

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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April 12, 2012

Mr. Mike McKeever, Executive Officer
Sacramento Area Council of Governments
1415 L. Street, Suite 300
Sacramento, CA 95814

RE: Clarification of Housing Element Adoption Requirement

At the request your organization made on April 9, 2012, on behalf of its membership, the Department is addressing statutory requirements pertaining to housing element adoption.

Government Code (GC) 65588(e)(4) requires a local government to adopt the housing element no later than 120 days from the date the housing element is due to avoid the consequence of a four-year housing element update as referenced in the code section. The 120 day deadline does not mandate the adopted housing element to have been (a) submitted to HCD, (b) reviewed by HCD or (c) found in compliance by HCD.

GC 65585(b)-(f) helps define what constitutes adoption of a housing element. The statute specifies that 90 days prior to adoption of the housing element, a draft of the element shall be submitted to HCD for the jurisdiction to consider HCD's findings before adopting the element. Thus, adoption of a housing element constitutes completing these steps: (1) submitting a draft element, (2) addressing HCD's findings on the draft element by (a) making appropriate revisions to the element or (b) providing appropriate explanations regarding HCD's findings in the resolution of adoption, and (3) adopting the element.

In summary, compliance regarding adoption of a housing element means a jurisdiction should submit a draft element and then adopt the element before expiration of the 120 day timeframe from the element due date (18 months from the adoption date of the Regional Transportation Plan). Submittal of the adopted housing element to the Department (which should occur very soon after adoption) and HCD review and approval of the adopted element are not subject to the 120 day timeframe and can occur after the 120 day timeframe.

Sincerely,

Glen A. Campora
Assistant Deputy Director