

**APPENDIX D**

**GUIDELINES FOR THE PREPARATION OF  
DEFICIENCY PLANS**

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Chapter 8 of the CMP provides the background behind the preparation of deficiency plans.

If the traffic level of service at an intersection or on a segment drops below the adopted level of service standard (LOS E), **or if the current LOS is F and the quantitative measure of LOS increases by 10 percent or more**, local jurisdictions are required to prepare, adopt, and implement a deficiency to maintain conformance with the CMP and avoid loss of the increment of the local gas tax subvention added by Proposition 111 in 1990. A deficiency plan is the mechanism provided by the CMP to correct a deficiency by either implementing improvements or strategies that elevate the level of service to a condition equal to or better than the prescribed level of service standard, or implementing improvements or strategies that result in a measurable improvement in system performance, and contribute to significant improvements in air quality.

**LEGAL REQUIREMENTS**

California Government Code Section 65089.4 states the following requirements for CMP deficiency plans:

- (a) A local jurisdiction shall prepare a deficiency plan when highway or roadway level of service standards are not maintained on segments or intersections of the designated system. The deficiency plan shall be adopted by the city or county at a noticed public hearing.
  
- (b) The agency shall calculate the impacts subject to exclusion pursuant to subdivision (f) of this section, after consultation with the regional agency, the department, and the local air quality management district or air pollution control district. If the calculated traffic level of service following exclusion of these impacts is consistent with the level of service standard, the agency shall make a finding at a publicly noticed meeting that no deficiency plan is required and so notify the affected local jurisdiction.
  
- (c) The agency shall be responsible for preparing and adopting procedures for local deficiency plan development and implementation responsibilities, consistent with the requirements of this section. The deficiency plan shall include all of the following:
  - (1) An analysis of the cause of the deficiency. This analysis shall include the following:
    - (A) Identification of the cause of the deficiency.
    - (B) Identification of the impacts of those local jurisdictions within the jurisdiction of the agency that contribute to the deficiency. These impacts shall be identified only if the calculated traffic level of service following exclusion of impacts pursuant to subdivision (f) indicates that the level of service standard has not been maintained, and shall be limited to impacts not subject to exclusion.
  - (2) A list of improvements necessary for the deficient segment or intersection to maintain the minimum level of service otherwise required and the estimated costs of the improvements.

(3) A list of improvements, programs, or actions, and estimates of costs, that will (A) measurably improve multimodal performance, using measures defined in paragraphs (1) and (2) of subdivision (b) of Section 65089, and (B) contribute to significant improvements in air quality, such as improved public transit service and facilities, improved nonmotorized transportation facilities, high occupancy vehicle facilities, parking cash-out programs, and transportation control measures. The air quality management district or air pollution control district shall establish and periodically revise a list of approved improvements, programs, and actions that meet the scope of this paragraph. If an improvement, program, or action on the approved list has not been fully implemented, it shall be deemed to contribute to significant improvements in air quality. If an improvement, program, or action is not on the approved list, it shall not be implemented unless approved by the local air quality management district or air pollution control district.

(4) An action plan, consistent with the provisions of Chapter 5 (commencing with Section 66000), that shall be implemented, consisting of improvements identified in paragraph (2), or improvements, programs, or actions identified in paragraph (3), that are found by the agency to be in the interest of the public health, safety and welfare. The action plan shall include a specific implementation schedule. The action plan shall include implementation strategies for those jurisdictions that have contributed to the cause of the deficiency in accordance with the agency's deficiency plan procedures. The action need not mitigate the impacts of any exclusions identified in subdivision (f). Action plan strategies shall identify the most effective implementation strategies for improving current and future system performance.

(d) A local jurisdiction shall forward its adopted deficiency plan to the agency within 12 months of the identification of the deficiency. The agency shall hold a noticed public hearing within 60 days of receiving the deficiency plan. Following that hearing, the agency shall either accept or reject the deficiency plan in its entirety, but the agency may not modify the deficiency plan. If the agency rejects the plan, it shall notify the local jurisdiction of the reasons for that rejection, and the local jurisdiction shall submit a revised plan within 90 days addressing the agency's concerns. Failure of a local jurisdiction to comply with the schedule and requirements of this section shall be considered to be nonconformance for the purposes of Section 65089.5.

(e) The agency shall incorporate into its deficiency plan procedures a methodology for determining if deficiency impacts are caused by more than one local jurisdiction within the boundaries of the agency.

(1) If, according to the agency's methodology, it is determined that more than one local jurisdiction is responsible for causing a deficient segment or intersection, all responsible local jurisdictions shall participate in the development of a deficiency plan to be adopted by all participating local jurisdictions.

(2) The local jurisdiction in which the deficiency occurs shall have lead responsibility for developing the deficiency plan and for coordinating with other impacting local jurisdictions. If a local jurisdiction responsible for participating in a multi-jurisdictional deficiency plan does not adopt the deficiency plan in accordance with the schedule and requirements of paragraph (a) of this section, that jurisdiction shall be considered in nonconformance with the program for purposes of Section 65089.5.

(3) The agency shall establish a conflict resolution process for addressing conflicts or disputes between local jurisdictions in meeting the multi-jurisdictional deficiency plan responsibilities of this section.

(f) The analysis of the cause of the deficiency prepared pursuant to paragraph (1) of subdivision (c) shall exclude the following:

- (1) Interregional travel.
- (2) Construction, rehabilitation, or maintenance of facilities that impact the system.
- (3) Freeway ramp metering.
- (4) Traffic signal coordination by the State or other multijurisdictional agencies.
- (5) Traffic generated by the provision of low and very low income housing.
- (6) (A) Traffic generated by high density residential development located within one-fourth of a mile of a fixed rail passenger station.

(B) Traffic generated by any mixed use development located within one-fourth of a mile of a fixed rail passenger station, if more than half of the land area, or floor area, of the mixed use development is used for high density housing, as determined by the agency.

(g) For the purposes of this section, the following terms have the following meanings:

- (1) "High density" means residential density development which contains a minimum of 24 dwelling units per acre and a minimum density per acre which is equal to or greater than 120 percent of the maximum residential density allowed under the local general plan and zoning ordinance. A project providing a minimum of 75 dwelling units per acre shall automatically be considered high density.
- (2) "Mixed use development" means development which integrates compatible commercial or retail uses, or both, with residential uses, and which, due to the proximity of job locations, shopping opportunities, and residences, will discourage new trip generation."

## **POLICY GUIDANCE**

In addition to statute, the CMP for San Bernardino County is guided by the following policies enacted by the CMA Board of Directors:

- Address existing and future deficiencies on all CMP facilities through Deficiency plans which cover large geographic areas of the county (such as the Valley or Victor Valley), rather than individual facilities or individual corridors. (CMP Policy 8.1.1)
- Use the countywide Comprehensive Transportation Plan (CTP) to analyze causes of deficiencies and define the local jurisdiction actions to be implemented through areawide Deficiency plans. (CMP Policy 8.1.4)
- If additional consultant assistance is needed to prepare the areawide deficiency plans following completion of the CTP, it should be funded by local transportation sales tax (Valley only) and/or

State or federal transportation planning funds...Updates of the deficiency plans, as needed, should be conducted in conjunction with biennial updates of the CMP and CTP.

## **BACKGROUND**

Under the California Government Code, local jurisdictions are obligated to maintain the level of service at or above the performance standards on the CMP transportation system. This means that local jurisdictions are required to mitigate the impacts on the CMP network that occur as a result of their land use decisions, regardless of where the impacts occur, including within other jurisdictions. Therefore, if a potential deficiency is not avoided through the land use/transportation analysis process or other action that antecedes the impact, the deficiency occurs and must be addressed by a deficiency plan prepared under the auspices of the impacted jurisdiction at the time the impact occurs. The exception is the case in which the facility in question is already addressed through a multi-facility, system level or “areawide” deficiency plan.

## **DEFICIENCY PLAN COMPONENTS**

Government Code Section 65089.4(c) specifies the components of an approvable deficiency plan. The CMA is required to calculate the impacts subject to exclusion prior to inception of the process of preparing a deficiency plan, to determine if the calculated level of service following exclusion is consistent with the level of service standard. If the calculated level of service following subtraction of the impacts subject to exclusion remains below the CMP level of service standard, the deficiency plan is required. It is required to include:

*1. Analysis of the cause of the deficiency.* Although this component of a deficiency plan may have been originally intended to identify specific land use decisions that caused a particular roadway to exceed the level of service standard, experience in the larger urbanized areas of Southern California indicates that most deficiencies are a result of many local actions involving a multitude of local jurisdictions. In the case of a program which focuses on multi-jurisdictional, areawide deficiency plans, this element of the deficiency plan instead serves to identify the jurisdictions required to participate in and contribute to preparation and implementation of the deficiency plan.

*2. List of improvements needed to maintain LOS standard.* This element identifies the capital improvements or other strategies which, if implemented, would return the CMP facilities addressed by a deficiency plan to the CMP LOS standard. If a series of phased improvements would be needed through time to maintain the LOS standard because of continuing growth, all the improvements, along with a schedule which phases the improvements in relation to rates of development, could be incorporated within a single deficiency plan. This could avoid the need for preparation of numerous deficiency plans to address a single continuing problem. In the case of an areawide deficiency plan, any improvements needed to maintain the LOS standard on every facility in the area encompassed by the deficiency plan must be identified.

*3. A list of improvements or strategies that will improve system performance and air quality.* This element provides flexibility to move beyond (but not necessarily ignore) facility-specific, roadway level of service maintenance, to focus instead on multimodal transportation system performance throughout the entire area of interest. Instead of concentration solely on one or more facilities in relation to the CMP level of service

standard, this approach also permits local policy to dictate the level of system performance (or performance improvement) to be achieved through implementation of the deficiency plan. According to CMA Board policy, the Comprehensive Transportation Plan is the mechanism through which the actions to be implemented through areawide deficiency plans are to be defined. The system performance objectives of the CTP then become the system performance level to be achieved in the respective areas addressed by deficiency plans. In effect, the deficiency plans are the implementation mechanisms for local government actions in accordance with the Comprehensive Transportation Plan.

*4. An action plan based either on strategy (2) or strategy (3) above, that shall be implemented, including a specific implementation schedule.* The scheduling or phasing of implementation is this section's key component. The deficiency plan's implementation schedule for long-term strategies should be based on monitored increases in land use or actual traffic, rather than on absolute dates.

Under the areawide deficiency plan strategy of the CMP for San Bernardino County, much of the effort of deficiency plan preparation and implementation is accomplished through other planning efforts or other elements of the CMP. The improvements to be implemented through the deficiency plan are to be identified for each subarea of the county through the Comprehensive Transportation Plan. The Land Use/Transportation Analysis element of the CMP described in Chapter 4, and the CMP monitoring program described in Chapter 7, are designed to support the deficiency plan process by tracking changes in land use that affect traffic locations, volumes, and modes to determine how actual population, housing, jobs, and traffic growth is varying from the growth assumptions on which the CTP was based. As disparities are identified between actual events identified by the monitoring program, and the forecasts of growth, biennial updates of the CTP will include tests of the original transportation strategy to determine if transportation performance objectives are met despite changes in growth patterns or rates, and if refinements to the CTP will be needed. Accordingly, deficiency plan updates will be undertaken as part of the biennial CMP update process to incorporate these refinements.

#### **DEFICIENCY PLAN GUIDELINES**

Statute requires the CMA prepare and adopt procedures for local deficiency plan development and implementation responsibilities, consistent with the requirements of Government Code Section 65089.4. Although procedures for development and implementation of areawide deficiency have been under discussion by a deficiency plan subcommittee of the CMP Technical Advisory Committee, formal guidance is still under development. Upon completion, it will reflect the outcome of the Comprehensive Transportation Plan process as it relates to actions to be implemented through deficiency plans, pursuant to adopted CMA policy. Following preparation of the deficiency plan guidance through the CMP Technical Advisory Committee, it will be incorporated into this appendix subject to approval by the CMA Board of Directors.