

Letter 89

Stephen Blagden
Public

November 9, 2009

Comment 89-1

Commenter claims that greenhouse gas emissions are a weak link in the CEQA process particularly for the Initial Study and determinations other than an EIR.

Response 89-1

The primary purpose of the proposed amendments is to update the CEQA Guidelines on the analysis and mitigation of greenhouse gas emissions. To that end, the Natural Resources Agency proposed certain changes to the CEQA Guidelines were proposed pursuant to its directive in SB 97 and its general authority to update the CEQA Guidelines, including changes to the Appendix G Initial Study checklist. Specific amendments to Appendix G and further details are provided in the Initial Statement of Reasons. This comment does not propose further revisions to the amendments or Guidelines, so no further response is necessary to address this comment.

Comment 89-2

Lead agencies must respond to comments on a draft EIR, but there is no such requirement for an Initial Study or Negative Declaration (ND) or Mitigated Negative Declaration (MND). Because they do not need to respond to comments, lead agencies are less thorough and accurate in NDs and MNDs.

Response 89-2

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).) Comments on CEQA's substantive and procedural requirements are neither directed at the text of the regulations nor at the Natural Resources Agency's process for adopting those regulations. Though responses to comments such as this are not required, the Natural Resources Agency provides the following response.

CEQA's public involvement process and requirements are set forth in statute and detailed in the State CEQA Guidelines. The Legislature did not express intent to change these requirements in SB 97, thus, the Natural Resources Agency does not have the authority to propose any such changes.

Comment 89-3

Commenter suggests that the Guidelines should be amended to require lead agencies to respond to comments on the Initial Study, Negative Declaration, or Mitigated Negative Declaration in a similar fashion as EIRs.

Response 89-3

See Response 89-2.