



CITY OF INGLEWOOD

OFFICE OF THE CITY MANAGER



DATE: November 13, 2018

TO: Mayor and Council Members

FROM: Public Works Department

SUBJECT: Resolution to Opt-Out of the Los Angeles County Metropolitan Transit Authority, Congestion Management Program

RECOMMENDATION:

It is recommended that the Mayor and Council Members adopt a Resolution opting-out of the Los Angeles Metropolitan Transportation Authority (LACTMA) Congestion Management Program.

BACKGROUND:

The Congestion Management Program (CMP) was created in 1990 by the voters of California under Proposition 111, which requires urbanized counties to develop and implement solutions to development based congestion to receive their share of gas tax.

While the CMP requirement was one of the pioneering efforts to conduct performance-based planning, the approach has become antiquated. CMP primarily uses a level of service (LOS) performance metric, which is a measurement of vehicle delay that is inconsistent with new state-designated performance measures, such as vehicle miles traveled (VMT), enacted by SB 743 for California Environmental Quality Act (CEQA) transportation analysis.

Due to the use of the outdated LOS performance metric and the high cost of preparing the report (hundreds of thousands of dollars), on June 20, 2018, the LACTMA Board of Directors (Board) met to discuss opting-out of the CMP. As a result of the meeting, the Board approved initiating the process of opting out of the CMP by encouraging LA County cities to opt-out (of the CMP) by resolution.

Other California Counties that have opted out include San Diego, Fresno, Santa Cruz, San Luis Obispo, Sacramento, and Sonoma.

DISCUSSION:

The California Government Code Section 65089.3 allows urbanized counties to be exempt from the CMP based on resolutions passed by local jurisdictions representing a majority of a county's jurisdictions with a majority of the county's population.

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The existing CMP is outdated and increasingly out of step with current regional, State and Federal planning processes and requirements, including new State requirements for transportation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.

The LACTMA is not replacing the CMP; however, it does allow LACTMA to use Long Range Transportation Plan to program projects to deal more with VMT and other methods of determining traffic impacts. The opt-out is strictly about removing the LA County Region from the state-mandated requirements of the CMP. Cities will retain local control over land use decisions.

Should the efforts to opt-out fail, LACTMA would continue to regulate the requirements of the CMP.

FINANCIAL/FUNDING ISSUES AND SOURCES:

There is no negative impact on the general fund. The City of Inglewood will continue to receive its apportionment of Gas Tax funds if the opt-out is successful.

LEGAL REVIEW VERIFICATION:

The administrative staff has verified that the legal documents accompanying this report have been submitted to, reviewed and approved by, the Office of the City Attorney.

FINANCE REVIEW VERIFICATION:

The administrative staff has verified that this report, in its entirety, has been submitted to, reviewed and approved by, the Finance Department.

DESCRIPTION OF ATTACHMENTS:

- Attachment No. 1 – Resolution
- Attachment No. 2 – LACTMA Board Report
- Attachment No. 3 – LACTMA CMP Opt-Out FAQ Sheet
- Attachment No. 4 – CMP Opt-Out Workshop Summary Discussion

APPROVAL VERIFICATION SHEET

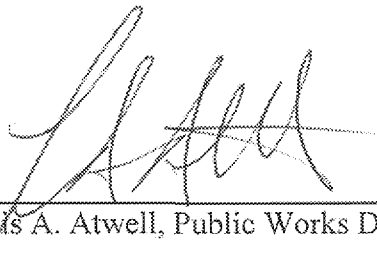
PREPARED BY:

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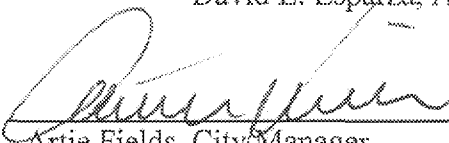
DEPARTMENT HEAD APPROVAL:


Louis A. Atwell, Public Works Director

ASSISTANT CITY MANAGER APPROVAL:

 SHARON KOIKE FOR
David L. Esparza, Asst. City Manager/CFO

CITY MANAGER APPROVAL:


Artie Fields, City Manager

ATTACHMENT NO. 1

RESOLUTION NO.: _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INGLEWOOD, 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 codified in California Government Code Sections 65088 to 65089.10; and

WHEREAS, the Los Angeles County Metropolitan Transportation Authority (Metro) has been designated as the Congestion Management Agency responsible for Los Angeles County's Congestion Management Program; and

WHEREAS, California Government Code Section 65088.3 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 June 20, 2018, the Metro Board of Directors took action to direct Metro staff to work with local jurisdictions to prepare the necessary resolutions to exempt Los Angeles County from the Congestion Management Program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Inglewood, California does hereby declare as follows:

SECTION 1. The above recitals are true and correct and are incorporated herein by

1 this reference as if set forth in full.

2 **SECTION.2 .** The City Council of the City of Inglewood hereby elects to be exempt
3 from the Congestion Management Program as described in California Government Code
4 Sections 65088 to 65089.10.

5 **SECTION 3.** That the City Clerk shall certify to the adoption of this Resolution and the
6 same shall be in full force and effect immediately upon adoption.

7 **PASSED, APPROVED, AND ADOPTED** at a regular meeting of the City Council of the City
8 of Inglewood, California, this _____ day of _____ 2018.

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James T. Butts, Jr., Mayor
City of Inglewood

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12 ATTEST:

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Yvonne Horton, City Clerk
City of Inglewood

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ATTACHMENT NO. 2



Board Report

File #: 2018-0122, File Type: Program

Agenda Number: 22.

PLANNING AND PROGRAMMING COMMITTEE
JUNE 20, 2018**SUBJECT: CONGESTION MANAGEMENT PROGRAM OPT-OUT****ACTION: APPROVE RECOMMENDATION****RECOMMENDATION**

APPROVE initiating the process for Metro and all Los Angeles County local jurisdictions to opt out of the California Congestion Management Program (CMP), in accordance with State CMP statute.

ISSUE

Metro is required by state law to prepare and update on a biennial basis a Congestion Management Program (CMP) for the County of Los Angeles. The CMP process was established as part of a 1990 legislative package to implement Proposition 111, which increased the state gas tax from 9 to 18 cents. The intent of the CMP was to tie the appropriation of new gas tax revenues to congestion reduction efforts by improving land use/transportation coordination.

While the CMP requirement was one of the pioneering efforts to conduct performance-based planning, the approach has become antiquated and expensive. CMP primarily uses a level of service (LOS) performance metric which is a measurement of vehicle delay that is inconsistent with new state-designated performance measures, such as vehicle miles travelled (VMT), enacted by SB 743 for California Environmental Quality Act (CEQA) transportation analysis.

Pursuant to California Government Code §65088.3 (Attachment A, C.G.C. §65000 et seq.), jurisdictions within a county may opt out of the CMP requirement without penalty, if a majority of local jurisdictions representing a majority of the county's population formally adopt resolutions requesting to opt out of the program. Given that the CMP has become increasingly out of step with regional, state, and federal planning processes and requirements, staff recommends that Metro initiate the process to gauge the interest of local jurisdictions and other stakeholders in opting out of State CMP requirements.

DISCUSSION

Under the CMP, the 88 incorporated cities plus the County of Los Angeles share various 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 for the CMP is firmly grounded in the idea that congestion can be mitigated by continuing to add capacity to roadways. This is evidenced by the primary metric that drives the program which is LOS. Recent state laws and rulemaking, namely 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), all move away from LOS directly or indirectly. Therefore, the CMP contradicts these key state policies and Metro's own efforts to promote a more sustainable and equitable region.

A number of counties have elected to opt out of the CMP over the years including San Diego, Fresno, Santa Cruz and San Luis Obispo counties. The reasons for doing so are varied but generally concern redundant, expensive, administrative processes that come with great expense, little to no congestion benefit and continue to mandate the use of LOS to determine roadway deficiencies.

The passage of Measure M and the update of the Long Range Transportation Plan present Metro with an opportunity to consider new ways to measure transportation system performance, measures that complement efforts to combat climate change, support sustainable, vibrant communities and improve mobility. For Metro and cities alike, the continued administration of the CMP is a distraction at best or an impediment at worst to improving our transportation system.

Over the last several years, the CMP has become increasingly outdated in relation to the direction of Metro's planning process and regional, state, and federal transportation planning requirements. Additional reasons to opt out of the CMP include:

- Relieves Metro and local jurisdictions of a mandate to use a single measure (LOS) to determine roadway deficiencies.
- Eliminates the risk to local jurisdictions of losing their state gas tax funds or being ineligible to receive state and federal Transportation Improvement Program funds, as a result of not being in compliance with CMP requirements or performance standards.
- Eliminates the administrative and financial burden to cities associated with the preparation of documents to demonstrate conformance with the CMP.

ALTERNATIVES CONSIDERED

Metro could continue to implement the CMP as adopted by the Board or look to update the program. We do not recommend this as we have examined multiple ways to adapt state legislative requirements, but we have been unable to fit Los Angeles county mobility complexities to statutory requirements in a manner that achieves consensus of our stakeholders over the twenty-five-year life of the program. Opting out of the CMP gives Metro 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 OF SAFETY IMPACT

This Board action will have no adverse impact on safety standards for Metro.

FINANCIAL IMPACT

There is no impact to the current fiscal year budget, nor any anticipated impact to future budgets or the continued flow of state gas tax revenues to local jurisdictions. The recommended action may have a positive impact on Metro and local jurisdiction budgets in future years by eliminating the annual costs associated with implementing the CMP. Annual costs to local agencies vary based on size but generally require a staff commitment of 25-60 hours per jurisdiction plus the cost of conducting traffic counts at the 164 CMP intersections at a cost of approximately \$250 per intersection. For Metro the annual burden of administering the CMP is approximately 1.2 Full Time Equivalents (FTE).

NEXT STEPS

Upon Board approval, staff will proceed in consulting with local jurisdictions and other interested stakeholders as follows:

- Consult with the Metro Technical Advisory Committee (TAC) regarding opting out of the CMP and conduct a workshop of our stakeholders to receive input on the interest in opting out of the CMP.
- With the concurrence of the TAC and workshop participants, request local jurisdictions to consider adopting draft resolution (Attachment B) to opt out of the program.
- Upon receipt of formally-adopted resolutions from a majority of local jurisdictions representing a majority of the population, notify the State Controller, Caltrans, and SCAG that Los Angeles County has opted out of the CMP in accordance with statutory requirements.

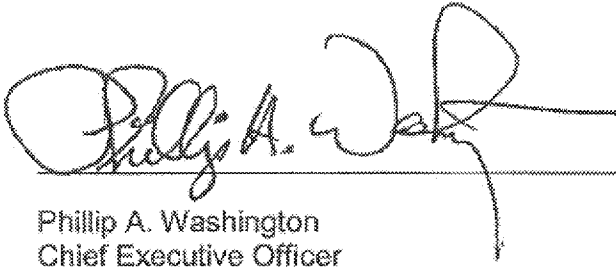
ATTACHMENTS

Attachment A - CMP legislation

Attachment B - Draft Resolution to Opt Out of the Congestion Management Program in Los Angeles County

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Reviewed by: Therese W. McMillan, Chief Planning Officer, (213) 922-7077



Phillip A. Washington
Chief Executive Officer

GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]

(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)

DIVISION 1. PLANNING AND ZONING [65000 - 66210]

(Heading of Division 1 added by Stats. 1974, Ch. 1536.)

CHAPTER 2.5. Transportation Planning and Programming [65080 - 65086.5]

(Heading of Chapter 2.5 amended by Stats. 1977, Ch. 1106.)

65082.

(a) (1) A five-year regional transportation improvement program shall be prepared, adopted, and submitted to the California Transportation Commission on or before December 15 of each odd-numbered year thereafter, updated every two years, pursuant to Sections 65080 and 65080.5 and the guidelines adopted pursuant to Section 14530.1, to include regional transportation improvement projects and programs proposed to be funded, in whole or in part, in the state transportation improvement program.

(2) Major projects shall include current costs updated as of November 1 of the year of submittal and escalated to the appropriate year, and be listed by relative priority, taking into account need, delivery milestone dates, and the availability of funding.

(b) Except for those counties that do not prepare a congestion management program pursuant to Section 65088.3, congestion management programs adopted pursuant to Section 65089 shall be incorporated into the regional transportation improvement program submitted to the commission by December 15 of each odd-numbered year.

(c) Local projects not included in a congestion management program shall not be included in the regional transportation improvement program. Projects and programs adopted pursuant to subdivision (a) shall be consistent with the capital improvement program adopted pursuant to paragraph (5) of subdivision (b) of Section 65089, and the guidelines adopted pursuant to Section 14530.1.

(d) Other projects may be included in the regional transportation improvement program if listed separately.

(e) Unless a county not containing urbanized areas of over 50,000 population notifies the Department of Transportation by July 1 that it intends to prepare a regional transportation improvement program for that county, the department shall, in consultation with the affected local agencies, prepare the program for all counties for which it prepares a regional transportation plan.

(f) The requirements for incorporating a congestion management program into a regional transportation improvement program specified in this section do not apply in those counties that do not prepare a congestion management program in accordance with Section 65088.3.

(g) The regional transportation improvement program may include a reserve of county shares for providing funds in order to match federal funds.

(Amended by Stats. 2003, Ch. 525, Sec. 7. Effective January 1, 2004.)

CHAPTER 2.6. Congestion Management [65088 - 65089.10]

(Chapter 2.6 added by Stats. 1989, Ch. 106, Sec. 9.)

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.

(Amended by Stats. 2002, Ch. 505, Sec. 1. Effective January 1, 2003.)

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 (e) 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.

(Amended by Stats. 2013, Ch. 386, Sec. 3. (SB 743) Effective January 1, 2014.)

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.

(Added by Stats. 1996, Ch. 293, Sec. 4. Effective January 1, 1997.)

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.

(Amended by Stats. 2013, Ch. 386, Sec. 4. (SB 743) Effective January 1, 2014.)

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.

(Added by Stats. 1996, Ch. 1154, Sec. 4. Effective September 30, 1996.)

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.

(Amended by Stats. 2002, Ch. 505, Sec. 4. Effective January 1, 2003.)

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.

(Added by Stats. 1994, Ch. 534, Sec. 2. Effective January 1, 1995.)

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.

(Amended by Stats. 2014, Ch. 345, Sec. 2. (AB 2752) Effective January 1, 2015.)

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.

(Amended by Stats. 1996, Ch. 293, Sec. 3. Effective January 1, 1997.)

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.
- (Added by Stats. 1994, Ch. 1146, Sec. 7. Effective January 1, 1995.)*

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.
- (Added by renumbering Section 65089.4 by Stats. 1994, Ch. 1146, Sec. 6. Effective January 1, 1995.)*

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.

(Added by renumbering Section 65089.5 by Stats. 1994, Ch. 1146, Sec. 8. Effective January 1, 1995.)

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.

(Added by renumbering Section 65089.6 by Stats. 1994, Ch. 1146, Sec. 9. Effective January 1, 1995.)

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.

(Added by Stats. 1994, Ch. 1146, Sec. 11. Effective January 1, 1995.)

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.

(Added by Stats. 1995, Ch. 950, Sec. 1. Effective January 1, 1996.)

ATTACHMENT NO. 3



Metro

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LA Metro Congestion Management Program Opt-Out FAQ

What is the Congestion Management Program (CMP)?

The CMP is a 1990 era state-mandated performance-based planning program that attempts to link land use and transportation decisions.

Who are the parties responsible for implementation of the CMP?

Metro is the Congestion Management Agency charged with administering the state-mandated program. All 89 jurisdictions (88 cities plus the County of Los Angeles) are responsible for compliance with the provisions of the program.

Why is Metro recommending an opt-out of the CMP?

While the CMP requirement was one of the pioneering efforts to conduct performance-based planning, the approach has become antiquated. CMP primarily uses a level of service (LOS) performance metric which is a measurement of vehicle delay that is inconsistent with new state-designated performance measures, such as vehicle miles travelled (VMT), enacted by SB 743 for California Environmental Quality Act (CEQA) transportation analysis.

Is Metro replacing the CMP?

No, this is not a replacement effort. The opt-out is strictly about removing the LA County region from the state-mandated requirements of the CMP. Cities will retain local control over land use decisions.

What are the requirements to opt out of the CMP?

A majority consensus of 45 jurisdictions representing approximately 5.1 million people in the County of Los Angeles is required to opt out formally.

Pursuant to California Government Code §65088.3 (Attachment A, C.G.C. §65000 et seq.), jurisdictions within a county may opt out of the CMP requirement without penalty, if a majority of local jurisdictions representing a majority of the county's population formally adopt resolutions requesting to opt out of the program.

Has Metro contacted representatives from the City of LA and or the County?

Recognizing the population that needs to be achieved for a successful opt-out, Metro did consult with City and County of Los Angeles officials to ensure that their respective agencies were amenable to the idea. Any final decision to opt out would require approval from their respective governing bodies.

Has Metro contacted anyone from the state about the decision to proceed with an opt-out?

Yes. Metro consulted with the State Controller's Office, Office of Planning and Research, Caltrans and the California Transportation Commission prior to initiating the opt-out process. None of the state agencies referenced raised any concerns.

Will local jurisdictions continue to receive their apportionment of 2105 gas tax funds if the opt-out is successful?

Yes. Cities will continue to receive gas taxes tied to the CMP.

Have other regions have opted out of the CMP?

Yes. Some of the regions that have opted out of the CMP include: Fresno, Santa Cruz, San Luis Obispo, Sacramento, Sonoma and San Diego.

What does Metro need from local jurisdictions who wish to opt out of the CMP?

Metro needs local jurisdictions to formally adopt resolutions requesting to opt out of the program. A sample resolution is attached to this email. Once your governing body has adopted the resolution, please scan and send the final signed copy to Paul Backstrom backstromp@metro.net.

September 28, 2018

What is your timeline for completing the opt-out?

Metro encourages local jurisdictions to adopt resolutions as soon as possible. Metro intends to provide an update to our Board in June. To meet that internally imposed timeline, Metro asks that local jurisdictions do their best to provide Metro with adopted resolutions by March 29, 2019.

What happens to our debits and credits accumulated under the CMP?

The debits and credits will exist and remain in our records but hold no current value outside of the CMP program.

What happens to the transportation demand ordinances that cities adopted to comply with the provisions of the CMP?

The ordinances remain intact as part of each city's municipal code. The only thing that would change is that cities would retain the option to remove or update those ordinances at their own discretion.

What if the effort to opt out is unsuccessful?

Should efforts to opt-out fail, Metro would continue to enforce the requirements of the CMP.

Who can I contact for more information?

Paul Backstrom by email backstromp@metro.net or by phone 213.922.2183.



Metro

Los Angeles County Congestion Management Program Major Milestones Timeline

- 1990** Passage of Prop 111, a state constitutional amendment, which among other things raises the Gas Tax from 9 to 18 cents over a 5 year period and establishes the Congestion Management Program (CMP). Receipt of new gas tax revenues generated through Prop 111 is contingent on participation in a congestion management program.
- 1990-91** All jurisdictions in LA County adopt resolutions designating the County Transportation Commission (predecessor agency to Metro) as the designated Congestion Management Agency (CMA) charged with implementing a countywide congestion management program.
- 1993** Metro begins implementation of the CMP initiating a Debits and Credits program that requires participants to maintain a positive balance of Credits (transportation improvements) to Debits (housing activity).
- 1996** AB 2419 (Bowler) enacted which establishes an option to opt-out of the CMP without penalty of losing 2105 Gas Tax funds made available through the original CMP legislation.
- 1999** Cities express concerns to Metro about their ability to maintain conformance under the Debit/Credit program. Urge Metro to explore alternatives. Cities cite the following concerns:
- Cities have difficulty maintaining a positive credit balance
 - Cities suffer funding shortfalls to deliver necessary transportation improvements
 - CMP achieves little real mitigation and amounted to only an accounting exercise
- 1999 – 2003** Metro undertakes study of alternatives to the Debits and Credits program.
- 2003** Metro Board direction to suspend the Debits and Credits program.
- 2004** Board directs staff to study a fee program exclusively as an alternate to the Debits and Credits program.
- 2013** Staff brings development fee program to Metro Board for consideration and local jurisdiction implementation. Metro Board directs staff to request state legislature hold hearings to determine relevance of the CMP. No such legislative hearings are held.
- 2014** Consensus on fee program not achieved. A decision is made to wait of Governor's Office of Planning and Research (OPR) to release SB 743 guidelines that were expected to be released in summer/fall 2014.
- 2014-18** OPR releases multiple draft guidelines and technical advisories that designate Vehicle Miles Travelled as the metric to evaluate transportation impacts under CEQA. The state Natural Resources Agency has begun the formal administrative rulemaking process.
- 2018** Metro Board adopts recommendation to initiate CMP opt-out process and begin meeting public agency stakeholders.

ATTACHMENT NO. 4

CMP Opt-Out Workshop Summary Discussion

September 12, 2018

Comment (Main Points)	Response	Category
Do the debits and credits accumulated by cities under the CMP Debits and Credits program still exist?	Yes, on paper. The Debits and credits program was suspended in 2003. The debits and credits remain in Metro's records but have no current value.	FAQ
Will we still get our gas taxes if we opt out?	Yes. Other counties have opted out of the CMP and still receive their gas tax funding tied to the CMP.	FAQ
Is there or will there be an alternative to the CMP if we opt out?	No, this is not a replacement effort. The opt-out is strictly about removing the LA County region from the state-mandated requirements of the CMP.	FAQ
Is it correct to say there is no rule that would prevent cities from developing their own framework or alternative performance based planning tool?	Correct.	FAQ
Can individual cities opt out if Metro does not succeed in opting out?	No, cities cannot individually opt out of the CMP. The decision is a collective decision requiring the concurrence of a majority of the 89 jurisdictions in the County, representing a majority of the total County population.	FAQ
A while ago, the City of Los Angeles was not interested in opting out. Is the City of Los Angeles interested in opting out?	Metro consulted with the City of Los Angeles early to confirm that the City of Los Angeles is amenable to the idea. Formal adoption by the City of Los Angeles would of course be a decision subject to the approval of the City Council and Mayor.	FAQ
How many jurisdictions have opted out so far?	None to date but approximately 10 jurisdictions have expressed interest in taking resolutions to opt-out to their governing bodies.	FAQ
The Demand Management component of the CMP required cities to adopt Transportation Demand Management (TDM) ordinances. Would those ordinances remain an enforceable element of a city's municipal code?	Yes. Cities were required to adopt transportation demand management ordinances as part of their participation in the CMP. As those ordinances are part of a city's municipal code, it is up to the individual cities to maintain, update, or nullify as they deem appropriate.	FAQ
Analysis of project impacts is helpful to persuade developers to consider traffic and congestion impacts.	Opting out does not preclude cities from adopting their own project impact analysis requirements in their traffic study guidelines.	Comment
The current CMP has an evaluation framework based on level of service (LOS) that is inconsistent with the new CEQA evaluation criteria. Continued reliance on the CMP project level analysis may lead to CEQA problems going forward	Concur.	Comment

CMP Opt-Out Workshop Summary Discussion

September 12, 2018

Comment (Main Points)	Response	Category
Is there any other use for previously collected data other than for debit-credit purposes?	None that we are aware of at this time. This information would remain archived and publicly available to be used should the information be needed.	Comment
What are the teeth in the CMP if counties can opt-out and still receive their gas tax? Why did anyone ever choose to participate in the CMP?	The opt-out provision was not part of the original 1990 CMP legislation. Legislation enacted in 1996 AB 2419 (Bowler) amended to the CMP legislation to include the opt-out provision.	FAQ
What is the negative to opting out, especially with regards to transit?	No detriment in our assessment. In fact, because the CMP is rooted in measuring LOS one could argue that implementation of the CMP harms transit by emphasizing the movement of cars over movement of people.	FAQ
We have to be cognizant that we will receive questions from the public regarding congestion reduction elements. What has been missing in these discussions is consideration of air quality. LOS (delay) is a poor metric to capture that impact and baseline air quality has been improving despite increases in vehicle delay.	In OPR's studies they have determined that delay, by way of the current CMP's level of service measure, does not mean there is an environmental impact.	Comment
A fact sheet laying out CMP history and its lack of relevance would be extremely helpful to take to our governing body to show that the CMP is not necessary.	See attached CMP Milestones, FAQ and Board Report	Comment
It would also be helpful to highlight where there might be redundancies with respect to the CMP and other, newer and existing programs.	As the state moves from a LOS based metric to VMT for purposes of CEQA analysis we are seeing a fundamental paradigm shift in mitigation and monitoring. This makes a one for one comparison of redundancies challenging.	Comment
Some traffic patterns change over time. Congested intersections may have shifted from what was originally required to monitor under the Highway Monitoring portion of the CMP and, therefore, reflected incorrectly.	Concur but cities must maintain the established baseline. The CMP does allow new intersections to be added.	Comment
Will there be a presentation similar to this to COGs?	Yes, at your request. We have two such COG meetings scheduled.	FAQ
CMP requirements changed when SB 743 came into effect and cities can now exempt Infill Opportunity zones. However, thresholds to qualify are high.	Concur but these opportunities may be too few to meaningfully affect CMP implementation as it stands because infill opportunity zones must meet strict criteria that the majority of the County of Los Angeles does not meet.	Comment
Can the State of California deny an opt out if Metro gets to that point?	No. The state legislation authorizing the opt-out does not provide the state legislature discretion to deny an opt-out.	FAQ

CMP Opt-Out Workshop Summary Discussion

September 12, 2018

Comment (Main Points)	Response	Category
What if Metro is unsuccessful in opting out?	Metro would continue to enforce the requirements of the CMP.	FAQ