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NO. 5 MEETING OF THE

REGIONAL HOUSING NEEDS ASSESSMENT & HOUSING ELEMENT REFORM

***Monday, September 29, 2014
1:00 p.m. – 4:00 p.m.***

**SCAG Main Office
818 W. 7th Street, 12th Floor, Board Room
Los Angeles, CA 90017
(213) 236-1800**

Videoconference Sites

Imperial County Regional Office

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**600 S. Main Street, Suite 912
Orange, CA 92863**

Due to the limited size of the meeting room, participants are encouraged to reserve a seat in advance of the meeting. In the event the meeting room fills to capacity, participants may attend the meeting at the main location or any of the other video-conference locations.

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San Bernardino Regional Office

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San Bernardino, CA 92410**

The Regional Council consists of 86 elected officials representing 191 cities, six counties, six County Transportation Commissions, one representative from the Transportation Corridor Agencies, one Tribal Government representative and one representative for the Air Districts within Southern California.



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Ventura County Regional Office
950 County Square Drive, Suite 101
Ventura, CA 93003

South Bay Cities COG, Environmental Services Center
20285 S. Western Avenue, Suite 100
Torrance, CA 90501

Coachella Valley Association of Governments
73-710 Fred Waring Drive, Suite 200
Palm Desert, CA 92260

If members of the public wish to review the attachments or have any questions on any of the agenda items, please contact Ma'Ayn Johnson at (213) 236-1975 or via email johnson@scag.ca.gov. In addition, the RHNA and Housing Element Reform Subcommittee meeting may be viewed live or on-demand at <http://www.scag.ca.gov/NewsAndMedia/Pages/SCAGTV.aspx>.

Agenda and Minutes for the Regional Housing Needs Assessment & Element Reform Subcommittee are also available at:

<http://www.scag.ca.gov/committees/Pages/default.aspx>

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**Regional Housing Needs Assessment and
Housing Element Reform Subcommittee
Member List**

- San Bernardino County: Hon. Bill Jahn, Big Bear Lake, District 11 (Alternate), **Chair**
Hon. Larry McCallon, Highland, District 7 (Primary)
- Los Angeles County: Hon. Margaret Finlay, Duarte, District 35 (Primary)
Hon. Steven Hofbauer, Palmdale, District 43 (Alternate)
- Orange County: Hon. Ron Garcia, Brea, OCCOG (Primary)
Hon. Kathryn McCullough, Lake Forest, OCCOG (Alternate)
- Riverside County: Hon. Randon Lane, Murrieta, WRCOG (Primary)
Hon. Debbie Franklin, Banning, WRCOG (Alternate)
- Ventura County: Hon. Carl Morehouse, San Buenaventura, District 47 (Primary)
Hon. Linda Parks, County of Ventura, (Alternate)
- Imperial County: Hon. Cheryl Viegas-Walker, El Centro, District 1 (Primary)
Hon. Jack Terrazas, Imperial County (Alternate)

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**REGIONAL HOUSING NEEDS ASSESSMENT AND
HOUSING ELEMENT REFORM
SUBCOMMITTEE
AGENDA
SEPTEMBER 29, 2014**

The Regional Housing Needs Assessment and Housing Element Reform Subcommittee can consider and act upon any of the items listed on the agenda regardless of whether they are listed as information or action items.

CALL TO ORDER & PLEDGE OF ALLEGIANCE
(Hon. Bill Jahn, Chair)

PUBLIC COMMENT PERIOD – Members of the public desiring to speak on items on the agenda, or items not on the agenda, but within the purview of the Regional Housing Needs Assessment and Housing Element Reform Subcommittee, must fill out and present a speaker’s card to the Assistant prior to speaking. Comments will be limited to three (3) minutes. The Chair may limit the total time for all comments.

REVIEW AND PRIORITIZE AGENDA ITEMS

CONSENT CALENDAR

Time Page No.

Receive and File

- | | | |
|--|-------------------|----------|
| 1. <u>Minutes of the May 29, 2014 RHNA and Housing Element Reform Subcommittee Meeting</u> | Attachment | 1 |
| 2. <u>RHNA and Housing Element Reform Topic Outlook/Matrix</u> | Attachment | 7 |

ACTION ITEMS

- | | | | |
|--|-------------------|----------------|-----------|
| 3. <u>Unforeseen and Significant Change in Circumstances Survey</u>
<i>(Ma’Ayn Johnson, SCAG Staff)</i> | Attachment | 15 min. | 23 |
|--|-------------------|----------------|-----------|

Recommended Action: Include survey results in Final Report of RHNA and Housing Element Reform Subcommittee.

- | | | | |
|---|-------------------|----------------|-----------|
| 4. <u>Issues and Recommendations Relating to RHNA and Housing Element Reform</u>
<i>(Huasha Liu, SCAG Director of Land Use & Environmental Planning)</i> | Attachment | 50 min. | 33 |
|---|-------------------|----------------|-----------|

Recommended Action: Review and recommend actions regarding RHNA and housing element reform.

**REGIONAL HOUSING NEEDS ASSESSMENT AND
HOUSING ELEMENT REFORM
SUBCOMMITTEE
AGENDA
SEPTEMBER 29, 2014**

CHAIR'S REPORT

(Hon. Bill Jahn, Chair)

STAFF REPORT

(Ma'Ayn Johnson, SCAG Staff)

ANNOUNCEMENTS

ADDITIONAL PUBLIC COMMENT PERIOD

ADJOURNMENT

The next regular meeting of the Regional Housing Needs Assessment and Housing Element Reform Subcommittee will be determined at the September 29, 2014 meeting.

REGIONAL HOUSING NEEDS ASSESSMENT AND HOUSING ELEMENT REFORM
SUBCOMMITTEE, MEETING NO. 4
OF THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS
THURSDAY, MAY 29, 2014

MINUTES

THE FOLLOWING MINUTES ARE A SUMMARY OF ACTIONS TAKEN BY THE REGIONAL HOUSING NEEDS ASSESSMENT AND HOUSING ELEMENT REFORM SUBCOMMITTEE. A DIGITAL RECORDING OF THE ACTUAL MEETING IS AVAILABLE FOR LISTENING IN SCAG'S OFFICE.

A meeting of the Regional Housing Needs Assessment & Housing Element Reform Subcommittee was held at SCAG's office in downtown Los Angeles. The meeting was called to order by the Hon. Bill Jahn, Chair. There was quorum.

Members Present:

Hon. Bill Jahn (Chair)	San Bernardino County, Big Bear Lake, District 11 (Alternate)
Hon. Margaret Finlay	Los Angeles County, Duarte, District 35 (Primary)
Hon. Debbie Franklin	Riverside County, Banning, WRCOG (Alternate)
Hon. Ron Garcia	Orange County, Brea, OCCOG (Primary)
Hon. Steven Hofbauer	Palmdale, District 43 (Alternate)
Hon. Larry McCallon	San Bernardino County, Highland, District 7 (Primary)
Hon. Kathryn McCullough	Orange County, Lake Forest, OCCOG (Alternate)
Hon. Carl Morehouse	Ventura County, San Buenaventura, District 47 (Primary)
Hon. Cheryl Viegas-Walker	Imperial County, El Centro, District 1 (Primary)

Members Not Present:

Hon. Randon Lane	Riverside County, Murrieta, WRCOG (Primary)
Hon. Linda Parks	Ventura County, County of Ventura (Alternate)
Hon. Jack Terrazas	Imperial County (Alternate)

CALL TO ORDER

Hon. Bill Jahn, Chair, called the meeting to order at 10:05 a.m. Hon. Margaret Finlay, Los Angeles County, representing Duarte, led the RHNA and Housing Element Reform Subcommittee in the Pledge of Allegiance.

PUBLIC COMMENT PERIOD - None

CONSENT CALENDAR

Receive and File

1. Minutes of the March 13, 2014 RHNA and Housing Element Reform Subcommittee Meeting

2. RHNA and Housing Element Reform Topic Outlook and Matrix

A MOTION was made (Finlay) and SECONDED (McCallon) to approve the Consent Calendar. A roll call vote was taken per county and the motion was UNANIMOUSLY APPROVED as follows:

AYES: Finlay, Garcia, Franklin, McCallon, Morehouse, Viegas-Walker

NOES: None

ABSTAIN: None

INFORMATION ITEMS

3. RHNA and Housing Element Reform Status Update from the California Department of Housing and Community Development (HCD)

Glen Campora, Assistant Deputy Director, California Department of Housing and Community Development (HCD) stated that HCD was considering a legislative amendment to address the difference between Department of Finance (DOF) and Council of Governments (COG) population forecast. Current state law is ambiguous as to whether the 3% applies to the total population or the growth and the calculations can achieve different results.

For the 5th cycle RHNA, HCD agreed to look at the population adjustments on the total population as opposed to the population change. HCD has two weeks left to determine whether to develop an Omnibus Bill including the population adjustments during the current legislative session. HCD is indecisive on this issue partially because the MPOs have formed a self-assessment and there may be some RHNA and housing element reforms that result from the assessment. The MPO self-assessment report has not been distributed to state agencies yet. When HCD receives the report it will have a clearer idea of the possible menu of reforms that the MPOs are proposing. It may be appropriate to wait and propose a more comprehensive set of amendments rather than piecemeal items through the legislative process.

ACTION ITEMS

4. Issues and Recommendations Relating to RHNA and Housing Element Reform

Huasha Liu, SCAG Director Land Use & Environmental Planning, stated that there were five (5) topics in agenda Item 4 and a staff recommended action for each matrix item for the Subcommittee's consideration. Staff suggests that for each topic, the Subcommittee take action on the recommendations altogether once all five (5) topics have been discussed. Ma'Ayn Johnson, SCAG Senior Regional Planner, provided background information on the revision request and appeals process.

(1) Neutral Third Party Hearing Board (Matrix Item A4)

Ms. Johnson stated it had been suggested that a neutral third (3rd) party should hear revision requests and appeals rather than an internal committee of SCAG. The reason given was the possibility that there may be bias if a RHNA Subcommittee hears the revision requests and appeals. The 4th and 5th RHNA Subcommittee charters allow for the appointment of ex-officio members, such as stakeholders, or other members to serve as non-voting members of the RHNA Subcommittee and Appeals Board. Due to the arduous process of educating new committee members, the recommendation is to continue to have the option of appointing ex-officio members rather than having a separate third party for the RHNA appeals process.

(2) Template or Samples of Successful Revision Requests and Appeals (Matrix Item A9)

Ms. Johnson stated that it has been suggested that SCAG should provide a template for submittals or samples of revision request or appeal submittals that have met SCAG expectations. For the 6th Cycle staff recommends that SCAG assemble a packet of relevant documentation to be used as a guideline and information source for jurisdictions considering revision requests and appeals.

(3) Posting of SCAG Staff Reports regarding Filed Revision Requests and Appeals (Matrix Item A6)

Ms. Johnson stated that it had been suggested that SCAG distribute staff reports to a revision request or appeal at least one week prior to the hearing so that adequate time is available to review staff comments. Staff currently meets the requirements of the Brown Act by posting the agenda seventy-two (72) hours prior to the meeting. SCAG will remain committed in future RHNA cycles to ensure that as much time possible is provided for a jurisdiction to review the responsive staff reports.

(4) Revision Request and Appeals Processes Timeline (Matrix Item C1)

Ms. Johnson stated that it has been proposed that the revision request and appeals processes be consolidated into one process. The proponent of this comment sees it as providing jurisdictions more time to do their housing elements.

As two separate processes, revision requests and appeals allows for two separate opportunities for jurisdictions to address their draft RHNA allocation. Rather than limit jurisdictions opportunities to address their draft RHNA allocation, SCAG staff recommends that revision request and appeals remain two different processes.

Further, it was noted that a jurisdiction has one year after the final RHNA allocation is adopted to develop and submit their housing element to HCD. Consolidating the revision request and

appeals process would not be expected to provide substantially more time to develop housing elements.

(5) Definition of Change in Circumstances (Matrix Item B6)

Ms. Johnson stated that there is no clear definition in either state housing law or the appeals procedure of a “significant and unforeseen change in circumstances.” For the 5th RHNA cycle, the appeal basis of change in circumstance must be significant and unforeseen and occur between the adoption of the final RHNA methodology and the distribution of the draft RHNA allocation. Several jurisdictions used change in circumstance as a basis for appeal, but none were granted. SCAG staff recommends surveying jurisdictions to get their input of what a significant and unforeseen change in circumstance could potentially be.

Hon. Ron Garcia, Brea, stated that as in today’s verbal report Ms. Johnson made reference to the word “significant” which was not included in Item 5’s title. Hon. Ron Garcia suggested that in the future the term “significant” be included in the staff report in addition to the term “unforeseen”. Huasha Liu assured Hon. Ron Garcia that staff would include both “significant and unforeseen” in the “Definition of Change in Circumstance” in future staff reports.

Hon. Cheryl Viegas-Walker, El Centro, suggested that when the survey is sent to the jurisdictions, staff makes clear that SCAG is simply seeking input for the benefit of providing HCD jurisdictional input.

Glen Campora, HCD, clarified that HCD will facilitate the conversation but will not be the decision maker on the topic. Rather than an administrative change conducted by HCD, the decision will be in a legislative amendment that is open to the legislative, public participation, and stakeholder processes.

Hon. Debbie Franklin, Banning, suggested that it is not about just any circumstance, but specifically related to land use planning.

A MOTION was made (Finlay) and SECONDED (Garcia) to approve staff’s recommendations of the RHNA and Reform Housing Matrix on the following matrix items:

Item A4 - SCAG staff recommends that the 6th cycle RHNA Subcommittee charter continue to include the option for the appointment of ex-officio external stakeholders to the 6th cycle RHNA Subcommittee.

Item A9 – In preparation of the 6th cycle RHNA beginning in 2018, SCAG staff will provide a sample packet as a guideline for revision requests and appeals along with examples of past applications that resulted in granted appeals.

Item A6 – Staff will continue to meet the legal requirements in conducting the revision and appeal processes for public notice, and providing as much time as possible for local jurisdictions to prepare, file, and have adequate lead time to gather information and prepare

presentations, accounting for the number of revision requests and appeal submissions received and staff resources available.

Item C1 – SCAG staff will continue to follow the current revision request and appeal processes outlined in the state housing law (i.e., two separate processes rather than a consolidated process).

Item B6 – SCAG staff will survey jurisdictions prior to the adoption of the 6th cycle RHNA Appeals Procedures on possible definition or scenarios constituting a “significant and unforeseen change in circumstances” affecting a jurisdiction’s draft RHNA allocation. SCAG staff will share the survey information with the State Department of Housing and Community Development (HCD) and other MPOs so that HCD may in turn develop possible guidance on the matter.

A roll call vote was taken per county and the motion was UNANIMOUSLY APPROVED as follows:

AYES: Finlay, Garcia, Franklin, McCallon, Morehouse, Viegas-Walker

NOES: None

ABSTAIN: None

CHAIR’S REPORT - No report.

STAFF REPORT – No report

ADJOURNMENT

The meeting adjourned at 11:08 a.m. The next meeting of the RHNA & Housing Element Reform Subcommittee is to be determined by polling the members of the Subcommittee. The meeting will be held at the SCAG Los Angeles office.



Huasha Liu
Director, Land Use and Environmental Planning

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RHNA and Housing Element Reform Topic Outlook

Meeting 1 (Date: October 23, 2013): Charter and Outlook

- Subcommittee charter
- Topic outlook

Meeting 2 (Date: January 23, 2014): SCAG-related administrative issues pertaining to the RHNA process; RHNA regional determination process

- Teleconferencing (A5)
- Communication with planning directors (A10)
- Funding for RHNA delegation (A3)
- Growth on Tribal lands (B3)
- Margin between SCAG and Department of Finance projections (B4)

Meeting 3 (Date: March 13, 2014): RHNA allocation development for local jurisdictions.

- Preliminary draft of RHNA allocation (A7)
- Local input on growth forecast (A1, A8, B9)
- Facilitation of trade and transfers (A2)
- Consideration of general plan development and implementation (B5)
- RHNA Methodology Issues (A11, A12, C8)

Meeting 4 (Date: May 29, 2014): Revision request and appeals processes

- Neutral third party hearing board (A4)
- Sample template of appeals (A9)
- Posting to SCAG staff responses to filed revision requests and appeals (A6)
- Revision request and appeals processes timeline (C1)
- Definition of change in circumstances (B6)

Meeting 5 (Date: September 29, 2014): Housing element development and review; Funding and incentives

- Exceptions for jurisdiction size (C4, C5)
- Credit for inclusionary zoning (B9)
- Default density ranges and mixed use designations (B1, B10, C5)
- Transitional and Supportive Housing Requirements (B11)
- Existing housing needs statistics preparation, usage, and review (B2)
- Housing element preparation and implementation timeline (B8, C2)
- Housing element compatibility with community design (C6)
- Funding for RHNA and housing element preparation (B7)
- Incentives for housing element compliance and affordable housing building activity (D1, D2)
- CEQA exemptions for housing elements (C7)

Meeting 6 (Proposed Date: November 2014): Summary of discussion and approval of recommended action(s) to be presented to CEHD, Regional Council, and LCMC, as appropriate.

Regional Housing Needs Assessment (RHNA) and Housing Element Reform Topic Outlook Matrix

The following identifies matters that were raised as part of the 5th cycle RHNA process, including suggested ideas for potential RHNA or Housing Element reform and SCAG staff’s initial response and/or recommendation with respect to the specific matter. The matrix is separated into three categories: (A) topics that involve a possible “SCAG process refinement”; (B) topics that involve possible “HCD Administrative changes” and (C) topics that involve possible “Legislative changes.” A final category, section D, has been added to identify topics related to RHNA and housing element reform but involve programs and policies outside of state housing law. Some of the recommendations noted below will require further action beyond the SCAG Regional Council, including discussion and possible action by other stakeholders, such as the State Department of Housing and Community Development (HCD), other Council of Governments (COGs), housing advocates, and the California League of Cities, as appropriate. SCAG appreciates that HCD is committed to working with SCAG to maximize opportunities for RHNA and housing element administrative changes, and we look forward to the continuing collaboration with HCD staff.

SCAG staff has prepared this topic matrix to provide a concise summary as a starting point for more detailed discussions (topics not listed in priority order).

A) SCAG Process Refinement

The following are topics that may involve possible changes to the current SCAG RHNA process. It should also be noted that many of these topics are best addressed as part of the 6th cycle RHNA process though SCAG staff recognizes the importance of identifying these issues at this time.

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Initial Staff Response/Recommendation
A1	RHNA	Procedures to develop overarching principles regarding the local input process should be established. Some suggested reforms include a formula or method to manage local input. The process should be simplified as well. (SCAG Staff; Ojai; Sierra Madre; Calabasas, Oxnard; County of Ventura)	During the 5 th RHNA cycle, local input was accepted by SCAG and used as the basis to develop projected household growth.	Develop a procedure to establish overarching principles and guidelines on how to incorporate local input in the RHNA allocation methodology. The exact principles and guidelines, for example, how to incorporate local input and AB 2158 factors (including, but not limited to jobs-housing balance, proximity to transit, and open space), should be discussed during the 6 th cycle RHNA process by the appointed RHNA Subcommittee. Recommend to be revisited and implemented before 6 th cycle RHNA process beginning in 2018. For continual education for the Regional Council, SCAG will provide regular updates on the RHNA process in between cycles.
A2	RHNA	SCAG should encourage and facilitate “appropriate” trade and transfer. Make facilitation services available to jurisdictions that elect to conduct a Trade and Transfer process and provide a sample agreement template. (County of Ventura; Brea)	“Trade and transfer” is allowed by state housing law and SCAG has developed appropriate guidelines (see Trade and Transfer Guidelines).	SCAG staff will engage the Subcommittee on further discussion of this process and will continue to encourage and facilitate the trade and transfer process. SCAG staff is also open to development a sample agreement template for the 6 th cycle RHNA process.
A3	RHNA	Identify adequate funding sources for counties to distribute RHNA numbers internally rather than rely on SCAG to conduct that process. (County of Ventura)	Funding sources were available during the RHNA process from the SCAG General Fund to jurisdictions choosing to accept RHNA delegation.	Based on available resources and policy discussions of the Subcommittee and Regional Council, SCAG will continue to make funding available for jurisdictions that accept RHNA delegation.
A4	RHNA	A neutral third party should hear RHNA revision request and appeals. (Ojai; Calabasas)	Revision requests and appeals were reviewed and decided by the RHNA Subcommittee/RHNA Appeals Board,	The pros and cons with each approach will be described in a staff report to the Subcommittee for discussion. Recommend to be revisited and

			which was comprised of SCAG Regional Council and Policy Committee members.	implemented during 6 th cycle RHNA process beginning in 2018.
A5	RHNA	Utilize teleconference technology to allow for participation from all counties in SCAG to allow for participation of non-Subcommittee members. (County of Ventura)	The RHNA Subcommittee/Appeals Board charter did not make teleconferencing available to the general public for meetings. Videoconferencing was available for most meetings.	There are pros and cons with each approach as well as Brown Act and technology limitations and costs, and will be described in a staff report to the Subcommittee. Recommend to be revisited and implemented during 6 th cycle RHNA process beginning in 2018.
A6	RHNA	Distribute staff responses to a revision request or appeal at least one week prior to the hearing so that adequate time is available to review staff comments. (County of Ventura)	Staff responses to revision requests and appeals were provided prior to the public hearings pursuant to Brown Act (i.e., at least 72 hours prior to hearing).	Staff will continue to meet the legal requirements for public review and will also provide as much additional time as possible accounting for number of responses and staff resources. This applies to both the revision request and appeals processes.
A7	RHNA	Identify a preliminary draft RHNA distribution earlier in the process, and provide a formal comment and response system to ensure potential issues with a proposed RHNA distribution are identified and resolved early in the process. (County of Ventura)	The opportunity to provide input to the growth projections was made available to all jurisdictions prior to the distribution of the Draft RHNA. Comments provided to staff were responded to and logged in an internal system.	SCAG staff has provided such preliminary information timely to all jurisdictions in the SCAG region. SCAG will continue to do so for the 6 th cycle RHNA process and encourages the participation of all jurisdictions.
A8	RHNA	Prior to the next RHNA process, assign technical staff to work with local jurisdictions to develop accurate land use data maps and forecasting models. When necessary, arrange a meeting between local agencies and SCAG managers to resolve issues. (County of Ventura)	SCAG forecast and data staff surveyed local input from all jurisdictions and met with individual jurisdictions on projected household growth and to gather information on local land use. SCAG staff conducted further outreach to jurisdictions that did not provide an initial response to surveys. The iterative process was conducted over the course of two years.	SCAG staff conducted extensive outreach with all jurisdictions and met with them to survey for local input not only for the purpose of development accurate land use maps but also to resolve potential challenges. SCAG will continue to do so for the 6 th cycle RHNA process and encourages the participation of all jurisdictions.

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Initial Staff Response/Recommendation
A9	RHNA	Provide a template for submittals and/or examples of submittals that meet SCAG expectations. (County of Ventura)	Although general guidelines were available, specific templates or examples were not published for the revision request or appeals processes. An appeal application that resulted in a granted appeal was provided to a jurisdiction on request.	SCAG staff will provide a sample packet as a guideline for revisions requests and appeals and will provide examples of past applications that resulted in a granted appeal during the preparation of the 6 th cycle RHNA.
A10	RHNA	Direct communications to the Planning Department (or equivalent) or more specifically to the Planning Director or assigned point-of-contact for the RHNA process. (County of Ventura)	Public notices and other mass correspondence were provided via email or mail to Planning Directors, in addition to City Managers/County Administrators and other stakeholders.	SCAG has and will continue to address public notices and other mass correspondence via email or mail to Planning Directors, in addition to City Managers/County Administrators and other stakeholders.
A11	RHNA	Remove the “110% adjustment” component of the RHNA methodology, which will eventually result in a result in a realignment of affordable housing concentrations across the SCAG region and fails to comport with real estate market realities. (Calabasas)	Government Code Section 65584 (d)(4) states that the objectives of the RHNA is to allocate a lower proportion of housing need by income category to disproportionately affected communities, but does not specify a particular methodology to address the issue. The 110% adjustment toward the county distribution was adopted by the SCAG Regional Council as part of both the 4 th and 5 th cycle methodologies to address the state law requiring the allocation of a lower proportion of housing need by income category to disproportionately affected communities. For jurisdictions with a high concentration of low income households, a 110% adjustment toward the county distribution would result in a lower percentage of low income households compared to the county	Because the RHNA process allows for a COG to develop and adopt its own methodology to address disproportionately affected jurisdictions, staff recommends that this issue be revisited during the development of the 6 th RHNA cycle beginning in 2018. An overall approach should be folded into the future discussion of overarching principles for the 6 th cycle RHNA Plan. SCAG can survey adjustment methodologies from other COGs during the development of the 6 th RHNA cycle methodology to further inform the discussion.

			percentage. For jurisdictions with a low concentration of low income households, a 110% adjustment would result in a higher percentage of low income households compared to the county percentage.	
A12	RHNA	Ensure accuracy of the vacancy credit application. (Calabasas; Colton)	HCD granted a vacancy credit adjustment to its regional housing need determination to address the economic downturn. SCAG applied a vacancy credit to a number of jurisdictions based on its adopted 5 th cycle RHNA methodology and data from the 2010 U.S. Census.	SCAG staff recommends that this issue be revisited during the development of the 6 th RHNA cycle beginning in 2018 if the credit is granted by HCD again for the 6 th RHNA cycle. Any particular vacancy credit is dependent on market conditions at the time.

B) HCD Administrative Changes

The following are topics that may involve possible administrative changes by HCD and therefore, will require HCD’s approval for implementation. It is SCAG staff’s intent to coordinate and work with HCD staff on resolving these matters and have them participate in Subcommittee meetings when these topics are discussed. SCAG appreciates that HCD is committed to working with SCAG to maximize opportunities for RHNA and housing element administrative changes, and we look forward to continuing collaboration with HCD staff.

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Staff Proposal for Discussion with HCD
B1	Housing Element	There should be a range of default densities established for jurisdictions to determine appropriate densities for affordable housing units. Circumstances such as mixed use projects should be considered. (Ontario; Ojai; Brea)	A jurisdiction can choose to use a default density instead of preparing its own analysis to determine unit affordability. Most jurisdictions in the SCAG region have a default density of 30 units per acre. Jurisdictions with less than 25,000 population or defined as “suburban” in state housing law have a default density of 20 units per acre.	<p>SCAG staff recommends that HCD consider a range for default density rather than a single number, which will provide flexibility for local jurisdictions.</p> <p>Staff also recommends working with HCD to establish a separate default density range for mixed-use projects.</p> <p>HCD Response: HCD is generally supportive but clarified that jurisdictions are not required to use the default density in housing elements and can instead provide an analysis of affordability. Potential change regarding optional default density would require legislative change.</p>

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Staff Proposal for Discussion with HCD
B2	Housing Element	HCD should formalize the streamlining review policy that was applied during the 5 th cycle regarding existing housing needs data. The streamline review allowed for local jurisdictions to meet the existing housing needs data requirement in its housing element if they used data provided by the COG which was based on the existing housing needs data listing as described in state housing law and pre-approved by HCD. (SCAG staff)	As part of the streamlining review process for the 5 th housing element cycle, HCD pre-approved the use of SCAG’s existing housing need data set, which meets existing housing need data requirements in the preparation of local housing element updates. SCAG voluntarily made this data available on-line for local jurisdictions in a user friendly and interactive format.	<p>HCD should consider formalizing the streamlining review policy for existing housing needs data used in the 5th cycle that allowed COGs such as SCAG to develop pre-approved data sets for use by jurisdictions in developing their local housing element update.</p> <p>HCD response: HCD is in support of providing more efficient element update and review methods. Stakeholder input will be sought in formalizing policy. Housing advocates have expressed some concerns with streamline reviews and shorter timeframes to comment to jurisdiction and HCD. More time is needed for HCD and stakeholders to evaluate streamline results and jurisdiction element implementation and compliance issues. Some discussions may get underway around mid-2014.</p>
B3	RHNA	Projected growth from Tribal lands should be excluded from jurisdictional RHNA allocation. (Coachella Valley Association of Governments)	The 4 th RHNA cycle regional allocation included growth on Indian Tribal lands; the 5 th RHNA cycle regional allocation excluded growth on Tribal lands, per determination by HCD.	<p>Tribal lands are sovereign nations and jurisdictions do not have land use authority over Tribal lands. Accommodation or exclusion of future housing need generated by Tribal lands is not currently specified in state housing law and is subject to HCD determination. A formal HCD policy specifying exclusion of projected growth on Tribal Lands is recommended.</p> <p>HCD response: HCD agreed with the assessment that Tribal lands are sovereign nations and that jurisdictions do not have land use authority over those lands. HCD expressed general agreement with the staff recommendation..</p>

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Staff Proposal for Discussion with HCD
B4	RHNA	The 3% allowable difference between the DOF and COG population projection during the HCD and COG consultation process should be applied to the total population rather than the growth. (SCAG staff)	State housing law does not define whether the 3% allowable difference between the COG regional projection forecast and DOF projection applies to growth or total.	<p>SCAG staff continues to apply the 3% allowable difference to the total population rather than to the growth.</p> <p>HCD response: HCD agreed with SCAG staff assessment that a single threshold would be adequate and noted that a technical amendment could potentially be included in 2014 legislation.</p>
B5	RHNA	General Plan updates in progress should be considered during the local input process to SCAG as well as in the final RHNA determination. (Oxnard)	SCAG continued to accept local input from jurisdictions on projected household growth until the adoption of the final RHNA Methodology. The 5 th cycle RHNA Methodology was adopted 11 months prior to the adoption of the Final RHNA allocation Plan.	A jurisdiction can coordinate a general plan update with the local input process for developing the SCAG RHNA projections, but the RHNA process must have a determined cutoff date for local input in order to consistently apply the final RHNA Methodology to the draft RHNA allocation for all jurisdictions. SCAG staff will facilitate a discussion by the Subcommittee regarding the timeline for submission of local data.
B6	RHNA	The term “change in circumstance” should be defined so as to better understand this as a basis for an appeal to the draft RHNA allocation. (SCAG staff)	State housing law does not provide a definition of what situation or challenge would qualify as a “change in circumstance.”	<p>SCAG staff proposes that affected jurisdictions work with COGs in a bottom-up process to develop proposed examples of the term “change in circumstance” and engage HCD in providing a clear definition and examples of the term.</p> <p>HCD response: HCD expressed interest in working with COGs and local jurisdictions in developing a survey to develop examples on what would constitute a change in circumstance and how housing demand could potentially be impacted.</p>

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Staff Proposal for Discussion with HCD
B7	Housing Element	There should be state funding for the development of RHNA and housing elements since they are statewide mandates for jurisdictions. (Oxnard)	No specific state funding is available for jurisdictions to update local housing elements.	State law provides that SCAG can set fees for the development of the RHNA. SCAG charges its non-member jurisdictions to develop RHNA, but does not charge member jurisdictions given that SCAG's work on RHNA development is funded primarily through the SCAG General Fund which is comprised largely of SCAG member dues. For housing element related costs, SCAG recommends that direct funding to jurisdictions from the state be discussed by the Subcommittee.
B8	Housing Element	The housing element zoning implementation timeframe is unrealistic and there should be a hardship process for more time with demonstrated progress. (Oxnard)	Zoning changes corresponding to housing element updates must be completed in a specific time frame, (generally three years after a housing element is adopted).	Staff will relay individual concerns regarding the zoning implementation timeframe to HCD. HCD response: Changes regarding zoning implementation timeframes and extensions cannot be addressed administratively and would require legislative change.
B9	RHNA/Housing Element	Reflect the percentage requirements within an inclusionary ordinance as a credit to reduce the RHNA allocation for a jurisdiction or count them as units satisfying the RHNA, whether or not the units are built. (Brea; County of Ventura)	Currently SCAG does not apply a RHNA allocation credit to jurisdictions with inclusionary zoning ordinances. Jurisdictions may apply inclusionary zoning ordinances towards their RHNA allocation in their respective housing element by either an analysis of appropriate zoning or a site analyses for pending, approved, permitted or constructed development.	Jurisdictions may currently apply inclusionary zoning ordinances toward satisfying their RHNA need once a project is approved, permitted, or constructed. In regard to a RHNA allocation credit, the allocation represents planning for future housing need while an inclusionary zoning ordinance is a requirement on the construction of housing units. Applying the credit during the development of the RHNA allocation places a high level of uncertainty since the application of inclusionary zoning is linked to specified zoning, development, and construction.
B10	Housing Element	Parcels zoned as mixed-use should count toward accommodation of the RHNA allocation. (Calabasas)	Jurisdictions may count planned units designated in mixed-use areas toward their RHNA allocation provided that they provide an analysis of unit affordability for the appropriate income group.	SCAG will continue working with HCD to ensure that units designated in mixed-use areas can be counted in housing elements toward meeting a jurisdiction's RHNA allocation.

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Staff Proposal for Discussion with HCD
B11	Housing Element	<p>Currently during housing element review, transitional and supportive housing is treated as typical single-family or multi-family housing. Transitional and supportive housing should be treated under the same requirements as a residential care facility, group home, or boarding home, since transitional/supportive housing does not necessarily function in the same way as other traditional residential uses, for example when social services are being provided on-site(Consultant)</p>	<p>Government Code Section 65583(a)(5) requires that housing elements demonstrate that transitional housing and supportive housing are considered a residential use and subject to only those restrictions that apply to other residential dwellings of the same type in the same zone.</p>	<p>Transitional and supportive housing provide social and other services, often in institutional settings, similar to residential care facilities or boarding homes. Because they function differently from typical single- or multi-family housing units and often provide on-site social services, there may be justification for subjecting them to different requirements. SCAG staff will raise this topic with HCD.</p>

C) Legislative Changes

The following are topics that may involve possible legislative proposals which, by their nature, will require input from various parties beyond HCD. Stakeholders include SCAG’s Legislative, Communications and Membership Committee (LCMC), HCD and other interested parties such as the League of California Cities, housing advocates, and other COGs/MPOs, as appropriate. Legislative changes require LCMC review before Regional Council action and require legislation sponsorship. It is SCAG staff’s intent to coordinate and work with HCD staff on resolving the following topics and have them participate in Subcommittee meetings when these matters are discussed. SCAG appreciates that HCD is committed to working with SCAG to maximize opportunities for RHNA and housing element administrative changes, and we look forward to the continuing collaboration with HCD staff in this regard. Legislative changes are the last resort if the identified challenges cannot be addressed through HCD administrative changes.

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Initial Staff Response/Recommendation
C1	RHNA	Consolidate the revision and appeal processes into one process. (Association of California Cities – Orange County)	The revision and appeal process timelines are described in state housing law as two separate processes.	Since the separate revision request and appeals processes allow a jurisdiction multiple avenues to request for a review of their respective draft RHNA allocation, it is likely in the best interests of local jurisdictions to keep as separate the revision request and appeals processes.
C2	Housing Element	The housing element development timeframe is unrealistic and there should be a hardship process for more time with demonstrated progress. (Oxnard; County of Riverside)	Housing element updates must be completed in a specific time frame, as outlined in state housing law (generally, 12 months after the COG’s adoption of the Final RHNA plan).	Regarding the housing element update timeframe, with the most recent streamlined review process made available by HCD, SCAG staff believes that the 12 month housing element update timeframe is workable.
C4	Housing Element	Cities with less than 25,000 should have more flexibility for the application of default densities in their housing elements than larger cities. (Ojai)	Cities with a population of less than 25,000 have lower default densities than larger cities. Most jurisdictions in the SCAG region have a default density of 30 units per acre. Jurisdictions with less than 25,000 population or defined as “suburban” in state housing law have a default density of 20 units per acre.	SCAG staff will facilitate a discussion with HCD to allow for a default density range when determining appropriate densities for accommodating low and very low income households. In addition, staff will seek for clarification regarding AB 745, which would allow local jurisdictions to request that council of governments adjust the default densities under state law if they are not consistent with local jurisdiction’s existing density.

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Initial Staff Response/Recommendation
C5	Housing Element	Allow cities with a population of under 100,000 within the Counties of San Bernardino and Riverside to be considered “suburban” for purposes of default density. (Colton)	Cities with a population of less than 25,000 have lower default densities than larger cities. Most jurisdictions in the SCAG region have a default density of 30 units per acre. Jurisdictions with less than 25,000 population or defined as “suburban” in state housing law have a default density of 20 units per acre.	SCAG staff will facilitate a discussion with HCD for potential legislative change to specify a default density range when determining appropriate densities for accommodating low and very low income households.
C6	Housing Element	When reviewing the housing element of smaller jurisdictions, HCD should consider compatibility of the proposed zoning and planning with community design regarding building height, view protection, and development density unique to smaller jurisdictions. Affordable overlays and inclusionary programs should be the preference of HCD. (Ojai; Oxnard)	State housing law does not take into account housing compatibility in a housing element with community design regarding building height, view protection, and development intensity.	Legislative change would be necessary to specify a range of default densities for different types of uses and other considerations indicated in a housing element regarding compatibility with surrounding uses. A discussion could occur between HCD and the Subcommittee regarding community design in housing element review. HCD allows affordable housing overlays to be developed. State law requires analysis of all development standards for potential constraints to residential development regardless of density.

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Initial Staff Response/Recommendation
C7	Housing Element	California Environmental Quality Act (CEQA) exemptions should be granted for infill projects that are designated to meet housing need in the housing element (San Clemente).	State law requires that projects not categorically exempt from CEQA must go through the CEQA review process. However, Senate Bill (SB) 226 (signed by the Governor October 2011) and SB 743 (September 2013) provide opportunities for CEQA exemption and streamlining. The purpose of SB 226 is to streamline the environmental review process for eligible infill projects, and is implemented through State CEQA Guideline Section 15183.3 (Streamlining for Infill Projects). SB 743 provides opportunities for CEQA exemption and streamlining for projects meeting certain criteria relating to specific plans, infill and transit-oriented development. The State Office of Planning and Research (OPR) is currently working on implementation of SB 743.	<p>Local jurisdictions can currently avail themselves of CEQA streamlining provisions set forth through SB 226 (CEQA Guideline Section 15183.3). See http://opr.ca.gov/s_sb226.php</p> <p>Implementation of SB 743 by the State OPR is expected in 2014. For more information, see http://www.opr.ca.gov/s_transitorienteddevelopmentsb743.php</p> <p>SCAG staff has provided information on CEQA streamlining to our policy committees (of which the RHNA subcommittee are also members) and stakeholders, and will continue to do so as additional information becomes available.</p> <p>SCAG staff suggests that this topic continue to be discussed with SCAG committees and subcommittees as part of on-going CEQA modernization efforts.</p>
C8	RHNA	Clarify state housing law to specifically address how housing needs should be allocated to jurisdictions with a disproportionately high share of households in the low income categories (Colton)	Government Code Section 65584 (d)(4) states that the objectives of the RHNA is to allocate a lower proportion of housing need by income category to disproportionately affected communities, but does not specify a particular methodology to address the issue. The RHNA process allows a COG such as SCAG to adopt its own methodology,	Because SCAG can develop its own methodology to address disproportionately affected jurisdictions, staff recommends that this issue be revisited during the development of the 6 th RHNA cycle in 2018. (See also Item No. A11).

			including how to address disproportionately affected communities. For the 5 th RHNA cycle, SCAG applied a “110% adjustment” to address this issue.	
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Local Sustainable Development and Looking Ahead

The following are topics that are related to RHNA and housing element reform but involve programs and policies outside of state housing law. These topics are included as part of the matrix so that they may be integrated into the overall discussion by the Subcommittee.

- Suggestions from the RHNA and Housing Element Reform Subcommittee
- Current SCAG Projects
 - Sustainability Grant Program/Call for Proposals
- CEQA Streamlining/SB226
- Legislation monitoring
 - CEQA Reform
- Grants
 - HCD NOFA notification
 - SCG

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Initial Staff Response/Recommendation
D1	Housing Element	Funding opportunities and other preferences should be available to jurisdictions with compliant housing elements. (Ojai)	Jurisdictions with compliant 4 th cycle housing elements have access to 5 th cycle streamlined review and are prioritized for various available grants and funding.	SCAG will coordinate with HCD in an effort to ensure that jurisdictions with compliant housing element will continue to receive streamlined review and funding opportunities as available.
D2	Housing Element	Provide funding opportunities for all new very low and low income units built with affordable housing covenants, similar to the Parks-related housing grants provided under Proposition 1A. (Brea)	HCD currently provides funding for parks-related programs to jurisdictions that build very low and income units. No grants are currently available relating to affordable housing covenants.	SCAG will encourage the State to develop and identify more funding opportunities for jurisdictions that build and preserve affordable housing.

REPORT

DATE: September 29, 2014
TO: RHNA and Housing Element Reform Subcommittee
FROM: Ma'Ayn Johnson, Housing & Land Use Planner, 213-236-1975, johnson@scag.ca.gov
SUBJECT: Unforeseen and Significant Change in Circumstance Survey

EXECUTIVE DIRECTOR'S APPROVAL: 

RECOMMENDED ACTION:
For Information Only - No Action Required.

EXECUTIVE SUMMARY:
At its May 29, 2014 meeting, the RHNA and Housing Element Reform Subcommittee directed staff to conduct a survey of all jurisdictions to determine what might constitute an unforeseen and significant change of circumstance as a basis for appeal and when it might apply. Fifty-four (54) responses were received and the results were analyzed.

STRATEGIC PLAN:
This item supports SCAG's Strategic Plan; Goal 1: Improve Regional Decision Making by Providing Leadership and Consensus Building on Key Plans and Policies; Objective a: Create and facilitate a collaborative and cooperative environment to produce forward thinking regional plans.

BACKGROUND:
At its May 29, 2014 meeting, the RHNA and Housing Element Reform Subcommittee discussed the RHNA revision request and appeals process and provided recommendations to address reform. One of the topics of reform discussed at the May 29, 2014 meeting concerned the term "unforeseen and significant change in circumstances," which is also known simply as "change in circumstances," that can be used as a basis for filing an appeal on a jurisdiction's draft RHNA allocation. According to State housing law, a jurisdiction can file an appeal of its draft RHNA allocation based on the adopted RHNA methodology, a local planning factor identified in Government Code Section 65584.04(d) (also known as "AB 2158 planning factors"), and an unforeseen and significant change in circumstances.

Out of the 13 appeals filed during the 5th RHNA cycle, six (6) of them included "significant and unforeseen change in circumstance" as a basis for appeal. Currently there is no clear definition of such circumstances in either State housing law or the Appeals Procedures adopted by the SCAG Regional Council for the 4th and 5th RHNA cycles. Further, there is no requirement or guidance on when it would need to occur in the RHNA process. Government Code Section 65584.05(d)(1) states only that a jurisdiction may appeal its draft allocation on the grounds that "a significant and unforeseen change in circumstances" has occurred in the local jurisdiction that merits a revision of the information submitted by the jurisdiction during the development of the RHNA methodology.

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For both the 4th and 5th cycles, the RHNA Appeals Board did not find the arguments provided by jurisdictions compelling enough to grant the appeals requests based on significant and unforeseen change of circumstances. At the October 23, 2013 Subcommittee meeting, Mr. Glen Campora, Deputy Director at the California Department of Housing and Community Development (HCD), indicated that such change in circumstance must be related to land use planning.

Due to the lack of a concrete definition or successful examples of appeals based on a change in circumstance, the Subcommittee directed staff at its May 29, 2014 meeting to conduct a survey of all SCAG jurisdictions to determine what could constitute a change of circumstance and when would the change of circumstance have to occur to be eligible for an appeal basis. The survey was sent by email on July 31, 2014 to all SCAG city and county managers and planning directors with a submittal due date of August 22, 2014. SCAG staff sent a follow up email to subregional coordinators on September 16, 2014 in an effort to gather additional survey responses. As of September 17, 2014, SCAG received 54 completed survey responses. To ensure that all responses are included as part of the Subcommittee's final report of recommended RHNA and housing element reform actions, SCAG staff will include updated survey results as part of the next Subcommittee meeting agenda.

The survey consisted of four (4) brief questions and a copy of the full survey is attached to this staff report (attachment 1). The following is a summary of the survey questions and the responses received. The full list of answers is attached to this staff report (attachment 2)

Question #1: What might constitute a “significant and unforeseen change in circumstances” that would affect a jurisdiction’s draft RHNA allocation? The circumstance must relate to land use planning.

There were forty-eight(48) individual responses to this question. Responses included “local planning constraints, annexation of county land, dissolution of redevelopment funding, and land use changes outside the jurisdiction’s control.”

Annexation of residentially-developed land from a county or incorporation of a city was included as responses. Annexations and incorporations involve boundary changes that would affect RHNA methodology and SCAG would need to be notified of any changes to jurisdictional boundaries so that the methodology could be amended until its final adoption. Typically annexations involving residentially zoned areas increase the number of households for the annexing city and would presumably add to its projected household growth and therefore RHNA allocation. The converse would apply for the involved county by reducing the number of households. However, annexations and incorporations typically involve well-developed sphere of influence plans and must undergo a rigorous process for final approval by the Local Agency Formation Commission (LAFCO).

The dissolution of redevelopment agencies has impacted building affordable housing throughout the State by increasing the need to find reliable and permanent funding sources to develop affordable housing. However, at the February 2, 2012 Community, Economic & Human Development (CEHD) Committee, Mr. Glen Campora, Deputy Assistant Director at HCD, indicated that the dissolution of redevelopment funds does not impact future housing need, represented by the RHNA allocation, since the funding was directed at increasing the supply of housing to meet that need. Additionally, the next RHNA cycle is anticipated to begin development in 2018, six years after redevelopment dissolution, and would not be an unforeseen and significant change in circumstances at that point in time.

REPORT

There were a variety of responses that indicated as being beyond a jurisdiction’s control. These include natural disasters, court orders, new identification of a health or public safety hazard, or acquisition of land by the state or federal government. Depending on the circumstances and how it affects households and housing demand, these issues might have merit as a basis for appeal in change in circumstance.

Question #2: START DATE: When would the significant and unforeseen change in circumstances need to occur to justify an appeal to the draft RHNA allocation?

Please select the earliest START date for the period of “change in circumstance” to apply (Please choose one):

- a) Between the local planning factor survey and RHNA Methodology adoption
- b) At the RHNA Methodology adoption
- c) At the Draft RHNA allocation distribution
- d) At the RHNA Appeals filing deadline
- e) At the RHNA Appeals hearings
- f) At the Final RHNA adoption
- g) Other (please explain)

For reference, survey users were provided a timeline of the 5th RHNA cycles process:

Submission of the local planning factor survey: July 2011
RHNA Methodology adoption: November 2011
Draft RHNA Allocation distribution: February 2012
RHNA Appeals filing deadline: May 2012
RHNA Appeals hearings: July 2012
Final RHNA adoption: October 2012

Fifteen responses selected as the earliest start date for a change in circumstances appeal basis to apply (c) At the Draft RHNA allocation distribution. Thirteen responses selected (a) Between the local planning factor survey and RHNA Methodology adoption. Nine responses selected (g) Other (please explain), and included answers such as at any time during the RHNA timeline and 12 months prior to the local planning factor survey (the full list of answers submitted as “Other” is included in attachment 3).

Question #3: END DATE: When would the significant and unforeseen change in circumstances need to occur to justify an appeal to the draft RHNA allocation?

Please select the latest END date for the period of “change in circumstance” to apply (Please choose one):

- a) Between the local planning factor survey and the RHNA Methodology adoption
- b) At the RHNA Methodology adoption
- c) At the Draft RHNA allocation distribution
- d) At the RHNA Appeals filing deadline
- e) At the RHNA Appeals hearings

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- f) At the Final RHNA adoption
- g) Other (please explain)

The top answer to question #3 was (f) At the Final RHNA adoption, with 17 survey users selecting this milestone as the latest end date. Twelve (12) users responded with (g) Other, with some indicating again that change in circumstance as an appeal basis should apply at any time during the RHNA process while others indicated that it should occur during the housing element process (the full list of answers submitted as “Other” is included in attachment 3). Eleven (11) users indicated that the latest end date should be (d) At the RHNA Appeals filing deadline.

Question #4: Should the law be changed to allow for an adjustment to a RHNA allocation as part of the Housing Element process due to a significant and unforeseen change in circumstances occurring after the Final RHNA has been distributed?

- a) Yes
- b) No

Forty (40) out of the fifty-one (51) responses for question #4 answered yes to changing the law to allow for an adjustment to a RHNA allocation as part of the housing element process due to a significant and unforeseen change in circumstance after the Final RHNA has been distributed. Because State housing law does not provide procedures for revising the Final RHNA allocation beyond annexation or incorporation situations, a legislative change would be needed to amend a RHNA allocation for an unforeseen and significant change in circumstance. SCAG staff will facilitate a discussion between HCD and this Subcommittee to determine the feasibility of this change and how it would fold in to the RHNA and housing element process.

FISCAL IMPACT:

Expenditures related to staff and legal support for the RHNA and Housing Element Reform Subcommittee along with additional related direct costs (e.g., stipends, meals, mileage and parking) are included as part of the FY 14-15 General Fund Budget as well.

ATTACHMENTS:

1. Survey on Change in Circumstances, Sent via Email on July 31, 2014
2. Summary of Responses to Question #1
3. Summary of “Other” Responses to Questions #2 and #3

Explanation

The RHNA Appeals process allows for jurisdictions to appeal their draft RHNA allocation on several bases. One of the bases for appeal is a "significant and unforeseen change in circumstances." (Government Code Section 65584.05(d)(1)). However, State law does not provide a specific definition of a significant and unforeseen change in circumstances and when it would have to occur to affect the jurisdiction's draft RHNA allocation and justify its appeal.

At the direction of the SCAG RHNA and Housing Element Reform Subcommittee, SCAG staff is surveying local jurisdictions on possible definitions of a "significant and unforeseen change of circumstances." Results of the survey will be shared with the California Department of Housing and Community Development (HCD), other MPOs, stakeholders, and the RHNA and Housing Element Reform Subcommittee for further guidance on the matter. We appreciate your time in completing this brief survey

Please submit your answers no later than **Friday, August 22, 2014**. Thank you.

***1. Name**

***2. Jurisdiction**

***3. Position**

- City/County Manager
- Planning Director/Manager
- Other (please specify)

1. What might constitute a “significant and unforeseen change in circumstances” that would affect a jurisdiction’s draft RHNA allocation? The circumstance must relate to land use planning.

2.

START DATE:When would the significant and unforeseen change in circumstances need to occur to justify an appeal to the draft RHNA allocation? While current State law does not specify when it would apply, for the 5th RHNA cycle, SCAG considered the period between the adoption of the RHNA Methodology and the distribution of the draft RHNA allocation as the applicable timeframe. For reference, the 5th RHNA cycle (2013-2021) timeline was as follows;

Submission of the local planning factor survey: July 2011

RHNA Methodology adoption: November 2011

Draft RHNA Allocation distribution: February 2012

RHNA Appeals filing deadline: May 2012

RHNA Appeals hearings: July 2012

Final RHNA adoption: October 2012

Please select the earliest START date for the period of “change in circumstance” to apply (Please choose one):

- Between the local planning factor survey and RHNA Methodology adoption
- At the RHNA Methodology adoption
- At the Draft RHNA allocation distribution
- At the RHNA Appeals filing deadline
- At the RHNA Appeals hearings
- At the Final RHNA adoption
- Other (please explain)

3.

END DATE: When would the significant and unforeseen change in circumstances need to occur to justify an appeal to the draft RHNA allocation? While current State law does not specify when it would apply, for the 5th RHNA cycle, SCAG considered the period between the adoption of the RHNA Methodology and the distribution of the draft RHNA allocation as the applicable timeframe. For reference, the 5th RHNA cycle (2013-2021) timeline was as follows;

Submission of the local planning factor survey: July 2011

RHNA Methodology adoption: November 2011

Draft RHNA Allocation distribution: February 2012

RHNA Appeals filing deadline: May 2012

RHNA Appeals hearings: July 2012

Final RHNA adoption: October 2012

Please select the latest END date for the period of “change in circumstance” to apply (Please choose one):

- Between the local planning factor survey and the RHNA Methodology adoption
- At the RHNA Methodology adoption
- At the Draft RHNA allocation distribution
- At the RHNA Appeals filing deadline
- At the RHNA Appeals hearings
- At the Final RHNA adoption
- Other (please explain)

4. Should the law be changed to allow for an adjustment to a RHNA allocation as part of the Housing Element process due to a significant and unforeseen change in circumstances occurring after the Final RHNA has been distributed?

- Yes
- No

RHNA Change in Circumstance Survey
Summary of Question #1 Responses

Question #1: What might constitute a “significant and unforeseen change in circumstances” that would affect a jurisdiction’s draft RHNA allocation? The circumstance must relate to land use planning.

- Annexation/incorporation
- Change in land use beyond jurisdiction’s control
- Economic changes
- Newly identified endangered species
- Drought
- Physical limitations
- Objections of residents
- Sewer capacity
- Misapplication of data used in methodology
- Miscalculation of housing need due to methodology application
- Natural disaster
- Delay in proposed transit station
- Need for infrastructure improvements
- Dissolution of redevelopment
- Legislation changes
- Lack of suitable land for development
- Unemployment
- Geological or other hazards limiting housing sites
- Vacant land developed faster than anticipated
- Identification of seismically active land
- Relocation of large public facilities (eg airports)
- Large scale project approval entailing General Plan amendment
- Project cancellation
- Court orders
- Newly discovered public safety or health hazard
- External litigation
- Referendum for permanent open space
- Zone changes
- City bankruptcy
- Acquisition of land by state or federal government
- Los of major employer
- Placement of territory by Tribal Government into Federal Trust Land
- General Plan Updates

RHNA Change in Circumstance Survey
Summary of Question #2 and #3 “Other” Responses

Question #3: START DATE: When would the significant and unforeseen change in circumstances need to occur to justify an appeal to the draft RHNA allocation?... Please select the earliest START date for the period of “change in circumstance” to apply.

(g) Other: Please Explain:

- 12 months prior to the Local planning factor survey
- an unforeseen circumstance is exactly that...it could occur before, during or after the RHNA process
- At any time regardless of RHNA timeline listed above.
- Between the local planning factor survey and the RHNA Appeals Filing deadline
- Change occurred over time. Voter approved assessment district for maintaining roads expired. State funding no longer available.
- It should be at any time during the RHNA process until the RHNA adoption hearing.
- Not anticipated N/A
- These "significant & unforeseen change in circumstances" should be considered throughout all steps of the RHNA process

Question #4: END DATE: When would the significant and unforeseen change in circumstances need to occur to justify an appeal to the draft RHNA allocation?... Please select the latest END date for the period of “change in circumstance” to apply.

(g) Other: Please Explain:

- Within 12 months prior to local planning factor survey
- What difference does it make there has never been a fair consideration of an appeal anyway
- Before, during, after. It can be at any time.
- No end in sight. City's general fund is less than \$3,000,000 and community needs are vast. There are only one or two lots large enough to build multifamily developments and those are hampered by steep terrain.
- It should be at any time during the RHNA process until the RHNA adoption hearing.
- Not anticipated N/A
- Upon the change occurring-could be up to an including the RHNA cycle
- Throughout all phases
- After the Final RHNA adoption numbers are distributed, staff should be given a period of 60 days or so to appeal the final adoption in case during that time, an unforeseen change in circumstance occurs.
- Unforeseen changes in circumstances should be appealable up housing element adoption/certification or, at a minimum to the date of the RHNA Appeal Hearing.
- Since it is a significant and unforeseen change in circumstance there should be a process to allow it even during the Housing Element process

REPORT

DATE: September 29, 2014

TO: RHNA and Housing Element Reform Subcommittee

FROM: Huasha Liu, Director, Land Use and Environmental Planning, 213-236-1838, liu@scag.ca.gov

SUBJECT: Issues and Recommendations Relating to RHNA and Housing Element Reform

EXECUTIVE DIRECTOR'S APPROVAL: 

RECOMMENDED ACTION:

Review and recommend the following actions regarding RHNA and housing element reform for further review and approval by the Community, Economic and Human Development (CEHD) Committee:

1. Regarding RHNA and Housing Element Matrix Item B2, SCAG staff recommends that HCD consider formalizing the streamlining review policy for existing housing needs data similar to the process of the 5th cycle that allowed COGs such as SCAG to develop pre-approved data sets for use by jurisdictions in development the existing housing needs portion of the local housing element update.
2. Regarding RHNA and Housing Element Matrix Item B9, continue to support that HCD allow for inclusionary zoning to be counted toward meeting a jurisdiction's future housing needs in its housing element.
3. Regarding RHNA and Housing Element Matrix Item C6, SCAG staff recommends the facilitation of discussion between HCD and jurisdictions regarding community design in housing element review and continue to allow for jurisdictions to use tools such as inclusionary zoning and affordable housing overlays to meet their respective future housing need.
4. Regarding RHNA and Housing Element Matrix Item B8 and C2, SCAG staff should continue to provide information to jurisdictions on the RHNA process and housing element update timelines and facilitate discussion with HCD for jurisdictions that need additional time for housing element implementation.
5. Regarding RHNA and Housing Element Matrix Items B1, B10, C4 and C5, SCAG staff will continue to facilitate discussion between HCD and jurisdictions to address default density options when determining appropriate sites for accommodating low and very low income households.
6. Regarding RHNA and Housing Element Matrix Item B11, SCAG staff recommends that State housing law remain unchanged and for SCAG staff to facilitate discussions between HCD and jurisdictions in need of housing element assistance.
7. Regarding RHNA and Housing Element Matrix Item B7, SCAG recommends continuing the dialogue with HCD and other State agencies to find opportunities for State-level funding for jurisdictions to assist in the development of housing elements. Moreover, SCAG will continue to assist its local jurisdictions to obtain Cap-and-Trade funding to support Sustainable Communities Strategy (SCS) implementation, including planning for and supplying affordable housing.

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8. Regarding RHNA and Housing Element Matrix Item D1 and D2, SCAG will continue to coordinate with HCD in an effort to ensure that jurisdictions with compliant housing elements will continue to receive streamlined review and funding opportunities as available. Moreover, SCAG will work with the State and our member jurisdictions and stakeholders to develop the Affordable Housing and Sustainable Communities (AHSC) program and identify additional funding opportunities for jurisdictions that build and preserve affordable housing. SCAG will also continue its efforts in facilitating between HCD and local jurisdictions to ensure housing element compliance.
9. Regarding RHNA and Housing Element Matrix Item C7, SCAG will continue to provide information on CEQA streamlining to SCAG Policy Committees and stakeholders as additional information becomes available, and to continue to discuss the topic as part of on-going CEQA modernization efforts.

Note, all the recommendations approved by the Subcommittee on the various topics will be summarized in a final wrap-up report, which may specify maintaining the status quo or propose administrative or legislative changes, and presented to the Subcommittee at its last meeting to be scheduled this Fall.

EXECUTIVE SUMMARY:

During the 5th cycle RHNA process, RHNA stakeholders raised a number of concerns pertaining to the development, review, and implementation of housing elements. These concerns included issues relating to housing element preparation and review, credit for inclusionary zoning policies, default densities, transitional and supportive housing requirements, housing element compatibility with community design, funding for housing element preparation, incentives for affordable housing activity, and California Environmental Quality Act (CEQA) exemptions for housing elements. Though housing elements are under the purview of the California Department of Housing and Community Development (HCD), SCAG staff included the comments received on this subject in the RHNA and Housing Element Reform Topic Matrix presented to the Subcommittee, and has facilitated HCD staff's participation in today's meeting such that local jurisdictions and other stakeholders can discuss these topics directly with HCD staff.

STRATEGIC PLAN:

This item supports SCAG's Strategic Plan; Goal 1: Improve Regional Decision Making by Providing Leadership and Consensus Building on Key Plans and Policies; Objective a: Create and facilitate a collaborative and cooperative environment to produce forward thinking regional plans.

BACKGROUND:

At its prior meetings, held on October 23, 2013, January 23, 2014, and March 13, 2014, and May 29, 2014 respectively, the RHNA and Housing Element Reform Subcommittee ("Subcommittee") reviewed a matrix of topics for discussion and possible action for RHNA and housing element reform. The purpose of the Subcommittee is to discuss concerns raised during the 5th RHNA cycle process and provide guidance to SCAG staff on these issues. The concerns were raised by a variety of stakeholders, including Subcommittee members, local jurisdictions, other interested groups, as well as SCAG staff who also identified a few items for discussion.

To allow for focused discussions and meeting efficiency, the Subcommittee approved its meeting schedule by topic area. The focus of the fifth meeting of the Subcommittee is on the following topics pertaining to the housing element process. The matrix cells reference the version dated March 3, 2014, which is also included in today's meeting agenda.

1. Existing housing needs statistics preparation, usage, and review (B2)
2. Credit for inclusionary zoning (B9)
3. Housing element preparation and implementation timeline (B8, C2)
4. Default density exceptions, ranges, and mixed-use designations (B1, B10, C4,C5)
5. Housing element compatibility with community design (C6)
6. Transitional and Supportive Housing Requirements (B11)
7. Funding for RHNA and housing element preparation (B7)
8. Incentives for housing element compliance and affordable housing building activity (D1, D2)
9. CEQA exemptions for housing elements (C7)

The Housing Element Process

Per Government Section 65584, Council of Governments (COG), such as SCAG, are required to adopt a Final RHNA Allocation, which represents projected housing need for a designated time period. For the 5th cycle, which covered the projection period between January 2014 and October 2021, the Final RHNA Allocation was adopted by the SCAG Regional Council in October 2012.

Subsequent to the Final RHNA Allocation adoption, jurisdictions are responsible for updating their respective housing elements to reflect the projection year of the adopted RHNA Allocation. Typically jurisdictions submit their respective draft housing element to the HCD, which reviews them and provides feedback on the housing element's compliance with state housing law. For the 5th RHNA and housing element cycle, SCAG jurisdictions were required to adopt their respective housing element by October 2013.

Mr. Glen Campora, Assistant Deputy Director of Housing Policy Development at HCD, will provide more background information on the housing element topics discussed in this report at the September 29, 2014 Subcommittee meeting and facilitate a discussion regarding the suggested reforms.

(1) Existing housing needs statistics preparation, usage, and review

RHNA and Housing Element Reform Matrix Item B2

Based on the positive feedback from our constituents and stakeholders, SCAG staff suggests that HCD formalize the streamlining review policy that was applied during the 5th cycle regarding existing housing needs data.

Background:

In addition to addressing projected housing needs, which is quantified by the RHNA Allocation, per Government Code Section 65583(a) a jurisdiction is required to provide an assessment of existing housing needs. This assessment includes an analysis of population and employment trends and household characteristics, such as households by tenure, overpaying and overcrowded households, and farmworker housing needs. For the 5th RHNA/housing element cycle, SCAG provided this information to its jurisdictions in an easily-downloadable online format, which was pre-approved for use in housing elements by HCD. As part of its streamline housing element review process for the 5th cycle, HCD allowed for local jurisdictions to meet the existing housing needs data requirement in its housing element if they used pre-approved data provided by the COG.

In addition to the use of pre-approved existing housing needs data, HCD offered other benefits of the 5th cycle streamline housing element review process. For example, jurisdictions qualifying for the streamline option could use the “markup” function on top of their 4th cycle housing element and just demonstrate any changes between the 4th and 5th cycle rather than starting a completely new document. Another feature included the ability for jurisdictions to use a checklist that HCD would review prior to beginning its in-depth draft housing element review. If there were any missing components, HCD could immediately notify the jurisdiction rather than find out much later during the review process. Additionally, for a jurisdiction opting to use the streamline review process, HCD’s goal is to complete the review process within 45 days compared to the standard 60-day review.

To date, there are still COGs and jurisdictions that are completing the 5th RHNA and housing element update cycle. After other local governments have updated their 5th cycle, HCD will evaluate the results of the 5th cycle streamlining option and any issues that may arise on housing element implementation and compliance.

Recommendation:

Regarding RHNA and Housing Element Matrix Item B2, SCAG staff recommends that HCD consider formalizing the streamlining review policy for existing housing needs data similar to the process of the 5th cycle that allowed COGs such as SCAG to develop pre-approved data sets for use by jurisdictions in development the existing housing needs portion of the local housing element update.

(2) Credit for Inclusionary Zoning

RHNA and Housing Element Reform Matrix (Item B9)

It has been suggested that a jurisdiction’s RHNA allocation should be reduced with a credit that reflects the percentage requirements within an inclusionary ordinance or count them as units satisfying the RHNA, whether or not the units are built. (City of Brea; County of Ventura)

Background:

A number of jurisdictions voluntarily adopt inclusionary zoning ordinances as a component of their respective housing element in an effort to increase the supply of affordable housing. Such ordinances require that a certain portion of a proposed development be reserved for very low to moderate income households, for which the threshold varies by jurisdiction. For example, a jurisdiction might have an ordinance that requires 5% of units from new residential development projects be set aside for lower income families.

As discussed at the January 23, 2014 Subcommittee meeting, SCAG does not apply a RHNA allocation credit to jurisdictions with inclusionary zoning ordinances. The RHNA Allocation represents planning for future housing need while an inclusionary zoning ordinance is a requirement on the construction of housing units. Application of inclusionary zoning is linked to specified development and construction. Inclusionary zoning ordinances described in the housing element can help address RHNA and RHNA credit can be taken for pending, approved, permitted or constructed development. At the January 23, 2014 meeting, the Subcommittee recommended that staff continue to facilitate discussions with HCD to ensure that inclusionary zoning ordinances can be used in housing elements to meet assigned RHNA allocation.

Recommendation:

Regarding RHNA and Housing Element Matrix Item B9, continue to support that HCD allow for inclusionary zoning to be counted toward meeting a jurisdiction’s future housing needs in its housing element.

(3) Housing element compatibility with community design

RHNA and Housing Element Reform Matrix (Item C6):

It has been suggested that when reviewing the housing element of smaller jurisdictions, HCD should consider compatibility of the proposed zoning and planning with community design and other factors that are unique to smaller jurisdictions. Moreover, affordable housing overlay zones and inclusionary programs should be the preference of HCD (Ojai, Oxnard).

Background:

State housing law does not take into account housing compatibility in a housing element with community design regarding building height, view protection, and development density. Legislative change would be necessary to specify a range of default densities for different types of uses and other considerations indicated in a housing element regarding compatibility with surrounding uses. The designated default density of smaller jurisdictions (those with population of less than 25,000) is 20 dwelling units per acre, which is fewer than the 30 dwelling units per acre for larger jurisdictions.

An affordable housing overlay zone is a tool utilized by a number of jurisdictions on top of existing zoning designations to promote affordable housing. These zones offer a range of incentives for developers in exchange for concessions specified by the jurisdiction. Incentives for a developer might include reduced parking requirements, increased density, and relaxed height limits and in exchange, developments must include a certain percentage or number of housing units to be set aside for lower income households. HCD allows for housing overlays to count towards RHNA allocation provided that an analysis is included as with other tools to accommodate future housing need. Since each jurisdiction has its own unique set of circumstances and there is not a “one size fits all” approach in planning for housing need, SCAG staff does not recommend that HCD have a preference for one tool over another as long as future housing need is accommodated in a housing element.

Recommendation:

Regarding RHNA and Housing Element Matrix Item C6, SCAG staff recommends the facilitation of discussion between HCD and jurisdictions regarding community design in housing element review and continue to allow for jurisdictions to use tools such as inclusionary zoning and affordable housing overlays to meet their respective future housing need.

(4) Housing element and preparation timeline

RHNA and Housing Element Reform Matrix (Item B8, C2):

It has been suggested that there should be a hardship process for more time for housing element development and implementation with demonstrated progress (Oxnard; County of Riverside).

Background:

Housing element updates must be completed in a specific time frame, as outlined in State housing law. For the 5th RHNA cycle, the Final RHNA Allocation was adopted by the SCAG Regional Council in October 2012. While the adoption deadline for housing elements was October 15, 2013, jurisdictions are not required to wait until Final RHNA adoption to begin their respective housing elements. Once the Draft RHNA Allocation is distributed, generally 18 months prior to the housing element adoption deadline, a jurisdiction can have a general sense of their projected housing need for the planning period and can begin developing its housing element update.

In terms of implementation, Government Code Section 65583(c)(1)(A) requires that if a jurisdiction cannot meet its projected housing need through an inventory of sites and instead chooses to accommodate need through rezoning sites, the rezoning must occur no later than three (3) years after the adoption of the housing element or 90 days after receipt of comments from HCD, whichever is earlier. An extension of up to one (1) year can also be requested from HCD under certain circumstances. Thus, jurisdictions can have up to four (4) years to complete necessary rezoning to implement their respective housing elements.

Recommendation:

Regarding RHNA and Housing Element Matrix Item B8 and C2, SCAG staff should continue to provide information to jurisdictions on the RHNA process and housing element update timelines and facilitate discussion with HCD for jurisdictions that need additional time for housing element implementation.

(5) Default density ranges, exceptions, and mixed-use designations

RHNA and Housing Element Reform Matrix (Item B1):

It has been suggested that there should be a range of default densities established for jurisdictions to determine appropriate densities for affordable housing units and circumstances such as mixed-use projects should be considered (Ontario, Ojai, Brea).

RHNA and Housing Element Reform Matrix (Item B10):

It has been suggested that parcels zoned as mixed-use should count toward accommodation of the RHNA allocation (Calabasas).

RHNA and Housing Element Reform Matrix (Item C4):

It has been suggested that cities with less than 25,000 should have more flexibility for the application of default densities in their housing elements than larger cities (Ojai).

RHNA and Housing Element Reform Matrix (Item C5):

It has been suggested that cities with a population of under 100,000 within the Counties of San Bernardino and Riverside to be considered “suburban” for purposes of default density (Colton).

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Background:

As part of the sites and zoning analysis to accommodate its future housing need, a jurisdiction is required to demonstrate how sites can accommodate the need for lower income. There are two ways to address this requirement: (1) Provide an analysis that demonstrates affordability through financial feasibility, market demand, locally adopted densities, or similar information, or; (2) incorporate the “default density” established by Government Code Section 65583.2(c)(3)(B).

Default densities are categorized in State housing law by the size of the Metropolitan Statistical Area (MSA) and size of the jurisdiction. Jurisdictions that are located in Ventura County and Imperial County and have less than 100,000 in population are considered “suburban” and are assigned a default density of 20 dwelling units per acre. Jurisdictions that are outside these two counties but have a population of less than 25,000 are also assigned a default density of 20 dwelling units per acre. All other jurisdictions in the SCAG region are classified as “metropolitan” and are assigned a default density of 30 dwelling units per acre.

As clarified by HCD at the RHNA and Housing Element Reform Subcommittee meeting on October 23, 2013, a jurisdiction choosing to exercise the default density option does not need to adopt the exact default density either as a minimum or maximum density. Instead, a density range can be adopted that includes the required default density. For example, a jurisdiction assigned a default density of 20 units per acre could adopt zoning of 15 to 20 or more units per acre since that includes the default density specification.

For other jurisdictions, HCD has indicated that they have recognized several constraints experienced by some larger jurisdictions and the need to facilitate a variety of housing types. Because of this, HCD has indicated they are willing to work with jurisdictions in demonstrating appropriate densities in their respective sites and zoning analyses.

Additionally, jurisdictions may count planned units designated in mixed-use areas toward their RHNA allocation provided that they provide an analysis of unit affordability for the appropriate income group, or demonstrate the density designated by the jurisdiction can accommodate the need. Similar to other issues, SCAG will assist in facilitating discussion between HCD and jurisdictions with constraints in accommodating housing need through default density analysis.

Because State housing law already allows for a lower default density for smaller cities and there is indicated flexibility on the application of default density ranges, SCAG staff does not recommend further changes to existing language on the definition of default densities.

Recommendation:

Regarding RHNA and Housing Element Matrix Items B1, B10, C4 and C5, SCAG staff will continue to facilitate discussion between HCD and jurisdictions to address default density options when determining appropriate sites for accommodating low and very low income households.

(6) Transitional and Supportive Housing Requirements

RHNA and Housing Element Reform Matrix (Item B11):

It has been suggested that transitional and supportive housing should be treated under the same requirements as a residential care facility, group home, or boarding home, since transitional and supportive housing does not necessarily function in the same way as other traditional residential uses (Consultant).

Background:

Transitional housing is defined in State Health & Safety Code law as rental housing for stays of at least six months but where the units are re-circulated to another program recipient after a set period. Transitional housing may be designated for a homeless individual or family transitioning to permanent housing. This housing can take several forms, such as single family or multifamily units, and may include supportive services to allow individuals to gain necessary life skills in support of independent living. Supportive housing has no limit on the length of stay, is linked to onsite or offsite services, and is occupied by a target population as defined in State law. Services typically include assistance designed to meet the needs of the target population in retaining housing, living and working in the community, and/or improving health and may include case management, mental health treatment, and life skills.

Per Government Code Section 65583(a)(5), a jurisdiction’s housing element must demonstrate that transitional housing and supportive housing are permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. In other words, transitional housing and supportive housing are not subject to any restrictions, such as the number of occupants, that are not imposed on similar dwellings, such as single-family residences or apartments, in the same zone in which the transitional housing and supportive housing is located.

Because State law provides a clear requirement that transitional and supportive housing be considered as a residential use subject only to the same conditions imposed on development types, HCD cannot provide an administrative interpretation beyond the statute’s written language. Moreover, because transitional and supportive housing provide amenities that other types of residential dwellings sometimes provide (e.g. community room, computer centers, common spaces, etc.), they should not be subject to different requirements than housing of the same type. Although SCAG staff had initially recommended in the RHNA and Housing Element Reform Matrix that there might be some justification for subjecting transitional and supportive housing to different requirements, after conducting further research, it is recommended that jurisdictions continue to accommodate transitional and supportive housing in the same way as similar housing types. SCAG will continue to facilitate discussion with HCD as needed for jurisdictions in need of assistance for housing element development.

Recommendation:

Regarding RHNA and Housing Element Matrix Item B11, SCAG staff recommends that State housing law remain unchanged and for SCAG staff to facilitate discussions between HCD and jurisdictions in need of housing element assistance.

(7) Funding for RHNA and housing element preparation

RHNA and Housing Element Reform Matrix (Item B7):

It has been suggested that there should be state funding for the development of RHNA and housing elements since they are statewide mandates (Oxnard).

Background:

State law provides that SCAG can set fees for the development of the RHNA. For the 4th and 5th cycles, SCAG charged its non-member jurisdictions to develop RHNA, but did not charge its member jurisdictions given that SCAG’s work on RHNA development was primarily funded through the SCAG General Fund, which is comprised largely of SCAG member dues. For the purpose of updating local housing elements, there is currently no specific State funding available for jurisdictions.

However, as part of Senate Bill 852 and Senate Bill 862, certain allocations are appropriated toward affordable housing and sustainable communities (AHSC). For the Fiscal Year 2014-15, the Governor approved \$130 million Statewide for AHSC and for future years, 20 percent of total Cap-and-Trade funds will be dedicated toward AHSC with certain eligibility thresholds. SCAG is actively participating in the guidelines development process, representing the best interest of stakeholders. SCAG will continue to inform stakeholders as more information becomes available and will continue to assist its local jurisdictions to obtain Cap-and-Trade funding to support SCS implementation, including planning for and supplying affordable housing.

Recommendation:

Regarding RHNA and Housing Element Matrix Item B7, SCAG recommends continuing the dialogue with HCD and other State agencies to find opportunities for State-level funding for jurisdictions to assist in the development of housing elements. Moreover, SCAG will continue to assist its local jurisdictions to obtain Cap-and-Trade funding to support SCS implementation, including planning for and supplying affordable housing.

(8) Incentives for housing element compliance and affordable housing building activity

RHNA and Housing Element Reform Matrix (Item D1):

It has been suggested that funding opportunities and other preferences should be available to jurisdictions with compliant housing elements (Ojai).

RHNA and Housing Element Reform Matrix (Item D2):

It has been suggested that there should be funding opportunities for very low and low income units built with affordable housing covenants, similar to the Parks-related housing grants provided under Proposition 1C (Brea).

Background:

Jurisdictions with compliant housing elements from the 4th RHNA cycle were eligible for HCD streamlined review of 5th cycle elements. The streamlined review provided an opportunity for jurisdictions to save resources in developing the housing element. Moreover, jurisdictions with compliant housing elements are

prioritized for available grants and funding programs, such as the Transit-Oriented Development Housing Program and the Housing-related Parks Program.

In regard to funding for maintaining housing affordability covenants, the Housing-related Parks Program required that low income rental units must retain an affordability covenant of 55 years (20 years for ownership units). Such covenant requirements could be added to various grant programs at the discretion of HCD. However, at this time there are no other grants available that require affordable housing covenants as condition for the grant.

Subsequent to the development of the RHNA and Housing Element Topic matrix, the State has set forth an expenditure plan for revenues from AB32 Cap-and-Trade auction proceeds that will support funding of affordable housing. The Affordable Housing and Sustainable Communities Program (AHSC), administered by the Strategic Growth Council in coordination with HCD and other State and regional agencies, will help fund the implementation of sustainable communities strategies required by SB 375. The State Budget provides an ongoing commitment of 20 percent of future auction proceeds for the AHSC program and requires that at least half of the expenditures be allocated for affordable housing projects.

Information on the Cap-and-Trade expenditure plan can be found as an attachment to this staff report or online at: <http://www.arb.ca.gov/cc/capandtrade/auctionproceeds/2014-15budgetcapandtradeauctionproceeds.pdf>.

Recommendation:

Regarding RHNA and Housing Element Matrix Item D1 and D2, SCAG will continue to coordinate with HCD in an effort to ensure that jurisdictions with compliant housing elements will continue to receive streamlined review and funding opportunities as available. Moreover, SCAG will work with the State and our member jurisdictions and stakeholders to develop the AHSC program and identify additional funding opportunities for jurisdictions that build and preserve affordable housing. SCAG will also continue its efforts in facilitating between HCD and local jurisdictions to ensure housing element compliance.

(9) CEQA exemptions for housing elements

RHNA and Housing Element Reform Matrix (Item C7):

It has been suggested that California Environmental Quality Act (CEQA) exemptions should be granted for infill projects that are designated to meet housing need in the housing element (San Clemente).

Background:

State law requires that projects not categorically exempt from CEQA must go through the CEQA review process. Since 2008, there have been three bills which provide opportunities for CEQA exemption and streamlining for which infill projects may be eligible. They include Senate Bill (SB) 375 (2008), SB 226 (2011) and SB 743 (2013). Specifically, SB 375 provides opportunities for CEQA exemption and streamlining for TOD projects which may also be infill projects. The purpose of SB 226 is to streamline the environmental review process for eligible infill projects, and is implemented through State CEQA Guideline Section 15183.3 (Streamlining for Infill Projects). Because it provides regulatory incentives for streamlined CEQA review for development in Transit Priority Areas (TPAs), SB 743 will facilitate the development of affordable housing in these areas. The State Office of Planning and Research (OPR) is currently working on

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implementation of SB 743. SCAG staff has assisted OPR staff in convening two regional work group meetings to facilitate the implementation of SB 743. Combined with the financial incentive support of Cap-and-Trade funding, SB 743 provides regulatory incentives for implementation of SCS objectives, including planning for and supplying affordable housing as applicable.

Recommendation:

Regarding RHNA and Housing Element Matrix Item C7, SCAG will continue to provide information on CEQA streamlining to SCAG Policy Committees and stakeholders as additional information becomes available, and to continue to discuss the topic as part of on-going CEQA modernization efforts.

FISCAL IMPACT:

Expenditures related to staff and legal support for the RHNA and Housing Element Reform Subcommittee, along with additional related direct costs (e.g., stipends, meals, mileage and parking), are included as part of the FY 14-15 General Fund Budget as well.

ATTACHMENTS:

1. Summary Report on Cap-and-Trade Expenditures

CAP AND TRADE EXPENDITURE PLAN

The California Global Warming Solutions Act of 2006 (AB 32) established California as a global leader in reducing greenhouse gas emissions (GHGs). To meet the goals of AB 32, the state has adopted a three-pronged approach to reducing emissions, including adopting standards and regulations, providing emission reduction incentives via grant programs, and establishing a market-based compliance mechanism known as Cap and Trade. The Cap and Trade program sets a statewide limit on the GHG sources responsible for 85 percent of California GHG emissions. Through an auction mechanism, it establishes a financial incentive for industries subject to the statewide cap to make long-term investments in cleaner fuels, more efficient energy use, and transformational technological and scientific innovations. The Cap and Trade program provides GHG emitters the flexibility to implement the most efficient options to reduce GHG emissions. Based on the first update to the Climate Change Scoping Plan, the Cap and Trade program will be responsible for approximately 30 percent of the required GHG emission reductions to meet the AB 32 goal of reducing GHG emissions to 1990 levels by 2020.

Chapter 830, Statutes of 2012 (SB 535), requires that the state invest at least 10 percent of the auction proceeds within the most disadvantaged communities and at least 25 percent of the proceeds be invested to benefit these communities. The California Environmental Protection Agency, directed by SB 535, will determine the list of disadvantaged communities using CalEnviroScreen, a tool developed by the Office of Environmental Health Hazard Assessment, in collaboration with stakeholders and an advisory group.

CAP AND TRADE EXPENDITURE PLAN

The Budget provides \$832 million of Cap and Trade proceeds to support existing and pilot programs that will reduce GHG emissions and meet SB 535 goals (see Figure CAP-01). This expenditure plan will reduce emissions by modernizing the state's rail system including high-speed rail and public transit, encouraging local communities to develop in a sustainable manner with an emphasis on public transportation and affordable housing, increasing energy, water, and agricultural efficiency, restoring forests in both urban and rural settings, and creating incentives for additional recycling. The Budget permanently allocates 60 percent of future auction proceeds to public transit, affordable housing, sustainable communities, and high-speed rail. The remaining proceeds will be allocated in future budgets.

Figure CAP-01
Cap and Trade Expenditure Plan
(Dollars in Millions)

<i>Investment Category</i>	<i>Department</i>	<i>Program</i>	<i>2014-15</i>	<i>Ongoing</i>
Sustainable Communities and Clean Transportation	High-Speed Rail Authority	High-Speed Rail Project	\$250	25 percent
	State Transit Assistance	Low Carbon Transit Operations Program	\$25	
	Caltrans	Transit and Intercity Rail Capital Program	\$25	35 percent
	Strategic Growth Council	Affordable Housing and Sustainable Communities Program	\$130	
	Air Resources Board	Low Carbon Transportation	\$200	Annual Appropriations
Energy Efficiency and Clean Energy*	Department of Community Services and Development	Energy Efficiency Upgrades/Weatherization	\$75	
	Energy Commission	Energy Efficiency for Public Buildings	\$20	Annual Appropriations
	Department of Food and Agriculture	Agricultural Energy and Operational Efficiency	\$15	
Natural Resources and Waste Diversion	Department of Fish and Wildlife	Wetlands and Watershed Restoration	\$25	
	Department of Forestry and Fire Protection	Fire Prevention and Urban Forestry Projects	\$42	Annual Appropriations
	Cal Recycle	Waste Diversion	\$25	
Total			\$832	

* Emergency drought legislation enacted in February 2014 included \$40 million of Cap and Trade funds for water use efficiency projects.

Specifically, the Cap and Trade Expenditure Plan invests in the following programs:

SUSTAINABLE COMMUNITIES AND CLEAN TRANSPORTATION

- High-Speed Rail—\$250 million for the High-Speed Rail Authority for construction of the initial construction segment in the Central Valley and further environmental and design work on the statewide system. The Budget also provides an ongoing commitment of 25 percent of future Cap and Trade proceeds to the high-speed rail project and specifies that \$400 million remaining from a prior General Fund loan also be available for the project. This long-term funding commitment allows for the advancement of the project on multiple segments concurrently, which yields cost savings and creates an opportunity for earlier potential private sector investment. These investments in the high-speed rail system will alleviate pressure on California’s current transportation network and will provide both environmental and economic benefits.
- Low Carbon Transit Operations Program—\$25 million for local transit agencies to support new or expanded bus and rail services, with an emphasis on disadvantaged communities. Expenditures are required to result in an increase in transit ridership and a decrease in GHG emissions. The Budget also provides an ongoing commitment of 5 percent of future auction proceeds for this purpose.
- Transit and Intercity Rail Capital Program—\$25 million for Caltrans to administer a competitive grant program for rail and bus transit operators for capital improvements to integrate state and local rail and other transit systems, including those located in disadvantaged communities, and those that provide connectivity to the high-speed rail system. The Transportation Agency will prepare a list of projects recommended for funding, to be submitted to the California Transportation Commission for programming and allocation. The Budget also provides an ongoing commitment of 10 percent of future auction proceeds for this purpose.
- Affordable Housing and Sustainable Communities Program—\$130 million to support the implementation of sustainable communities strategies required by Chapter 728, Statutes of 2008 (SB 375), and to provide similar support to other areas with GHG reduction policies, but not subject to SB 375 requirements. The Strategic Growth Council will coordinate this program. Projects that benefit disadvantaged communities will be given priority. Also, projects will reduce GHG emissions by increasing transit ridership, active transportation (walking/biking), affordable housing near transit stations, preservation of agricultural land, and local planning that promotes infill development and reduces the number of vehicle miles traveled.

CAP AND TRADE EXPENDITURE PLAN

The Budget also provides an ongoing commitment of 20 percent of future auction proceeds for this program and requires that at least half of the expenditures be allocated for affordable housing projects.

- Low Carbon Transportation—\$200 million for the Air Resources Board to accelerate the transition to low carbon freight and passenger transportation, with a priority for disadvantaged communities. This investment will also support the Administration's goal to deploy 1.5 million zero-emission vehicles in California by 2025. The Board administers existing programs that provide rebates for zero-emission cars and vouchers for hybrid and zero-emission trucks and buses. These expenditures will respond to increasing demand for these incentives, as well as provide incentives for the pre-commercial demonstration of advanced freight technology to move cargo in California, which will benefit communities near freight hubs.

ENERGY EFFICIENCY AND CLEAN ENERGY

- Weatherization Upgrades/Renewable Energy—\$75 million for the Department of Community Services and Development to assist in the installation of energy efficiency and renewable energy projects in low-income housing units within disadvantaged communities. Weatherization measures typically include weather-stripping, insulation, caulking, water heater blankets, fixing or replacing windows, refrigerator replacement, electric water heater repair/replacement, and heating and cooling system repair/replacement. Renewable energy measures include installation of solar water heater systems and photovoltaic systems. This program will serve a mix of single and multifamily housing units.
- Energy Efficiency in Public Buildings—\$20 million for the Energy Resources Conservation and Development Commission to finance energy efficiency and energy generation projects in public buildings, including the University of California, the California State University, and courts. Energy savings projects will include lighting systems, energy management systems and equipment controls, building insulation and heating, ventilation, and air conditioning equipment.
- Agricultural Energy and Operational Efficiency—\$15 million for the Department of Food and Agriculture to support projects that reduce GHG emissions from the agriculture sector by capturing greenhouse gases, harnessing greenhouse gases as a renewable bioenergy source, improving agricultural practices and promoting low carbon fuels, agricultural energy, and operational efficiency.

NATURAL RESOURCES AND WASTE DIVERSION

- Wetlands and Coastal Watersheds—\$25 million for the Department of Fish and Wildlife to implement projects that provide carbon sequestration benefits, including restoration of wetlands (including those in the Delta), coastal watersheds and mountain meadows. In addition to furthering the goals of AB 32, these types of projects are also identified in the Water Action Plan and are integral to developing a more sustainable water management system statewide.
- Fire Prevention and Urban Forests—\$42 million for the Department of Forestry and Fire Protection to support urban forests in disadvantaged communities and forest health restoration and reforestation projects that reduce wildfire risk and increase carbon sequestration. These expenditures will enhance forest health and reduce fuel loads in light of climate change increasing wildfire intensity and damage.
- Waste Diversion—\$25 million for the Department of Resources Recycling and Recovery to provide financial incentives for capital investments that expand waste management infrastructure, with a priority in disadvantaged communities. Investment in new or expanded clean composting and anaerobic digestion facilities is necessary to divert more materials from landfills, a significant source of methane emissions. These programs reduce GHG emissions and support the state's 75-percent solid waste recycling goal.