

STAFF REPORT

SUBJECT: California Congestion Management Program (CMP) Opt-Out

RECOMMENDED ACTION: Approve Resolution R-20-16 and Authorize SJCOG Executive Director to Start the Process of Opting Out of State CMP

DISCUSSION:

SUMMARY:

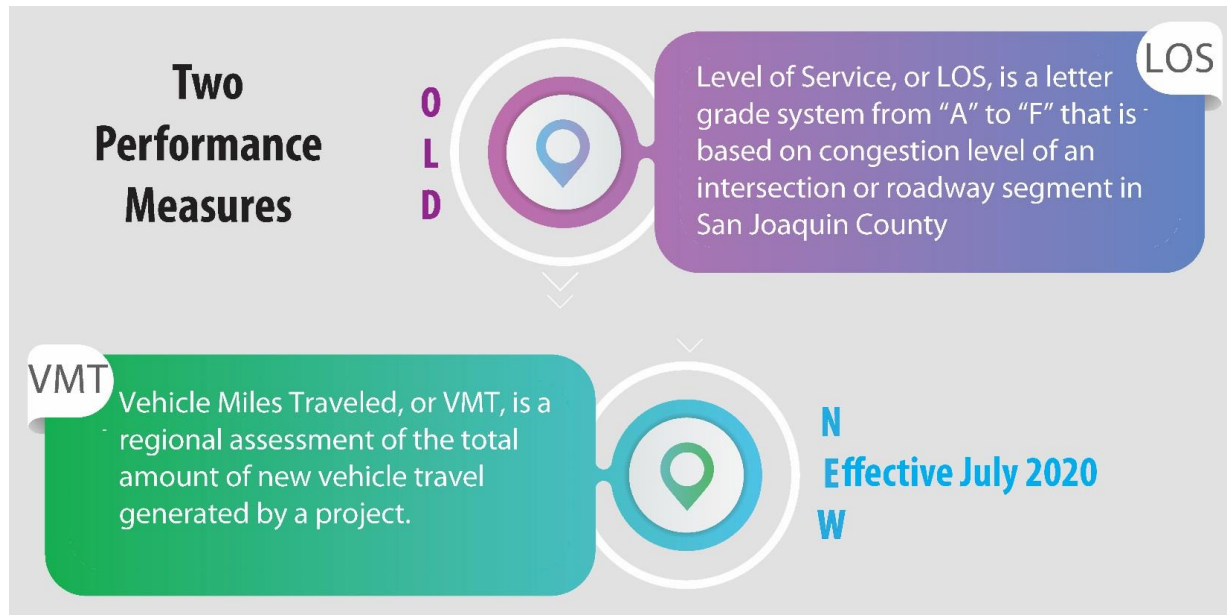
State law allows SJCOG to “Opt Out” of State CMP with no loss of gas tax revenues as long as a majority of local agencies representing a majority of the county’s population pass resolutions in support. SJCOG staff is seeking support from all local agencies to “opt out” thereby reducing the administrative burden to comply with outdated level-of-service requirements.

Like other Congestion Management Agencies (CMA) in California, San Joaquin Council of Governments (SJCOG) is at a “crossroads” on the issue of “Opting Out” of California’s Congestion Management Program (CMP). “Opting Out” of CMP does the following:

- Removes the need to submit project referral applications and environmental documentation for land use review
- Removes the follow up from jurisdictions about project and mitigation measure updates
- Eliminates the chance of losing State and Federal funding due to non-compliance with the LOS threshold, and
- Eliminates the need to submit updates to complete seven-year capital improvement program.

Staff concludes these benefits, along with the chance of building a new CMP that fulfills our Federal CMP requirements and better fit the needs of our stakeholders, should be strongly considered by SJCOG’s Board. By state law, SJCOG is required to prepare and update a CMP biennially for San Joaquin County. Initiated by the passage of Proposition 111 of 1990 (Increasing the state gas tax from 9 to 18 cents), the State CMP was later supported by adoption of San Joaquin County Local Measure K on 2006. The intent of the CMP process tied new tax revenue source to a coordinated process to review land use development and transportation programs with the intent to reduce traffic congestion.

The state CMP requires the transportation system to be measured using Level of Service (LOS), a letter grade system from “A” to “F” based on congestion level. To date, the CMP LOS analysis “piggybacks” on the transportation impact analysis to meet California Environmental Quality Act (CEQA) requirements for a project (i.e., Mitigated Negative Declaration, Environmental Impact Report, etc.) – local agencies usually use the same analysis for both purposes. However, per Senate Bill 743 (Steinberg 2013) all jurisdictions will be required to use Vehicle Miles Traveled (VMT) rather than LOS in CEQA documents starting in July 2020. At that point, the CMP LOS analysis would be an additional requirement on jurisdictions that would potentially conflict with the impacts and mitigation measures found in CEQA. “Opting out” eliminates this conflict.



RECOMMENDATION:

SJCOG staff recommends the SJCOG Board of Directors approve Resolution R-20-16 (Appendix B) and authorize the Executive Director to start the process of opting out of California CMP, in accordance with State CMP statute.

FISCAL IMPACT:

Opting out of State CMP eliminates the need to staff activities for state CMP compliance. For this current fiscal year, SJCOG staff anticipates the Board adopted, budgeted resources for the Congestion Management Program (Work Element # 801.04) will be reduced by approximately 25%, a reduction of \$45,000. These savings would come from a combination of funding sources including Measure K and FHWA Planning. In addition to an annual savings, every two years, SJCOG spends \$150,000 for consultant services related to state CMP updates which would no longer be necessary. Any savings can be reallocated to other eligible work items in SJCOG’s OWP. State gas tax revenue will continue to flow to local jurisdictions. Local jurisdictions will also experience savings in their own activities related to state CMP compliance.

BACKGROUND:

For SJCOG and jurisdictions alike, the continued administration of the State CMP may not have the value it once had in improving the region's transportation system.

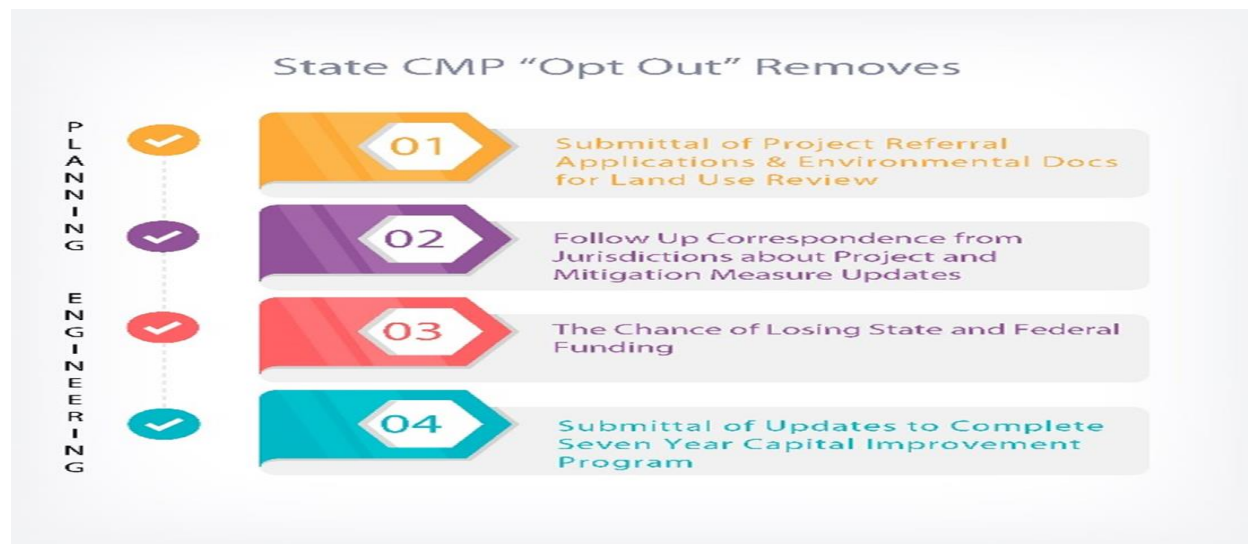
Seven incorporated cities, the County of San Joaquin, and SJCOG share various State CMP statutory responsibilities; including monitoring traffic count locations on select arterials, implementing transportation improvements, adoption of travel demand management and land use ordinances, and mitigating congestion impacts.

The framework of State CMP is predicated on adding roadway lanes to mitigate congestion levels, with LOS as the main performance metric. The recent adoption of Assembly Bill (AB) 32: California Global Warming Solutions Act of 2006), SB 375 (Sustainable Communities and Climate Protection Act of 2008), SB 743 (Environmental quality: transit oriented infill projects, judicial review streamlining for environmental leadership development projects) and SB 32 (California Global Warming Solutions Act of 2006) directly or indirectly moved CEQA away from LOS as a performance metric. Therefore, the State CMP became a bureaucratic checklist that is completed for the purpose of retaining eligibility for state and federal funds; instead of promoting a more sustainable and equitable region.

LOS is also embedded within our Measure K Renewal Ordinance of 2006 as a performance metric. Measure K Renewal Ordinance and programs will be updated after the opt out is completed. “Opting out” of State CMP is the first task in building a platform to consider new ways of measuring transportation system performance along with VMT that complement efforts to combat climate change, support sustainable, vibrant communities and improve mobility.

Reasons to “Opt Out” of State CMP

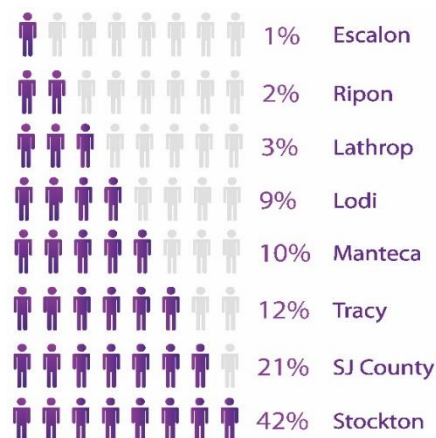
SJCOG has listed the reasons for “Opting Out” of State CMP on next page. In short, our current outdated form of measuring performance along our regional roadway system has been costly and tedious with little to no benefit to either jurisdiction nor SJCOG.



“Opt Out” Process

Pursuant to California Government Code §65088.3, counties may “Opt Out” of the CMP requirement with no loss of gas tax revenues if the majority of jurisdictions that represent the majority of the county’s population pass resolutions that request to “Opt Out” of California CMP. SJCOG needs a minimum of 5 jurisdictions approve resolutions by City Council/Board of Supervisors; of which one must be City of Stockton or the County. Based on American Factfinder, City of Stockton accounts for 42% of total population in San Joaquin County.

Should the “Opt Out” occur, SJCOG staff anticipates immediate implementation. Planning and Engineering staff will no longer have to perform duties related to the state CMP.



Examples

SJCOG will not be the first to “Opt Out” of State CMP in California and even in San Joaquin Valley. The following agencies have either already opted out, are currently in the process, or passed a resolution that recommends “Opt Out” of State CMP.

“Opted Out”

- Fresno Council of Governments (Fresno County) – 1997
- Sacramento Transportation Authority (Sacramento County) – 1996
- San Diego Association of Governments (San Diego County) – 2009
- San Luis Obispo Council of Governments (San Luis Obispo County) – 1997
- Santa Cruz County Regional Transportation Commission (Santa Cruz County) – 2000
- Sonoma County Transportation Authority (Sonoma County) – 2000s

In the Process of “Opting Out”

- Los Angeles Metro (Los Angeles County) – Board passed a resolution initiating process in June 2018. City of Los Angeles and 45 other member jurisdictions passed resolutions to “Opt Out” by June 2019.

Passed a Resolution (3000 Revised) that encourages their counties to “Opt Out”

- Metropolitan Transportation Commission (Member Counties with CMAs include Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano)

Alternative Considered

SJCOG can continue to fulfill the requirements as required by State CMP and move forward with updating the current CMP. We do not recommend this alternative as SJCOG has examined multiple ways of adapting the state legislative requirements to better fit the needs of our stakeholders and found little benefit of preserving State CMP. Opting out of the CMP gives SJCOG the flexibility to implement mobility improvements through the programs and projects in

the Long Range Transportation Plan adopted by the Board, while furthering improvements to transportation capacity, choice and cost-effectiveness.

Determination

CMP LOS analysis was originally a pioneering effort in coordinated transportation planning, but now will become a burdensome and duplicative requirement for local agencies that is out of step with statewide transportation goals and greenhouse gas emission targets. To reiterate the reasons to “Opt Out” of State CMP, the following requirements would be removed:

- Submittal of project referral application & environmental documents for land use review;
- Follow up correspondence from jurisdictions about project & mitigation measure updates;
- The chance of losing State & Federal funding; And
- Submittal of updates to complete seven-year capital improvement program.

SJCOG staff sees merit in “opting out” of the State CMP and does recommend jurisdictions start the “Opt Out” process that results in the adoption of resolutions by City Councils/Board of Supervisors. SJCOG staff prefers all jurisdictions adopt resolutions to “Opt Out” State CMP; however, the minimum requirement of 5 jurisdictions that includes City of Stockton or San Joaquin County is acceptable.

Impact to Measure K Program

There is a linkage between Measure K projects and the CMP. The Measure K Program, in Section 7 of the Ordinance, identifies requirements of Measure K Projects to the adopted Congestion Management Program. It further goes into technical detail about state CMP requirements, which identified earlier in this staff report, are now antiquated. If and when this region “Opts Out” of State CMP, the Measure K ordinance will require an amendment to remove these outdated references.

This can occur during the annual Call for Amendments to the Measure K Ordinance conducted by SJCOG Board. Appendix E is an excerpt from the Measure K Ordinance and illustrates the strikeover (deleted) text and new text that would be submitted for the proposed Measure K amendment. Ultimately, updates of SJCOG’s CMP will achieve the goal of meeting Federal CMP requirements while adding policies, information, and/or action items that better supports the needs of jurisdictions within San Joaquin County.

Jurisdiction Review

This staff report was distributed on 10/31/19 to primarily Planning staff for review with comments and questions due at 5:00 PM on 11/21/19. SJCOG felt Planning staff would be the most incentivized for “Opting Out” of State CMP due to the current staff time needed to receive and respond to SJCOG letters and provide updates to projects and associated mitigation measures.

As of 11/21/19, no comments were received from Planning Staff. On 11/22/19, San Joaquin County left a voicemail to request clarity on possibly whom would be right department to take

forth a recommendation to their Board of Supervisors. On 11/25/19, SJCOG emailed San Joaquin County to provide clarification and availability to discuss “Opting Out” of State CMP more in detail, if needed.

COMMITTEE ACTIONS:

- **Technical Advisory Committee** – Unanimously approved on 11/14/19.
 - City of Lodi was provided a recommended implementation deadline of July 1, 2020.
 - City of Ripon received assurance that there are no drawbacks by SJCOG “Opting Out” of State CMP.
 - City of Tracy was provided clarity on minimum participation requirement of jurisdictions to “Opt Out” of State CMP.
- **Management & Finance Committee** – Unanimously approved on 11/20/19.
 - Cities of Tracy and Ripon asked similar questions as Cities of Lodi and Ripon at TAC.
 - City of Stockton asked why SJCOG did not “Opt Out” earlier. SJCOG noted SB 743 implementation in 2020 was the main factor to “Opt Out.”
- **Citizens Advisory Committee** – Unanimously approved on 11/20/19.
 - Sierra Club was provided clarification on SB 743 and received assurance that there are no drawbacks by SJCOG “Opting Out” of State CMP.
- **Executive Committee** - Unanimously approved on 11/22/19.
 - City of Lodi was provided clarity on VMT.
 - City of Ripon was provided clarity that staff currently follow s both federal and state CMP statutes. This request will opt SJCOG out of state CMP statutes.

NEXT STEPS:

Staff will move forward with the follow steps:

- Monitor and provide information/advise while jurisdictions move forward with the resolution process with their City Councils/Board of Supervisors;
- Work with our jurisdictions while amending CMP to fulfill federal CMP statutes and better fit the needs of jurisdictions in San Joaquin County;
- Plan to amend San Joaquin County’s Measure K in 2020 and replace State CMP requirements with reference that Measure K will comply with Federal CMP requirements; And
- Update other SJCOG documents, like SJCOG’s Overall Work Program, to reflect the removal of State CMP statutes.

ATTACHMENTS:

- A. SJCOG Resolution R-20-16
- B. Sample Resolution for City / County
- C. State Statutes Related to Congestion Management Programs

- D. List of Current & Past CMAs and Sources
- E. Draft Measure K Renewal Ordinance of 2006 Amended
- F. Draft SJCOG Overall Work Program Updated

Prepared by: Travis Yokoyama, Associate Regional Planner



RESOLUTION SAN JOAQUIN COUNCIL OF GOVERNMENTS

R-20-16

RESOLUTION RECOMMENDING OUR JURISDICTIONS ADOPT RESOLUTIONS TO OPT OUT OF STATE CONGESTION MANAGEMENT PROGRAM (CMP)

WHEREAS, the San Joaquin Council of Governments (SJCOG) serves as the Congestion Management Agency (CMA) for San Joaquin County; and

WHEREAS, pursuant to the passage of Proposition 111 of 1990 and Measure K of 2006, SJCOG must follow guidelines set forth by California Government Code 65088; and

WHEREAS, SJCOG must prepare and update a CMP biennially for San Joaquin County that includes an element defining the CMP system, an element establishing level of service (LOS) standards, a system-wide multimodal performance element, a program for analyzing the impact of land use decisions, and a seven-year capital improvement program; and

WHEREAS, SJCOG must monitor the regional roadway network set forth by the policies of most recent CMP update; and

WHEREAS, jurisdictions can be held accountable for deficient roadways/intersections; and

WHEREAS, adoptions of Assembly Bill (AB) 32 California Global Warming Solutions Act of 2006), SB 375 (Sustainable Communities and Climate Protection Act of 2008), SB 743 (Environmental quality: transit oriented infill projects, judicial review streamlining for environmental leadership development projects) and SB 32 (California Global Warming Solutions Act of 2006) directly or indirectly moved CEQA away from LOS as a performance metric; and

WHEREAS, fulfilling State CMP requirements has become burdensome and duplicative requirement for local agencies that is out of step with statewide transportation goals and greenhouse gas emission targets; and

WHEREAS, pursuant to California Government Code 65088.3, SJCOG can opt out of State CMP requirements if the majority of local governments, collectively comprised of the city councils and the county board of supervisors, which in total also represent a majority of the population in the county, each adopt resolutions electing to be exempt from the congestion management program; and

WHEREAS, the option of "Opting Out" of State CMP has been reviewed by our jurisdictions

and approved by the San Joaquin Council of Governments' Board on December 5, 2019.

NOW, THEREFORE BE IT RESOLVED that staff of the eight jurisdictions in San Joaquin County are recommended to submit a resolution to city council that opts a jurisdiction out of responsibilities of State CMP set forth by California Government Code 65088.

PASSED AND ADOPTED this 5th day of December 2019 by the following vote of the San Joaquin Council of Governments, to wit;

AYES:

NOES:

ABSENT:

DOUG KUEHNE
Chair

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF

_____, CALIFORNIA, ELECTING TO BE EXEMPT FROM

THE CONGESTION MANAGEMENT PROGRAM

WHEREAS, in 1990 the voters of California passed Proposition 111 and the requirement that urbanized counties develop and implement a Congestion Management Program; and

WHEREAS, the legislature and governor established the specific requirements of the Congestion Management Program by passage of legislation which was a companion to Proposition 111 and is encoded in California Government Code Section 65088 to 65089.10; and

WHEREAS, the San Joaquin Council of Governments (SJCOG) has been designated as the Congestion Management Agency responsible for San Joaquin County's Congestion Management Program; and

WHEREAS, California Government Code Section 65089.3 allows urbanized counties to be exempt from the Congestion Management Program based on resolutions passed by local jurisdictions representing a majority of a county's jurisdictions with a majority of the county's population; and

WHEREAS, the Congestion Management Program is outdated and increasingly out of step with current regional, State, and federal planning processes and requirements, including new State requirements for transportation performance measures related to greenhouse gas reduction; and

WHEREAS, on _____ the SJCOG Board of Directors took action to direct SJCOG staff to work with local jurisdictions to prepare the necessary resolutions to exempt San Joaquin County from the Congestion Management Program.

NOW, THEREFORE, BE IT RESOLVED BY THE City Council of the City of _____, California, as follows:

1. That the above recitations are true and correct.
2. That the City of _____ hereby elects to be exempt from the Congestion Management Program as described in California Government Code Section 65088 to 65089.10.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of _____ on the _____ day of _____ by the following vote, to wit:

AYES:

NOES:

ABSENT:

(Name), Mayor

ATTEST:

(Name), City Clerk

(Seal)

SAMPLE

CALIFORNIA CODES
GOVERNMENT CODE
SECTION 65088-65089.10

65088. The Legislature finds and declares all of the following:

(a) Although California's economy is critically dependent upon transportation, its current transportation system relies primarily upon a street and highway system designed to accommodate far fewer vehicles than are currently using the system.

(b) California's transportation system is characterized by fragmented planning, both among jurisdictions involved and among the means of available transport.

(c) The lack of an integrated system and the increase in the number of vehicles are causing traffic congestion that each day results in 400,000 hours lost in traffic, 200 tons of pollutants released into the air we breathe, and three million one hundred thousand dollars (\$3,100,000) added costs to the motoring public.

(d) To keep California moving, all methods and means of transport between major destinations must be coordinated to connect our vital economic and population centers.

(e) In order to develop the California economy to its full potential, it is intended that federal, state, and local agencies join with transit districts, business, private and environmental interests to develop and implement comprehensive strategies needed to develop appropriate responses to transportation needs.

(f) In addition to solving California's traffic congestion crisis, rebuilding California's cities and suburbs, particularly with affordable housing and more walkable neighborhoods, is an important part of accommodating future increases in the state's population because homeownership is only now available to most Californians who are on the fringes of metropolitan areas and far from employment centers.

(g) The Legislature intends to do everything within its power to remove regulatory barriers around the development of infill housing, transit-oriented development, and mixed use commercial development in order to reduce regional traffic congestion and provide more housing choices for all Californians.

(h) The removal of regulatory barriers to promote infill housing, transit-oriented development, or mixed use commercial development does not preclude a city or county from holding a public hearing nor finding that an individual infill project would be adversely impacted by the surrounding environment or transportation patterns.

65088.1. As used in this chapter the following terms have the following meanings:

(a) Unless the context requires otherwise, "agency" means the agency responsible for the preparation and adoption of the congestion management program.

(b) "Bus rapid transit corridor" means a bus service that includes at least four of the following attributes:

- (1) Coordination with land use planning.
- (2) Exclusive right-of-way.
- (3) Improved passenger boarding facilities.
- (4) Limited stops.
- (5) Passenger boarding at the same height as the bus.

- (6) Prepaid fares.
- (7) Real-time passenger information.
- (8) Traffic priority at intersections.
- (9) Signal priority.
- (10) Unique vehicles.

(c) "Commission" means the California Transportation Commission.

(d) "Department" means the Department of Transportation.

(e) "Infill opportunity zone" means a specific area designated by a city or county, pursuant to subdivision (c) of Section 65088.4, that is within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in Section 21064.3 of the Public Resources Code, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

(f) "Interregional travel" means any trips that originate outside the boundary of the agency. A "trip" means a one-direction vehicle movement. The origin of any trip is the starting point of that trip. A roundtrip consists of two individual trips.

(g) "Level of service standard" is a threshold that defines a deficiency on the congestion management program highway and roadway system which requires the preparation of a deficiency plan. It is the intent of the Legislature that the agency shall use all elements of the program to implement strategies and actions that avoid the creation of deficiencies and to improve multimodal mobility.

(h) "Local jurisdiction" means a city, a county, or a city and county.

(i) "Multimodal" means the utilization of all available modes of travel that enhance the movement of people and goods, including, but not limited to, highway, transit, nonmotorized, and demand management strategies including, but not limited to, telecommuting. The availability and practicality of specific multimodal systems, projects, and strategies may vary by county and region in accordance with the size and complexity of different urbanized areas.

(j) (1) "Parking cash-out program" means an employer-funded program under which an employer offers to provide a cash allowance to an employee equivalent to the parking subsidy that the employer would otherwise pay to provide the employee with a parking space. "Parking subsidy" means the difference between the out-of-pocket amount paid by an employer on a regular basis in order to secure the availability of an employee parking space not owned by the employer and the price, if any, charged to an employee for use of that space.

(2) A parking cash-out program may include a requirement that employee participants certify that they will comply with guidelines established by the employer designed to avoid neighborhood parking problems, with a provision that employees not complying with the guidelines will no longer be eligible for the parking cash-out program.

(k) "Performance measure" is an analytical planning tool that is used to quantitatively evaluate transportation improvements and to assist in determining effective implementation actions, considering all modes and strategies. Use of a performance measure as part of the program does not trigger the requirement for the preparation of deficiency plans.

(l) "Urbanized area" has the same meaning as is defined in the 1990 federal census for urbanized areas of more than 50,000 population.

(m) Unless the context requires otherwise, "regional agency" means the agency responsible for preparation of the regional transportation improvement program.

State CMP
"Opt Out"
Criteria

65088.3. This chapter does not apply in a county in which a majority of local governments, collectively comprised of the city councils and the county board of supervisors, which in total also represent a majority of the population in the county, each adopt resolutions electing to be exempt from the congestion management program.

65088.4. (a) It is the intent of the Legislature to balance the need for level of service standards for traffic with the need to build infill housing and mixed use commercial developments within walking distance of mass transit facilities, downtowns, and town centers and to provide greater flexibility to local governments to balance these sometimes competing needs.

(b) Notwithstanding any other provision of law, level of service standards described in Section 65089 shall not apply to the streets and highways within an infill opportunity zone.

(c) The city or county may designate an infill opportunity zone by adopting a resolution after determining that the infill opportunity zone is consistent with the general plan and any applicable specific plan, and is a transit priority area within a sustainable communities strategy or alternative planning strategy adopted by the applicable metropolitan planning organization.

65088.5. Congestion management programs, if prepared by county transportation commissions and transportation authorities created pursuant to Division 12 (commencing with Section 130000) of the Public Utilities Code, shall be used by the regional transportation planning agency to meet federal requirements for a congestion management system, and shall be incorporated into the congestion management system.

65089. (a) A congestion management program shall be developed, adopted, and updated biennially, consistent with the schedule for adopting and updating the regional transportation improvement program, for every county that includes an urbanized area, and shall include every city and the county. The program shall be adopted at a noticed public hearing of the agency. The program shall be developed in consultation with, and with the cooperation of, the transportation planning agency, regional transportation providers, local governments, the department, and the air pollution control district or the air quality management district, either by the county transportation commission, or by another public agency, as designated by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of the county.

(b) The program shall contain all of the following elements:

(1) (A) Traffic level of service standards established for a system of highways and roadways designated by the agency. The highway and roadway system shall include at a minimum all state highways and principal arterials. No highway or roadway designated as a part of

the system shall be removed from the system. All new state highways and principal arterials shall be designated as part of the system, except when it is within an infill opportunity zone. Level of service (LOS) shall be measured by Circular 212, by the most recent version of the Highway Capacity Manual, or by a uniform methodology adopted by the agency that is consistent with the Highway Capacity Manual. The determination as to whether an alternative method is consistent with the Highway Capacity Manual shall be made by the regional agency, except that the department instead shall make this determination if either (i) the regional agency is also the agency, as those terms are defined in Section 65088.1, or (ii) the department is responsible for preparing the regional transportation improvement plan for the county.

(B) In no case shall the LOS standards established be below the level of service E or the current level, whichever is farthest from level of service A except when the area is in an infill opportunity zone. When the level of service on a segment or at an intersection fails to attain the established level of service standard outside an infill opportunity zone, a deficiency plan shall be adopted pursuant to Section 65089.4.

(2) A performance element that includes performance measures to evaluate current and future multimodal system performance for the movement of people and goods. At a minimum, these performance measures shall incorporate highway and roadway system performance, and measures established for the frequency and routing of public transit, and for the coordination of transit service provided by separate operators. These performance measures shall support mobility, air quality, land use, and economic objectives, and shall be used in the development of the capital improvement program required pursuant to paragraph (5), deficiency plans required pursuant to Section 65089.4, and the land use analysis program required pursuant to paragraph (4).

(3) A travel demand element that promotes alternative transportation methods, including, but not limited to, carpools, vanpools, transit, bicycles, and park-and-ride lots; improvements in the balance between jobs and housing; and other strategies, including, but not limited to, flexible work hours, telecommuting, and parking management programs. The agency shall consider parking cash-out programs during the development and update of the travel demand element.

(4) A program to analyze the impacts of land use decisions made by local jurisdictions on regional transportation systems, including an estimate of the costs associated with mitigating those impacts. This program shall measure, to the extent possible, the impact to the transportation system using the performance measures described in paragraph (2). In no case shall the program include an estimate of the costs of mitigating the impacts of interregional travel. The program shall provide credit for local public and private contributions to improvements to regional transportation systems. However, in the case of toll road facilities, credit shall only be allowed for local public and private contributions which are unreimbursed from toll revenues or other state or federal sources. The agency shall calculate the amount of the credit to be provided. The program defined under this section may require implementation through the requirements and analysis of the California Environmental Quality Act, in order to avoid duplication.

(5) A seven-year capital improvement program, developed using the

performance measures described in paragraph (2) to determine effective projects that maintain or improve the performance of the multimodal system for the movement of people and goods, to mitigate regional transportation impacts identified pursuant to paragraph (4). The program shall conform to transportation-related vehicle emission air quality mitigation measures, and include any project that will increase the capacity of the multimodal system. It is the intent of the Legislature that, when roadway projects are identified in the program, consideration be given for maintaining bicycle access and safety at a level comparable to that which existed prior to the improvement or alteration. The capital improvement program may also include safety, maintenance, and rehabilitation projects that do not enhance the capacity of the system but are necessary to preserve the investment in existing facilities.

(c) The agency, in consultation with the regional agency, cities, and the county, shall develop a uniform data base on traffic impacts for use in a countywide transportation computer model and shall approve transportation computer models of specific areas within the county that will be used by local jurisdictions to determine the quantitative impacts of development on the circulation system that are based on the countywide model and standardized modeling assumptions and conventions. The computer models shall be consistent with the modeling methodology adopted by the regional planning agency. The data bases used in the models shall be consistent with the data bases used by the regional planning agency. Where the regional agency has jurisdiction over two or more counties, the data bases used by the agency shall be consistent with the data bases used by the regional agency.

(d) (1) The city or county in which a commercial development will implement a parking cash-out program that is included in a congestion management program pursuant to subdivision (b), or in a deficiency plan pursuant to Section 65089.4, shall grant to that development an appropriate reduction in the parking requirements otherwise in effect for new commercial development.

(2) At the request of an existing commercial development that has implemented a parking cash-out program, the city or county shall grant an appropriate reduction in the parking requirements otherwise applicable based on the demonstrated reduced need for parking, and the space no longer needed for parking purposes may be used for other appropriate purposes.

(e) Pursuant to the federal Intermodal Surface Transportation Efficiency Act of 1991 and regulations adopted pursuant to the act, the department shall submit a request to the Federal Highway Administration Division Administrator to accept the congestion management program in lieu of development of a new congestion management system otherwise required by the act.

65089.1. (a) For purposes of this section, "plan" means a trip reduction plan or a related or similar proposal submitted by an employer to a local public agency for adoption or approval that is designed to facilitate employee ridesharing, the use of public transit, and other means of travel that do not employ a single-occupant vehicle.

(b) An agency may require an employer to provide rideshare data bases; an emergency ride program; a preferential parking program; a transportation information program; a parking cash-out program, as defined in subdivision (f) of Section 65088.1; a public transit

subsidy in an amount to be determined by the employer; bicycle parking areas; and other noncash value programs which encourage or facilitate the use of alternatives to driving alone. An employer may offer, but no agency shall require an employer to offer, cash, prizes, or items with cash value to employees to encourage participation in a trip reduction program as a condition of approving a plan.

(c) Employers shall provide employees reasonable notice of the content of a proposed plan and shall provide the employees an opportunity to comment prior to submittal of the plan to the agency for adoption.

(d) Each agency shall modify existing programs to conform to this section not later than June 30, 1995. Any plan adopted by an agency prior to January 1, 1994, shall remain in effect until adoption by the agency of a modified plan pursuant to this section.

(e) Employers may include disincentives in their plans that do not create a widespread and substantial disproportionate impact on ethnic or racial minorities, women, or low-income or disabled employees.

(f) This section shall not be interpreted to relieve any employer of the responsibility to prepare a plan that conforms with trip reduction goals specified in Division 26 (commencing with Section 39000) of the Health and Safety Code, or the Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(g) This section only applies to agencies and employers within the South Coast Air Quality Management District.

65089.2. (a) Congestion management programs shall be submitted to the regional agency. The regional agency shall evaluate the consistency between the program and the regional transportation plans required pursuant to Section 65080. In the case of a multicounty regional transportation planning agency, that agency shall evaluate the consistency and compatibility of the programs within the region.

(b) The regional agency, upon finding that the program is consistent, shall incorporate the program into the regional transportation improvement program as provided for in Section 65082. If the regional agency finds the program is inconsistent, it may exclude any project in the congestion management program from inclusion in the regional transportation improvement program.

(c) (1) The regional agency shall not program any surface transportation program funds and congestion mitigation and air quality funds pursuant to Sections 182.6 and 182.7 of the Streets and Highways Code in a county unless a congestion management program has been adopted by December 31, 1992, as required pursuant to Section 65089. No surface transportation program funds or congestion mitigation and air quality funds shall be programmed for a project in a local jurisdiction that has been found to be in nonconformance with a congestion management program pursuant to Section 65089.5 unless the agency finds that the project is of regional significance.

(2) Notwithstanding any other provision of law, upon the designation of an urbanized area, pursuant to the 1990 federal census or a subsequent federal census, within a county which previously did not include an urbanized area, a congestion management program as required pursuant to Section 65089 shall be adopted within a period of 18 months after designation by the Governor.

(d) (1) It is the intent of the Legislature that the regional agency, when its boundaries include areas in more than one county,

should resolve inconsistencies and mediate disputes that arise between agencies related to congestion management programs adopted for those areas.

(2) It is the further intent of the Legislature that disputes that may arise between regional agencies, or agencies that are not within the boundaries of a multicounty regional transportation planning agency, should be mediated and resolved by the Secretary of Transportation, or an employee of the Transportation Agency designated by the secretary, in consultation with the air pollution control district or air quality management district within whose boundaries the regional agency or agencies are located.

(e) At the request of the agency, a local jurisdiction that owns, or is responsible for operation of, a trip-generating facility in another county shall participate in the congestion management program of the county where the facility is located. If a dispute arises involving a local jurisdiction, the agency may request the regional agency to mediate the dispute through procedures pursuant to subdivision (d). Failure to resolve the dispute does not invalidate the congestion management program.

65089.3. The agency shall monitor the implementation of all elements of the congestion management program. The department is responsible for data collection and analysis on state highways, unless the agency designates that responsibility to another entity. The agency may also assign data collection and analysis responsibilities to other owners and operators of facilities or services if the responsibilities are specified in its adopted program. The agency shall consult with the department and other affected owners and operators in developing data collection and analysis procedures and schedules prior to program adoption. At least biennially, the agency shall determine if the county and cities are conforming to the congestion management program, including, but not limited to, all of the following:

(a) Consistency with levels of service standards, except as provided in Section 65089.4.

(b) Adoption and implementation of a program to analyze the impacts of land use decisions, including the estimate of the costs associated with mitigating these impacts.

(c) Adoption and implementation of a deficiency plan pursuant to Section 65089.4 when highway and roadway level of service standards are not maintained on portions of the designated system.

65089.4. (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 the 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 plan 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 a 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 multi-jurisdictional agencies.

(5) Traffic generated by the provision of low-income and very low income housing.

(6) (A) Traffic generated by high-density residential development located within one-fourth mile of a fixed rail passenger station, and

(B) Traffic generated by any mixed use development located within one-fourth 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 residential 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.

65089.5. (a) If, pursuant to the monitoring provided for in Section 65089.3, the agency determines, following a noticed public hearing, that a city or county is not conforming with the requirements of the congestion management program, the agency shall notify the city or county in writing of the specific areas of nonconformance. If, within 90 days of the receipt of the written notice of nonconformance, the city or county has not come into conformance with the congestion management program, the governing body of the agency shall make a

finding of nonconformance and shall submit the finding to the commission and to the Controller.

(b) (1) Upon receiving notice from the agency of nonconformance, the Controller shall withhold apportionments of funds required to be apportioned to that nonconforming city or county by Section 2105 of the Streets and Highways Code.

(2) If, within the 12-month period following the receipt of a notice of nonconformance, the Controller is notified by the agency that the city or county is in conformance, the Controller shall allocate the apportionments withheld pursuant to this section to the city or county.

(3) If the Controller is not notified by the agency that the city or county is in conformance pursuant to paragraph (2), the Controller shall allocate the apportionments withheld pursuant to this section to the agency.

(c) The agency shall use funds apportioned under this section for projects of regional significance which are included in the capital improvement program required by paragraph (5) of subdivision (b) of Section 65089, or in a deficiency plan which has been adopted by the agency. The agency shall not use these funds for administration or planning purposes.

65089.6. Failure to complete or implement a congestion management program shall not give rise to a cause of action against a city or county for failing to conform with its general plan, unless the city or county incorporates the congestion management program into the circulation element of its general plan.

65089.7. A proposed development specified in a development agreement entered into prior to July 10, 1989, shall not be subject to any action taken to comply with this chapter, except actions required to be taken with respect to the trip reduction and travel demand element of a congestion management program pursuant to paragraph (3) of subdivision (b) of Section 65089.

65089.9. The study steering committee established pursuant to Section 6 of Chapter 444 of the Statutes of 1992 may designate at least two congestion management agencies to participate in a demonstration study comparing multimodal performance standards to highway level of service standards. The department shall make available, from existing resources, fifty thousand dollars (\$50,000) from the Transportation Planning and Development Account in the State Transportation Fund to fund each of the demonstration projects. The designated agencies shall submit a report to the Legislature not later than June 30, 1997, regarding the findings of each demonstration project.

65089.10. Any congestion management agency that is located in the Bay Area Air Quality Management District and receives funds pursuant to Section 44241 of the Health and Safety Code for the purpose of implementing paragraph (3) of subdivision (b) of Section 65089 shall ensure that those funds are expended as part of an overall program for improving air quality and for the purposes of this chapter.

Current & Past State Congestion Management Agencies

County	Agency	Opt Out?	Opt Out Year
Alameda	Alameda County Transportation Commission	N	
Contra Costa	Contra Costa Transportation Authority	N	
Fresno	Fresno Council of Governments	Y	1997
Kern	Kern Council of Governments	N	
Los Angeles	Los Angeles County Metropolitan Transportation Authority	Y	In Process
Marin	Transportation Authority of Marin	N	
Monterey	Transportation Agency for Monterey County	N	
Napa	Napa County Transportation Planning Agency	N	
Orange	Orange County Transportation Authority	N	
Placer	Placer County Transportation Planning Agency	N	
Riverside	Riverside County Transportation Commission	N	
Sacramento	Sacramento Transportation Authority	Y	1996
San Bernardino	San Bernardino Associated Governments	N	
San Diego	San Diego Association of Governments	Y	2009
San Francisco	San Francisco Transportation Authority	N	
San Joaquin	San Joaquin Council of Governments	N	
San Luis Obispo	San Luis Obispo Council of Governments	Y	1997
San Mateo	San Mateo County Association of Governments	N	
Santa Barbara	Santa Barbara County Association of Governments	N	
Santa Clara	Santa Clara County Transportation Authority	N	
Santa Cruz	Santa Cruz County Regional Transportation Commission	Y	2000
Solano	Solano County Transportation Authority	N	
Sonoma	Sonoma County Transportation Authority	Y	2000s
Stanislaus	Stanislaus Council of Governments	N	
Tulare	Tulare County Associate of Governments	N	
Ventura	Ventura County Transportation Commission	N	
Yolo	Yolo County Transportation District	N	

Sources:

Fresno County

Fresno Council of Governments, Fresno County Congestion Management Process Update, September 2017
<https://www.fresnocog.org/wp-content/uploads/publications/CMP-report-Sept-2017_final.pdf>

Los Angeles County

LA Metro Planning and Programming Committee, Congestion Management Program Opt-Out, 6/20/18
<https://media.metro.net/docs/cmp_optOut_2018-0620.pdf>

LA Metro Planning and Programming Committee, Congestion Management Program – Congestion Mitigation Fee Study, 5/14/14 <http://media.metro.net/board/Items/2014/05_may/20140514p&pitem22.pdf>

San Diego County

City of San Diego, Exempting the City of San Diego from the Requirements of the Congestion Management Program, 6/17/09 <https://docs.sandiego.gov/councilcomm_agendas_attach/2009/LUH_090617-1A.pdf>

City of Imperial Beach, Resolution No. 2009-6804 – Electing Exemption from State Congestion Management Program (CMP) – “Opt Out” Option, 9/2/09 <<https://www.imperialbeachca.gov/vertical/sites/%7B6283CA4C-E2BD-4DFA-A7F7-8D4ECD543E0F%7D/uploads/%7B81E876FA-61EF-4CD0-BF0F-3E78E6DF87DC%7D.PDF>>

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San Francisco Bay Area

Metropolitan Transportation Commission, 2015 Congestion Management Program Guidance: MTC Resolution No. 3000 Revised, 10/2/15 <<https://mtc.legistar.com/View.ashx?M=F&ID=4059446&GUID=9576C531-D3D0-4B7E-9D86-D87AFD6B226F>>

Sacramento County

City of Sacramento, Congestion Management Plan (CMP) Exemption, 9/6/96
<<http://www.records.cityofsacramento.org/ViewDoc.aspx?ID=s6tFBnt4W+KLuZR2aLd6/NXGZpqF4NXG>>

Santa Cruz County

Santa Cruz County, Resolution Electing To Be Exempt from the Congestion Management Program, 4/25/00
<<http://sccounty01.co.santa-cruz.ca.us/bds/board/20000523/026.pdf>>

Sonoma County

Sonoma County Transportation Authority <Email from Christopher Barney, Senior Transportation Planner [9/17/19]>

San Luis Obispo

City of San Luis Obispo, AB 2419 Exemption from the Congestion Management Agency/Congestion Management Program (CMA/CMP) <<http://opengov.slocity.org/WebLink/PDF/4tewmnkjalqetafogxz5r5r/37/01071997,%208%20-%20AB%202419%20EXEMPTION%20FROM%20THE%20CONGESTION%20MANAGEMENT%20AGENCYCONGES.pdf>>

MEASURE K RENEWAL CMP REQUIREMENTS

SECTION 7. REGIONAL CONGESTION MANAGEMENT PLAN

- 7.01 The Authority must have in place and be fully implementing a Regional Congestion Management Plan by January 1, 2008.
- 7.02 The primary goals of this Plan shall include:
- (a) Monitoring Vehicle Mile Traveled (VMT) as a key indicator of growth and jobs/housing targets.
 - (b) Adopting programs that strive to keep the increase in VMT to an annual rate that is equal or less than the population increase.
 - (c) Supporting and planning for improved heavy passenger rail and regional bus connections with the Bay Area and Sacramento.
 - (d) Ensuring new development contributes a fair share and provides transportation improvements at the time of new construction.
- 7.03 The Regional Congestion Management Plan shall **be in compliance with the federal Congestion Management Process. the following:**
- ~~(a) Traffic Level of Service standards for all regional roadway facilities.~~
 - ~~(b) Standards for the frequency and routing of public transit.~~
 - ~~(c) A trip reduction and travel demand element that promotes alternative transportation modes.~~
 - ~~(d) A program to coordinate the development review process to reduce automobile trip generation from newly developed residential and employment centers.~~
 - ~~(e) The San Joaquin Council of Governments will review all environmental documents and/or development applications for residential, commercial, retail, and industrial development in San Joaquin County generating 125 or more peak hour trips, based on ITE factors. The San Joaquin Council of Governments will comment on each of these developments as to their impact on the region and recommend the appropriate mitigation to address the impacts the new development will have on the existing transportation system. The San Joaquin Council of Governments will coordinate with the California Department of Transportation on these comments.~~
 - ~~(f) Use of a regional transportation and traffic computer model and database to determine the quantitative impacts of traffic from new and existing development on the regional transportation system.~~
- 7.04 An Annual Report will be produced and adopted by the Authority determining the compliance of all local agencies and the San Joaquin Council of Governments with sections 7.01 through 7.03. Should a local agency fail to comply with the requirements of this section that agency will be suspended from being allocated Congestion Relief funds for new projects until found to be in compliance. Should the San Joaquin Council of Governments fail to comply with the requirements of this section the agency will suspend expenditure of the 1% administrative funds until compliance is achieved.

Attached is a conceptual update of the Congestion Management Program Work Element based on the FY 19/20 OWP. The purpose is to indicate tasks that would no longer be needed after the removal of the State CMP requirements.

The exact tasks and budget for each future fiscal year will be determined through the OWP process based on the requirements of the Federal CMP and priorities of SJCOG and member agencies.

Note that consultant assistance was not expected during FY 19/20, so the estimated \$150,000 savings in biannual consultant costs are not shown. Only the estimated \$45,000 annual staff savings are shown.

801.04 **CONGESTION MANAGEMENT PROGRAM/SYSTEM**

- A. Previous Work: ~~AB 471 (1989) provides for development of Congestion Management Programs for all urbanized counties in California.~~ The Measure K Renewal Program Ordinance, approved in November 2006, includes goals and provisions for update of the CMP and a process to review and comment on local plans and development proposals. The FAST Act requires the establishment of a Congestion Management Process. During FY 17/18, SJCOG updated the program, adopted a revised Regional Congestion Management Plan, and developed and used the Federal Congestion Management Process as a component of the RTP/SCS updates. During FY 18/19, SJCOG completed the system monitoring and performance reports.
- B. Purpose: To implement the requirements of the ~~State Congestion Management Plan~~, the Federal Congestion Management Process and the Measure K Renewal Program. To adhere to a planning process that flags and corrects new areas of congestion before they occur. To implement a technically sound and achievable set of planning methods that monitor the transportation system as well as the land use developments that generate trip making. To demonstrate that all reasonable Transportation Demand Management (TDM) and Transportation System Management strategies have been employed prior to programming a roadway capacity increasing project.
- C. Tasks:
1. Continue to refine, quarterly, CMP process to address all suggestions and/or recommendations made as part of the federal certification review process and to ensure continued compliance with FHWA policy and guidance. In reference to 23 CFR 450.320 (6) (d) and (e).
 2. Planning activities to demonstrate and ensure that all reasonable Transportation Demand Management (TDM) strategies have been employed prior to adding capacity to a regionally significant roadway.
 3. Collect data on CMP network and monitor system performance ~~through use of the CMP Land Use Analysis program. This program will enable a review and technical analysis of planning and development proposals and proposed capacity enhancing transportation projects.~~
 4. Use of CMP process to identify transportation projects and programs that can be considered for inclusion in the next RTP.
 5. Continue to define and expand upon CMP's performance measures and indicators.
 6. Per Measure K Renewal, prepare annual evaluation and recommendations based on CMP implementation goals in conjunction

with local, ~~state~~, and federal mandates.

~~7. Per State Statute, update CMP every 2 years (e.g., perform traffic counts and level of service analysis of the CMP network in conformance with CMP requirements, re-establish system LOS, review implementation strategies, assess effectiveness of CMP based on performance measure and indicators).~~

8. Continue to refine and develop applications for SJCOG's use of the federal congestion management process and procedures as a component of the CMP update. Adhering to the Federal Congestion Management process, investigate and apply corridor level monitoring analysis to evaluate CMP system performance.

D. Products & Schedule:

1. Application of regional and roadway specific Transportation Demand Management strategies – Quarterly through June 2020.

~~2. Review planning and development proposals in accordance with the CMP and provisions of the Measure K Renewal Ordinance – Approximately 50 reviews per year. July 2019 to June 2020~~

3. Perform strategic intersection and roadway segment traffic counts on CMP network ~~and re-establish system LOS~~ – As deemed necessary throughout year.

4. Apply Federal Congestion Management process and procedures as part of the CMP update – June 2020.

~~5. Biennial CMP Update – June 2020~~

6. Biennial evaluation of CMP implementation – June 2021.

~~7. Preparation and adoption of Deficiency Plans – As required by development proposals or technical analysis.~~

E. Funding Source:

FHWA PL-	\$ 107,000.00 - Credits 12,272.90	\$82,000.00
Local Transportation Authority-MK PM	\$ 60,000.00	\$40,000.00

F. Responsible Agency:

SJCOG

~~\$ 167,000.00~~ \$122,000.00

G. Staff Required: (person-months)

SJCOG:

5.5