

**6th RHNA Cycle Appeals Procedures\***  
**(Draft for February 3, 2020 Workshop Use)**

*\*Comments on this Workshop Draft may be submitted by Monday, February 10, 5:00 p.m. to [housing@scag.ca.gov](mailto:housing@scag.ca.gov) for considerations in the development of a staff-recommended RHNA Appeal Procedures for RHNA Subcommittee Action on February 24. Please see [www.scag.ca.gov/rhna](http://www.scag.ca.gov/rhna) for additional meeting information.*

Pursuant to Government Code section 65584.05, any local jurisdiction within the SCAG region may file an appeal to modify its allocated share or another jurisdiction's share of the regional housing need included as part of SCAG's Draft Regional Housing Needs Assessment (RHNA) Allocation Plan, hereinafter referred to as the "Draft RHNA Plan." The California Department of Housing and Community Development, hereinafter referred to as "HCD", may also file an appeal to one or more jurisdiction's draft RHNA allocation. No appeal shall be allowed relating to post-appeal reallocation adjustments made by SCAG, as further described in Section II, below.

**I. APPEALS PROCESS**

**A. DEADLINE TO FILE**

The period to file appeals shall commence on April 10, 2020, which shall be deemed as the date of receipt by jurisdictions and HCD of the draft RHNA Plan. In order to comply with Government Code § 65584.05(b), a jurisdiction or HCD seeking to appeal a draft allocation of the regional housing need must file an appeal by 5:00 p.m. May 25, 2020. Late appeals shall not be accepted by SCAG.

**B. FORM OF APPEAL**

The local jurisdiction shall state the basis and specific reasons for its appeal on the appeal form prepared by SCAG, a copy of which is attached hereto as Exhibit "A". Additional documents may be submitted by the local jurisdiction as attachments, and all such attachments should be properly labeled and numbered.

**C. BASES FOR APPEAL**

Local jurisdictions shall only file an appeal based upon the criteria listed below. In order to provide guidance to potential appellants, information regarding SCAG's allocation methodology approved by SCAG's Regional Council on March 5, 2020<sup>1</sup>, and application of local factors in the development of SCAG's adopted Final Methodology is attached

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<sup>1</sup> This date is the scheduled date for adoption of the Final RHNA Methodology by the SCAG Regional Council. In the event of a date change, this section will be amended.

hereto as Exhibit “B”. Appeals based on “change of circumstance” can only be filed by the jurisdiction or jurisdictions where the change in circumstance occurred.

Pursuant to Government Code Section 65584.05, filed appeals must include a statement as to why the revision is necessary to further the intent of the objectives listed in Section 65584. Additionally, Government Code Section 65584.05(b) requires that all filed appeals must be consistent with, and not to the detriment of, the development pattern in the sustainable communities strategy, or SCAG’s Connect SoCal Plan, pursuant to Government Code Section 65080(b)(2).

1. Methodology – That SCAG failed to determine the jurisdiction’s share of the regional housing need in accordance with the information described in the allocation methodology established and approved by SCAG, and in a manner that furthers, and does not undermine the five objectives listed in Government Code Section 65584(d).
2. Local Planning Factors and Information Affirmatively Furthering Fair Housing (AFFH) – That SCAG failed to consider information submitted by the local jurisdiction relating to certain local factors outlined in Govt. Code § 65584.04(e) and information submitted by the local jurisdiction relating to affirmatively furthering fair housing pursuant to Government Code § 65584.04(b)(2) and 65584(d)(5) including the following:
  - a. Each jurisdiction’s existing and projected jobs and housing relationship.
  - b. The opportunities and constraints to development of additional housing in each jurisdiction, including the following:
    - (1) lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period;
    - (2) the availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities;

- (3) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis, including land zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts conversion to non-agricultural uses.
  - (4) County policies to preserve prime agricultural land, as defined pursuant to Government Code § 56064, within an unincorporated area, and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts its conversion to non-agricultural uses.
- c. The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.
- d. Agreements between a county and cities in a county to direct growth toward incorporated areas of the county or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of the jurisdiction that prohibits or restricts conversion to nonagricultural uses.
- e. The loss of units contained in assisted housing developments, as defined in Government Code § 65583(a)(9), that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.
- f. The percentage of existing households at each of the income levels listed in subdivision (e) of Section 65584 that are paying more than 30 percent and more than 50 percent of their income in rent.
- g. The rate of overcrowding.

- h. The housing needs of farmworkers.
  - i. The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.
  - j. The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7(commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the analysis. For purposes of these guidelines, this applies to loss of units during a state of emergency occurring since October 2013 and have not yet been rebuilt or replaced by the time of the development of the draft RHNA methodology, or November 7, 2019.
  - k. The region's greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080, to be met by SCAG's Connect SoCal Plan.
  - l. Information based upon the issues, strategies, and actions that are included, as available in an Analysis of Impediments to Fair Housing Choice or an Assessment of Fair Housing completed by any city or county or the California Department of Housing and Community Development, and in housing elements
3. Changed Circumstances – That a significant and unforeseen change in circumstance has occurred in the jurisdiction after April 30, 2019 and merits a revision of the information previously submitted by the local jurisdiction. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.

#### **D. LIMITS ON SCOPE OF APPEAL**

Existing law explicitly limits SCAG's scope of review of appeals. Specifically, SCAG shall not grant any appeal based upon the following:

1. Any other criteria other than the criteria in Section I.C above.
2. A local jurisdiction's existing zoning ordinance and land use restrictions, including but not limited to, the contents of the local jurisdiction's current general plan. Pursuant to Government Code Section 65584.04(e)(2)(B), SCAG may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions.
3. Any local ordinance, policy, voter-approved measure or standard limiting residential development. Pursuant to Government Code Section 65584.04(g)(1), any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits shall not be a justification for a determination or a reduction in a city's or county's share of regional housing need.
4. Prior underproduction of housing in a jurisdiction from the previous regional housing need allocation. Pursuant to Government Code Section 65584.04(g)(2), prior underproduction of housing in a jurisdiction from the previous housing need allocation, as determined by each jurisdiction's annual production report submitted to Government Code Section 65400(a)(2)(H) cannot be used as a justification for a determination or reduction in a jurisdiction's share of the regional housing need.
5. Stable population numbers in a jurisdiction. Pursuant to Government Code Section 65584.04(g)(3), stable population growth from the previous regional housing needs cycle cannot be used as a justification for a determination or reduction in a jurisdiction's share of the regional housing need.

#### **E. COMMENTS ON APPEALS**

At the close of the appeals period as set forth in I.A., SCAG shall notify all jurisdictions within the region and HCD of all appeals and shall make all materials submitted in support of each appeal available on its website after the close of the appeals filing period. Local jurisdictions and HCD may comment on one or more appeals within the 45 days following the end of the appeals filing period. All comments must be filed by 5:00 pm July 9, 2020. No late comments shall be accepted by SCAG.

#### **F. HEARING BODY**

SCAG's Regional Council has delegated the responsibility of considering appeals regarding draft allocations to the RHNA Subcommittee, also referred to as the RHNA Appeals Board. All provisions of the RHNA Subcommittee's charter shall apply with respect to the conduct of the appeal hearings. Per the RHNA Subcommittee charter, which was adopted on February 7, 2019 by the Regional Council, all decisions made by the RHNA Appeals Board are considered final and will not be reviewed by the SCAG Regional Council.

#### **G. APPEAL HEARING**

SCAG shall conduct one public hearing to consider all appeals filed and comments received on the appeals no later than August 8, 2020. This public hearing may be continued (over several days if necessary) until all appeals are heard. Notice shall be provided to the appealing jurisdictions, commenting jurisdictions, and HCD at least 21 days in advance of the hearing. The appeal hearing may take place provided that each county is represented either by a member or alternate of the RHNA Appeals Board. Alternates are permitted to participate in the appeal hearing, provided however, that each county shall only be entitled to one vote when deciding on the appeal. In alignment with the adopted RHNA Subcommittee charter, in the event the hearing involves the member's or alternate's respective jurisdiction, the member or alternate may elect not to participate in the discussion and vote by the RHNA Subcommittee regarding such appeal.

The hearing(s) shall be conducted to provide the appealing jurisdiction (or HCD) with the opportunity to make its case regarding a change in its draft regional housing need allocation or another jurisdiction's allocation, with the burden on the appealing jurisdiction to prove its case. The RHNA Appeals Board need not adhere to formal evidentiary rules and procedures in conducting the hearing. An appealing jurisdiction may choose to have technical staff present its case at the hearing. At a minimum, technical staff should be available at the hearing to answer any questions of the RHNA Appeals Board. SCAG staff shall also be permitted to present its position and may make a recommendation on the technical merits of the appeal to the RHNA Appeals Board, subject to any rebuttal by the appealing jurisdiction.

#### **H. DETERMINATION OF APPEAL**

The RHNA Appeals Board shall issue a written final determination to the appealing jurisdiction after the conclusion of the public hearing(s). The final determination shall either accept, reject, or modify each appeal for a revised share. The final determinations shall be based upon the information and methodology set forth in Government Code section 65584.04 and whether the revision is necessary to further the objectives listed in Government Code section 65584(d). The final determination shall

include written findings as to how the determination is consistent with Government Code section 65584.05. The decision of the RHNA Appeals Board shall be final, and local jurisdictions shall have no further right to appeal.

In accordance with existing law, the final determination on an appeal by the RHNA Subcommittee may require the adjustment of allocation of a local jurisdiction that is not the subject of an appeal. Specific adjustments to jurisdictions not the subject of an appeal as a result of an appeal will be included as part of the Appeal Board's determination. These specific adjustments will be excluded from the cumulative total adjustments required to be reallocated as described in Section II of these Appeals Guidelines.

## **I. ALTERNATIVE DATA REQUIREMENTS**

To the extent a local jurisdiction submits admissible alternative data or evidentiary documentation to SCAG in support of its appeal, such alternative data shall meet the following requirements:

1. The alternative data shall be readily available for SCAG's review and verification. Alternative data should not be constrained for use by proprietary conditions or other conditions rendering them difficult to obtain or process.
2. The alternative data shall be accurate, current, and reasonably free from defect.
3. The alternative data shall be relevant and germane to the local jurisdiction's basis of appeal.
4. The alternative data shall be used to support a logical analysis relating to the local jurisdiction's request for a change to its draft regional housing need allocation.

## **II. POST-APPEAL REALLOCATION OF REGIONAL HOUSING NEED**

In accordance with existing law (*see*, Government Code Section 65584.05(g)), after the conclusion of the appeals process, SCAG shall total the successfully appealed housing need allocations. If the adjustments total seven percent (7%) or less of the regional housing need, SCAG shall distribute the adjustments proportionally, to all local jurisdictions. For purposes of these procedures, proportional distribution shall be based on the share of regional need after the appeals are determined and prior to the required redistribution.

If the adjustments total more than seven percent (7%) of the regional housing need, existing law requires that SCAG to develop a methodology to distribute the amount greater than seven percent to local governments. In this situation, SCAG will redistribute the amount greater than the seven percent based on the “residual” existing need calculation included in the adopted final RHNA methodology. To be consistent with the “residual” existing need calculation, successfully appealed units above the seven percent threshold will be redistributed to each county based on their proportion of total successful appeals. Fifty percent (50%) of each county’s amount above the regional seven percent will be redistributed based on population within a High Quality Transit Area (HQTa) and fifty percent (50%) of the amount will be redistributed based on share of regional jobs accessible. Communities designated as disadvantaged, defined in the Final RHNA Methodology as having more than fifty percent (50%) of their population in lower resource areas, will be exempt from redistribution of the amount greater than seven percent. For more information regarding the existing need distribution in the Final RHNA Methodology, please refer to Exhibit BSCAG’s adopted Final RHNA Methodology.

### **III. FINAL RHNA PLAN**

After SCAG reallocates units to all local jurisdictions resulting from successful appeals, SCAG’s Regional Council shall review and consider adoption of the Final RHNA Plan for SCAG’s 6<sup>th</sup> cycle RHNA. This is scheduled to occur on October 1, 2020.



## List of Exhibits

Exhibit A: Draft RHNA Appeal Form (*pending*)

Exhibit B: SCAG's Adopted 6<sup>th</sup> Cycle RHNA Final Methodology (*pending*)

Exhibit C:

- Government Code Section 65580
- Government Code Section 65584
- Government Code Section 65584.04
- Government Code Section 65584.05

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**State of California**

**GOVERNMENT CODE**

**Section 65584**

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65584. (a) (1) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the department shall determine the existing and projected need for housing for each region pursuant to this article. For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing need shall include that share of the housing need of persons at all income levels within the area significantly affected by the general plan of the city or county.

(2) It is the intent of the Legislature that cities, counties, and cities and counties should undertake all necessary actions to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, and reasonable actions should be taken by local and regional governments to ensure that future housing production meets, at a minimum, the regional housing need established for planning purposes. These actions shall include applicable reforms and incentives in Section 65582.1.

(3) The Legislature finds and declares that insufficient housing in job centers hinders the state's environmental quality and runs counter to the state's environmental goals. In particular, when Californians seeking affordable housing are forced to drive longer distances to work, an increased amount of greenhouse gases and other pollutants is released and puts in jeopardy the achievement of the state's climate goals, as established pursuant to Section 38566 of the Health and Safety Code, and clean air goals.

(b) The department, in consultation with each council of governments, shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least two years prior to the scheduled revision required pursuant to Section 65588. The appropriate council of governments, or for cities and counties without a council of governments, the department, shall adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region required by Section 65588. The allocation plan prepared by a council of governments shall be prepared pursuant to Sections 65584.04 and 65584.05.

(c) Notwithstanding any other provision of law, the due dates for the determinations of the department or for the council of governments, respectively, regarding the regional housing need may be extended by the department by not more than 60 days if the extension will enable access to more recent critical population or housing data from a pending or recent release of the United States Census Bureau or the Department of Finance. If the due date for the determination of the department or the council of governments is extended for this reason, the department shall extend the corresponding

housing element revision deadline pursuant to Section 65588 by not more than 60 days.

(d) The regional housing needs allocation plan shall further all of the following objectives:

(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.

(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.

(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.

(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.

(5) Affirmatively furthering fair housing.

(e) For purposes of this section, "affirmatively furthering fair housing" means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

(f) For purposes of this section, "household income levels" are as determined by the department as of the most recent American Community Survey pursuant to the following code sections:

(1) Very low incomes as defined by Section 50105 of the Health and Safety Code.

(2) Lower incomes, as defined by Section 50079.5 of the Health and Safety Code.

(3) Moderate incomes, as defined by Section 50093 of the Health and Safety Code.

(4) Above moderate incomes are those exceeding the moderate-income level of Section 50093 of the Health and Safety Code.

(g) Notwithstanding any other provision of law, determinations made by the department, a council of governments, or a city or county pursuant to this section or Section 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or

65584.08 are exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(Amended by Stats. 2018, Ch. 989, Sec. 1.5. (AB 1771) Effective January 1, 2019.)

**State of California**

**GOVERNMENT CODE**

**Section 65584.05**

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65584.05. (a) At least one and one-half years before the scheduled revision required by Section 65588, each council of governments and delegate subregion, as applicable, shall distribute a draft allocation of regional housing needs to each local government in the region or subregion, where applicable, and the department, based on the methodology adopted pursuant to Section 65584.04 and shall publish the draft allocation on its internet website. The draft allocation shall include the underlying data and methodology on which the allocation is based, and a statement as to how it furthers the objectives listed in subdivision (d) of Section 65584. It is the intent of the Legislature that the draft allocation should be distributed before the completion of the update of the applicable regional transportation plan. The draft allocation shall distribute to localities and subregions, if any, within the region the entire regional housing need determined pursuant to Section 65584.01 or within subregions, as applicable, the subregion's entire share of the regional housing need determined pursuant to Section 65584.03.

(b) Within 45 days following receipt of the draft allocation, a local government within the region or the delegate subregion, as applicable, or the department may appeal to the council of governments or the delegate subregion for a revision of the share of the regional housing need proposed to be allocated to one or more local governments. Appeals shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584. An appeal pursuant to this subdivision shall be consistent with, and not to the detriment of, the development pattern in an applicable sustainable communities strategy developed pursuant to paragraph (2) of subdivision (b) of Section 65080. Appeals shall be limited to any of the following circumstances:

(1) The council of governments or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04.

(2) The council of governments or delegate subregion, as applicable, failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.

(3) A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant

to subdivision (b) of Section 65584.04. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.

(c) At the close of the period for filing appeals pursuant to subdivision (b), the council of governments or delegate subregion, as applicable, shall notify all other local governments within the region or delegate subregion and the department of all appeals and shall make all materials submitted in support of each appeal available on a publicly available internet website. Local governments and the department may, within 45 days, comment on one or more appeals. If no appeals are filed, the draft allocation shall be issued as the proposed final allocation plan pursuant to paragraph (2) of subdivision (e).

(d) No later than 30 days after the close of the comment period, and after providing all local governments within the region or delegate subregion, as applicable, at least 21 days prior notice, the council of governments or delegate subregion shall conduct one public hearing to consider all appeals filed pursuant to subdivision (b) and all comments received pursuant to subdivision (c).

(e) No later than 45 days after the public hearing pursuant to subdivision (d), the council of governments or delegate subregion, as applicable, shall do both of the following:

(1) Make a final determination that either accepts, rejects, or modifies each appeal for a revised share filed pursuant to subdivision (b). Final determinations shall be based upon the information and methodology described in Section 65584.04 and whether the revision is necessary to further the objectives listed in subdivision (d) of Section 65584. The final determination shall be in writing and shall include written findings as to how the determination is consistent with this article. The final determination on an appeal may require the council of governments or delegate subregion, as applicable, to adjust the share of the regional housing need allocated to one or more local governments that are not the subject of an appeal.

(2) Issue a proposed final allocation plan.

(f) In the proposed final allocation plan, the council of governments or delegate subregion, as applicable, shall adjust allocations to local governments based upon the results of the appeals process. If the adjustments total 7 percent or less of the regional housing need determined pursuant to Section 65584.01, or, as applicable, total 7 percent or less of the subregion's share of the regional housing need as determined pursuant to Section 65584.03, then the council of governments or delegate subregion, as applicable, shall distribute the adjustments proportionally to all local governments. If the adjustments total more than 7 percent of the regional housing need, then the council of governments or delegate subregion, as applicable, shall develop a methodology to distribute the amount greater than the 7 percent to local governments. The total distribution of housing need shall not equal less than the regional housing need, as determined pursuant to Section 65584.01, nor shall the subregional distribution of housing need equal less than its share of the regional housing need as determined pursuant to Section 65584.03.

(g) Within 45 days after the issuance of the proposed final allocation plan by the council of governments and each delegate subregion, as applicable, the council of

governments shall hold a public hearing to adopt a final allocation plan. To the extent that the final allocation plan fully allocates the regional share of statewide housing need, as determined pursuant to Section 65584.01 and has taken into account all appeals, the council of governments shall have final authority to determine the distribution of the region's existing and projected housing need as determined pursuant to Section 65584.01. The council of governments shall submit its final allocation plan to the department within three days of adoption. Within 30 days after the department's receipt of the final allocation plan adopted by the council of governments, the department shall determine if the final allocation plan is consistent with the existing and projected housing need for the region, as determined pursuant to Section 65584.01. The department may revise the determination of the council of governments if necessary to obtain this consistency.

(h) Any authority of the council of governments to review and revise the share of a city or county of the regional housing need under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

(i) Any time period in subdivision (d) or (e) may be extended by a council of governments or delegate subregion, as applicable, for up to 30 days.

(j) The San Diego Association of Governments may follow the process in this section for the draft and final allocation plan for the sixth revision of the housing element notwithstanding such actions being carried out before the adoption of an updated regional transportation plan and sustainable communities strategy.

(Amended by Stats. 2019, Ch. 634, Sec. 4. (AB 1730) Effective January 1, 2020.)

**State of California**

**GOVERNMENT CODE**

**Section 65080**

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65080. (a) Each transportation planning agency designated under Section 29532 or 29532.1 shall prepare and adopt a regional transportation plan directed at achieving a coordinated and balanced regional transportation system, including, but not limited to, mass transportation, highway, railroad, maritime, bicycle, pedestrian, goods movement, and aviation facilities and services. The plan shall be action-oriented and pragmatic, considering both the short-term and long-term future, and shall present clear, concise policy guidance to local and state officials. The regional transportation plan shall consider factors specified in Section 134 of Title 23 of the United States Code. Each transportation planning agency shall consider and incorporate, as appropriate, the transportation plans of cities, counties, districts, private organizations, and state and federal agencies.

(b) The regional transportation plan shall be an internally consistent document and shall include all of the following:

(1) A policy element that describes the transportation issues in the region, identifies and quantifies regional needs, and describes the desired short-range and long-range transportation goals, and pragmatic objective and policy statements. The objective and policy statements shall be consistent with the funding estimates of the financial element. The policy element of transportation planning agencies with populations that exceed 200,000 persons may quantify a set of indicators including, but not limited to, all of the following:

(A) Measures of mobility and traffic congestion, including, but not limited to, daily vehicle hours of delay per capita and vehicle miles traveled per capita.

(B) Measures of road and bridge maintenance and rehabilitation needs, including, but not limited to, roadway pavement and bridge conditions.

(C) Measures of means of travel, including, but not limited to, percentage share of all trips (work and nonwork) made by all of the following:

(i) Single occupant vehicle.

(ii) Multiple occupant vehicle or carpool.

(iii) Public transit including commuter rail and intercity rail.

(iv) Walking.

(v) Bicycling.

(D) Measures of safety and security, including, but not limited to, total injuries and fatalities assigned to each of the modes set forth in subparagraph (C).

(E) Measures of equity and accessibility, including, but not limited to, percentage of the population served by frequent and reliable public transit, with a breakdown by



income bracket, and percentage of all jobs accessible by frequent and reliable public transit service, with a breakdown by income bracket.

(F) The requirements of this section may be met using existing sources of information. No additional traffic counts, household surveys, or other sources of data shall be required.

(2) A sustainable communities strategy prepared by each metropolitan planning organization as follows:

(A) No later than September 30, 2010, the State Air Resources Board shall provide each affected region with greenhouse gas emission reduction targets for the automobile and light truck sector for 2020 and 2035, respectively.

(i) No later than January 31, 2009, the state board shall appoint a Regional Targets Advisory Committee to recommend factors to be considered and methodologies to be used for setting greenhouse gas emission reduction targets for the affected regions. The committee shall be composed of representatives of the metropolitan planning organizations, affected air districts, the League of California Cities, the California State Association of Counties, local transportation agencies, and members of the public, including homebuilders, environmental organizations, planning organizations, environmental justice organizations, affordable housing organizations, and others. The advisory committee shall transmit a report with its recommendations to the state board no later than September 30, 2009. In recommending factors to be considered and methodologies to be used, the advisory committee may consider any relevant issues, including, but not limited to, data needs, modeling techniques, growth forecasts, the impacts of regional jobs-housing balance on interregional travel and greenhouse gas emissions, economic and demographic trends, the magnitude of greenhouse gas reduction benefits from a variety of land use and transportation strategies, and appropriate methods to describe regional targets and to monitor performance in attaining those targets. The state board shall consider the report before setting the targets.

(ii) Before setting the targets for a region, the state board shall exchange technical information with the metropolitan planning organization and the affected air district. The metropolitan planning organization may recommend a target for the region. The metropolitan planning organization shall hold at least one public workshop within the region after receipt of the report from the advisory committee. The state board shall release draft targets for each region no later than June 30, 2010.

(iii) In establishing these targets, the state board shall take into account greenhouse gas emission reductions that will be achieved by improved vehicle emission standards, changes in fuel composition, and other measures it has approved that will reduce greenhouse gas emissions in the affected regions, and prospective measures the state board plans to adopt to reduce greenhouse gas emissions from other greenhouse gas emission sources as that term is defined in subdivision (i) of Section 38505 of the Health and Safety Code and consistent with the regulations promulgated pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), including Section 38566 of the Health and Safety Code.

(iv) The state board shall update the regional greenhouse gas emission reduction targets every eight years consistent with each metropolitan planning organization's timeframe for updating its regional transportation plan under federal law until 2050. The state board may revise the targets every four years based on changes in the factors considered under clause (iii). The state board shall exchange technical information with the Department of Transportation, metropolitan planning organizations, local governments, and affected air districts and engage in a consultative process with public and private stakeholders, before updating these targets.

(v) The greenhouse gas emission reduction targets may be expressed in gross tons, tons per capita, tons per household, or in any other metric deemed appropriate by the state board.

(B) Each metropolitan planning organization shall prepare a sustainable communities strategy, subject to the requirements of Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, including the requirement to use the most recent planning assumptions considering local general plans and other factors. The sustainable communities strategy shall (i) identify the general location of uses, residential densities, and building intensities within the region, (ii) identify areas within the region sufficient to house all the population of the region, including all economic segments of the population, over the course of the planning period of the regional transportation plan taking into account net migration into the region, population growth, household formation and employment growth, (iii) identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region pursuant to Section 65584, (iv) identify a transportation network to service the transportation needs of the region, (v) gather and consider the best practically available scientific information regarding resource areas and farmland in the region as defined in subdivisions (a) and (b) of Section 65080.01, (vi) consider the state housing goals specified in Sections 65580 and 65581, (vii) 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, and (viii) allow the regional transportation plan to comply with Section 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506).

(C) (i) Within the jurisdiction of the Metropolitan Transportation Commission, as defined by Section 66502, the Association of Bay Area Governments shall be responsible for clauses (i), (ii), (iii), (v), and (vi) of subparagraph (B); the Metropolitan Transportation Commission shall be responsible for clauses (iv) and (viii) of subparagraph (B); and the Association of Bay Area Governments and the Metropolitan Transportation Commission shall jointly be responsible for clause (vii) of subparagraph (B).

(ii) Within the jurisdiction of the Tahoe Regional Planning Agency, as defined in Sections 66800 and 66801, the Tahoe Metropolitan Planning Organization shall use the Regional Plan for the Lake Tahoe Region as the sustainable community strategy, provided that it complies with clauses (vii) and (viii) of subparagraph (B).

(D) In the region served by the Southern California Association of Governments, a subregional council of governments and the county transportation commission may work together to propose the sustainable communities strategy and an alternative planning strategy, if one is prepared pursuant to subparagraph (I), for that subregional area. The metropolitan planning organization may adopt a framework for a subregional sustainable communities strategy or a subregional alternative planning strategy to address the intraregional land use, transportation, economic, air quality, and climate policy relationships. The metropolitan planning organization shall include the subregional sustainable communities strategy for that subregion in the regional sustainable communities strategy to the extent consistent with this section and federal law and approve the subregional alternative planning strategy, if one is prepared pursuant to subparagraph (I), for that subregional area to the extent consistent with this section. The metropolitan planning organization shall develop overall guidelines, create public participation plans pursuant to subparagraph (F), ensure coordination, resolve conflicts, make sure that the overall plan complies with applicable legal requirements, and adopt the plan for the region.

(E) The metropolitan planning organization shall conduct at least two informational meetings in each county within the region for members of the board of supervisors and city councils on the sustainable communities strategy and alternative planning strategy, if any. The metropolitan planning organization may conduct only one informational meeting if it is attended by representatives of the county board of supervisors and city council members representing a majority of the cities representing a majority of the population in the incorporated areas of that county. Notice of the meeting or meetings shall be sent to the clerk of the board of supervisors and to each city clerk. The purpose of the meeting or meetings shall be to discuss the sustainable communities strategy and the alternative planning strategy, if any, including the key land use and planning assumptions to the members of the board of supervisors and the city council members in that county and to solicit and consider their input and recommendations.

(F) Each metropolitan planning organization shall adopt a public participation plan, for development of the sustainable communities strategy and an alternative planning strategy, if any, that includes all of the following:

(i) Outreach efforts to encourage the active participation of a broad range of stakeholder groups in the planning process, consistent with the agency's adopted Federal Public Participation Plan, including, but not limited to, affordable housing advocates, transportation advocates, neighborhood and community groups, environmental advocates, home builder representatives, broad-based business organizations, landowners, commercial property interests, and homeowner associations.

(ii) Consultation with congestion management agencies, transportation agencies, and transportation commissions.

(iii) Workshops throughout the region to provide the public with the information and tools necessary to provide a clear understanding of the issues and policy choices. At least one workshop shall be held in each county in the region. For counties with a population greater than 500,000, at least three workshops shall be held. Each

workshop, to the extent practicable, shall include urban simulation computer modeling to create visual representations of the sustainable communities strategy and the alternative planning strategy.

(iv) Preparation and circulation of a draft sustainable communities strategy and an alternative planning strategy, if one is prepared, not less than 55 days before adoption of a final regional transportation plan.

(v) At least three public hearings on the draft sustainable communities strategy in the regional transportation plan and alternative planning strategy, if one is prepared. If the metropolitan transportation organization consists of a single county, at least two public hearings shall be held. To the maximum extent feasible, the hearings shall be in different parts of the region to maximize the opportunity for participation by members of the public throughout the region.

(vi) A process for enabling members of the public to provide a single request to receive notices, information, and updates.

(G) In preparing a sustainable communities strategy, the metropolitan planning organization shall consider spheres of influence that have been adopted by the local agency formation commissions within its region.

(H) Before adopting a sustainable communities strategy, the metropolitan planning organization shall quantify the reduction in greenhouse gas emissions projected to be achieved by the sustainable communities strategy and set forth the difference, if any, between the amount of that reduction and the target for the region established by the state board.

(I) If the sustainable communities strategy, prepared in compliance with subparagraph (B) or (D), is unable to reduce greenhouse gas emissions to achieve the greenhouse gas emission reduction targets established by the state board, the metropolitan planning organization shall prepare an alternative planning strategy to the sustainable communities strategy showing how those greenhouse gas emission targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies. The alternative planning strategy shall be a separate document from the regional transportation plan, but it may be adopted concurrently with the regional transportation plan. In preparing the alternative planning strategy, the metropolitan planning organization:

(i) Shall identify the principal impediments to achieving the targets within the sustainable communities strategy.

(ii) May include an alternative development pattern for the region pursuant to subparagraphs (B) to (G), inclusive.

(iii) Shall 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 greenhouse gas emission reduction targets.

(iv) An alternative development pattern set forth in the alternative planning strategy shall comply with Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, except to the extent that compliance will prevent achievement of the greenhouse gas emission reduction targets approved by the state board.

(v) For purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), an alternative planning strategy shall not constitute a land use plan, policy, or regulation, and the inconsistency of a project with an alternative planning strategy shall not be a consideration in determining whether a project may have an environmental effect.

(J) (i) Before starting the public participation process adopted pursuant to subparagraph (F), the metropolitan planning organization shall submit a description to the state board of the technical methodology it intends to use to estimate the greenhouse gas emissions from its sustainable communities strategy and, if appropriate, its alternative planning strategy. The state board shall respond to the metropolitan planning organization in a timely manner with written comments about the technical methodology, including specifically describing any aspects of that methodology it concludes will not yield accurate estimates of greenhouse gas emissions, and suggested remedies. The metropolitan planning organization is encouraged to work with the state board until the state board concludes that the technical methodology operates accurately.

(ii) After adoption, a metropolitan planning organization shall submit a sustainable communities strategy or an alternative planning strategy, if one has been adopted, to the state board for review, including the quantification of the greenhouse gas emission reductions the strategy would achieve and a description of the technical methodology used to obtain that result. Review by the state board shall be 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 by the state board. The state board shall complete its review within 60 days.

(iii) If the state board determines that the strategy submitted would not, if implemented, achieve the greenhouse gas emission reduction targets, the metropolitan planning organization shall revise its strategy or adopt an alternative planning strategy, if not previously adopted, and submit the strategy for review pursuant to clause (ii). At a minimum, the metropolitan planning organization must obtain state board acceptance that an alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets established for that region by the state board.

(iv) On or before September 1, 2018, and every four years thereafter to align with target setting, notwithstanding Section 10231.5, the state board shall prepare a report that assesses progress made by each metropolitan planning organization in meeting the regional greenhouse gas emission reduction targets set by the state board. The report shall include changes to greenhouse gas emissions in each region and data-supported metrics for the strategies used to meet the targets. The report shall also include a discussion of best practices and the challenges faced by the metropolitan planning organizations in meeting the targets, including the effect of state policies and funding. The report shall be developed in consultation with the metropolitan planning organizations and affected stakeholders. The report shall be submitted to the Assembly Committee on Transportation and the Assembly Committee on Natural

Resources, and to the Senate Committee on Transportation, the Senate Committee on Housing, and the Senate Committee on Environmental Quality.

(K) Neither a sustainable communities strategy nor an alternative planning strategy regulates the use of land, nor, except as provided by subparagraph (J), shall either one be subject to any state approval. Nothing in a sustainable communities strategy shall be interpreted as superseding the exercise of the land use authority of cities and counties within the region. Nothing in this section shall be interpreted to limit the state board's authority under any other law. Nothing in this section shall be interpreted to authorize the abrogation of any vested right whether created by statute or by common law. Nothing in this section shall require a city's or county's land use policies and regulations, including its general plan, to be consistent with the regional transportation plan or an alternative planning strategy. Nothing in this section requires a metropolitan planning organization to approve a sustainable communities strategy that would be inconsistent with Part 450 of Title 23 of, or Part 93 of Title 40 of, the Code of Federal Regulations and any administrative guidance under those regulations. Nothing in this section relieves a public or private entity or any person from compliance with any other local, state, or federal law.

(L) Nothing in this section requires projects programmed for funding on or before December 31, 2011, to be subject to the provisions of this paragraph if they (i) are contained in the 2007 or 2009 Federal Statewide Transportation Improvement Program, (ii) are funded pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2), or (iii) were specifically listed in a ballot measure before December 31, 2008, approving a sales tax increase for transportation projects. Nothing in this section shall require a transportation sales tax authority to change the funding allocations approved by the voters for categories of transportation projects in a sales tax measure adopted before December 31, 2010. For purposes of this subparagraph, a transportation sales tax authority is a district, as defined in Section 7252 of the Revenue and Taxation Code, that is authorized to impose a sales tax for transportation purposes.

(M) A metropolitan planning organization, or a regional transportation planning agency not within a metropolitan planning organization, that is required to adopt a regional transportation plan not less than every five years, may elect to adopt the plan not less than every four years. This election shall be made by the board of directors of the metropolitan planning organization or regional transportation planning agency no later than June 1, 2009, or thereafter 54 months before the statutory deadline for the adoption of housing elements for the local jurisdictions within the region, after a public hearing at which comments are accepted from members of the public and representatives of cities and counties within the region covered by the metropolitan planning organization or regional transportation planning agency. Notice of the public hearing shall be given to the general public and by mail to cities and counties within the region no later than 30 days before the date of the public hearing. Notice of election shall be promptly given to the Department of Housing and Community Development. The metropolitan planning organization or the regional transportation planning agency

shall complete its next regional transportation plan within three years of the notice of election.

(N) Two or more of the metropolitan planning organizations for Fresno County, Kern County, Kings County, Madera County, Merced County, San Joaquin County, Stanislaus County, and Tulare County may work together to develop and adopt multiregional goals and policies that may address interregional land use, transportation, economic, air quality, and climate relationships. The participating metropolitan planning organizations may also develop a multiregional sustainable communities strategy, to the extent consistent with federal law, or an alternative planning strategy for adoption by the metropolitan planning organizations. Each participating metropolitan planning organization shall consider any adopted multiregional goals and policies in the development of a sustainable communities strategy and, if applicable, an alternative planning strategy for its region.

(3) An action element that describes the programs and actions necessary to implement the plan and assigns implementation responsibilities. The action element may describe all transportation projects proposed for development during the 20-year or greater life of the plan. The action element shall consider congestion management programming activities carried out within the region.

(4) (A) A financial element that summarizes the cost of plan implementation constrained by a realistic projection of available revenues. The financial element shall also contain recommendations for allocation of funds. A county transportation commission created pursuant to the County Transportation Commissions Act (Division 12 (commencing with Section 130000) of the Public Utilities Code) shall be responsible for recommending projects to be funded with regional improvement funds, if the project is consistent with the regional transportation plan. The first five years of the financial element shall be based on the five-year estimate of funds developed pursuant to Section 14524. The financial element may recommend the development of specified new sources of revenue, consistent with the policy element and action element.

(B) The financial element of transportation planning agencies with populations that exceed 200,000 persons may include a project cost breakdown for all projects proposed for development during the 20-year life of the plan that includes total expenditures and related percentages of total expenditures for all of the following:

- (i) State highway expansion.
- (ii) State highway rehabilitation, maintenance, and operations.
- (iii) Local road and street expansion.
- (iv) Local road and street rehabilitation, maintenance, and operation.
- (v) Mass transit, commuter rail, and intercity rail expansion.
- (vi) Mass transit, commuter rail, and intercity rail rehabilitation, maintenance, and operations.
- (vii) Pedestrian and bicycle facilities.
- (viii) Environmental enhancements and mitigation.
- (ix) Research and planning.
- (x) Other categories.

(C) 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 toward the greenhouse gas emission reduction targets by implementing policies for growth to occur within their cities.

(c) Each transportation planning agency may also include other factors of local significance as an element of the regional transportation plan, including, but not limited to, issues of mobility for specific sectors of the community, including, but not limited to, senior citizens.

(d) (1) Except as otherwise provided in this subdivision, each transportation planning agency shall adopt and submit, every four years, an updated regional transportation plan to the California Transportation Commission and the Department of Transportation. A transportation planning agency located in a federally designated air quality attainment area or that does not contain an urbanized area may at its option adopt and submit a regional transportation plan every five years. When applicable, the plan shall be consistent with federal planning and programming requirements and shall conform to the regional transportation plan guidelines adopted by the California Transportation Commission. Before adoption of the regional transportation plan, a public hearing shall be held after the giving of notice of the hearing by publication in the affected county or counties pursuant to Section 6061.

(2) (A) Notwithstanding subdivisions (b) and (c), and paragraph (1), inclusive, the regional transportation plan, sustainable communities strategy, and environmental impact report adopted by the San Diego Association of Governments on October 9, 2015, shall remain in effect for all purposes, including for purposes of consistency determinations and funding eligibility for the San Diego Association of Governments and all other agencies relying on those documents, until the San Diego Association of Governments adopts its next update to its regional transportation plan.

(B) The San Diego Association of Governments shall adopt and submit its update to the 2015 regional transportation plan on or before December 31, 2021.

(C) After the update described in subparagraph (B), the time period for San Diego Association of Governments' updates to its regional transportation plan shall be reset and shall be adopted and submitted every four years.

(D) Notwithstanding clause (iv) of subparagraph (A) of paragraph (2) of subdivision (b), the State Air Resources Board shall not update the greenhouse gas emission reduction targets for the region within the jurisdiction of the San Diego Association of Governments before the adoption of the update to the regional transportation plan pursuant to subparagraph (B).

(E) The update to the regional transportation plan adopted by the San Diego Association of Governments on October 9, 2015, which will be prepared and submitted



to federal agencies for purposes of compliance with federal laws applicable to regional transportation plans and air quality conformity and which is due in October 2019, shall not be considered a regional transportation plan pursuant to this section and shall not constitute a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(F) In addition to meeting the other requirements to nominate a project for funding through the Solutions for Congested Corridors Program (Chapter 8.5 (commencing with Section 2390) of Division 3 of the Streets and Highways Code), the San Diego Association of Governments, until December 31, 2021, shall only nominate projects for funding through the Solutions for Congested Corridors Program that are consistent with the eligibility requirements for projects under any of the following programs:

(i) The Transit and Intercity Rail Capital Program (Part 2 (commencing with Section 75220) of Division 44 of the Public Resources Code).

(ii) The Low Carbon Transit Operations Program (Part 3 (commencing with Section 75230) of Division 44 of the Public Resources Code).

(iii) The Active Transportation Program (Chapter 8 (commencing with Section 2380) of Division 3 of the Streets and Highways Code).

(G) Commencing January 1, 2020, and every two years thereafter, the San Diego Association of Governments shall begin developing an implementation report that tracks the implementation of its most recently adopted sustainable communities strategy. The report shall discuss the status of the implementation of the strategy at the regional and local level, and any successes and barriers that have occurred since the last report. The San Diego Association of Governments shall submit the implementation report to the state board by including it in its sustainable communities strategy implementation review pursuant to clause (ii) of subparagraph (J) of paragraph (2) of subdivision (b).

(Amended by Stats. 2019, Ch. 634, Sec. 2. (AB 1730) Effective January 1, 2020.)