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Comment 2-8

## Comments on proposed modifications to the Environmental Checklist relative to Tribal Cultural Resources

Barbara Radlein [bradlein@aqmd.gov]

**To:** [CEQA Guidelines@CNRA](mailto:CEQA.Guidelines@CNRA)  
**Cc:** [Ian MacMillan \[imacmillan@aqmd.gov\]](mailto:IanMacMillan@aqmd.gov); [Barbara Baird \[BBaird@aqmd.gov\]](mailto:BarbaraBaird@aqmd.gov); [Ryan Stromar \[rstromar@aqmd.gov\]](mailto:RyanStromar@aqmd.gov)  
**Attachments:** [SCAQMDAB52CommentLetter-Ju~1.pdf \(294 KB\) \[Open as Web Page\]](#)

Tuesday, June 21, 2016 4:19 PM

Hi Heather,  
Attached are SCAQMD's comments regarding OPR's latest proposed modifications to the Environmental Checklist relative to Tribal Cultural Resources.  
Thank you.  
Regards,  
Barbara

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# South Coast Air Quality Management District

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June 21, 2016

Heather Baugh  
The California Natural Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814  
Transmitted via email to: [ceqa.guidelines@resources.ca.gov](mailto:ceqa.guidelines@resources.ca.gov)

Re: Modifications to Text of Proposed Regulations Relative to Tribal Cultural Resources

Dear Ms. Baugh,

The South Coast Air Quality Management District (SCAQMD) appreciates the opportunity to comment on the latest proposed changes to the Environmental Checklist in Appendix G of the CEQA Guidelines to address Assembly Bill (AB) 52 and Tribal Cultural Resources in accordance with Public Resources Code §§ 21074 and 21080.3.1 (d).

When AB 52 went into effect on July 1, 2015, the Office of Planning and Rules (OPR) had not finalized the implementation guidance for implementing these requirements in CEQA evaluations. Nonetheless, agencies were required to comply with AB 52 in the interim. As such, the SCAQMD revised its own Environmental Checklist and significance criteria to address Tribal Cultural Resources, as shown in underlined text:

|   | <b>Potentially<br/>Significant<br/>Impact</b> | <b>Less Than<br/>Significant<br/>With<br/>Mitigation</b> | <b>Less Than<br/>Significant<br/>Impact</b> | <b>No Impact</b>         |
|---|---|--|---|--------------------------|
| <b>V. CULTURAL RESOURCES.</b> Would the project:  |   |  |   |                          |
| a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?      | <input type="checkbox"/>                      | <input type="checkbox"/>                                 | <input type="checkbox"/>                    | <input type="checkbox"/> |
| b) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5? | <input type="checkbox"/>                      | <input type="checkbox"/>                                 | <input type="checkbox"/>                    | <input type="checkbox"/> |
| c) Directly or indirectly destroy a unique paleontological resource, site, or feature?                          | <input type="checkbox"/>                      | <input type="checkbox"/>                                 | <input type="checkbox"/>                    | <input type="checkbox"/> |

- |  |                          |                          |                          |                          |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| d) Disturb any human remains, including those interred outside formal cemeteries?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e) <u>Cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code §21074?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

### Significance Criteria

Impacts to cultural resources will be considered significant if:

- The project results in the disturbance of a significant prehistoric or historic archaeological site or a property of historic or cultural significance, or tribal cultural significance to a community or ethnic or social group or a California Native American tribe.
- Unique paleontological resources or objects with cultural value to a California Native American tribe are present that could be disturbed by construction of the proposed project.
- The project would disturb human remains.

In addition, as part of releasing a CEQA document for public review and comment, the SCAQMD also provides a formal notice of all proposed projects to all California Native American Tribes (Tribes) that requested to be on the Native American Heritage Commission's (NAHC) notification list per Public Resources Code §21080.3.1 (b)(1).

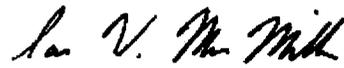
After reviewing OPR's latest proposed changes to the Environmental Checklist contained within Appendix G of the CEQA Guidelines, the SCAQMD staff is unsure that it will be able to satisfactorily answer the proposed Environmental Checklist questions under #17a for many of our projects. The proposed questions in #17a are posed in a way that seems only applicable to land use projects and require the lead agency to check individual addresses in order to establish whether the project could have an impact on Tribal Cultural Resources. While this makes sense for projects that will occur at one location, many of the CEQA documents the SCAQMD prepares as lead agency are for regulatory actions (e.g., the adoption, amendment or the occasional repeal of a rule or regulation) that are implemented at a program level and typically cover the entire SCAQMD jurisdiction. SCAQMD has jurisdiction over much or all of the counties of Los Angeles, Orange, Riverside, and San Bernardino, which includes about one half of the state's population. Thus, having to check every address within SCAQMD's jurisdiction against the addresses in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k) is an impractical exercise that does not make sense for regulatory actions regularly considered by our agency. Further, even if we were able to check all addresses on the lists for each

Heather Baugh  
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rule, it would often be speculative as to whether the rule might affect any particular property.

As such, the SCAQMD is seeking guidance from OPR as to how lead agencies preparing CEQA documents for regulatory projects that are not tied to an individual address should answer Environmental Checklist question #17a should the proposed revisions become finalized. We would like to schedule a call to discuss this in more detail with you at your convenience. You may contact either myself at (909) 396-3244, or Barbara Radlein at (909) 396-2716.

Sincerely,



Ian MacMillan  
Planning and Rules Manager

IM:BR