

Letter 82

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Comment 82-1

The commenter's monitoring and research projects of the commenter report significant health impacts related to particulates caused by vehicular traffic in urban and suburban areas.

Response 82-1

The Natural Resources Agency is only required to respond to comments concerning the proposed action (i.e., the text of the proposed amendments) or to the procedures followed in proposing or adopting the proposed action. (Government Code, § 11346.9(a)(3).) This comment raises concerns regarding fine particulates and air toxics. The proposed amendments, on the other hand, address the analysis and mitigation of the effects of greenhouse gas emissions. Thus, this comment exceeds the scope of this rulemaking activity. No revisions are required in response to this comment.

Comment 82-2

Commenter recommends revising the CEQA Guidelines to incorporate mitigation necessary to reduce air quality impacts along traffic arterials. Commenter suggests tree planting as an appropriate mitigation measure to reduce fine particulates along transportation corridors.

Response 82-2

The Natural Resources Agency is only required to respond to comments concerning the proposed action (i.e., the text of the proposed amendments) or to the procedures followed in proposing or adopting the proposed action. (Government Code, § 11346.9(a)(3).) This comment raises concerns regarding fine particulates and air toxics. The proposed amendments, on the other hand, address the analysis and mitigation of the effects of greenhouse gas emissions. Thus, this comment exceeds the scope of this rulemaking activity. No revisions are required in response to this comment.

SB 97 specifically called on the Office and Planning and Research and Natural Resources Agency to develop guidelines addressing the mitigation of greenhouse gas emissions. In doing so, however, the Legislature did not alter a lead agency's discretion, authority or limitations on the imposition of mitigation where the impacts of a project's greenhouse gas emissions are significant. Thus, as explained

in the Initial Statement of Reasons, the existing CEQA rules apply to the mitigation of greenhouse gas emissions. Absent statutory authority to require specific mitigation measures, the CEQA Guidelines can only provide advisory guidance on the different types of mitigation that are available. Amendments to Section 15126.4(c)(3) recognize the role of using off-site and offsets to mitigate a project's emissions.

To suggest the Natural Resources Agency make further amendments specifically addressing air quality impacts is beyond the scope of this rulemaking. The suggested revision is, therefore, rejected.

Comment 82-3

Commenter recommends that the CEQA Guidelines be expanded to identify the relationships amongst land use and complete streets design, and further deemphasize the use of Level of Services standards in order to improve public health.

Response 82-3

The Natural Resources Agency further refined Appendix G, Section XVI question (a) to shift the focus from the capacity of the circulation system to consistency with applicable plans, policies, and other objective measures of effectiveness.

Question (b) still refers to level of service standards, but does so in the context of a congestion management program. Government Code section 65088, and following, requires Congestion Management Agencies, in urbanized areas, to adopt Congestion Management Programs covering that agency's cities and county, and in consultation with local governments, transportation planning agencies, and air quality management districts. A CMP must, pursuant to statute, contain level of service standards for certain designated roadways. A CMP must also include a land use analysis program to assess the impact of land use decisions on the regional transportation system. A CMA may require that land use analysis to occur through the CEQA process. Thus, level of service standards cannot be deleted from the Appendix G checklist altogether.

The proposed amendments did amend question (b) to put level of service standards in the broader context of the entire CMP, which should also contain travel demand measures and other standards affecting the circulation system as a whole. Beyond this amendment, however, the Natural Resources Agency cannot remove level of service standards entirely from the Appendix G checklist.

As explained above, the Natural Resources Agency's proposed amendments to question (a) would recognize a lead agency's discretion to choose its own methodology for analyzing impacts to the circulation system. Thus, if adopted through a public process in a plan, policy or ordinance, a lead agency could use non-LOS measures of effectiveness.

The existing Appendix G environmental checklist already asks questions regarding the potential land use impacts of a project. Regarding "complete streets design," AB1358 requires the Office of Planning and Research to develop an update to the General Plan Guidelines addressing the requirement that

circulation elements “plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel”, and that such plans specifically address the needs of “bicyclists, children, persons with disabilities, motorists, movers of commercial goods, pedestrians, users of public transportation, and seniors.” (Government Code, § 65302(b)(2).) That statute does not require amendment of the CEQA Guidelines to address street design. However, to the extent such issues are addressed in a local agency’s General Plan, consistency with those policies would be analyzed pursuant to section 15125(d).

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