

Letter 101

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Comment 101-1

Commenter requests that the existing language in Appendix G, Section XVI question (a) be retained with the addition of vehicle miles traveled to the list of measures of traffic impacts to be considered.

Response 101-1

The comments address the proposed amendments as originally published on July 3, 2009. The comment period on the originally proposed amendments closed on August 27, 2009. Therefore, the comments are late, and the Natural Resources Agency is not required to provide responses. Further, the Notice of Proposed Changes advised that comments should only be submitted on the revised portions of the proposed amendments, as circulated on October 23, 2009. Because the comments in this letter do not address the revisions, responses are not required. Nevertheless, the Natural Resources Agency provides the following responses.

In comment 101-1, the commenter refers to comments from January 26, 2009. Those comments presumably were addressed to the Office of Planning and Research during its informal outreach and workshop process. While those comments are included in the Natural Resources Agency's rulemaking record as background materials, the Natural Resources Agency is not required to develop responses to comments submitted to the Office of Planning and Research.

The comment essentially advocates leaving intact the existing text in question (a) of the transportation section of Appendix G. As explained in the Initial Statement of Reasons,

[Q]uestion (a) changes the focus from an increase in traffic at a given location to the effect of a project on the overall circulation system in the project area. This change is appropriate because an increase in traffic, by itself, is not necessarily an indicator of a potentially significant environmental impact. (Ronald Miliam, AICP, Transportation Impact Analysis Gets a Failing Grade When it Comes to Climate Change and Smart Growth; see also Land Use Subcommittee of the Climate Action Team LUSCAT Submission to CARB Scoping Plan on Local Government, Land Use, and Transportation Report (May, 2008) at pp. 31, 36.) Similarly, even if some projects may result in a deterioration of vehicular level of service – that is, delay experienced by drivers – the

overall effectiveness of the circulation system as a whole may be improved. (*Ibid.*) Such projects could include restriping to provide bicycle lanes or creating dedicated bus lanes. Even in such cases, however, any potential adverse air quality or other impacts would still have to be addressed as provided in other sections of the checklist. Finally, the change to question (a) also recognizes that the lead agency has discretion to choose its own metric of analysis of impacts to intersections, streets, highways and freeways. (Pub. Resources Code, § 21081.2(e); *Eureka Citizens for Responsible Gov't v. City of Eureka*, *supra*, 147 Cal.App.4th at 371-373 (lead agency has discretion to choose its methodology).) Thus, “level of service” may or may not be the applicable measure of effectiveness of the circulation system.

(Initial Statement of Reasons, at pp. 64-65.) While the terms “volume to capacity ratio” and “congestion at intersections” no longer appear in question (a), nothing precludes a lead agency from including such measures of effectiveness in its own general plan or policies addressing its circulation system. Though the Office of Planning and Research originally proposed specifying “vehicle miles traveled” as a question in Appendix G, it later revised its proposal to allow lead agencies to choose their own measures of effectiveness. (Letter from OPR Director, Cynthia Bryant, to Secretary for the Natural Resources Agency, Mike Chrisman, April 13, 2009.) Because lead agencies may designate vehicle miles travels, levels of service, and other measures of effectiveness in their own general plans and policies, question (a), as revised, need not be further revised in response to this comment.

Comment 101-2

Revise Appendix G, Section XVI question (b) to state: “[would the project] Exceed either individually or cumulatively, a level of service standard established by the local agencies.”

Response 101-2

As explained in Response 101-1, above, local agencies can establish their own levels of service or other measures of effectiveness that would be analyzed pursuant to question (a). The proposed revision would duplicate question (a), and is unnecessary. Question (b), as revised, asks specifically about conflicts with a congestion management program. As explained in the Initial Statement of Reasons,

[T]he proposed revisions to question (b) clarify the role of a congestion management program in a CEQA analysis. Specifically, it clarifies that a congestion management program contains many elements in addition to a level of service designation. (Gov. Code § 65088 et seq.) The clarification is also necessary to address any projects within an “in-fill opportunity zone” that may be exempted from level of service requirements. (*Id.* at § 65088.4.)

(Initial Statement of Reasons, at p. 65.) Because level of service standards in a congestion management program are established by the congestion management agency, it would be inaccurate to state that

such standards would be set by local agencies. Further, it is not necessary to specify in question (b) that the analysis must account for both individual and cumulative impacts because both analyses are already required by existing section 15063(b)(1) as part of an initial study. Thus, the revisions suggested in this comment are rejected.

Comment 101-3

Commenter requests that the existing question in Appendix G relating to parking adequacy be retained. Deleting parking capacity would ignore a community's parking demand, and by doing so, may lead to unintended consequences of either providing too much or too little parking.

Response 101-3

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.