

A RHNA 101 Primer

1. What is the Regional Housing Needs Assessment (RHNA) and how does it relate to the housing element of a local jurisdiction's General Plan?

Every general plan must contain a housing element that makes "adequate provision for the existing and projected housing needs of all economic segments of the community." Unlike the other elements, the housing element must be revised and updated every eight years after 2010 due to SB 375. Despite the wording, a community is not obligated to actually provide housing to all in need. The RHNA is a "distribution of housing development capacity" that each city and county must zone for in a planning period. It is not a "construction need allocation," and is integral to the development of a Sustainable Community Strategy. The housing element is a planning document, requiring the community to plan for meeting its "fair share" of regional housing market need.

The scheduled 2012 RHNA will set local housing and land use capacity goals to support future growth, including transit oriented, mixed use and infill development. These local goals are in turn aggregated into a region wide Sustainable Community Strategy (SCS) to fairly allocate Green House Gas (GHG) emission reduction targets across the region. SB 375 calls for a RHNA to be consistent with an SCS, and a Regional Transportation Plan (RTP) must be coordinated with an SCS and RHNA over eight years even though the transportation plan is updated every four years.

2. What has changed since the last RHNA cycle?

The previous RHNA was prepared under SB 12 urgency legislation. The next RHNA will fully incorporate reform provisions contained in the 2004 Assembly Bill (AB) 2158 (Lowenthal) and the recently passed SB 375 provisions. Housing element updates are now synchronized with the RTP adoption and the RHNA must be consistent with the RTP/SCS and its development pattern.

In contrast to the last RHNA, the next RHNA will be incorporating a wider range of responsibilities for subregions that elect to take on subregional delegation. These responsibilities will cover public outreach, public hearings, local surveys, local input, RHNA methodology development, including supporting social equity policies as well as administration of the revision and appeals process. The last RHNA delegation agreements between subregional entities and the Regional Council of Governments (SCAG) were prepared pursuant to Senate Bill (SB) 12 (Lowenthal) and covered only the revision and appeals process due to an urgency to meet statutory deadlines. However, as was the case during the last RHNA process, the responsibilities related to subregion delegation and the scope of services performed are voluntarily assumed by communities acting together as a subregional entity for RHNA housing need allocation purposes.

The RHNA methodology must still address anticipated housing needs for all income groups related to population and employment growth and reduce the concentration of lower income households. But it now needs to incorporate sufficient land use capacity to support improved mobility and job housing balance, including complementary transportation efficiency adjustments that reduce GHG and tailpipe emissions.

3. What are the major issues that need to be dealt with as we start the next RHNA process?

Major planning challenges include but are not limited to: building a RHNA that is consistent with the SCS and other SB 375 requirement; reconciling any differences between DOF/HCD population and housing projections with the regional integrated growth forecast; the late availability and incorporation of new 2010 Census and Annual Community Surveys (ACS) information; determining RHNA land use capacity by income category to meet GHG reduction targets and state housing planning objectives, adopting an updated RHNA methodology, including social equity and other policies consistent with recent RHNA task force recommendations, and synchronizing and aligning the new SCS planning process with the RHNA process so that localities have adequate time to update their housing elements by the next statutory deadline.

4. What are the key milestones and schedule for the next RHNA?

RTP/SCS and RHNA/HE schedule are projected to be coordinated with each other. Consequently, there are a number of fixed RHNA dates or time frames that must be aligned and synchronized with the RTP/SCS. The RHNA and SCS schedule and alignment of key milestone are still unresolved. A key issue is the late availability and incorporation of 2010 Census and ACS data into the methodology and growth forecast. Here are 13 key milestones.

- Determine a draft RHNA schedule and **seek HCD approval of the use of the RTP/SCS growth forecast for RHNA purposes** – 32 months from the Housing Element (HE) due date – February 2011

- **Notify Caltrans and HCD of the final RTP/SCS adoption date** – by April 2011 for an April 2012 adoption – 30 months from the projected HE due date
- **Local survey done 6 months before the draft RHNA methodology** or 30 months from HE due date – April 2011

- **Subregional entity formed for RHNA delegation** - 28 months from HE due date – (June 2011)
- **HCD Consultation on Regional Housing Target** – at least 26 months from HE due date (August 2011)

- **Draft RHNA Methodology** done at least 24 months from HE due date – (October 2011)
- **RTP/SCS** must be done 18 months from HE due date – (April 2012)
- **Final RHNA** must be done at least 12 months from HE due date – (October 2012)
- **Housing Element Due date** must be 18 months from RTP/SCS adoption – October 2013)
- **RHNA planning period: Jan. 1, 2011 to September 30, 2021** – 10.75 years
- **Housing Element planning period: October 1, 2013 to September 30, 2021** – 8 years

- **Jurisdictions that fail to adopt a Housing Element update within 120 days of the statutory deadline** revert to a 4 year rather than an 8 year planning period

- **Any re-zoning of sites identified in a housing element** must be completed within 3 years of either the date of adoption or 90 days after the receipt of HCD's comments on the draft, whichever is earlier.

5. What are the land inventory requirements for meeting Regional Housing Needs Assessment (RHNA) fair share goals and addressing Sustainable Community Strategy (SCS) requirements to show that your housing element update can accommodate all economic segments of the population?

State HCD has determined default density standards and notes that cities under 25,000 in population can use a land inventory residential density standard of at least 20 units an acre or more to accommodate lower income households in their housing element update, while communities with a population greater than 25,000 must use a default density of at least 30 units per acre. The adequate sites and land inventory review standards are posted by HCD on their website: <http://www.hcd.ca.gov/hpd/hrc/plan/he/ab2348stat04ch724.pdf>.

Because there are a number of concerns about how these land inventory standards are being applied by HCD in their review of local housing element updates, the Department is in the process of forming a Working Group to make recommendations on ways to improve the HCD review process and address SB 375 implementation issues, in particular meeting SCS housing planning requirements. This HCD advisory committee is called the HOUSING ELEMENT/SB 375 WORKING GROUP 2011.

6. What are the incentives for housing element compliance and penalties for non-compliance?

HCD has published a notice listing the "incentives" for housing element compliance - http://www.hcd.ca.gov/hpd/hrc/plan/he/loan_grant_hecompl011708.pdf. HCD also reviews local housing element updates for "substantial compliance" with state law.

Basically, eligibility and priority consideration for state bond funds or federal funds which HCD administers are affected by a locality's housing element compliance status. If HCD has found that your local housing element substantially complies with state law, you may become eligible for Housing Related Park funds or receive priority point in TOD funding awards. A locality in compliance in some instances receives preferential treatment and in others, it qualifies for funding. Click on the link for information about other HCD program incentives. If a locality has a housing element reviewed by State HCD as "In" substantial compliance, the presumption is that the housing element meets the requirements in state law.

When a local government fails to adopt an updated Housing Element by the deadline, or adopts an element that does not comply with the law, the city or county is regarded as noncompliant and is subject to penalties. If the General Plan or any element is not in compliance with the law, a petitioner - be it an environmentalist, low income housing advocate or builder - can request a hearing or a trial. If a court finds that the General Plan or any of its mandatory elements do not substantially comply with the law then the court in its order of judgment may specify one or more actions such as the two examples noted below:

- Suspend authority of the entity to issue building permits or any other related permits for residential housing;

- Suspend the authority of the entity to grant zoning changes, variances, or both

In sum, having a housing element in compliance gives local governments a preference for discretionary bond and housing funds administered by State HCD. It also offers legal protections in case of a lawsuit over the adequacy of the General Plan or in meeting any required re-zoning requirements to meet RHNA goals. The law also provides attorney's fees to groups if they prevail in a lawsuit challenging noncompliance. Communities concerned about "penalties" for non compliance are always urged to discuss this matter with their City Attorney.

7. What are the main reasons why local jurisdictions fail to gain State HCD certification showing that their local housing element update “substantially” complies with state housing law?

The top 3 reasons Housing Elements fail to gain HCD certification are often reported as:

1. Inadequate land inventory/zoning to meet land use capacity and affordability standards set by HCD (the parcel specific inventory and zoning/ density requirement) - this is both a major source of expense and friction between HCD and communities and why HCD started up its Housing Element/ SB 375 working group as a way to achieve statewide reforms in this area
2. Failure to comply with new laws (SB 2 transitional housing needs and new requirement to determine Extremely Low Income Housing Need are often mentioned) or existing laws (establishing a housing cap or other limits on new housing that do not provide sufficient land use capacity to accommodate a fair share of regional needs)
3. Lack of programmatic commitment (annual progress reports are now required to be filed with HCD each year by April 1st) and/ or failure to submit a housing element update on time

8. What happens if a local jurisdiction is late in submitting its housing element update to HCD, or does not fully address its site and zoning requirements to address its fair share of regional housing need?

Under SB 375 localities that are more than 120 days late in adopting their housing element update may revert to a 4 year housing element cycle and communities with 8 year housing elements that have not completed their rezoning within 3 years plus any approved extensions to address RHNA land use planning targets may be subject to two new sanctions related to approving certain affordable housing projects and compelling rezoning:

1. “Builder’s Remedy” – A developer of housing in which at least 49% of the units are affordable to very low, low and moderate income households can develop on any of the sites proposed for rezoning, as if the site had been rezoned.
2. Action to compel rezoning – Any interested party can bring an action to compel the city to complete the rezoning within 60 days, and seek sanctions for failure to do so.

AB 1233 (Jones) – Requires that any portion of a local government's share of a regional housing need that is not addressed by its site inventory and zoning during one planning period must be carried forward to the next round of fair-share housing allocations. A city or county would be required to zone land to provide for the fair-share that gets carried forward.

9. What is the housing element compliance status of local jurisdictions in the region and how does the State track whether RHNA housing targets are being addressed?

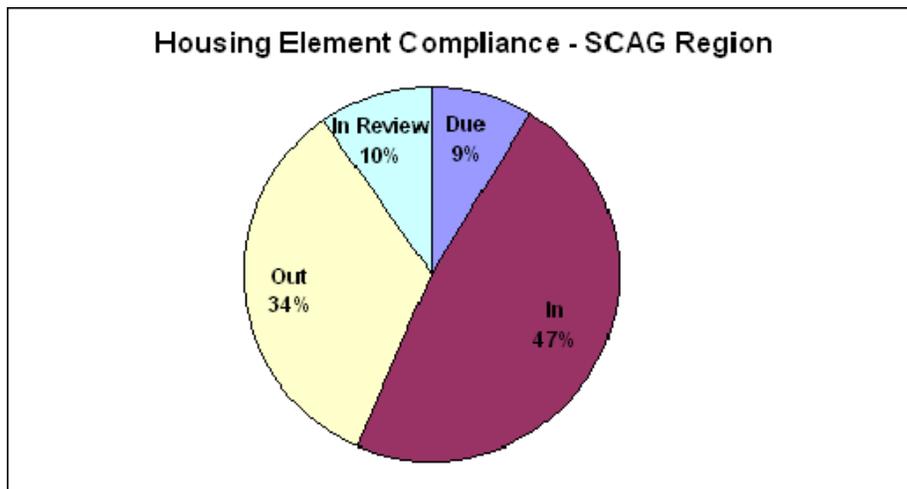
About 1/3 of all jurisdictions in the SCAG region are “Out” of housing element compliance according to latest report from HCD. The housing element review status and advice on building a housing element in compliance with state law is posted on State HCD’s website:

<http://housing.hcd.ca.gov/hpd/hrc/plan/he/>

Communities are also required annually to report to HCD by April 1st of each year progress in implementing housing goals by RHNA income level and the remaining target left to be addressed during the planning period. Communities face sanctions and possible litigation if they do not comply.

**Housing Element Compliance
SCAG Region - 11/23/10**

County	Due	In	Out	In Review	Total
Imperial	0	8	0	0	8
Los Angeles	11	37	32	9	89
Orange	3	23	8	3	35
Riverside	1	11	11	2	25
San Bernardino	1	10	9	6	26
Ventura	1	3	7	0	11
Total	17	92	65	19	193



Source: State HCD Website

More information on Housing Southern Californians and RHNA may be found on SCAG’s webpage’s: <http://www.scag.ca.gov/Housing/rhna/index.htm>