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Comment 15-1

The Appendix G: Transportation/Traffic Checklist should not be revised to delete parking capacity. California case law does recognize that environmental impacts may result from inadequate parking.

Response 15-1

The Natural Resources Agency appreciates the concern raised in the comment that parking adequacy should be considered as part of project approval. The Natural Resources Agency disagrees, however, that “parking adequacy” is an environmental resource that should normally be analyzed in an initial study.

Appendix G contains a sample checklist form that, together with the environmental information form in Appendix H, may satisfy the requirements of an initial study. (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1110; State CEQA Guidelines, § 15063(f).) The purpose of an initial study is to “[p]rovide the lead agency with information to use as the basis for deciding whether to prepare an EIR or a negative declaration.” (State CEQA Guidelines, § 15063(c)(1).) Appendix G is just a sample form, however, and lead agencies are free to devise their own forms. (*Id.* at subd. (f).) A lead agency’s examination of possible environmental effects is not limited to those items specifically listed in the Appendix G checklist; on the contrary, “the agency must consider and resolve every fair argument that can be made about the possible significant environmental effects of a project, irrespective of whether an established threshold of significance has been met with respect to any given effect.” (*Protect the Historic Amador Waterways, supra*, 116 Cal.App.4th at 1109.) In the *Protect the Historic Waterways* case, for example, the court held that a lead agency violated CEQA when it failed to consider possible project impacts, for which substantial evidence supported a fair argument, that were not specifically listed in Appendix G. (*Id.* at pp. 1111-1112.) To reflect this court’s holding, a note preceding Appendix G has been added to suggest to lead agencies that “[s]ubstantial evidence of potential impacts that are not listed on this form must also be considered” and that the “sample questions in this form are intended to encourage thoughtful assessment of impacts, and do not necessarily represent thresholds of significance.”

The existing Appendix G checklist contains a question in the transportation section asking whether a project would “[r]esult in inadequate parking capacity?” As explained in the Initial Statement of Reasons, the Natural Resources Agency concluded that the question related to parking adequacy should be deleted from the Appendix G checklist in part as a result of the decision in *San Franciscans Upholding*

the Downtown Plan v. City and County of San Francisco (2002) 102 Cal.App.4th 656. The court in that case distinguished the social impact of inadequate parking from actual adverse environmental impacts. In particular, that court explained:

[T]here is no statutory or case authority requiring an EIR to identify specific measures to provide additional parking spaces in order to meet an anticipated shortfall in parking availability. The social inconvenience of having to hunt for scarce parking spaces is not an environmental impact; the secondary effect of scarce parking on traffic and air quality *is*. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. An EIR need only address the *secondary physical* impacts that could be triggered by a social impact.

(*Id.* at p. 698 (emphasis in original).) The Natural Resources Agency is aware of no authority requiring an analysis of parking adequacy as part of a project's environmental review. Rather, the Agency concurs with the court in the *San Franciscans* case that inadequate parking is a social impact that may, depending on the project and its setting, result in secondary effects. Consistent with existing CEQA Guidelines section 15131(a), deletion of the parking adequacy question from Appendix G checklist will ensure that the "focus of the analysis shall be on the physical changes." Specifically, the Appendix G checklist contains questions asking about possible project impacts to air quality and traffic.

The Natural Resources Agency disagrees with the comment's characterization of the court's holding in the *San Franciscans* case. That case did not hold that the inadequate parking required mitigation; rather, it held that the agency in that case appropriately mitigated the traffic and air quality impacts that could result from the project's parking demand. As explained above, however, this conclusion does not require that the social impact of parking adequacy must be included in the Appendix G checklist.

No further revision to the proposed amendments is required in response to this comment.

Comment 15-2

Parking adequacy is relevant to determining environmental impacts.

Response 15-2

The comment points to examples of potential adverse impacts that could result from parking shortages, such as double-parking and slower circulation speeds. The comment specifically refers to a study of "cruising" behavior by Donald Shoup that noted that cruising could result in emissions of carbon dioxide.

The relationship between parking adequacy and air quality is not as clear or direct as the comment implies. Mr. Shoup, for example, submitted comments to the Natural Resources Agency supporting the deletion of the parking question. (See, Letter from Donald Shoup, Professor of Urban Planning, University of California, Los Angeles, October 26, 2009.) In those comments, Mr. Shoup opines that cruising results not from the number of parking spaces associated with a project, but rather from the

price associated with those parking spaces. (*Ibid.*) The Natural Resources Agency also has evidence before it demonstrating that providing parking actually causes greater emissions due to induced demand. The California Air Pollution Control Officers Association CEQA White Paper, for example, suggests reducing available parking as a way to reduce greenhouse gas emissions. (Greg Tholen, et al. (January, 2008). CEQA & Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act. California Air Pollution Control Officers Association, at Appendix B, pp. 8-9.) Moreover, parking analyses do not typically address either air quality or traffic impacts; rather, such analyses often focus on the number of parking spaces necessary to satisfy peak demand, which is often established by a local agency as a parking ratio (i.e., one space per 250 square feet of office space). (See, e.g., Shoup, Donald. (1999). In Lieu of Required Parking. *Journal of Planning Education and Research*, Vol. 18 No. 4. Association of Collegiate Schools of Planning, at p. 309.) Thus, the question in Appendix G related to parking adequacy does not necessarily lead to the development of information addressing actual environmental impacts.

In sum, as described in Response 15-1 above, nothing in the CEQA statute, or cases interpreting that statute, require an analysis of parking demand. Further, as described in this Response 15-3, parking supply is not a reasonable proxy for physical impacts associated with a project because parking supply may in some circumstances adversely affect air quality and traffic while in other circumstances, it may create air quality and traffic benefits. Thus, maintaining the parking question in the general Appendix G checklist is not necessary to effectuate the purposes of the CEQA statute. The Natural Resources Agency, therefore, declines to retain that question in Appendix G.

Comment 15-3

The Appendix G Transportation/Traffic Checklist should include the parking question in light of substantial evidence to suggest that inadequate parking capacity leads to secondary environmental impacts.

Response 15-3

For the reasons described in Responses 15-1 and 15-2, above, the Natural Resources Agency declines to retain the parking question in Appendix G. This revision to Appendix G does not, however, relieve lead agencies of the obligation to consider substantial evidence of possible indirect effects, even if not specifically listed in Appendix G. (State CEQA Guidelines, § 15358(a)(2) (defining “effects” to include “indirect effects”); *Protect the Historic Amador Waterways, supra*, 116 Cal.App.4th at 1109.) The existing text in Appendix G already contains questions regarding air quality and traffic effects of a project. Public agencies must, moreover, develop their own procedures to implement CEQA, and so may include parking-related questions in their own checklist if appropriate in their own circumstances. (State CEQA Guidelines, §§ 15022, 15063(f).) No further revision is required in response to this comment.

Comment 15-4

Clarify reasoning used in Initial Statement of Reasons justifying the elimination of parking from the Appendix G Transportation/Traffic Checklist. Removing the question from the checklist could lead to the environmental impacts being overlooked.

Response 15-4

As explained in Response 15-1, above, removal of the parking question is consistent with existing CEQA Guidelines section 15131(a), which provides that when social impacts are considered, the “focus of the analysis shall be on the physical changes.” As explained in Response 15-3, above, the parking question does not necessarily lead to consideration of actual air quality and traffic impacts; rather, analyses may instead focus simply on the number of parking spaces associated with a project. The explanation in the Initial Statement of Reasons recognizes the rule that lead agencies must consider potential impacts even if not specifically listed on Appendix G. No further revisions are required in response to this comment.

Comment 15-5

Clarify reasoning used in Initial Statement of Reasons to justify adding two questions to GHG emissions to Appendix G while removing parking.

Response 15-5

The reasoning supporting the addition of questions related to greenhouse gas emissions does not apply to the parking question. First, SB97 specifically recognized that CEQA requires analysis of the effects of greenhouse gas emissions, and directed that the CEQA Guidelines be updated to reflect the need for such analysis. No provision in the CEQA statute, however, recognizes parking supply as an environmental resource that should be studied in a CEQA analysis. Second, as recognized in the *San Franciscans* case, adequacy of parking supply is a social impact. (*San Franciscans Upholding the Downtown Plan, supra*, 102 Cal.App.4th at 698.) The existing CEQA Guidelines recognize that even where a social impact may lead to indirect physical impacts, the “focus of the analysis shall be on the physical changes.” (State CEQA Guidelines, § 15131(a).) Because the existing Appendix G already contains questions related to air quality and traffic, an additional question related to the social impacts of parking supply is not necessary to ensure analysis of air quality and traffic impacts. No further revisions are required in response to this comment.

Comment 15-6

Requiring analysis of parking leads to the identification of innovative parking mitigation.

Response 15-6

The Natural Resources Agency acknowledges that parking supply may lead to social impacts that lead agencies may wish to regulate. Cities and counties can, and do, include parking related policies in their municipal ordinances and general plans. (See, e.g., Office of Planning and Research, General Plan Guidelines, at pp. 59-60.) To the extent an agency has developed parking related policies in a general plan, zoning ordinance, or other regulation, consistency with those policies could be analyzed as a potential land use impact. Because agencies are free to develop their own parking regulations and policies, the Natural Resources Agency finds that innovative responses to those parking policies may occur even if the Appendix G checklist does not contain a parking question. No further revision is required in response to this comment.