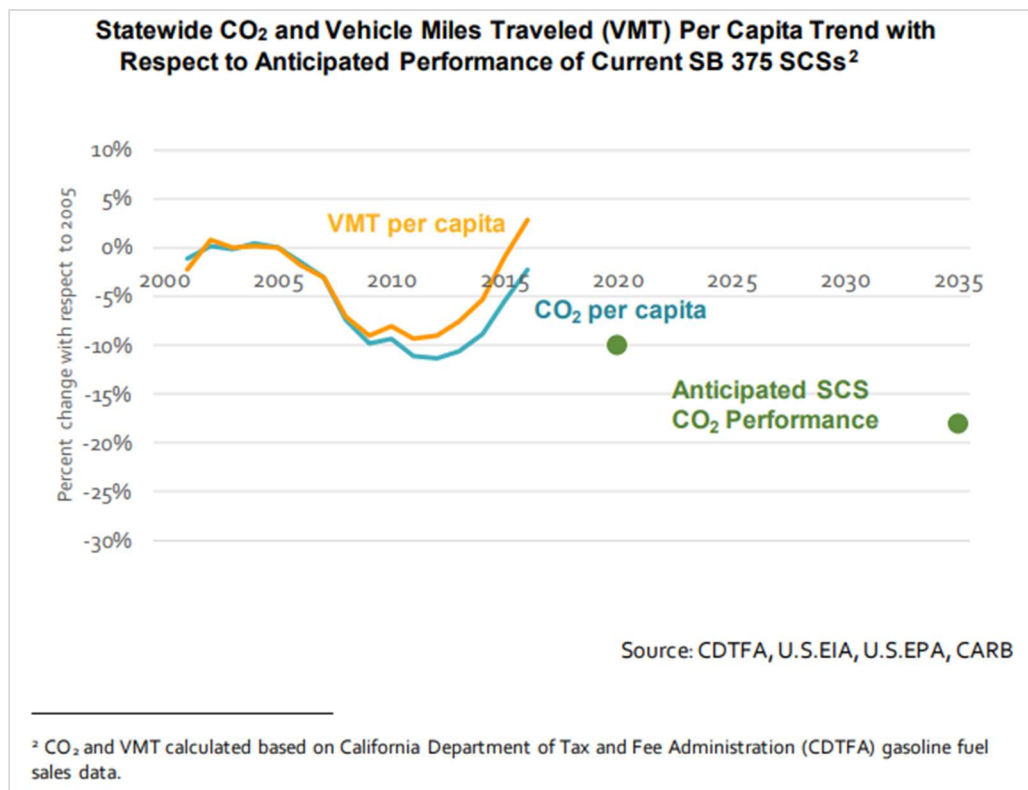
A variety of other options or modifications of the options above are available for lead agencies to consider. The options presented above cover the range of options with Options 1 and 3 representing the opposite ends of the range. Under any option, it is also important to note that final VMT impact significance determinations should also consider other available evidence.

Two important examples of this evidence are listed below.

- *2018 Progress Report, California's Sustainable Communities and Climate Protection Act*, California Air Resources Board, November 2018 (referred to as the Progress Report in the remainder of this document)
- *California Air Resources Board Improved Program Measurement Would Help California Work More Strategically to Meet Its Climate Change Goals*, Auditor of the State of California, February 2021 (referred to as the Audit Report in the remainder of this document).

The Progress Report measures the effect of SB 375 revealing that VMT and GHG per capita increased between 2010 and 2016 and are trending upward (see Figure 3 below). This outcome was in direct contrast to all the regional transportation plan/sustainable communities strategies (RTP/SCSs) predicting declines in GHG per capita in alignment with SB 375 reduction targets. With VMT per capita trending up due to conditions beyond the control of local jurisdictions (i.e., increased economic activity, low fuel prices, etc.), concluding that a project would have a less than significant VMT impact based on its performance below the OPR or ARB recommended thresholds would have limited confidence especially when relying on RTP/SCS travel demand models to produce the project VMT forecasts.

Figure 3: VMT/Capita Trends



The Audit Report is a more recent assessment of ARB’s GHG reduction programs, which also found that VMT and its associated GHG emissions are trending in the wrong direction. Per the audit, the state is not on track to achieve 2030 GHG reduction goals and emissions from transportation have not been declining (see Figure 4). Transportation related GHG emissions increased between 2013 and 2018.

THRESHOLD RECOMMENDATIONS

So how should lead agencies approach VMT threshold setting given their discretion and the legal risk associated with CEQA compliance? Since an impact under CEQA is a change to the existing environment, a starting level for potential thresholds is the baseline. This thinking would support Option 1 and would likely have the strongest evidence basis for making significance determinations. However, many lead agencies and project applicants are not prepared for the changes in CEQA documentation that would likely occur under this option where most projects would have a significant VMT impact. The option also ignores the positive role that VMT plays in the economy and quality of life. Considering the remaining two options, the differences are certainly stark and neither has been tested in the courts

Option 2 complies with state expectations as expressed through CEQA guidance prepared by OPR and ARB while Option 3 opts for more local control of the threshold. Under Option 3, local land use projects would likely be found to have less than significant VMT impacts because they would not interfere with the

state's ability to achieve desired VMT reductions through state actions. This is factual and supported by evidence but involves uncertainty without court validation. Given the litigious nature of CEQA, Option 3 involves more risk associated with CEQA compliance, so Option 2 has generally been accepted by other local jurisdictions throughout the state. Option 2 also has the endorsement of Caltrans as noted in the *Vehicle Miles Traveled-Focused Transportation Impact Study Guide*, Caltrans, May 2020.

Caltrans recommend(s) use of OPR's recommended thresholds for land use projects. As each lead agency develops and adopts its own VMT thresholds for land use projects, Caltrans will review them for consistency with OPR's recommendations, which are consistent with the state's GHG emissions reduction targets and CARB's Scoping Plan.

Whatever option a lead agency chooses should be supported by substantial evidence. This includes strengthening the evidence supporting Option 2 and being prepared to explain their rationale and evidence in their environmental documents and when responding to public and agency comments during environmental document reviews.

Use of Screening

As part of selecting thresholds, lead agencies should also decide if they will allow the use of VMT impact screening as outlined in the OPR Technical Advisory. Screening is an optional approach to impact analysis that is intended to streamline the review of projects that can be presumed to have a less than significant VMT impact. Instead of performing a complete VMT impact analysis for these projects, a partial analysis is used to assess whether the less than significant presumption is supported. While this process involves much less time and effort than a complete analysis, it also does not include all of the evidence that would be provided in a complete analysis. Hence, a lead agency is trading off streamlined review against having complete evidence to support the VMT impact finding.

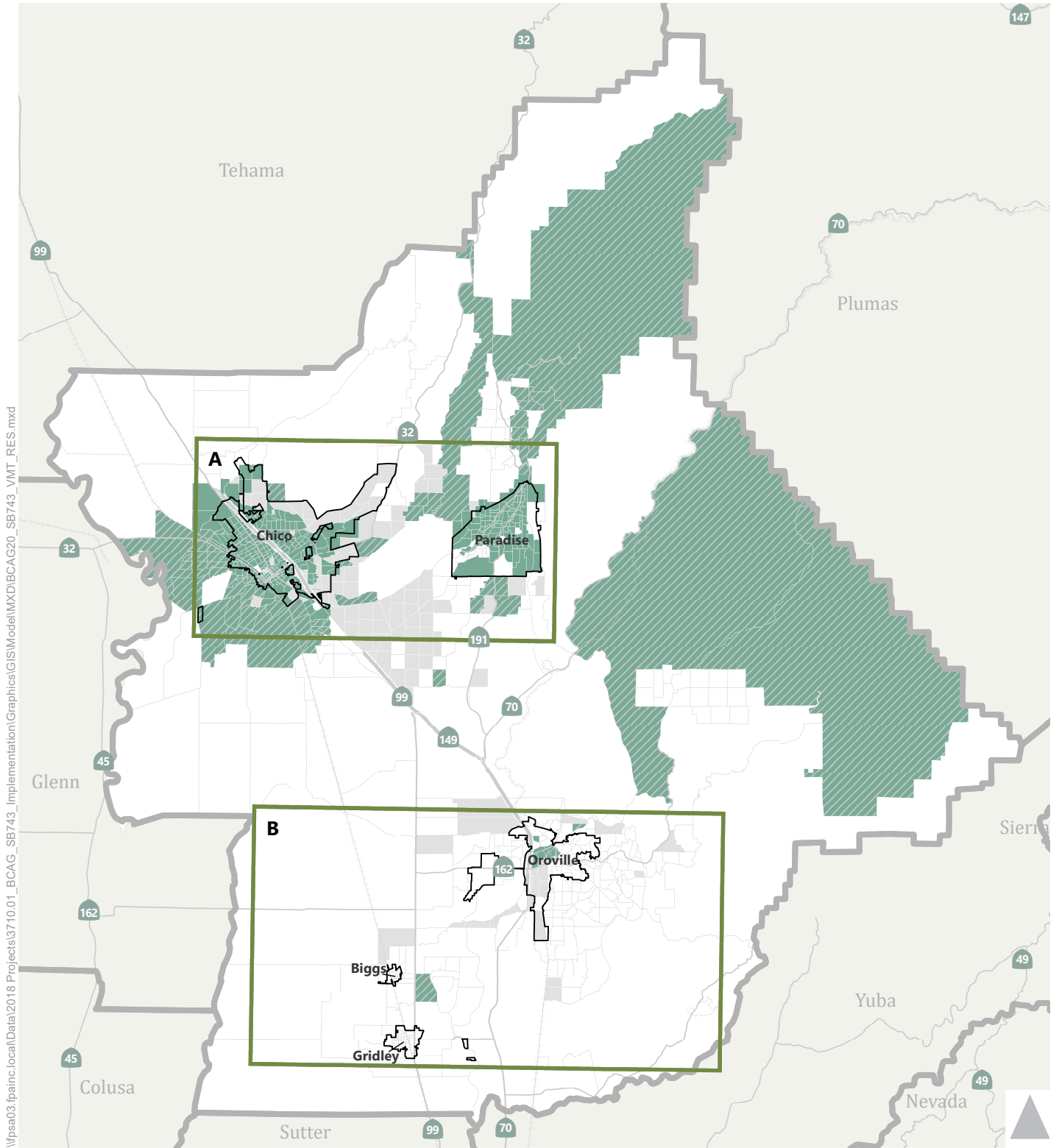
Per the Technical Advisory, screening is generally intended for smaller, less complex projects or for projects supportive of SB 743 goals such as affordable housing projects and projects located near high quality transit stations. If a project meets any of the following criteria, it may be presumed to cause a less-than-significant VMT impact without further study. This presumption is not a "safe harbor" but is subject to other substantial evidence verifying the presumption. All projects should be consistent with the applicable general plan as well as the RTP/SCS. See the OPR Technical Advisory for all the details associated with each screening criteria.

- The project generates less than 110 vehicle trips per day. This screening threshold does not use VMT but is tied to vehicle trip generation of project sizes allowed to be exempted from CEQA review.
- The project is a residential or office land use and located in a low VMT traffic analysis zone (TAZ). The project should contain similar features to other built environment features in the area to ensure it will also generate low VMT. To qualify as a low VMT TAZ for residential land uses, the TAZ should generate home-based VMT per resident that is equal to or lower than 15 percent







below the city-wide or region-wide average. For office land uses (and possibly other work-related land uses), the TAZ should generate home-based work VMT per employee that is equal to or lower than 15 percent below the region-wide average.

- The project is located in a transit priority area (TPA) as defined in CEQA Guidelines Section 15064.3 and PRC Sections 21064.3 and 21155 and does not contain features that would be inconsistent with low VMT generating land uses. No transit stations in Butte County currently qualify for TPA status although the RTP/SCS identified future areas in Chico where enhanced transit service and growth are to be focused.
- The project contains 100 percent affordable residential development.
- The project is a local-serving retail or other local serving employment project less than 50,000 square feet (larger retail projects may also qualify due to distance from other population centers).

For lead agencies interested in using the low VMT TAZ screening, map examples for residential and office land uses are provided in Figures 4 and 5, respectively based on a comparison of home-based VMT per resident and home-based work VMT per employee to the regional averages for each metric. Additional maps based on comparisons to citywide averages can also be produced for interested agencies.



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|---|--|---|
|  No Value |  < -15% below BCAG Average |  City Boundaries |
|  > -15% below BCAG Average |  Additional Investigation Required* |  County Boundaries |

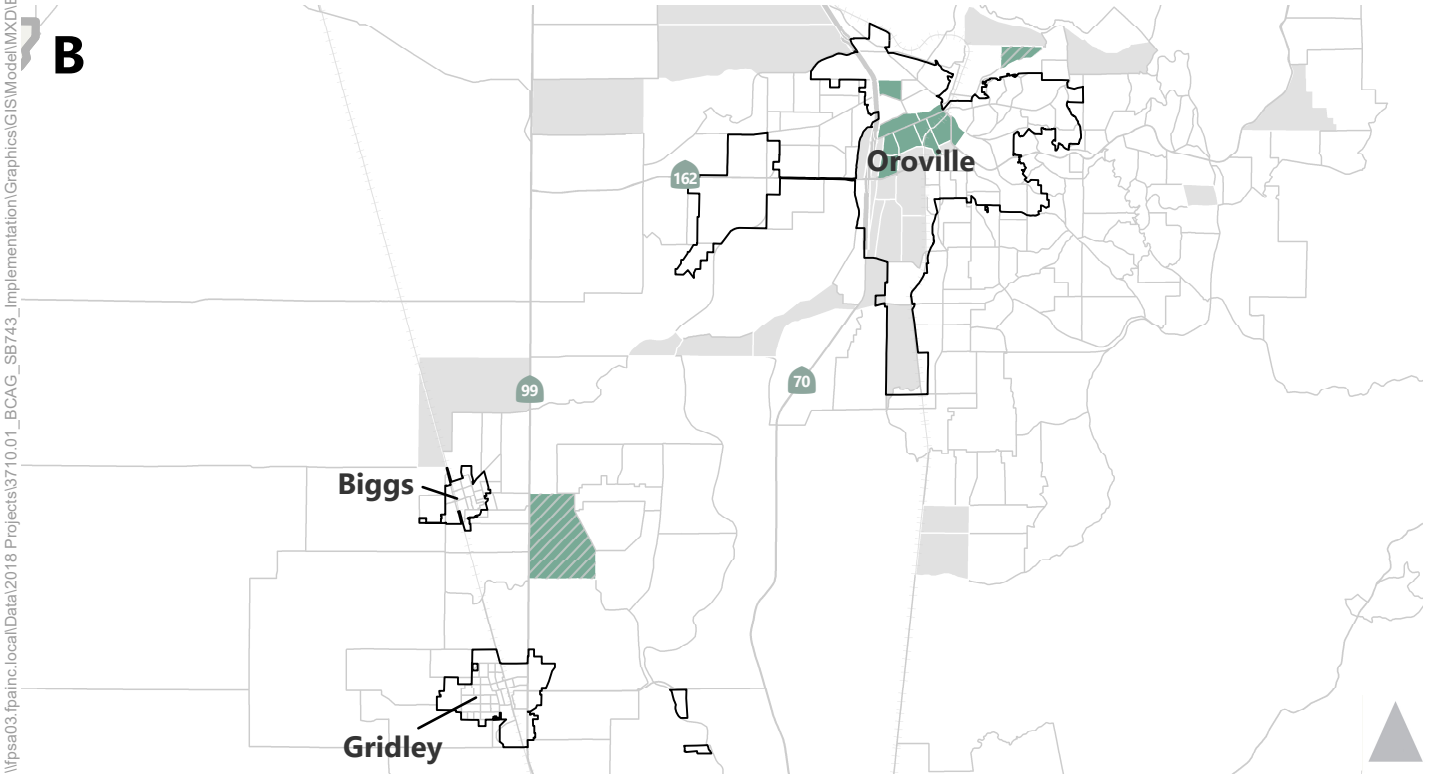
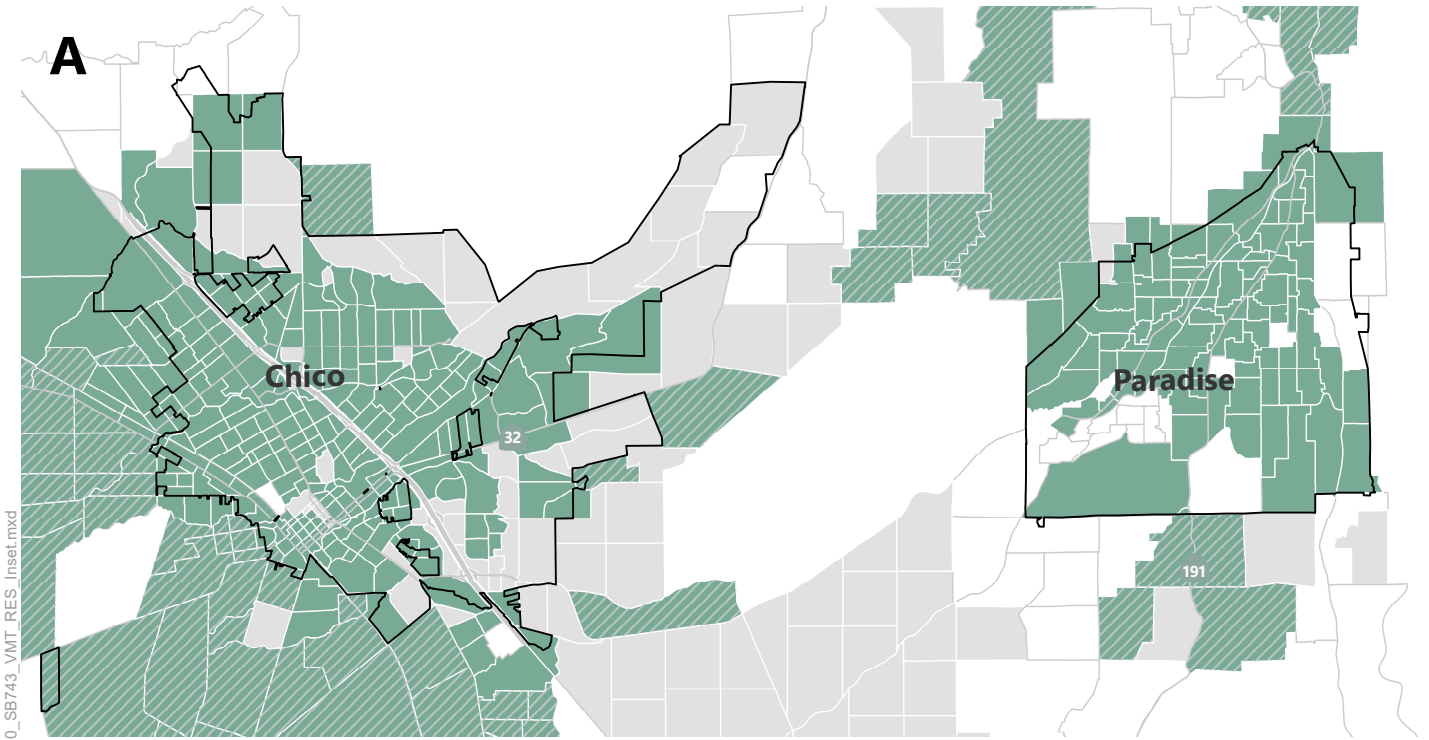
* Area may not qualify for screening due to land use context.

A,B: Inset maps can be found in Figure 4-A

Figure 4



BCAG Model (2020) Daily Home-Based VMT per Resident Comparison to Regional Average



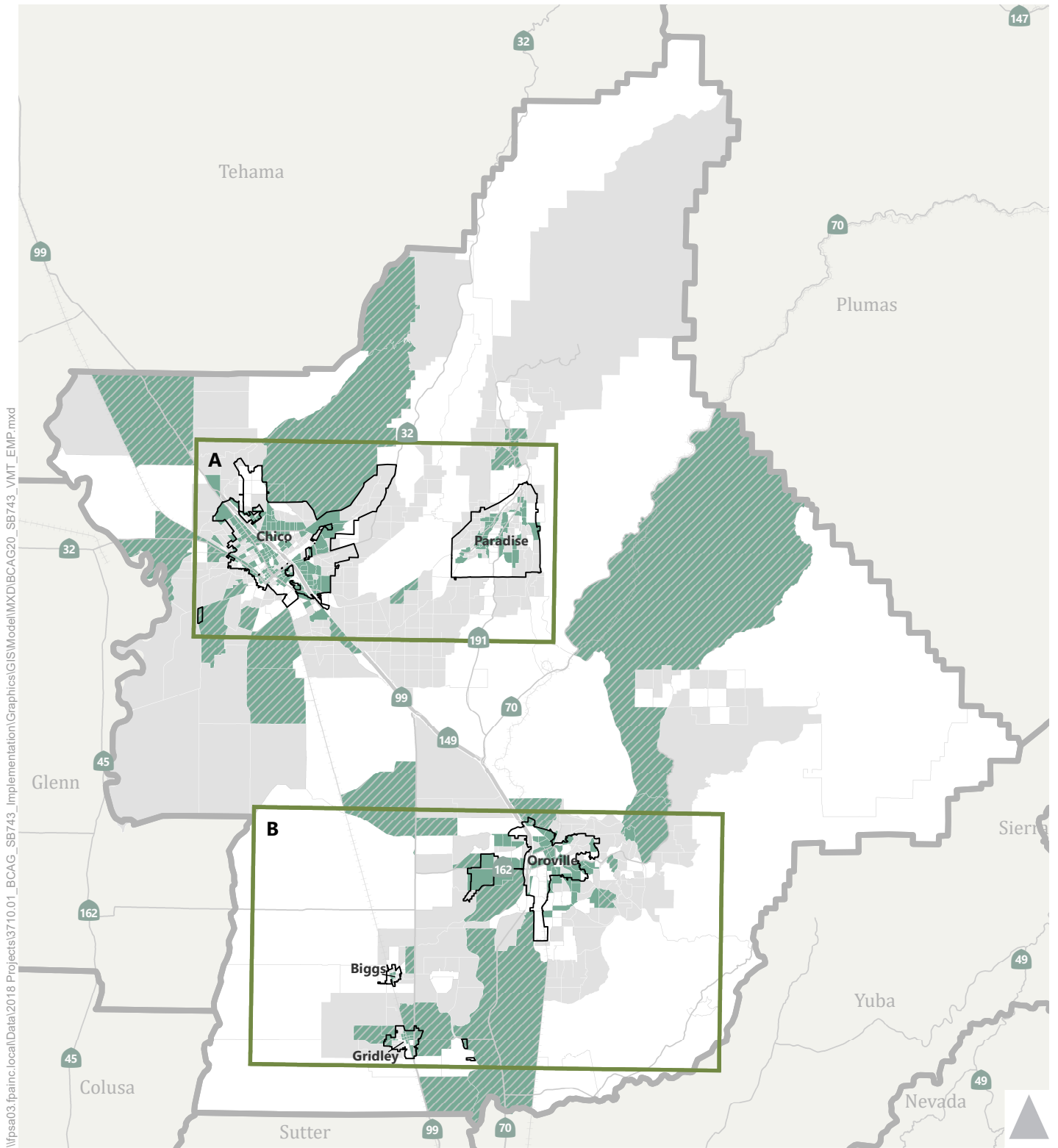
- No Value
- < -15% below BCAG Average
- City Boundaries
- > -15% below BCAG Average
- Additional Investigation Required*
- County Boundaries

* Area may not qualify for screening due to land use context.

Figure 4-A

BCAG Model (2020) Daily Home-Based VMT per Resident Comparison to Regional Average





- No Value
 - > - 15% below BCAG Average
- < -15% below BCAG Average
 - Additional Investigation Required*
- City Boundaries
 - County Boundaries

* Area may not qualify for screening due to land use context.

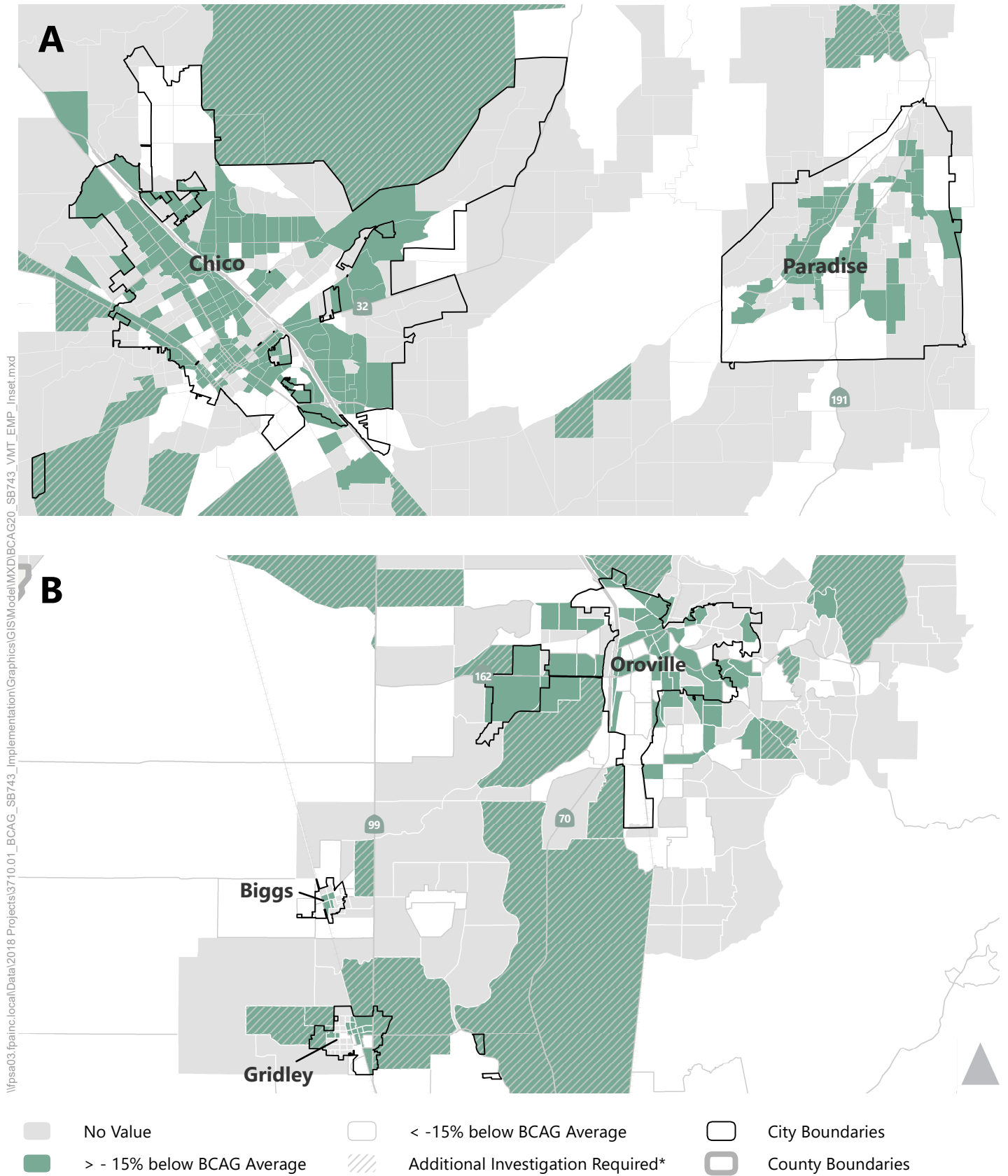
A,B: Inset maps can be found in Figure 5-A

Figure 5



BCAG Model (2020)

Daily Home-Based Work VMT per Employee Comparison to Regional Average



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* Area may not qualify for screening due to land use context.

Figure 5-A

BCAG Model (2020)

Daily Home-Based Work VMT per Employee Comparison to Regional Average

