

Letter 104

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Comment 104-1

Commenter thanks the Natural Resources Agency for its continued outreach to all stakeholders as part of the rulemaking for the CEQA Guidelines amendments. Some comments are repeated and others are focused on the revised amendments to the Appendix G checklist.

Response 104-1

The Natural Resources Agency appreciates the support of the Department of Transportation for the Natural Resources Agency's rulemaking process. Responses to the Department's first set of comments are found in Responses to Letter 70. Specific new comments on the revisions circulated for public review on October 23, 2009, are addressed below.

Comment 104-2

Commenter supports the "less is more approach" undertaken to developing the amendments. The recognition of standing CEQA principles need not change in order to effectively address GHG emissions. The amendments provide a foundation for analysis while maintaining the lead agency's discretion to determine the most appropriate method for analysis, significance, and appropriateness of mitigation.

Response 104-2

The Natural Resources Agency appreciates the support of the Department of Transportation for the general "less is more approach" taken in the proposed amendments. As explained in the Initial Statement of Reasons,

[T]he Proposed Amendments suggest relatively modest changes to various portions of the existing CEQA Guidelines. Modifications address those issues where analysis of GHG emissions may differ in some respects from more traditional CEQA analysis. Other modifications are suggested to clarify existing law that may apply both to analysis of GHG emissions as well as more traditional CEQA analyses. The incremental approach in the Proposed Amendments is consistent with Public Resources Code section 21083(f),

which directs OPR and the Resources Agency to regularly review the Guidelines and propose amendments as necessary.

(Initial Statement of Reasons, at p. 10.) SB97 did not alter CEQA in any substantive way, so the proposed amendments necessarily recognize the existing discretion left to lead agencies in determining methodology, significance, and appropriate mitigation. No revisions are required in response to this comment.

Comment 104-3

Commenter recognizes that adaptation is not currently incorporated in the amendments as many of the efforts to develop consistent, statewide planning scenarios and other guidance are on-going.

Response 104-3

Several comments submitted as part of the Natural Resources Agency's SB97 rulemaking process urged it to incorporate the draft Adaptation Strategy into the CEQA Guidelines. In considering such comments, it is important to understand several key differences between the California Adaptation Strategy and the California Environmental Quality Act. First, the Adaptation Strategy is a policy statement that contains recommendations; it is not a binding regulatory document. Second, the focus of the Adaptation Strategy is on how we can change in response to climate change. CEQA's focus, on the other hand, is the analysis of greenhouse gas emissions from a particular project, and mitigation of those emissions if they are significant. Given these differences, CEQA should not be viewed as the tool to implement the Adaptation Strategy; rather, as indicated in the Strategy's key recommendations, advanced programmatic planning is the primary method to implement the Adaptation Strategies.

There is some overlap between CEQA and Adaptation, however. As explained in both the Initial Statement of Reasons and in the Draft Adaptation Strategy, section 15126.2 may require the analysis of the effects of a changing climate under certain circumstances. Having reviewed all of the comments addressing the effects of climate change, the Natural Resources Agency revised the proposed amendments to include a new sentence in Section 15126.2 clarifying the type of analysis that would be required.

Specifically, the new sentence calls for analysis of placing projects in areas susceptible to hazards, such as floodplains, coastlines, and wildfire risk areas. Such analysis would be appropriate where the risk is identified in authoritative maps, risk assessments or land use plans. According to the Office of Planning and Research, at least sixty lead agencies already require this type of analysis. (California Governor's Office of Planning and Research. (January, 2009). The California Planners' Book of Lists 2009. State Clearinghouse. Sacramento, California, at p. 109.) This addition is reasonably necessary to guide lead agencies as to the scope of analysis of a changing climate that is appropriate under CEQA.

As revised, section 15126.2 would provide that a lead agency should analyze the effects of bringing development to an area that is susceptible to hazards such as flooding and wildfire (i.e., potential upset

of hazardous materials in a flood, increased need for firefighting services, etc.), both as such hazards currently exist or may occur in the future. Several limitations on the analysis of future hazards, however, should apply. For example, such an analysis may not be relevant if the potential hazard would likely occur sometime after the projected life of the project (i.e., if sea-level projections only project changes 50 years in the future, a five-year project may not be affected by such changes). Additionally, the degree of analysis should correspond to the probability of the potential hazard. (State CEQA Guidelines, § 15143 (“significant effects should be discussed with emphasis in proportion to their severity and probability of occurrence”).) Thus, for example, where there is a great degree of certainty that sea-levels may rise between 3 and 6 feet at a specific location within 30 years, and the project would involve placing a wastewater treatment plant with a 50 year life at 2 feet above current sea level, the potential effects that may result from inundation of that plant should be addressed. On the other extreme, while there may be consensus that temperatures may rise, but the magnitude of the increase is not known with any degree of certainty, effects associated with temperature rise would not need to be examined. (State CEQA Guidelines, § 15145 (“If, after thorough investigation, a lead agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate the discussion of the impact”).) Lead agencies are not required to generate their own original research on potential future changes; however, where specific information is currently available, the analysis should address that information. (State CEQA Guidelines, § 15144 (environmental analysis “necessarily involves some degree of forecasting. While seeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can”) (emphasis added).)

The revision in section 15126.2 is consistent with the general objective of the Adaptation Strategy and is consistent with the limits of CEQA. Not all issues addressed in the Adaptation Strategy are necessarily appropriate in a CEQA analysis, however. Thus, the revision in section 15126.2 should not be read as implementation of the entire Adaptation Strategy. Unlike hazards that can be mapped, however, other issues in the Adaptation Strategy, such as the health risks associated with higher temperatures, may not allow a link between a project and an ultimate impact. Habitat modification and changes in agriculture and forestry resulting from climate change similarly do not appear to be issues that can be addressed on a project-by-project basis in CEQA documents.

The Natural Resources Agency finds that the revised text of section 15126.2 provides the guidance suggested in this comment. No further changes to the text are required in response to this comment.

Comment 104-4

If the text from OPR’s draft preliminary recommendations (January, 2009) to Section 15064(h)(3) is reinserted, commenter requests “statewide transportation plan” be added.

Response 104-4

The comment notes that the Office of Planning and Research’s preliminary draft of recommended Guidelines would have added a number of plans to section 15064(h)(3). That section creates a

presumption that if a project is consistent with the requirements in a listed plan, that project's incremental contribution to a cumulative project is not cumulatively considerable, and would not require preparation of an EIR. As explained in the letter from Cynthia Bryant, OPR Director, to Mike Chrisman, Secretary for Natural Resources, dated April 13, 2009, OPR revised its recommendations to clarify which types of plans may appropriately be used for specific CEQA purposes. The Natural Resources Agency does not intend to revise section 15064(h)(3) to insert the deleted plans. Those plans are not appropriate for inclusion in that section because they do not include binding requirements to reduce a cumulative problem to a less than significant level. The State Transportation Plan does not appear designed to reduce a particular environmental impact to a less than significant level. Thus, the Natural Resources Agency declines to revise section 15064(h)(3) to include "statewide transportation plan."

Comment 104-5

Commenter appreciates the flexibility given to lead agencies to select the most appropriate methodology for analysis of greenhouse gas emissions in section 15064.4.

Response 104-5

The Natural Resources Agency appreciates the support of the Department of Transportation for section 15064.4. The Natural Resources Agency has revised that section make clear that an agency may perform either a quantitative analysis or a qualitative analysis, or both, as may be appropriate to the project. For example, some emissions sources of a project may be readily modeled, while others may require a qualitative approach. The text has also been revised to clarify that regardless of which method is chosen, the analysis must be based to the extent possible on scientific and factual data. No further revision is required in response to this comment.

Comment 104-6

Commenter supports the incorporation of previously proposed subdivision (d) of section 15093 into existing subdivision (a).

Response 104-6

The Natural Resources Agency appreciates the support of the Department of Transportation for the revisions in section 15093. No further revision is required in response to this comment.

Comment 104-7

Commenter appreciates revisions to sections 15125(d), 15130(b)(1)(B) and 15130(d) to include “regional transportation plans”. Commenter requests Section 15125 also include a reference to “statewide transportation plan.”

Response 104-7

The Natural Resources Agency appreciates the support for the inclusion of “regional transportation plans” in section 15130(b)(1)(B) and 15130(d). To clarify, the Natural Resources Agency notes that existing section 15125(d) already references regional transportation plans.

The Natural Resources Agency declines to revise the proposed amendments to reference a statewide transportation plan. “The California Transportation Plan 2025 (CTP) is a policy plan designed to guide transportation investments and decisions at all levels of government and by the private sector to enhance our economy, support our communities, and safeguard our environment for the benefit of all.” (California Transportation Plan (2025), at p. 1.) Section 15125 reflects existing law requiring examination of project impacts in relation to the existing environment. It contains a non-exclusive list of plans that should be considered as part of an environmental analysis. Notably, that list includes “regional transportation plans.” According to the Regional Transportation Plan Guidelines, one function of a regional transportation plan is to promote “consistency between the California Transportation Plan, the regional transportation plan and other plans developed by cities, counties, districts, Native American Tribal Governments, and State and Federal agencies in responding to Statewide and interregional transportation issues and needs.” (Regional Transportation Plan Guidelines (2007), at p. 16.) Thus, the policies in the California Transportation Plan should be reflected in the applicable regional transportation plan. Addition of the California Transportation Plan to section 15125(d) would be redundant. The Natural Resources Agency therefore declines to add “statewide transportation plan” to section 15125(d).

Similarly, sections 15130(b)(1)(B) and (d) (as revised) also specifically refer to regional transportation plans. Thus, addition of “statewide transportation plan” is not necessary in those sections for the same reason. Additionally, the California Transportation Plan does not appear to contain any summary of projections useful in a cumulative impacts analysis, nor is it a land use plan. For these reasons, the Natural Resources Agency declines to revise sections 15130(b)(1)(B) and (d) to include “statewide transportation plan.”

Comment 104-8

Commenter believes section 15126.4 strikes an appropriate balance and the inclusion of offsets is warranted as a means of mitigation.

Response 104-8

The Natural Resources Agency appreciates the support of the Department of Transportation for section 15126.4(c)'s recognition of a lead agency's discretion to choose the most appropriate mitigation for a particular project. That section has not been revised to limit that discretion or remove the acknowledgment of offsets as mitigation. No further response is required to this comment.

Comment 104-9

Commenter is concerned the second sentence of Section 15126.4(c), "Reductions in emissions that are not otherwise required may constitute mitigation pursuant to this subdivision." The wording is vague and may be assumed to imply a measure cannot be considered mitigation if it is otherwise required by law, regulation, or other legal force. If this is the intent, the wording is too broad as many of the state's efforts (AB 32 and SB 375) are far reaching and almost any measure could be argued to be required by AB 32 or SB 375. If so, this is inconsistent with how mitigation applies to other environmental resources.

Response 104-9

The CEQA statute requires lead agencies to mitigate or avoid the significant effects of proposed projects where it is feasible to do so. (Public Resources Code, § 21002.) While the CEQA statute does not define mitigation, the State CEQA Guidelines define mitigation to include:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

(State CEQA Guidelines, § 15370.) As subdivision (e) implies, off-site measures may constitute mitigation under CEQA, and such measures have been upheld as adequate mitigation in CEQA case law. (See, e.g., *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal. App. 4th 603, 619-626.)

To be considered mitigation, a measure must be tied to impacts resulting from the project. Section 21002 of the Public Resources Code, the source of the requirement to mitigate, states that "public agencies should not approve projects as proposed if there are ... feasible mitigation measures available

which would substantially lessen the significant environmental effects of such projects[.]” Similarly, section 21081(a)(1) specifies a finding by the lead agency in adopting a project that “[c]hanges or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.” Both statutory provisions expressly link the changes to be made (i.e., the “mitigation measures”) to the significant effects of the project. Courts have similarly required a link between the mitigation measure and the adverse impacts of the project. (*Save Our Peninsula Comm. v. Monterey County Bd. of Supervisors* (2001) 87 Cal. App. 4th 99, 128-131 (EIR must discuss “the history of water pumping on [the off-site mitigation] property and its feasibility for providing an actual offset for increased pumping on the [project] property”).) The text of sections 21002 and 21081, and case law requiring a “nexus” between a measure and a project impact, together indicate that “but for” causation is a necessary element of mitigation. In other words, mitigation should normally be an activity that occurs in order to minimize a particular significant effect. Or, stated another way and in the context of greenhouse gas emissions, emissions reductions that would occur with or without a project would not normally qualify as mitigation.

Notably, this interpretation of the CEQA statute and case law is also consistent with the Legislature’s directive in AB32 that reductions relied on as part of a market-based compliance mechanism must be “in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur.” (Health and Safety Code, § 38562(d)(2).)

The Natural Resources Agency received comments on its originally proposed amendments expressing concern that some agencies and project proponents may attempt to rely on reductions of greenhouse gas emissions that were already required to address a separate project’s impacts. (See, e.g., Letter from Center for Biological Diversity, et. al., August 27, 2009, Comments 71-13 through 71-16.) In light of the above, and in response to concerns raised during public review, the Natural Resources Agency proposed to revise section 15126.4(c) to state the following: “Reductions in emissions that are not otherwise required may constitute mitigation pursuant to this subdivision.” That addition was intended to be read in conjunction with the statutory mandate in Public Resources Code sections 21002 and 21081 that mitigation be tied to the effects of a project. It was also intended to harmonize the “offset” concept in section 15126.4(c)(3) with the requirement in AB32 that offsets used in the cap and trade program be the result of voluntary reductions. (See, e.g., Initial Statement of Reasons, at p. 38.)

Provisions in the CEQA Guidelines must be read in conjunction with existing rules recognized in cases interpreting the CEQA statute. As the comment points out, existing case law recognizes that changes in a project that are made pursuant to existing environmental regulations may be considered mitigation. (*Leonoff v. Monterey County Board of Supervisors* (1990) 222 Cal.App.3d 1337; *Sundstrom v. County of Medocino* (1988) 202 Cal.App.3d 296.) This rule is reflected in subdivisions (c)(1) and (c)(5), for example, which address measures identified in a plan or incorporated into a plan. Similarly, subdivision (c)(2) refers to changes in a project. Thus, the added sentence could not be interpreted, as the comment suggests, to mean that lead agencies could not recognize a project’s compliance with existing regulations as project mitigation. Rather, the proper interpretation of that sentence would be that

reductions in emissions that are completely unrelated to the project (i.e., reductions that would occur with or without any change in the project) would not constitute mitigation.

The Natural Resources Agency acknowledges, however, the confusion that the added sentence could cause. Therefore, the Natural Resources Agency has further refined section 15126.4(c) to clarify that the “not otherwise required” limitation applies in the context offsets. Specifically, the added sentence has been deleted, and subdivision (c)(3) has been revised to state that mitigation includes: “Off-site measures, including offsets that are not otherwise required, to mitigate a project’s emissions[.]”

This revision responds to the concern in the comment because it does not imply that changes in a project that are made pursuant to environmental regulations cannot be considered mitigation. Offsets by their nature occur as part of some other action. Moving this concept from the general provisions on mitigation of greenhouse gas emissions to the provision on offsets does not materially alter the rights or conditions in the originally proposed text because the “not otherwise required” concept would only make sense in the context of offsets. Because this revision clarifies section 15126.4(c)(3), consistent with the Public Resources Code and cases interpreting it, and does not alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the originally proposed text, this revision is nonsubstantial and need not be circulated for additional public review. (Government Code, § 11346.8(c); Cal. Code Regs., tit. 1, § 40.)

The Natural Resources Agency therefore, finds that the revision described above responds to the concern raised in this comment.

To the extent the comment suggests that reductions in emissions resulting from implementation of AB32 elsewhere can mitigate the significant effects of a separate project under CEQA, the Natural Resources Agency disagrees. As explained above, CEQA requires that a project be changed in order to reduce or avoid a significant effect. Reductions in emissions that are not tied in any way to the project causing the significant effect would not constitute mitigation pursuant to those existing authorities. Because the Natural Resources Agency accepted the suggestion to delete the proposed sentence addressing reductions in emissions that are not otherwise required, however, no further revision is required in response to this comment.

Comment 104-10

Commenter supports revision to Section 15130(d), adding “regional transportation plans” to the list of land use documents that may be used in a cumulative impact analysis.

Response 104-10

The Natural Resources Agency appreciates the support of the Department of Transportation for the revisions in section 15130(d). No further revision is required in response to this comment.

Comment 104-11

Commenter supports the Appendix G, Initial Study Checklist “preamble,” and in particular, the statement clarifying that the questions “do not necessarily represent thresholds of significance.”

Response 104-11

The Natural Resources Agency appreciates the support of the Department of Transportation for the addition of the preamble to the Appendix G Checklist. No revisions are required in response to this comment.

Comment 104-12

Commenter does not support the addition of “Evaluation of Environmental Impacts” to the introductory section of Appendix G. If such changes are necessary, the changes should be made in the Guidelines, not the Checklist.

Response 104-12

The section on “Evaluation of Environmental Impacts” referred to in the comment already exists in Appendix G. The text that the Natural Resources Agency circulated for public review on July 3, 2009, inadvertently excluded that section from Appendix G. The Natural Resources Agency included that section in the text it circulated on October 23, 2009, not because it proposed any changes to that existing text, but rather to clarify that it does not propose to delete that section. Clarifying that the section will not be removed does not create any additional work for lead agencies. Because that section remains unchanged from the text in existing Appendix G, the Natural Resources Agency does not support deletion of that section or revision of other portions of the existing CEQA Guidelines. No further revision is required in response to this comment.

Comment 104-13

Commenter requests that level of service (LOS) or a comparable measure of congestion remains a part of the checklist in Appendix G, Section XVI: Transportation/Traffic. As safety is an environmental impact related to the human health, so is traffic. If LOS were to be removed, it would signal to lead agencies that traffic is not a consideration, in light of the purpose of this section, to analyze the circulation system as a whole.

Response 104-13

The Natural Resources Agency has received many comments related to level of service in the transportation section of Appendix G. The proposed amendments continue to recognize in question (b) of the transportation section that congestion management programs designate levels of service for

certain roadways, and so lead agencies should analyze whether a project will conflict with an applicable congestion management program. Regardless of whether a congestion management program applies to a particular location, question (a) asks whether a project will conflict with a plan or policy that establishes a measure of effectiveness for the circulation system as a whole. Thus, project impacts to a circulation system must still be analyzed. As explained in the Initial Statement of Reasons, however, congestion, by itself, does not necessarily indicate an environmental impact. In fact, evidence presented to the Natural Resources Agency indicates that efforts to relieve traffic congestion may lead to even greater environmental impacts than might result from congestion. (See, e.g., Cervero, Robert. (July, 2001). *Road Expansion, Urban Growth, and Induced Travel: A Path Analysis*. Journal of the American Planning Association, Vol. 69 No. 2. American Planning Association (confirming “induced demand” phenomenon associated with capacity improvements).) The comment states that “more congestion does equate to more greenhouse gas emissions[;]” however, no evidence is provided to support that claim. No further revision is required in response to this comment.

Comment 104-14

Commenter suggests a question be added to Appendix G, Section XVI: Transportation/Traffic. The question would add the following concepts to the proposed question (a): (1) require analysis of a measure of effectiveness designated by a responsible agency, (2) require analysis of impacts to the local, regional and interregional circulation system, and (3) require analysis of impacts to goods movement, rail facilities and high-speed rail.

Response 104-14

The Natural Resources Agency declines to adopt the changes proposed in this comment for the following reasons. Regarding the first suggested change, nothing in CEQA requires a lead agency to analyze impacts using the methodology selected by a responsible agency. (State CEQA Guidelines, § 15204(a) (“CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors”).) Rather, in response to a Notice of Preparation, a responsible agency must “specify the scope and content of the environmental information which would be germane to the Responsible Agency’s statutory responsibilities in connection with the proposed project.” (State CEQA Guidelines, § 15096(b)(2).) Further, in reviewing a negative declaration or EIR, a responsible agency’s comments “should focus on any shortcomings in the EIR, the appropriateness of using a Negative Declaration, or on additional alternatives or mitigation measures which the EIR should include.” (*Id.* at § 15096(d).)

Regarding the second proposed change, it is not necessary to specify the various levels of the circulation system that must be included in the analysis. Existing section 15125(c) already provides that “[k]nowledge of the regional setting is critical to the assessment of environmental impacts.”

As to the third proposed change, question (a) does not limit the elements of a circulation system; rather, it uses the broad phrase “including but not limited to[.]” Thus, if appropriate, a lead agency can include other components of the circulation system.

No further revision is required in response to this comment.

Comment 104-15

Commenter suggests revising question (b) in Appendix G, Section XVI: Transportation/Traffic, to require analysis of a project’s conflicts with a congestion management program prepared by the applicable local, regional, state or federal air quality or traffic management agency.

Response 104-15

The Natural Resources Agency declines to incorporate the revision suggested in this comment. The purpose of question (b) is to require consideration of any conflicts with an applicable congestion management program required by Government Code sections 65088 et seq. Section 65089 states: “[a congestion management] program shall be developed in consultation with, and with the cooperation of, the transportation planning agency, regional transportation providers, local governments, the department [of transportation], and the air pollution control district or the air quality management district, either by the county transportation commission, or by another public agency, as designated by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of the county.” The Government Code does not provide for congestion management programs developed by either the state or federal air quality or traffic management agencies, so the suggestion to include such agencies in this comment is rejected. Further, due to the explicit requirements for congestion management programs in the Government, the remaining suggestions in the comment are not necessary. No further revision is required in response to this comment.

Comment 104-16

Commenter suggests question (d) in Appendix G, Section XVI: Transportation/Traffic be revised to focus on specific safety considerations in a project’s design.

Response 104-16

The Natural Resources Agency does not propose to revise question (d) as part of this rulemaking package. Therefore, the comment’s suggestions regarding question (d) exceed the scope of this rulemaking package and do not require a response. To the extent a response is required, the Natural Resources Agency declines to incorporate the suggested revisions because they are not necessary. The existing text in question (d) already asks whether a project would increase hazards. The comment does

not provide any explanation indicating why the proposed text, which would list specific safety considerations, would lead to any better analysis of the safety issue. The CEQA Guidelines apply statewide to many different types of projects in many different locations. The Natural Resources Agency finds that broader and more generally applicable language is preferable in the Appendix G checklist. Thus, the Natural Resources Agency declines to incorporate the suggested change because no change is necessary.

Comment 104-17

Commenter suggests a question be added to Appendix G, Section XVI: Transportation/Traffic. The question would focus on a project's potential to hamper components of the non-motorized circulation system.

Response 104-17

The Natural Resources Agency has revised the existing question (g) to respond to this and other comments urging that Appendix G address impacts to alternative transportation facilities. In particular, as revised, that question would ask whether a project would "Conflict with adopted policies, plans, or programs regarding public transit, bikeways, or pedestrian facilities, or otherwise substantially decrease the performance or safety of such facilities?" Indirect effects of a project, and the effects of mitigation measures, are already required to be analyzed by the existing CEQA Guidelines; therefore, the Appendix G need not specifically include such references. (State CEQA Guidelines, §§ 15064(d), 15126.4(a)(1)(D).) Because the text of existing question (g) has been revised to incorporate the concerns raised in this comment, no further response is required.

Comment 104-18

Revise Appendix G: Transportation/Traffic Checklist question (f) to be more specific on assessing a degradation of performance on transit systems.

Response 104-18

The Natural Resources Agency has revised the existing question (g) to respond to this and other comments urging that Appendix G address impacts to alternative transportation facilities. In particular, as revised, that question would ask whether a project would "Conflict with adopted policies, plans, or programs regarding public transit, bikeways, or pedestrian facilities, or otherwise substantially decrease the performance or safety of such facilities?" Because the text of existing question (g) has been revised to incorporate the concerns raised in this comment, no further response is required.

Comment 104-19

Capacity is relevant to pedestrians and bicyclists in urban locations where such facilities are inadequate to handle higher densities of people. In terms of describing an impact to pedestrians and bicyclists, it is in terms of safety and access.

Response 104-19

Question (a), as revised, would not ask about the capacity of the circulation system; rather, it would ask about a project's impact on measures of effectiveness for all components of the circulation system, including pedestrian and bicycle facilities. Further, as explained in the Notice of Proposed Changes, revisions to question (f) of the transportation section of Appendix G were intended to "clarify and update language regarding safety considerations and other mass transit and non-motorized transportation issues." The suggested additions is not necessary because the Government Code requires 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).) Thus, the plans referred to in question (f) will address the specific concerns raised in the comment. Therefore, the Natural Resources Agency declines to incorporate the precise text suggested in the comment.

Comment 104-20

Commenter recommends additional question be added to Appendix G, Section XV: Recreation. The question would ask to consider impacts to existing recreational facilities: parks, trails, and bike paths.

Response 104-20

The proposed revision to the Appendix G questions related to recreation falls outside of the scope of the proposed action. The proposed action is primarily intended to comply with SB97, which required the development of guidelines on the analysis and mitigation of greenhouse gas emissions. The Natural Resources Agency, therefore, declines to incorporate the suggested changes at this time.

Comment 104-21

Commenter recommends revising Appendix G, Section XVIII: Mandatory Findings of Significance, question (a) to be consistent with Section 15064(a)(1). Add "significant" before "reduce the number or restrict the range of a rare or endangered plant or animal".

Response 104-21

The proposed revision to the Appendix G questions related to mandatory findings of significance falls outside of the scope of the proposed action. The proposed action is primarily intended to comply with SB97, which required the development of guidelines on the analysis and mitigation of greenhouse gas emissions. The Natural Resources Agency, therefore, declines to incorporate the suggested changes at this time.