

# *City of Albany*



## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES AND IMPLEMENTING PROCEDURES**

**State Guidelines as Amended July 27, 2007  
City Implementing Procedures as Adopted October 3, 2006**

**CITY OF ALBANY  
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)  
IMPLEMENTING PROCEDURES**

**1. Purpose**

The purpose of these Implementing Procedures is to carry out the California Environmental Quality Act (“CEQA”) in the City of Albany. In particular, these procedures are intended to meet the requirements for public agency implementing procedures established in Section 15022 of the CEQA Guidelines.

**2. Definitions**

- a) "CEQA" means Division 13 of the California Public Resources Code, commencing at section 21000, as amended from time to time.
- b) "CEQA Guidelines" means the California Code of Regulations, Title 14, Chapter 3, commencing at section 15000, as amended from time to time.

**3. Adoption by reference**

- a) These procedures incorporate by reference and adopt the objectives, criteria and procedures for environmental review contained in the CEQA and the CEQA Guidelines, as they are now and as they may subsequently be amended.
- b) These procedures are intended solely to implement the provisions of CEQA and the CEQA Guidelines. To the extent there is any conflict between these procedures and CEQA or the CEQA Guidelines, the provisions of CEQA and the CEQA Guidelines shall prevail.

**4. CEQA Coordinator**

The CEQA Coordinator for the City of Albany shall be the Community Development Director. Subject to appeal to the applicable decision-making body, the CEQA Coordinator shall be responsible for carrying out the following functions in implementing and administering these regulations.

- a) Interpretation of these procedures and determination of substantial conformance therewith.
- b) Managing consultants preparing CEQA documentation.
- c) Determining whether project application is complete for CEQA purposes.
- d) Recommending to the decision-making body thresholds of significance.
- e) Recommending to the decision-making body standard mitigation measures.
- f) Recommending to the decision-making body an environmental determination.
- g) Such other functions as may be reasonably required in order to administer these procedures.

**5. Public Projects (City of Albany as Lead Agency)**

- a) When the City plans to carry out a nonexempt public project, the City department responsible for the project will participate in the environmental review process in a manner similar to that for private project applicants. All environmental documentation shall be prepared by the responsible Department (or under the direction of that Department), in coordination with the CEQA Coordinator. This coordination is intended to ensure consistency between the processing of private projects and the processing of public projects.

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- b) Public projects are not generally subject to mandatory time frames for processing.

**6. Private Projects (City of Albany as Lead Agency)**

- a) When a private project is subject to discretionary review by the City, the applicant shall submit required application material to the Community Development Department.
- b) The City encourages early consultation when prudent and feasible. Upon the request of an applicant and prior to filing of an application, the city shall provide for consultation regarding project entitlements, potential alternatives, mitigation measures, and potentially significant effects on the environment. Fees for such early consultation shall be as prescribed by the Master Fee Ordinance.
- c) All costs for the preparation and administration of environmental review for private projects shall be subject to Chapter 20.100.010 of the Municipal Code.

**7. Other Public Projects (City as Responsible Agency or subsequent approval body)**

The City of Albany will follow the provisions in CEQA and the CEQA Guidelines for projects where the City is a responsible agency. As appropriate the CEQA Coordinator shall prepare comments and may solicit comments from other City departments on projects where the city is a responsible agency. As appropriate, the CEQA Coordinator may present draft comments to the Planning and Zoning Commission or the City Council for review and approval.

**8. Other Projects (City as Commenter)**

- a) If the CEQA Coordinator believes that a project may have an impact on the City, but the City is not a responsible agency, the CEQA Coordinator may request notice of the project's environmental review and the environmental documents for the purpose of providing comments and/or concerns related to the project. The CEQA Coordinator may prepare comments on environmental documents submitted to the City for review and on those projects where there is reason to believe that the project may have an impact on the city. The CEQA Coordinator may refer the documents to other Departments, the Planning and Zoning Commission, or the City Council as appropriate.
- b) If a city department believes that a project may have an adverse impact on the City and would like to receive the environmental documents and/or participate in the environmental review of the project, the department shall notify the CEQA Coordinator of its interest or concern about the project, and the CEQA Coordinator may assist the Department in providing comments on the project.

**9. Activities Exempt from Environmental Review**

- a) In addition to those projects specifically enumerated as Statutory or Categorical exemptions from CEQA, the following projects are exempt from the other provisions of these procedures under the procedures enumerated below:
  - 1) **Non-projects.** CEQA applies only to projects that have the potential for causing a significant adverse effect on the environment. Where it can be seen with certainty that there is no

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possibility that the activity in question may have a significant adverse effect on the environment, the activity is not subject to CEQA or the provisions of these procedures.

- 2) **Ministerial Projects.** The following activities are determined to be ministerial projects exempt from the provisions of CEQA and these procedures:
- A. Building Permits issued in accordance with Chapter 12 of the Municipal Code.
  - B. Demolition Permits issued in accordance with Chapter 12 of the Municipal Code unless in connection with a property of historical or cultural significance to the community as determined by the City
  - C. Grading Permits issued in accordance with Chapter 23 of the Municipal Code.
  - D. Final Maps approved in accordance with Chapter 22 of the Municipal Code.
  - E. Certificates of Compliance issued in accordance with Chapter 22 of the Municipal Code.
  - F. Second units on residential properties approved in accordance with Chapter 20 of the Municipal Code.
  - G. Resale permits issued in accordance with Chapter 5 of the Municipal Code.
  - H. Business licenses and other ministerial permits required in accordance with Chapter 5 of the Municipal Code.
  - I. Approval of individual utility services connections and disconnections.

**10. Exemption Procedures**

- a) The CEQA Coordinator, based upon the information provided by the applicant or other parties, shall make preliminary determination of whether a project is exempt. This preliminary determination does not constitute a determination in accordance with the Permit Streamlining Act, Section 65950(a)(4) of the Government Code.
- b) The decision-making body taking action on the project shall make final determination of whether a project is exempt. A determination that a project is exempt shall start the timeline for final action on the project in accordance with Government Code Section 65950, (Article 5 of the Permit Streamlining Act).
- c) A determination that a project is exempt may be appealed in accordance with the provisions of Chapter 20.100.080 of the Municipal Code. An appeal on an action to approve or disapprove a project shall be an appeal of the environmental determination.
- d) The CEQA Coordinator shall determine whether to file a Notice of Exemption for a project that is approved. The applicant for a Private Project shall pay any costs of filing.

**11. Initial Study**

The CEQA Coordinator shall prepare an Initial Study for non-exempt Projects and provide a written determination of whether a Negative Declaration or an EIR shall be prepared.

**12. Negative Declarations**

- a) The CEQA Coordinator, based upon the information provided by the applicant or other parties, shall make preliminary determination of whether a Negative Declaration may be certified for a project.
- b) The decision-making body taking action on the project shall make final determination of whether a Negative Declaration shall be issued for a project. The final determination shall start the

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timeline for final action on the project in accordance with Government Code Section 65950, (Article 5 of the Permit Streamlining Act).

- c) Notice of a proposed Negative Declaration shall be provided in accordance with the provisions of CEQA. Notice of a proposed Negative Declaration may be combined with notice of a public hearing on the project.
- d) A determination on a Negative Declaration may be appealed in accordance with the provisions of Chapter 20.100.080 of the Municipal Code.
- e) The failure of any person or entity to receive notice shall not constitute grounds to invalidate the action on a Negative Declaration.
- f) The CEQA Coordinator shall file a Notice of Determination for a project that is approved with a Negative Declaration. The applicant for a Private Project shall pay any costs of filing.

**13. Environmental Impact Reports**

- a) The CEQA Coordinator, based upon the information provided by the applicant or other parties, shall make preliminary determination of whether an Environmental Impact Report is required for a project.
- b) The decision-making body taking action on the project shall make final determination of whether an environmental impact report shall be certified for a project. The final determination shall start the timeline for final action on the project in accordance with Government Code Section 65950, (Article 5 of the Permit Streamlining Act).
- c) Early consultation and public review during the scoping process for an EIR are encouraged, particularly for projects that generate a great deal of public interest.
- d) Notice of a proposed Environmental Impact Report (EIR) shall be provided in accordance with the provisions of CEQA.
- e) The CEQA Coordinator shall determine whether a proposed project is of statewide, regional, or areawide significance.
- f) A determination on an Environmental Impact Report may be appealed in accordance with the provisions of Chapter 20.100.080 of the Municipal Code.
- g) The failure of any person or entity to receive notice shall not constitute grounds to invalidate the action on an Environmental Impact Report.
- h) The CEQA Coordinator shall file a Notice of Determination for a project that is approved with an Environmental Impact Report. The applicant for a Private Project shall pay any costs of filing.

**14. Preparation of Environmental Documents**

To ensure objectivity in the CEQA process, environmental documents shall be prepared by City staff or by a consultant or team of consultants under contract to the City.

Consultants shall be selected and contracted with pursuant to standard City administrative policies. The applicant shall pay fees pursuant to Chapter 20.100.010 of the Municipal Code. The City shall administer all consultant contracts, and closely supervise the consultant during the preparation of the materials. The CEQA Coordinator shall establish ground rules with respect to communications between the consultants, the applicant, and the general public.

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**15. Project Revisions**

Any revised or amended project shall be treated as a new project for purposes of determining the time period within which CEQA processing must be completed and the project approved or denied unless the revision is found by the CEQA Coordinator to be

Minor, technical, or necessary in order to incorporate mitigation measures recommended by the CEQA analysis.

**16. Preparation of Administrative Draft Documents.**

The CEQA Coordinator and other City staff shall review an administrative draft prior to release of any the CEQA document to the public or decision-making bodies. The administrative draft is considered a working internal draft document to be circulated among City staff and any responsible agencies, where appropriate, for their comment on its accuracy and adequacy. It may also be made available to the project sponsor to ensure that the project has been accurately depicted and to provide the sponsor an opportunity to modify the project to reduce potentially significant environmental impacts.

Administrative draft documents shall be retained only to the extent necessary for management of staff or consultants, or as required by City polices and state law. Administrative draft documents are not a part of the record of proceedings, and are not considered a “public document” for the purposes of the Public Records Act or CEQA.

**17. Public Participation and Extension of Timelines**

The CEQA Coordinator shall make the determination of the need for supplementing the public participation process with additional public notice, scoping meetings, public hearings, workshops, study sessions, consultations with other government agencies, or extensions of public comment time periods beyond those specified in CEQA guidelines.

**18. Location of Availability of Notices and Public Review Copies**

In addition to the notices and public review copies that may be required under CEQA and the CEQA Guidelines, the CEQA Coordinator shall make available copies of notices and environmental documents to the public at the Community Development Department offices and the Albany branch of the Alameda County library. The CEQA Coordinator may provide additional notices or public review copies as the Coordinator determines appropriate for any particular project.

# CEQA

The California Environmental Quality Act

## Title 14. California Code of Regulations

### Chapter 3. Guidelines for Implementation of the California Environmental Quality Act

#### Overview of the California Environment Review and Permit Approval Process: Introduction

Article 1	General	<a href="#"><u>§§15000-15007</u></a>
Article 2	General Responsibilities	<a href="#"><u>§§15020-15025</u></a>
Article 3	Authorities Granted to Public Agencies by CEQA	<a href="#"><u>§§15040-15045</u></a>
Article 4	Lead Agency	<a href="#"><u>§§15050-15053</u></a>
Article 5	Preliminary Review of Projects and Conduct of Initial Study	<a href="#"><u>§§15060-15065</u></a>
Article 6	Negative Declaration Process	<a href="#"><u>§§15070-15075</u></a>
Article 7	EIR Process	<a href="#"><u>§§15080-15097</u></a>
Article 8	Time Limits	<a href="#"><u>§§15100-15112</u></a>
Article 9	Contents of Environmental Impact Reports	<a href="#"><u>§§15120-15132</u></a>
Article 10	Considerations in Preparing EIRs and Negative Declarations	<a href="#"><u>§§15140-15155</u></a>
Article 11	Types of EIRs	<a href="#"><u>§§15160-15170</u></a>
Article 11.5	Master Environmental Impact Report	<a href="#"><u>§§15175-15179.5</u></a>
Article 12	Special Situations	<a href="#"><u>§§15180-15190.5</u></a>
Article 12.5	Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects	<a href="#"><u>§§15191-15196</u></a>
Article 13	Review and Evaluation of EIRs and Negative Declarations	<a href="#"><u>§§15200-15209</u></a>
Article 14	Projects Also Subject to the National Environmental Policy Act (NEPA)	<a href="#"><u>§§15220-15229</u></a>
Article 15		<a href="#"><u>§§15230-</u></a>

	Litigation	<a href="#">15233</a>
Article 16	EIR Monitor	<a href="#">§ 15240</a>
Article 17	Exemption for Certified State Regulatory Programs	<a href="#">§§15250-15253</a>
Article 18	Statutory Exemptions	<a href="#">§§15260-15285</a>
Article 19	Categorical Exemptions	<a href="#">§§15300-15333</a>
Article 20	Definitions	<a href="#">§§15350-15387</a>

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# CEQA

The California Environmental Quality Act

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## CEQA Guidelines Appendices

### **Appendix A** CEQA Process Flow Chart

Available formats: [GIF](#) (63k) | [PDF](#) (14k)

### **Appendix B** Statutory Authority of State Departments

Available formats: [GIF](#) (59k) | [PDF](#) (24k)

### **Appendix C** Notice of Completion & Environmental Document Transmittal

Available formats: [PDF](#) (50k)

### **Appendix D** Notice of Determination

Available formats: [PDF](#) (95k)

### **Appendix E** Notice of Exemption

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### **Appendix F** Energy Conservation

Available formats: [PDF](#) (6k) | [HTML](#) (9k)

### **Appendix G** Environmental Checklist Form

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### **Appendix H** Environmental Information Form

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### **Appendix I** Notice of Preparation

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### **Appendix J** Examples of Tiering EIR's.

Available formats: [PDF](#) (65k)

### **Appendix K** Criteria for Shortened Clearinghouse Review

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### **Appendix L** Notice of Completion of Draft EIR

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Governor's Office of Planning and Research

## INTRODUCTION

### **Overview of the California Environmental Review and Permit Approval Process**

The California Environmental Quality Act (CEQA) was enacted in 1970 as a system of checks and balances for land-use development and management decisions in California.

Environmental review is characterized by an Environmental Impact Report (EIR). The EIR records the scope of the applicant's proposal and analyzes all its known environmental effects. Project information is used by state and local permitting agencies in their evaluation of the proposed project

In 1977, the California Legislature passed the **California Permit Streamlining Act (PSA)** and established the **Office of Permit Assistance (OPA)**. The creation of both OPA and PSA sought to remedy a complicated and often unresponsive permitting processes. The Permit Streamlining Act addressed some of CEQA's shortcomings: namely, that it lacked a calendar by which applicants and the public could expect the prompt review of a given project. The PSA added time-lines and deadlines to expedite government review of proposals. While this did not guarantee the approval of projects or their favorable review, it did give applicants and the public an orderly, standardized process for filing reports and actions.

California's environmental review is rigorous by anyone's standards. In most cases it extends beyond federal statutes established under the National Environmental Policy Act (NEPA).

- **Cities and counties regulate land use by way of planning, zoning, and subdivision controls.** There are currently 58 counties and over 470 incorporated cities in California, each with the same authority for land use regulation. Local government authority is granted by State law. Cities and counties have legislative power to adopt local ordinances and rules consistent with state law.
- **State agencies regulate the private use of state land, resources and certain activities of statewide significance.** There are at least 21 state agencies which are or may be directly involved in the approval of development projects. The permitting authority of each state agency is established by statute, usually with additional administrative rules promulgated by the agency.
- **Federal agencies have permit authority over activities on federal lands and over certain resources** which have been the subject of congressional legislation: i.e., air and water quality, wildlife, and navigable waters. The U.S. Environmental Protection Agency generally oversees the federal agencies. In addition, the EPA regulates activities such as the disposal of toxic wastes and the use of pesticides. The responsibility for implementing some federal regulatory programs, such as those for air and water quality and toxics management, has been delegated to specific state agencies.

### **The Development Permit Process**

In California, the development permit process is coordinated with the environmental review process under CEQA. Every development project which is not exempt from CEQA must be analyzed by the lead agency to determine the potential environmental effects of the project. This analysis is required by state law. It must be completed within specified time periods which are concurrent with the time periods in which an agency is required to approve or deny the project.

Once the lead agency is identified, all other involved agencies, whether state or local, become responsible or trustee agencies. Responsible and trustee agencies *must* consider the environmental document prepared by the lead agency and *do not*, except in rare instances, prepare their own environmental documents. The procedure for issuing each particular development permit is governed by the particular law which establishes the permit authority and by the California Permit Streamlining Act.

## Summary of the CEQA and Permit Application Process

There are three major phases in the development process as provided by CEQA and the PSA:

- *The Pre-Application Phase,*
- *The Application Phase, and*
- *The Review Phase.*

### I. Pre-Application Phase:

The Pre-Application Phase begins when the developer/applicant has completed the conceptual and preliminary design work for a project and is ready to prepare a project proposal. At this point, enough information should be available to describe project activities and to identify the project's proposed location. The primary objective of this phase is to identify the appropriate permitting agencies and to collect as much relevant background information possible.

Many proposals (projects) will require special studies either before or during the formal processing of the application. All state and local agencies are required to list the type of information and the criteria they will use in evaluating a project application. Developer/Applicants may request preapplication conferences or "scoping" meetings with the permitting agencies to discuss how agencies' specific rules will apply to their proposed projects.

By the end of the preapplication phase, the developer-applicant should have a good understanding of the detailed project information required, a list of probable permitting agencies, and an indication of the degree of environmental analysis required by the agencies.

At this point, the applicant will learn which agency (if there will be more than one permitting agency) will be the "lead agency." The lead agency is the single agency responsible for determining the type of environmental analysis CEQA requires. In addition, the lead agency must prepare the environmental review document it calls for. The agency with the greatest authority over the project will usually assume the lead agency role. Criteria for determining the lead agency are provided in the CEQA Guidelines at Section 15051. In the event of a dispute over the lead agency status between or among agencies, the Office of Planning and Research may designate the lead. However, once the lead agency is identified, all other involved agencies, whether state or local, become responsible or trustee agencies.

### II. The Application Phase:

The Application Phase begins with the filing of the necessary permit application forms along with a detailed project description. Supporting documents must also be filed, where CEQA requires, with the respective agencies. Unless otherwise specified, the sequence of filing applications is left up to the applicant. It must be noted, however, that the failure of some agencies to accept an application until certain other permit approvals have been granted does not in any way impact the time limits under which the agency must act.

During this phase, each receiving agency must review the submitted application to determine if the individual filing is complete. The lead agency must make its determination in writing within 30 days. Should the agency fail to make its determination within 30 days, the application will be deemed accepted as complete by operation of law. If the application is determined to be incomplete, the agency *must* specify the deficiencies and the manner in which the deficiencies may be corrected. The developer-applicant may then refile the corrected application. Upon refiling, the agency has another 30 days to review for completeness. If the application is again determined to be incomplete, the agency must provide a process for an appeal of the determination and reach a decision within 60 days. Further dispute may be adjudicated. This step is critical to the process. A permit may not be denied for failure to provide information not requested.

Once an application is accepted as complete, the lead agency has six months to approve or disapprove a project for which an Environmental Impact Report (EIR) has been certified. The time limit in all other cases is three months after a negative declaration is adopted or an exemption issued.

### **III. Review Phase:**

The Review Process begins immediately with the completion of the specific application. In recognition of §65941 of Chapter 4.5 of the Permit Streamlining Act, the lead agency will simultaneously review the project under the applicable permit rules and conduct the necessary environmental analysis. Permit rules vary depending on the particular permit authority in question, but the process generally involves comparing the proposed project with existing statutes. The procedure usually results in a public hearing followed by a written decision by the agency or its designated officer. Typically, a project may be approved, denied, or approved subject to specified conditions.

The CEQA procedure involves a number of steps which produce an environmental document examining the lead agency's as well as the responsible and/or trustee agencies' permit decisions.

The first step in the CEQA process is to determine whether the proposed project is subject to CEQA. There are a number of statutory and categorical exemptions. If the proposal is not covered by CEQA, the lead agency may file a *Notice of Exemption*. If the project is covered by CEQA, the lead agency must prepare an *Initial Study* to determine whether the project may have a significant adverse impact on the environment. The initial study must be completed within 30 days after an application is accepted as complete.

If the Initial Study shows that the project will not have a significant effect on the environment, the lead agency must prepare and circulate a *Negative Declaration*. Where potential significant effects are shown, but the project is modified such that the effects are rendered insignificant, the lead agency must prepare and circulate a mitigated Negative Declaration. In either case, the Negative Declaration must be circulated for review for 30 days and must be ready for adoption by the lead agency within 105 days after a completed application is accepted.

If, on the other hand, the Initial Study shows that the project may have one or more significant effects, the lead agency must circulate a *Notice of Preparation (NOP)* in anticipation of preparing an environmental impact report (EIR) and must consult with responsible and trustee agencies as to the content of the environmental analysis. Responsible agencies must respond to the NOP within 30 days. If a responsible or trustee agency fails to respond, the lead agency may assume that the responsible agency has no response to make. Further, if a responsible agency fails to respond or responds incompletely, the responsible agency may not subsequently raise issues or objections regarding the adequacy of the environmental review.

At the close of this period, the lead agency must prepare and circulate a *Draft Environmental Impact Report (DEIR)*. All concerned agencies and the public may review the DEIR. All comments on the DEIR must be made within the 45 day review period.

At the close of the review and comment period, the lead agency must respond to the comments received. Comments from responsible or trustee agencies shall be limited to those project activities which are within the agency's area of expertise, are required to be carried out or approved by the agency, or will be subject to the exercise of powers by the agency.

The lead agency prepares and certifies a *Final Environmental Impact Report (FEIR)*. If the lead agency approves the project, it must find that each significant impact will be mitigated below the level of significance where feasible, and that overriding social or economic concerns merit the approval of the project in the face of unavoidable effects.

With the CEQA and permit review process completed, the lead agency must approve or deny the permit within 6 months of certifying the EIR or within 3 months of adopting the Negative Declaration and file a *Notice of Determination (NOD)*. Responsible agencies must then act within six months after the lead agency's action or, if the developer/applicant has not already filed an application with a responsible agency, within six months from the time the application is filed (except as modified under Health and Safety Code §25199.6).

Environmental documents for projects involving one or more state agencies or involving issues of areawide or statewide significance must be sent to the State Clearinghouse for distribution to interested state agencies. The State Clearinghouse will link the lead agency with the responsible state agencies.

### **Special Concerns in the CEQA/Permit Process**

There are several key points that agencies, developer-applicants and the public must be aware of in order to avoid misunderstandings and delays:

- The time limits for completing the requirements of CEQA and acting on a permit are concurrent and not consecutive. The Permit Streamlining Act discourages a government agency from requiring a completed EIR before accepting a permit application.
- CEQA can help resolve public policy disputes relating to development projects. Technical issues that find their way into policy disputes, no matter how dependent on scientific considerations, are inherently value-laden. CEQA specifically addresses the potential for conflicting expert discussions and mandates that all sides of an issue are considered.
- Under the Permit Streamlining Act, if a public agency does not approve or deny a project within the statutory time limit, the project may be deemed approved. The proponent must give notice to invoke the Permit Streamlining Act.
- The Permit Streamlining Act time limits are not applicable to all permit applications. Time limits only apply to development projects as defined in the PSA. The Streamlining Act specifically excludes ministerial permits such as certain building permits. The time limits do not apply to legislative actions such as the adoption or amendment of zoning ordinances. The time limits do not operate where a federal law specifies a longer or shorter period for action and, *with* the consent of the developer-applicant, the lead agency may waive the time limit if a joint environmental document is being prepared with a federal permitting agency.
- Where a public agency (or series of agencies) will issue more than one permit for a project, the agency(ies) makes each approval separately, but must still act upon the entire project within the statutory time limit.

- All Permit Streamlining Act time limits are maximum. Public agencies should act in a shorter time whenever possible.
- Members of the public may challenge, in court, a wide variety of public agency action and inaction, but only if they first present those challenges to the agency itself within 30 to 180 days after the occurrence of the challenged action, depending upon whether an NOD was filed or not by the agency.

### **Assistance for Developer-Applicants**

The permit and environmental review processes are complicated. There are often several agencies and many persons involved. Hundreds of laws and rules may apply to a particular project. Agencies are constantly revising their procedures and changing personnel. The Legislature and the Governor created the Office of Permit Assistance (OPA) within the Trade and Commerce Agency to help project applicants, localities and the public to understand CEQA and the permitting process. The primary mission of the Office of Permit Assistance is to provide assistance and information to parties interested in the permit process.

- A single point of contact for state agency permits is available at the Office of Permit Assistance. Any questions about the permit process will be answered promptly.
- All state or local permits required for any project can be identified. The Office can convene all state agencies at one time to identify and explain which permits are required for a project.
- Scoping meetings can be arranged through the Office. The Office convenes meetings of the environmental staff of state and local agencies who will be involved in the CEQA review of projects. These meetings provide developer-applicants and environmental consultants with a chance to discuss all environmental issues and concerns early in the process in order to avoid wasted effort and unwarranted surprises in the EIR process.
- The Office of Permit Assistance has authority to convene meetings to resolve questions or mediate disputes. When uncertainties or disagreements among agencies stall the permit process, the Office may be called upon to provide a forum for resolving the problem. Not every problem can be dealt with in this manner, but when appropriate, the process can be very useful.

The Office of Permit Assistance can be contacted by telephone at 916/322-4245 (ATSS 473-4245). Its FAX number is (916) 322-3524. The mailing address is 801 K Street, Suite 1700, Sacramento, CA 95814.



*Title 14. California Code of Regulations*  
**Chapter 3. Guidelines for Implementation of the  
California Environmental Quality Act**

## **Article 1. General**

### **Sections 15000 to 15007**

#### **15000. Authority**

The regulations contained in this chapter are prescribed by the Secretary for Resources to be followed by all state and local agencies in California in the implementation of the California Environmental Quality Act. These Guidelines have been developed by the Office of Planning and Research for adoption by the Secretary for Resources in accordance with Section 21083. Additional information may be obtained by writing:

Secretary for Resources  
1416 Ninth Street, Room 1311  
Sacramento, CA 95814

These Guidelines are binding on all public agencies in California.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21082 and 21083, Public Resources Code; City of Santa Ana v. City of Garden Grove, (1979) 100 Cal. App. 3d 521.

#### **15001. Short Title**

These Guidelines may be cited as the "State CEQA Guidelines." Existing references to the "State EIR Guidelines" shall be construed to be references to the State CEQA Guidelines.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21083, Public Resources Code.

#### **15002. General Concepts**

(a) Basic Purposes of CEQA. The basic purposes of CEQA are to:

(1) Inform governmental decision-makers and the public about the potential, significant environmental effects of proposed activities.

(2) Identify the ways that environmental damage can be avoided or significantly reduced.

(3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.

(4) Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.

(b) Governmental Action. CEQA applies to governmental action. This action may involve:

(1) Activities directly undertaken by a governmental agency,

(2) Activities financed in whole or in part by a governmental agency, or

(3) Private activities which require approval from a governmental agency.

(c) Private Action. Private action is not subject to CEQA unless the action involves governmental participation, financing, or approval.

(d) Project. A "project" is an activity subject to CEQA. The term "project" has been interpreted to mean far more than the ordinary dictionary definition of the term. (See: Section 15378.)

(e) Time for Compliance. A governmental agency is required to comply with CEQA procedures when the agency proposes to carry out or approve the activity. (See: Section 15004.)

(f) Environmental Impact Reports and Negative Declarations. An Environmental Impact Report (EIR) is the public document used by the governmental agency to analyze the significant environmental effects of a proposed project, to identify alternatives, and to disclose possible ways to reduce or avoid the possible environmental damage.

(1) An EIR is prepared when the public agency finds substantial evidence that the project may have a significant effect on the environment. (See: Section 15064(a)(1).)

(2) When the agency finds that there is no substantial evidence that a project may have a significant environmental effect, the agency will prepare a "Negative Declaration" instead of an EIR. (See: Section 15070.)

(g) Significant Effect on the Environment. A significant effect on the environment is defined as a substantial adverse change in the physical conditions which exist in the area affected by the proposed project. (See: Section 15382.) Further, when an EIR identifies a significant effect, the government agency approving the project must make findings on whether the adverse environmental effects have been substantially reduced or if not, why not. (See: Section 15091.)

(h) Methods for Protecting the Environment. CEQA requires more than merely preparing environmental documents. The EIR by itself does not control the way in which a project can be built or carried out. Rather, when an EIR shows that a project would cause substantial adverse changes in the environment, the governmental agency must respond to the information by one or more of the following methods:

(1) Changing a proposed project

(2) Imposing conditions on the approval of the project;

(3) Adopting plans or ordinances to control a broader class of projects to avoid the adverse changes;

(4) Choosing an alternative way of meeting the same need;



(5) Disapproving the project;

(6) Finding that changing or altering the project is not feasible;

(7) Finding that the unavoidable significant environmental damage is acceptable as provided in Section 15093.

(i) Discretionary Action. CEQA applies in situations where a governmental agency can use its judgment in deciding whether and how to carry out or approve a project. A project subject to such judgmental controls is called a "discretionary project." (See: Section 15357.)

(1) Where the law requires a governmental agency to act on a project in a set way without allowing the agency to use its own judgment, the project is called "ministerial," and CEQA does not apply. (See: Section 15369.)

(2) Whether an agency has discretionary or ministerial controls over a project depends on the authority granted by the law providing the controls over the activity. Similar projects may be subject to discretionary controls in one city or county and only ministerial controls in another. (See: Section 15268.)

(j) Public Involvement. Under CEQA, an agency must solicit and respond to comments from the public and other agencies concerned with the project. (See: Sections 15073, 15086, 15087, and 15088.)

(k) Three Step Process. An agency will normally take up to three separate steps in deciding which document to prepare for a project subject to CEQA.

(1) In the first step the Lead Agency examines the project to determine whether the project is subject to CEQA at all. If the project is exempt, the process does not need to proceed any farther. The agency may prepare a Notice of Exemption. (See: Sections 15061 and 15062.)

(2) If the project is not exempt, the Lead Agency takes the second step and conducts an Initial Study (Section 15063) to determine whether the project may have a significant effect on the environment. If the Initial Study shows that there is no substantial evidence that the project may have a significant effect, the Lead Agency prepares a Negative Declaration. (See: Sections 15070 et seq.)

(3) If the Initial Study shows that the project may have a significant effect, the Lead Agency takes the third step and prepares an EIR. (See: Sections 15080 et seq.)

(l) Certified Equivalent Programs. A number of environmental regulatory programs have been certified by the Secretary of the Resources Agency as involving essentially the same consideration of environmental issues as is provided by use of EIRs and Negative Declarations. Certified programs are exempt from preparing EIRs and Negative Declarations but use other documents instead. Certified programs are discussed in Article 17 and are listed in Section 15251.

(m) This section is intended to present the general concepts of CEQA in a simplified and introductory manner. If there are any conflicts between the short statement of a concept in this section and the provisions of other sections of these Guidelines, the other sections shall prevail.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000-21177, Public Resources Code; *No Oil, Inc. v. City of Los Angeles*, (1974) 13 Cal. 3d 68; *Running Fence Corp. v. Superior Court*, (1975) 51 Cal. App. 3d 400.

## 15003. Policies

In addition to the policies declared by the Legislature concerning environmental protection and administration of CEQA in Sections 21000, 21001, 21002, and 21002.1 of the Public Resources Code, the courts of this state have declared the following policies to be implicit in CEQA:

- (a) The EIR requirement is the heart of CEQA. (*County of Inyo v. Yorty*, 32 Cal. App. 3d 795.)
- (b) The EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected. (*County of Inyo v. Yorty*, 32 Cal. App. 3d 795.)
- (c) The EIR is to inform other governmental agencies and the public generally of the environmental impact of a proposed project. (*No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68.)
- (d) The EIR is to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action. (*People ex rel. Department of Public Works v. Bosio*, 47 Cal. App. 3d 495.)
- (e) The EIR process will enable the public to determine the environmental and economic values of their elected and appointed officials thus allowing for appropriate action come election day should a majority of the voters disagree. (*People v. County of Kern*, 39 Cal. App. 3d 830.)
- (f) CEQA was intended to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. (*Friends of Mammoth v. Board of Supervisors*, 8 Cal. 3d 247.)
- (g) The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind. (*Bozung v. LAFCO* (1975) 13 Cal.3d 263)
- (h) The lead agency must consider the whole of an action, not simply its constituent parts, when determining whether it will have a significant environmental effect. (*Citizens Assoc. For Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151)
- (i) CEQA does not require technical perfection in an EIR, but rather adequacy, completeness, and a good-faith effort at full disclosure. A court does not pass upon the correctness of an EIR's environmental conclusions, but only determines if the EIR is sufficient as an informational document. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692)
- (j) CEQA requires that decisions be informed and balanced. It must not be subverted into an instrument for the oppression and delay of social, economic, or recreational development or advancement. (*Laurel Heights Improvement Assoc. v. Regents of U.C.* (1993) 6 Cal.4th 1112 and *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553)

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000-21177, Public Resources Code.

## 15004. Time of Preparation

- (a) Before granting any approval of a project subject to CEQA, every Lead Agency or Responsible Agency shall consider a final EIR or Negative Declaration or another document authorized by these Guidelines to be used in the place of an EIR or Negative Declaration. (See: The definition of "approval" in Section 15352.)

(b) Choosing the precise time for CEQA compliance involves a balancing of competing factors. EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment.

(1) With public projects, at the earliest feasible time, project sponsors shall incorporate environmental considerations into project conceptualization, design, and planning. CEQA compliance should be completed prior to acquisition of a site for a public project.

(2) To implement the above principles, public agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance. For example, agencies shall not:

(A) Formally make a decision to proceed with the use of a site for facilities which would require CEQA review, regardless of whether the agency has made any final purchase of the site for these facilities, except that agencies may designate a preferred site for CEQA review and may enter into land acquisition agreements when the agency has conditioned the agency's future use of the site on CEQA compliance.

(B) Otherwise take any action which gives impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.

(3) With private projects, the lead agency shall encourage the project proponent to incorporate environmental considerations into project conceptualization, design, and planning at the earliest feasible time.

(c) The environmental document preparation and review should be coordinated in a timely fashion with the existing planning, review, and project approval processes being used by each public agency. These procedures, to the maximum extent feasible, are to run concurrently, not consecutively. When the lead agency is a state agency, the environmental document shall be included as part of the regular project report if such a report is used in its existing review and budgetary process.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21003, 21061 and 21105, Public Resources Code; *Friends of Mammoth v. Board of Supervisors*, (1972) 8 Cal.3d 247; *Mount Sutro Defense Committee v. Regents of the University of California*, (1978) 77 Cal.App.3d 20.

## **15005. Terminology**

The following words are used to indicate whether a particular subject in the Guidelines is mandatory, advisory, or permissive:

(a) "Must" or "shall" identifies a mandatory element which all public agencies are required to follow.

(b) "Should" identifies guidance provided by the Secretary for Resources based on policy considerations contained in CEQA, in the legislative history of the statute, or in federal court decisions which California courts can be expected to follow. Public agencies are advised to follow this guidance in the absence of compelling, countervailing considerations.

(c) "May" identifies a permissive element which is left fully to the discretion of the public agencies involved.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21082 and 21083, Public Resources Code.

## **15006. Reducing Delay and Paperwork**

Public agencies should reduce delay and paperwork by:

- (a) Integrating the CEQA process into early planning. (15004(c))
- (b) Ensuring the swift and fair resolution of Lead Agency disputes. (15053)
- (c) Identifying projects which fit within categorical exemptions and are therefore exempt from CEQA processing. (15300.4)
- (d) Using Initial Studies to identify significant environmental issues and to narrow the scope of EIRs. (15063)
- (e) Using a Negative Declaration when a project not otherwise exempt will not have a significant effect on the environment. (15070)
- (f) Using a previously prepared EIR when it adequately addresses the proposed project. (15153)
- (g) Consulting with state and local Responsible Agencies before and during preparation of an Environmental Impact Report so that the document will meet the needs of all the agencies which will use it. (15083)
- (h) Urging applicants, either before or after the filing of an application, to revise projects to eliminate possible significant effects on the environment, thereby enabling the project to qualify for a Negative Declaration rather than an Environmental Impact Report. (15063(c)(2))
- (i) Integrating CEQA requirements with other environmental review and consulting requirements. (Public Resources Code Section 21080.5)
- (j) Eliminating duplication with federal procedures by providing for joint preparation of environmental documents with federal agencies and by adopting completed federal NEPA documents. (15227)
- (k) Emphasizing consultation before an Environmental Impact Report is prepared, rather than submitting adversary comments on a completed document. (15082(b))
- (l) Combining environmental documents with other documents such as general plans. (15166)
- (m) Eliminating repetitive discussions of the same issues by using Environmental Impact Reports on programs, policies, or plans and tiering from reports of broad scope to those of narrower scope. (15152)
- (n) Reducing the length of Environmental Impact Reports by means such as setting appropriate page limits. (15141)
- (o) Preparing analytic rather than encyclopedic Environmental Impact Reports. (15142)
- (p) Mentioning only briefly issues other than significant ones in EIRs. (15143)

- (q) Writing Environmental Impact Reports in plain language. (15140)
- (r) Following a clear format for Environmental Impact Reports. (15120)
- (s) Emphasizing the portions of the Environmental Impact Report that are useful to decision-makers and the public and reducing emphasis on background material. (15143)
- (t) Using incorporation by reference. (15150)
- (u) Making comments on Environmental Impact Reports as specific as possible. (15204)

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21003 and 21083, Public Resources Code.

## **15007. Amendments**

- (a) These Guidelines will be amended from time to time to match new developments relating to CEQA.
- (b) Amendments to the Guidelines apply prospectively only. New requirements in amendments will apply to steps in the CEQA process not yet undertaken by the date when agencies must comply with the amendments.
- (c) If a document meets the content requirements in effect when the document is sent out for public review, the document shall not need to be revised to conform to any new content requirements in Guideline amendments taking effect before the document is finally approved.
- (d) Public agencies shall comply with new requirements in amendments to the Guidelines beginning with the earlier of the following two dates:
  - (1) The effective date of the agency's procedures amended to conform to the new Guideline amendments;  
or
  - (2) The 120th day after the effective date of the Guideline amendments.
- (e) Public agencies may implement any permissive or advisory elements of the Guidelines beginning with the effective date of the Guideline amendments.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21082-21087, Public Resources Code; *Stevens v. City of Glendale*, 125 Cal. App. 3d 986.



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## **Article 2. General Responsibilities**

### **Sections 15020 to 15025**

#### **15020. General**

Each public agency is responsible for complying with CEQA and these Guidelines. A public agency must meet its own responsibilities under CEQA and shall not rely on comments from other public agencies or private citizens as a substitute for work CEQA requires the Lead Agency to accomplish. For example, a Lead Agency is responsible for the adequacy of its environmental documents. The Lead Agency shall not knowingly release a deficient document hoping that public comments will correct defects in the document.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21082 and 21082.1, Public Resources Code; *Russian Hill Improvement Association v. Board of Permit Appeals*, (1975) 44 Cal. App. 3d 158.

#### **15021. Duty to Minimize Environmental Damage and Balance Competing Public Objectives**

(a) CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.

(1) In regulating public or private activities, agencies are required to give major consideration to preventing environmental damage.

(2) A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.

(b) In deciding whether changes in a project are feasible, an agency may consider specific economic, environmental, legal, social, and technological factors.

(c) The duty to prevent or minimize environmental damage is implemented through the findings required by Section 15091.

(d) CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations as described in Section

15093 to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Public Resources Code Sections 21000, 21001, 21002, 21002.1, and 21081; *San Francisco Ecology Center v. City and County of San Francisco*, (1975) 48 Cal. App. 3d 584; *Laurel Hills Homeowners Association v. City Council*, (1978) 83 Cal. App. 3d 515.

## **15022. Public Agency Implementing Procedures**

(a) Each public agency shall adopt objectives, criteria, and specific procedures consistent with CEQA and these Guidelines for administering its responsibilities under CEQA, including the orderly evaluation of projects and preparation of environmental documents. The implementing procedures should contain at least provisions for:

(1) Identifying the activities that are exempt from CEQA. These procedures should contain:

(A) Provisions for evaluating a proposed activity to determine if there is no possibility that the activity may have a significant effect on the environment.

(B) A list of projects or permits over which the public agency has only ministerial authority.

(C) A list of specific activities which the public agency has found to be within the categorical exemptions established by these Guidelines.

(2) Conducting Initial Studies.

(3) Preparing Negative Declarations.

(4) Preparing draft and final EIRs.

(5) Consulting with and obtaining comments from other public agencies and members of the public with regard to the environmental effects of projects.

(6) Assuring adequate opportunity and time for public review and comment on the Draft EIR or Negative Declaration.

(7) Evaluating and responding to comments received on environmental documents.

(8) Assigning responsibility for determining the adequacy of an EIR or Negative Declaration.

(9) Reviewing and considering environmental documents by the person or decision-making body who will approve or disapprove a project.

(10) Filing documents required or authorized by CEQA and these Guidelines.

(11) Providing adequate comments on environmental documents which are submitted to the public agency for review.

(12) Assigning responsibility for specific functions to particular units of the public agency.

(13) Providing time periods for performing functions under CEQA.

(b) Any district, including a school district, need not adopt objectives, criteria, and procedures of its own

if it uses the objectives, criteria, and procedures of another public agency whose boundaries are coterminous with or entirely encompass the district.

(c) Public agencies should revise their implementing procedures to conform to amendments to these Guidelines within 120 days after the effective date of the amendments. During the period while the public agency is revising its procedures, the agency must conform to any statutory changes in the California Environmental Quality Act that have become effective regardless of whether the public agency has revised its formally adopted procedures to conform to the statutory changes.

(d) In adopting procedures to implement CEQA, a public agency may adopt the State CEQA Guidelines through incorporation by reference. The agency may then adopt only those specific procedures or provisions described in subsection (a) which are necessary to tailor the general provisions of the Guidelines to the specific operations of the agency. A public agency may also choose to adopt a complete set of procedures identifying in one document all the necessary requirements.

Authority cited: Section 21083, Public Resources Code. Reference: Sections 21091, 21092, 21092.2, 21092.3, 21092.6, 21104, 21152, 21153 and 21161, Public Resources Code.

### **15023. Office of Planning and Research (OPR)**

(a) From time to time OPR shall review the State CEQA Guidelines and shall make recommendations for amendments to the Secretary for Resources.

(b) OPR shall receive and evaluate proposals for adoption, amendment, or repeal of categorical exemptions and shall make recommendations on the proposals to the Secretary for Resources. People making suggestions concerning categorical exemptions shall submit their recommendations to OPR with supporting information to show that the class of projects in the proposal either will or will not have a significant effect on the environment.

(c) The State Clearinghouse in the Office of Planning and Research shall be responsible for distributing environmental documents to state agencies, departments, boards, and commissions for review and comment.

(d) Upon request of a Lead Agency or a project applicant, OPR shall provide assistance in identifying the various responsible agencies and any federal agencies which have responsibility for carrying out or approving a proposed project.

(e) OPR shall ensure that state Responsible Agencies provide the necessary information to Lead Agencies in response to Notices of Preparation within, at most, 30 days after receiving a Notice of Preparation.

(f) OPR shall resolve disputes as to which agency is the Lead Agency for a project.

(g) OPR shall receive and file all notices of completion, determination, and exemption.

(h) OPR shall establish and maintain a database for the collection, storage, retrieval, and dissemination of notices of exemption, notices of preparation, notices of determination, and notices of completion provided to the office. This database of notice information shall be available through the Internet.

Authority cited: Section 21083, Public Resources Code. Reference: Sections 21080.4, 21083, 21086, 21087, 21108, 21159.9 and 21161, Public Resources Code.



## **15024. Secretary for Resources**

(a) The Guidelines shall be adopted by the Secretary for Resources. The Secretary shall make a finding that each class of projects given a categorical exemption will not have a significant effect on the environment.

(b) The Secretary may issue amendments to these Guidelines.

(c) The Secretary shall certify state environmental regulatory programs which meet the standards for certification in Section 21080.5, Public Resources Code.

(d) The Secretary shall receive and file notices required by certified state environmental regulatory programs.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.5, 21083, 21084, 21086, 21088, and 21152, Public Resources Code.

## **15025. Delegation of Responsibilities**

(a) A public agency may assign specific functions to its staff to assist in administering CEQA. Functions which may be delegated include but are not limited to:

(1) Determining whether a project is exempt.

(2) Conducting an Initial Study and deciding whether to prepare a draft EIR or Negative Declaration.

(3) Preparing a Negative Declaration or EIR.

(4) Determining that a Negative Declaration has been completed within a period of 180 days.

(5) Preparing responses to comments on environmental documents.

(6) Filing of notices.

(b) The decision-making body of a public agency shall not delegate the following functions:

(1) Reviewing and considering a final EIR or approving a Negative Declaration prior to approving a project.

(2) The making of findings as required by Sections 15091 and 15093.

(c) Where an advisory body such as a planning commission is required to make a recommendation on a project to the decision-making body, the advisory body shall also review and consider the EIR or Negative Declaration in draft or final form.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21082, 21100.2 and 21151.5, Public Resources Code; *Kleist v. City of Glendale*, (1976) 56 Cal. App. 3d 770.

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The California Environmental Quality Act

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## **Article 3. Authorities Granted to Public Agencies by CEQA**

### **Sections 15040 to 15045**

#### **15040. Authority Provided by CEQA**

- (a) CEQA is intended to be used in conjunction with discretionary powers granted to public agencies by other laws.
- (b) CEQA does not grant an agency new powers independent of the powers granted to the agency by other laws.
- (c) Where another law grants an agency discretionary powers, CEQA supplements those discretionary powers by authorizing the agency to use the discretionary powers to mitigate or avoid significant effects on the environment when it is feasible to do so with respect to projects subject to the powers of the agency. Prior to January 1, 1983, CEQA provided implied authority for an agency to use its discretionary powers to mitigate or avoid significant effects on the environment. Effective January 1, 1983, CEQA provides express authority to do so.
- (d) The exercise of the discretionary powers may take forms that had not been expected before the enactment of CEQA, but the exercise must be within the scope of the power.
- (e) The exercise of discretionary powers for environmental protection shall be consistent with express or implied limitations provided by other laws.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000, 21001, 21002, 21002.1, and 21004, Public Resources Code; Section 4, Chapter 1438, Statutes of 1982; *Golden Gate Bridge, etc., District v. Muzzi*, (1978) 83 Cal. App. 3d 707; *E.D.F. v. Mathews*, 410 F. Supp. 366, 339 (D.D.C., 1976); *Friends of Mammoth v. Board of Supervisors*, (1972) 8 Cal. 3d 247; *Pinewood Investors v. City of Oxnard*, (1982) 133 Cal. App. 3d 1030.

#### **15041. Authority to Mitigate**

Within the limitations described in Section 15040 :

- (a) A lead agency for a project has authority to require feasible changes in any or all activities involved in the project in order to substantially lessen or avoid significant effects on the environment, consistent with applicable constitutional requirements such as the "nexus" and "rough proportionality" standards established by case law (*Nollan v. California Coastal Commission* (1987) 483 U.S. 825, *Dolan v. City of*

Tigard, (1994) 512 U.S. 374, Ehrlich v. City of Culver City, (1996) 12 Cal. 4th 854.).

(b) When a public agency acts as a Responsible Agency for a project, the agency shall have more limited authority than a Lead Agency. The Responsible Agency may require changes in a project to lessen or avoid only the effects, either direct or indirect, of that part of the project which the agency will be called on to carry out or approve.

(c) With respect to a project which includes housing development, a Lead or Responsible Agency shall not reduce the proposed number of housing units as a mitigation measure or alternative to lessen a particular significant effect on the environment if that agency determines that there is another feasible, specific mitigation measure or alternative that would provide a comparable lessening of the significant effect.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21002.1, and 21159.26, Public Resources Code; *Golden Gate Bridge, etc., District v. Muzzi*, 83 Cal. App. 3d 707.

## **15042. Authority to Disapprove Projects**

A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed. A Lead Agency has broader authority to disapprove a project than does a Responsible Agency. A Responsible Agency may refuse to approve a project in order to avoid direct or indirect environmental effects of that part of the project which the Responsible Agency would be called on to carry out or approve. For example, an air quality management district acting as a Responsible Agency would not have authority to disapprove a project for water pollution effects that were unrelated to the air quality aspects of the project regulated by the district.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002 and 21002.1, Public Resources Code; *Friends of Mammoth v. Mono County*, 8 Cal. App. 3d 247; *San Diego Trust and Savings Bank v. Friends of Gill*, 121 Cal. App. 3d 203.

## **15043. Authority to Approve Projects Despite Significant Effects**

A public agency may approve a project even though the project would cause a significant effect on the environment if the agency makes a fully informed and publicly disclosed decision that:

- (a) There is no feasible way to lessen or avoid the significant effect (see Section 15091); and
- (b) Specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project. (See: Section 15093.)

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002 and 21002.1, Public Resources Code; *San Francisco Ecology Center v. City and County of San Francisco*, (1975) 48 Cal. App. 3d 584; *San Diego Trust & Savings Bank v. Friends of Gill*, (1981) 121 Cal. App. 3d 203.

## **15044. Authority to Comment**

Any person or entity other than a Responsible Agency may submit comments to a Lead Agency concerning any environmental effects of a project being considered by the Lead Agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000, 21001, 21002.1, 21104, and 21153, Public Resources Code.

## **15045. Fees**

(a) For a project to be carried out by any person or entity other than the lead agency, the lead agency may charge and collect a reasonable fee from the person or entity proposing the project in order to recover the estimated costs incurred in preparing environmental documents and for procedures necessary to comply with CEQA on the project. Litigation expenses, costs and fees incurred in actions alleging noncompliance with CEQA are not recoverable under this section.

(b) Public agencies may charge and collect a reasonable fee from members of the public for a copy of an environmental document not to exceed the actual cost of reproducing a copy.

**Note:** Authority: Section 21083, Public Resources Code. Reference: Section 21089 and 21105, Public Resources Code.



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## **Article 4. Lead Agency**

**Sections 15050 to 15053**

### **15050. Lead Agency Concept**

(a) Where a project is to be carried out or approved by more than one public agency, one public agency shall be responsible for preparing an EIR or Negative Declaration for the project. This agency shall be called the Lead Agency.

(b) Except as provided in subdivision (c), the decision-making body of each Responsible Agency shall consider the Lead Agency's EIR or Negative Declaration prior to acting upon or approving the project. Each Responsible Agency shall certify that its decision-making body reviewed and considered the information contained in the EIR or Negative Declaration on the project.

(c) The determination of the Lead Agency of whether to prepare an EIR or a Negative Declaration shall be final and conclusive for all persons, including Responsible Agencies, unless:

- (1) The decision is successfully challenged as provided in Section 21167 of the Public Resources Code,
- (2) Circumstances or conditions changed as provided in Section 15162, or
- (3) A Responsible Agency becomes a Lead Agency under Section 15052.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.1, 21165, and 21167.2, Public Resources Code.

### **15051. Criteria for Identifying the Lead Agency**

Where two or more public agencies will be involved with a project, the determination of which agency will be the Lead Agency shall be governed by the following criteria:

(a) If the project will be carried out by a public agency, that agency shall be the Lead Agency even if the project would be located within the jurisdiction of another public agency.

(b) If the project is to be carried out by a nongovernmental person or entity, the Lead Agency shall be the public agency with the greatest responsibility for supervising or approving the project as a whole.

(1) The Lead Agency will normally be the agency with general governmental powers, such as a city or county, rather than an agency with a single or limited purpose such as an air pollution control district or a

district which will provide a public service or public utility to the project.

(2) Where a city rezones an area, the city will be the appropriate Lead Agency for any subsequent annexation of the area and should prepare the appropriate environmental document at the time of the rezoning. The Local Agency Formation Commission shall act as a Responsible Agency.

(c) Where more than one public agency equally meet the criteria in subdivision (b), the agency which will act first on the project in question shall be the Lead Agency.

(d) Where the provisions of subdivisions (a), (b), and (c) leave two or more public agencies with a substantial claim to be the Lead Agency, the public agencies may by agreement designate an agency as the Lead Agency. An agreement may also provide for cooperative efforts by two or more agencies by contract, joint exercise of powers, or similar devices.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21165, Public Resources Code.

## **15052. Shift in Lead Agency Designation**

(a) Where a Responsible Agency is called on to grant an approval for a project subject to CEQA for which another public agency was the appropriate Lead Agency, the Responsible Agency shall assume the role of the Lead Agency when any of the following conditions occur:

(1) The Lead Agency did not prepare any environmental documents for the project, and the statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.

(2) The Lead Agency prepared environmental documents for the project, but the following conditions occur:

(A) A subsequent EIR is required pursuant to Section 15162,

(B) The Lead Agency has granted a final approval for the project, and

(C) The statute of limitations for challenging the Lead Agency's action under CEQA has expired.

(3) The Lead Agency prepared inadequate environmental documents without consulting with the Responsible Agency as required by Sections 15072 or 15082, and the statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.

(b) When a Responsible Agency assumes the duties of a Lead Agency under this section, the time limits applicable to a Lead Agency shall apply to the actions of the agency assuming the Lead Agency duties.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21165, Public Resources Code.

## **15053. Designation of Lead Agency by the Office of Planning and Research**

(a) If there is a dispute over which of several agencies should be the Lead Agency for a project, the disputing agencies should consult with each other in an effort to resolve the dispute prior to submitting it

to the Office of Planning and Research. If an agreement cannot be reached, any of the disputing public agencies, or the applicant if a private project is involved, may submit the dispute to the Office of Planning and Research for resolution.

(b) For purposes of this section, a “dispute” means a contested, active difference of opinion between two or more public agencies as to which of those agencies shall prepare any necessary environmental document. A dispute exists where each of those agencies claims that it either has or does not have the obligation to prepare that environmental document.

(c) The Office of Planning and Research shall designate a Lead Agency within 21 days after receiving a completed request to resolve a dispute. The Office of Planning and Research shall not designate a lead agency in the absence of a dispute.

(d) Regulations adopted by the Office of Planning and Research for resolving Lead Agency disputes may be found in Title 14, California Code of Regulations, Sections 16000 et seq.

(e) Designation of a Lead Agency by the Office of Planning and Research shall be based on consideration of the criteria in Section 15051 as well as the capacity of the agency to adequately fulfill the requirements of CEQA.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21165, Public Resources Code; California Code of Regulations, Title 14, Sections 16000-16041.

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*Title 14. California Code of Regulations*  
**Chapter 3. Guidelines for Implementation of the  
California Environmental Quality Act**

## **Article 5. Preliminary Review of Projects and Conduct of Initial Study**

### **Sections 15060 to 15065**

#### **15060. Preliminary Review**

(a) A lead agency is allowed 30 days to review for completeness applications for permits or other entitlements for use. While conducting this review for completeness, the agency should be alert for environmental issues that might require preparation of an EIR or that may require additional explanation by the applicant. Accepting an application as complete does not limit the authority of the lead agency to require the applicant to submit additional information needed for environmental evaluation of the project. Requiring such additional information after the application is complete does not change the status of the application.

(b) Except as provided in Section 15111, the lead agency shall begin the formal environmental evaluation of the project after accepting an application as complete and determining that the project is subject to CEQA.

(c) Once an application is deemed complete, a lead agency must first determine whether an activity is subject to CEQA before conducting an initial study. An activity is not subject to CEQA if:

- (1) The activity does not involve the exercise of discretionary powers by a public agency;
- (2) The activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; or
- (3) The activity is not a project as defined in Section 15378.

(d) If the lead agency can determine that an EIR will be clearly required for a project, the agency may skip further initial review of the project and begin work directly on the EIR process described in Article 9, commencing with Section 15080. In the absence of an initial study, the lead agency shall still focus the EIR on the significant effects of the project and indicate briefly its reasons for determining that other effects would not be significant or potentially significant.

Authority: Section 21083, Public Resources Code; Reference: Sections 21080(b), 21080.2 and 21160, Public Resources Code.

**Note:** Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 65944, Government Code; Section 21080.2, Public Resources Code.

## **15060.5. Preapplication Consultation**

(a) For a potential project involving the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies, the lead agency shall, upon the request of a potential applicant and prior to the filing of a formal application, provide for consultation with the potential applicant to consider the range of actions, potential alternatives, mitigation measures, and any potential significant effects on the environment of the potential project.

(b) The lead agency may include in the consultation one or more responsible agencies, trustee agencies, and other public agencies who in the opinion of the lead agency may have an interest in the proposed project. The lead agency may consult the Office of Permit Assistance in the Trade and Commerce Agency for help in identifying interested agencies.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.1, Public Resources Code.

## **15061. Review for Exemption**

(a) Once a lead agency has determined that an activity is a project subject to CEQA, a lead agency shall determine whether the project is exempt from CEQA.

(b) A project is exempt from CEQA if:

(1) The project is exempt by statute (see, e.g. Article 18, commencing with Section 15260).

(2) The project is exempt pursuant to a categorical exemption (see Article 19, commencing with Section 15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in Section 15300.2.

(3) The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

(4) The project will be rejected or disapproved by a public agency. (See Section 15270(b)).

(5) The project is exempt pursuant to the provisions of Article 12.5 of this Chapter.

(c) Each public agency should include in its implementing procedures a listing of the projects often handled by the agency that the agency has determined to be exempt. This listing should be used in preliminary review.

(d) After determining that a project is exempt, the agency may prepare a Notice of Exemption as provided in Section 15062. Although the notice may be kept with the project application at this time, the notice shall not be filed with the Office of Planning and Research or the county clerk until the project has been approved.

(e) When a non-elected official or decisionmaking body of a local lead agency decides that a project is exempt from CEQA, and the public agency approves or determines to carry out the project, the decision that the project is exempt may be appealed to the local lead agency's elected decisionmaking body, if one exists. A local lead agency may establish procedures governing such appeals.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21080(b), 21080.9, 21080.10, 21084, 21108(b), 21151, 21152(b), and 21159.21, Public Resources Code; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68.

## **15062. Notice of Exemption**

(a) When a public agency decides that a project is exempt from CEQA pursuant to Section 15061, and the public agency approves or determines to carry out the project, the agency may file a Notice of Exemption. The notice shall be filed, if at all, after approval of the project. Such a notice shall include:

- (1) A brief description of the project,
- (2) The location of the project (either by street address and cross street for a project in an urbanized area or by attaching a specific map, preferably a copy of a U.S.G.S. 15' or 7-1/2' topographical map identified by quadrangle name).
- (3) A finding that the project is exempt from CEQA, including a citation to the State Guidelines section or statute under which it is found to be exempt, and
- (4) A brief statement of reasons to support the finding.

(b) A Notice of Exemption may be filled out and may accompany the project application through the approval process. The notice shall not be filed with the county clerk or the OPR until the project has been approved.

(c) When a public agency approves an applicant's project, either the agency or the applicant may file a Notice of Exemption.

(1) When a state agency files this notice, the notice of exemption shall be filed with the Office of Planning and Research. A form for this notice is provided in Appendix E. A list of all such notices shall be posted on a weekly basis at the Office of Planning and Research, 1400 Tenth Street, Sacramento, California. The list shall remain posted for at least 30 days. The Office of Planning and Research shall retain each notice for not less than 12 months.

(2) When a local agency files this notice, the notice of exemption shall be filed with the county clerk of each county in which the project will be located. Copies of all such notices shall be available for public inspection and such notices shall be posted within 24 hours of receipt in the office of the county clerk. Each notice shall remain posted for a period of 30 days. Thereafter, the clerk shall return the notice to the local agency with a notation of the period it was posted. The local agency shall retain the notice for not less than 12 months.

(3) All public agencies are encouraged to make postings pursuant to this section available in electronic format on the Internet. Such electronic postings are in addition to the procedures required by these guidelines and the Public Resources Code.

(4) When an applicant files this notice, special rules apply.

(A) The notice filed by an applicant is filed in the same place as if it were filed by the agency granting the

permit. If the permit was granted by a state agency, the notice is filed with the Office of Planning and Research. If the permit was granted by a local agency, the notice is filed with the county clerk of the county or counties in which the project will be located.

(B) The Notice of Exemption filed by an applicant shall contain the information required in subdivision (a) together with a certified document issued by the public agency stating that the agency has found the project to be exempt. The certified document may be a certified copy of an existing document or record of the public agency.

(C) A notice filed by an applicant is subject to the same posting and time requirements as a notice filed by a public agency.

(d) The filing of a Notice of Exemption and the posting on the list of notices start a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. If a Notice of Exemption is not filed, a 180 day statute of limitations will apply.

(e) When a local agency determines that a project is not subject to CEQA under sections 15193, 15194, or 15195, and it approves or determines to carry out that project, the local agency or person seeking project approval shall file a notice with OPR identifying the section under which the exemption is claimed.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

## **15063. Initial Study**

(a) Following preliminary review, the Lead Agency shall conduct an Initial Study to determine if the project may have a significant effect on the environment. If the Lead Agency can determine that an EIR will clearly be required for the project, an Initial Study is not required but may still be desirable.

(1) All phases of project planning, implementation, and operation must be considered in the Initial Study of the project.

(2) To meet the requirements of this section, the lead agency may use an environmental assessment or a similar analysis prepared pursuant to the National Environmental Policy Act.

(3) An initial study may rely upon expert opinion supported by facts, technical studies or other substantial evidence to document its findings. However, an initial study is neither intended nor required to include the level of detail included in an EIR.

(b) Results.

(1) If the agency determines that there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial, the Lead Agency shall do one of the following:

(A) Prepare an EIR, or

(B) Use a previously prepared EIR which the Lead Agency determines would adequately analyze the project at hand, or

(C) Determine, pursuant to a program EIR, tiering, or another appropriate process, which of a project's effects were adequately examined by an earlier EIR or negative declaration. Another appropriate process may include, for example, a master EIR, a master environmental assessment, approval of housing and neighborhood commercial facilities in urban areas, approval of residential projects pursuant to a specific plans described in section 15182, approval of residential projects consistent with a community plan, general plan or zoning as described in section 15183, or an environmental document prepared under a State certified regulatory program. The lead agency shall then ascertain which effects, if any, should be analyzed in a later EIR or negative declaration.

(2) The Lead Agency shall prepare a Negative Declaration if there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment.

(c) Purposes. The purposes of an Initial Study are to:

(1) Provide the Lead Agency with information to use as the basis for deciding whether to prepare an EIR or a Negative Declaration.

(2) Enable an applicant or Lead Agency to modify a project, mitigating adverse impacts before an EIR is prepared, thereby enabling the project to qualify for a Negative Declaration.

(3) Assist in the preparation of an EIR, if one is required, by:

(A) Focusing the EIR on the effects determined to be significant,

(B) Identifying the effects determined not to be significant,

(C) Explaining the reasons for determining that potentially significant effects would not be significant, and

(D) Identifying whether a program EIR, tiering, or another appropriate process can be used for analysis of the project's environmental effects.

(4) Facilitate environmental assessment early in the design of a project;

(5) Provide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment;

(6) Eliminate unnecessary EIRs;

(7) Determine whether a previously prepared EIR could be used with the project.

(d) Contents. An Initial Study shall contain in brief form:

(1) A description of the project including the location of the project;

(2) An identification of the environmental setting;

(3) An identification of environmental effects by use of a checklist, matrix, or other method, provided that entries on a checklist or other form are briefly explained to indicate that there is some evidence to support the entries. The brief explanation may be either through a narrative or a reference to another information source such as an attached map, photographs, or an earlier EIR or negative declaration. A reference to another document should include, where appropriate, a citation to the page or pages where the information is found.

(4) A discussion of the ways to mitigate the significant effects identified, if any;

(5) An examination of whether the project would be consistent with existing zoning, plans, and other applicable land use controls;

(6) The name of the person or persons who prepared or participated in the Initial Study.

(e) Submission of Data. If the project is to be carried out by a private person or private organization, the Lead Agency may require such person or organization to submit data and information which will enable the Lead Agency to prepare the Initial Study. Any person may submit any information in any form to assist a Lead Agency in preparing an Initial Study.

(f) Format. Sample forms for an applicant's project description and a review form for use by the lead agency are contained in Appendices G and H. When used together, these forms would meet the requirements for an initial study, provided that the entries on the checklist are briefly explained pursuant to subsection (d)(3). These forms are only suggested, and public agencies are free to devise their own format for an initial study. A previously prepared EIR may also be used as the initial study for a later project.

(g) Consultation. As soon as a Lead Agency has determined that an Initial Study will be required for the project, the Lead Agency shall consult informally with all Responsible Agencies and all Trustee Agencies responsible for resources affected by the project to obtain the recommendations of those agencies as to whether an EIR or a Negative Declaration should be prepared. During or immediately after preparation of an Initial Study for a private project, the Lead Agency may consult with the applicant to determine if the applicant is willing to modify the project to reduce or avoid the significant effects identified in the Initial Study.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080(c), 21080.1, 21080.3, 21082.1, 21100 and 21151, Public Resources Code; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, *Leonoff v. Monterey County Board of Supervisors* (1990) 222 Cal.App.3d 1337.

## **15064. Determining the Significance of the Environmental Effects Caused by a Project**

(a) Determining whether a project may have a significant effect plays a critical role in the CEQA process.

(1) If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR.

(2) When a final EIR identifies one or more significant effects, the Lead Agency and each Responsible Agency shall make a finding under Section 15091 for each significant effect and may need to make a statement of overriding considerations under Section 15093 for the project.

(b) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.

(c) In determining whether an effect will be adverse or beneficial, the Lead Agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency. Before requiring the preparation of an EIR, the Lead Agency must still determine whether environmental change itself might be substantial.

(d) In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.

(1) A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project. Examples of direct physical changes in the environment are the dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment plant and possible odors from operation of the plant.

(2) An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area due to the increase in sewage treatment capacity and may lead to an increase in air pollution.

(3) An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable.

(e) Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect.

(f) The decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency.

(1) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68).

(2) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment but the lead agency determines that revisions in the project plans or proposals made by, or agreed to by, the applicant would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur and there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment then a mitigated negative declaration shall be prepared.

(3) If the lead agency determines there is no substantial evidence that the project may have a significant effect on the environment, the lead agency shall prepare a negative declaration (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App. 3d 988).

(4) The existence of public controversy over the environmental effects of a project will not require preparation of an EIR if there is no substantial evidence before the agency that the project may have a

significant effect on the environment.

(5) Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion support by facts.

(6) Evidence of economic and social impacts that do not contribute to or are not caused by physical changes in the environment is not substantial evidence that the project may have a significant effect on the environment.

(7) The provisions of sections 15162, 15163, and 15164 apply when the project being analyzed is a change to, or further approval for, a project for which an EIR or negative declaration was previously certified or adopted (e.g. a tentative subdivision, conditional use permit). Under case law, the fair argument standard does not apply to determinations of significance pursuant to sections 15162, 15163, and 15164.

(g) After application of the principles set forth above in Section 15064(f)(g), and in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

(h)(1) When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(2) A lead agency may determine in an initial study that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. When a project might contribute to a significant cumulative impact, but the contribution will be rendered less than cumulatively considerable through mitigation measures set forth in a mitigated negative declaration, the initial study shall briefly indicate and explain how the contribution has been rendered less than cumulatively considerable.

(3) A lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program which provides specific requirements that will avoid or substantially lessen the cumulative problem (e.g., water quality control plan, air quality plan, integrated waste management plan) within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding that the project complies with the specified plan or mitigation program addressing the cumulative problem, an EIR must be prepared for the project.

(4) The mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project's incremental effects are cumulatively considerable.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21003, 21065, 21068, 21080, 21082, 21082.1, 21082.2, 21083 and 21100, Public Resources Code; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68; *San Joaquin Raptor/Wildlife Center v. County of Stanislaus* (1996) 42



Cal.App.4th 608; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; *Laurel Heights Improvement Assn. v. Regents of the University of California* (1993) 6 Cal.4th 1112; and *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98.

## **15064.5. Determining the Significance of Impacts to Archeological and Historical Resources**

(a) For purposes of this section, the term "historical resources" shall include the following:

(1) A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Pub. Res. Code, § 5024.1, Title 14 CCR, Section 4850 et seq.).

(2) A resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

(3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code, § 5024.1, Title 14 CCR, Section 4852) including the following:

(A) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;

(B) Is associated with the lives of persons important in our past;

(C) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or

(D) Has yielded, or may be likely to yield, information important in prehistory or history.

(4) The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code sections 5020.1(j) or 5024.1.

(b) A project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.

(1) Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.

(2) The significance of an historical resource is materially impaired when a project:

(A) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources; or

(B) Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or

(C) Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.

(3) Generally, a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer, shall be considered as mitigated to a level of less than a significant impact on the historical resource.

(4) A lead agency shall identify potentially feasible measures to mitigate significant adverse changes in the significance of an historical resource. The lead agency shall ensure that any adopted measures to mitigate or avoid significant adverse changes are fully enforceable through permit conditions, agreements, or other measures.

(5) When a project will affect state-owned historical resources, as described in Public Resources Code Section 5024, and the lead agency is a state agency, the lead agency shall consult with the State Historic Preservation Officer as provided in Public Resources Code Section 5024.5. Consultation should be coordinated in a timely fashion with the preparation of environmental documents.

(c) CEQA applies to effects on archaeological sites.

(1) When a project will impact an archaeological site, a lead agency shall first determine whether the site is an historical resource, as defined in subdivision (a).

(2) If a lead agency determines that the archaeological site is an historical resource, it shall refer to the provisions of Section 21084.1 of the Public Resources Code, and this section, Section 15126.4 of the Guidelines, and the limits contained in Section 21083.2 of the Public Resources Code do not apply.

(3) If an archaeological site does not meet the criteria defined in subdivision (a), but does meet the definition of a unique archeological resource in Section 21083.2 of the Public Resources Code, the site shall be treated in accordance with the provisions of section 21083.2. The time and cost limitations described in Public Resources Code Section 21083.2 (c-f) do not apply to surveys and site evaluation activities intended to determine whether the project location contains unique archaeological resources.

(4) If an archaeological resource is neither a unique archaeological nor an historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. It shall be sufficient that both the resource and the effect on it are noted in the Initial Study or EIR, if one is prepared to address impacts on other resources, but they need not be considered further in the CEQA process.

(d) When an initial study identifies the existence of, or the probable likelihood, of Native American human remains within the project, a lead agency shall work with the appropriate Native Americans as identified by the Native American Heritage Commission as provided in Public Resources Code section 5097.98. The applicant may develop an agreement for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American burials with the appropriate Native

Americans as identified by the Native American Heritage Commission. Action implementing such an agreement is exempt from:

(1) The general prohibition on disinterring, disturbing, or removing human remains from any location other than a dedicated cemetery (Health and Safety Code Section 7050.5).

(2) The requirements of CEQA and the Coastal Act.

(e) In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:

(1) There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

(A) The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and

(B) If the coroner determines the remains to be Native American:

1. The coroner shall contact the Native American Heritage Commission within 24 hours.

2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.

3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code section 5097.98, or

(2) Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

(A) The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.

(B) The descendant identified fails to make a recommendation; or

(C) The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

(f) As part of the objectives, criteria, and procedures required by Section 21082 of the Public Resources Code, a lead agency should make provisions for historical or unique archaeological resources accidentally discovered during construction. These provisions should include an immediate evaluation of the find by a qualified archaeologist. If the find is determined to be an historical or unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Work could continue on other parts of the building site while historical or unique archaeological resource mitigation takes place.

**Note:** Authority: Section 21083, Public Resources Code. Reference: Sections 21083.2, 21084, and 21084.1, Public Resources Code; *Citizens for Responsible Development in West Hollywood v. City of West Hollywood* (1995) 39 Cal.App.4th 490.

## **15064.7. Thresholds of Significance.**

(a) Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.

(b) Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence.

**Note:** Authority: Section 21083, Public Resources Code. Reference: Sections 21082 and 21083, Public Resources Code.

## **15065. Mandatory Findings of Significance**

(a) A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where there is substantial evidence, in light of the whole record, that any of the following conditions may occur:

(1) The project has the potential to: substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare or threatened species; or eliminate important examples of the major periods of California history or prehistory.

(2) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

(3) The project has possible environmental effects that are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(4) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

(b)(1) Where, prior to the commencement of preliminary review of an environmental document, a project proponent agrees to mitigation measures or project modifications that would avoid any significant effect on the environment specified by subdivision (a) or would mitigate the significant effect to a point where clearly no significant effect on the environment would occur, a lead agency need not prepare an environmental impact report solely because, without mitigation, the environmental effects at issue would have been significant.

(2) Furthermore, where a proposed project has the potential to substantially reduce the number or restrict the range of an endangered, rare or threatened species, the lead agency need not prepare an EIR solely because of such an effect, if:

(A) the project proponent is bound to implement mitigation requirements relating to such species and habitat pursuant to an approved habitat conservation plan or natural community conservation plan;

(B) the state or federal agency approved the habitat conservation plan or natural community conservation

plan in reliance on an environmental impact report or environmental impact statement; and

(C) 1. such requirements avoid any net loss of habitat and net reduction in number of the affected species, or

2. such requirements preserve, restore, or enhance sufficient habitat to mitigate the reduction in habitat and number of the affected species to below a level of significance.

(c) Following the decision to prepare an EIR, if a lead agency determines that any of the conditions specified by subdivision (a) will occur, such a determination shall apply to:

(1) the identification of effects to be analyzed in depth in the environmental impact report or the functional equivalent thereof,

(2) the requirement to make detailed findings on the feasibility of alternatives or mitigation measures to substantially lessen or avoid the significant effects on the environment,

(3) when found to be feasible, the making of changes in the project to substantially lessen or avoid the significant effects on the environment, and

(4) where necessary, the requirement to adopt a statement of overriding considerations.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21001(c), 21082.2, and 21083, Public Resources Code; *San Joaquin Raptor/Wildlife Center v. County of Stanislaus* (1996) 42 Cal.App.4th 608; *Los Angeles Unified School District v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1024; and *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98.

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## **Article 6. Negative Declaration Process**

### **Sections 15070 to 15075**

#### **15070. Decision to Prepare a Negative or Mitigated Negative Declaration**

A public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when:

- (a) The initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or
- (b) The initial study identifies potentially significant effects, but:
  - (1) Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and
  - (2) There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21064, 21064.5, 21080(c), and 21082.1, Public Resources Code; *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988; *Running Fence Corp. v. Superior Court* (1975) 51 Cal.App.3d 400..

#### **15071. Contents**

A Negative Declaration circulated for public review shall include:

- (a) A brief description of the project, including a commonly used name for the project, if any;
- (b) The location of the project, preferably shown on a map, and the name of the project proponent;
- (c) A proposed finding that the project will not have a significant effect on the environment;
- (d) An attached copy of the Initial Study documenting reasons to support the finding; and
- (e) Mitigation measures, if any, included in the project to avoid potentially significant effects.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21080(c), Public Resources Code.

## **15072. Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration**

(a) A lead agency shall provide a notice of intent to adopt a negative declaration or mitigated negative declaration to the public, responsible agencies, trustee agencies, and the county clerk of each county within which the proposed project is located, sufficiently prior to adoption by the lead agency of the negative declaration or mitigated negative declaration to allow the public and agencies the review period provided under Section 15105.

(b) The lead agency shall mail a notice of intent to adopt a negative declaration or mitigated negative declaration to the last known name and address of all organizations and individuals who have previously requested such notice in writing and shall also give notice of intent to adopt a negative declaration or mitigated negative declaration by at least one of the following procedures to allow the public the review period provided under Section 15105:

(1) Publication at least one time by the lead agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

(2) Posting of notice by the lead agency on and off site in the area where the project is to be located.

(3) Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll.

(c) The alternatives for providing notice specified in subdivision (b) shall not preclude a lead agency from providing additional notice by other means if the agency so desires, nor shall the requirements of this section preclude a lead agency from providing the public notice at the same time and in the same manner as public notice required by any other laws for the project.

(d) The county clerk of each county within which the proposed project is located shall post such notices in the office of the county clerk within 24 hours of receipt for a period of at least 20 days.

(e) For a project of statewide, regional, or areawide significance, the lead agency shall also provide notice to transportation planning agencies and public agencies which have transportation facilities within their jurisdictions which could be affected by the project as specified in Section 21092.4(a) of the Public Resources Code. "Transportation facilities" includes: major local arterials and public transit within five miles of the project site and freeways, highways and rail transit service within 10 miles of the project site.

(f) If the United States Department of Defense or any branch of the United States Armed Forces has given a lead agency written notification of the specific boundaries of a low-level flight path, military impact zone, or special use airspace and provided the lead agency with written notification of the military contact office and address for the military service pursuant to subdivision (b) of Section 15190.5, then the lead agency shall include the specified military contact office in the list of organizations and individuals receiving a notice of intent to adopt a negative declaration or a mitigated negative declaration pursuant to this section for projects that meet the criteria set forth in subdivision (c) of Section 15190.5. The lead agency shall send the specified military contact office such notice of intent sufficiently prior to adoption by the lead agency of the negative declaration or mitigated negative declaration to allow the military service the review period provided under Section 15105.

(g) A notice of intent to adopt a negative declaration or mitigated negative declaration shall specify the following:

(1) A brief description of the proposed project and its location.

(2) The starting and ending dates for the review period during which the lead agency will receive comments on the proposed negative declaration or mitigated negative declaration. This shall include starting and ending dates for the review period. If the review period has been shortened pursuant to Section 15105, the notice shall include a statement to that effect.

(3) The date, time, and place of any scheduled public meetings or hearings to be held by the lead agency on the proposed project, when known to the lead agency at the time of notice.

(4) The address or addresses where copies of the proposed negative declaration or mitigated negative declaration including the revisions developed under Section 15070(b) and all documents referenced in the proposed negative declaration or mitigated negative declaration are available for review. This location or locations shall be readily accessible to the public during the lead agency's normal working hours.

(5) The presence of the site on any of the lists enumerated under Section 65962.5 of the Government Code including, but not limited to lists of hazardous waste facilities, land designated as hazardous waste property, and hazardous waste disposal sites, and the information in the Hazardous Waste and Substances Statement required under subdivision (f) of that section.

(6) Other information specifically required by statute or regulation for a particular project or type of project.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21091, 21092, 21092.2, 21092.4, 21092.3, 21092.6, 21098 and 21151.8, Public Resources Code.

## **15073. Public Review of a Proposed Negative Declaration or Mitigated Negative Declaration**

(a) The lead agency shall provide a public review period pursuant to Section 15105 of not less than 20 days. When a proposed negative declaration or mitigated negative declaration and initial study are submitted to the State Clearinghouse for review by state agencies, the public review period shall not be less than 30 days, unless a shorter period is approved by the State Clearinghouse under Section 15105(d).

(b) When a proposed negative declaration or mitigated negative declaration and initial study have been submitted to the State Clearinghouse for review by state agencies, the public review period shall be at least as long as the review period established by the State Clearinghouse. The public review period and the state agency review period may, but are not required to, begin and end at the same time. Day one of the state review period shall be the date that the State Clearinghouse distributes the document to state agencies.

(c) A copy of the proposed negative declaration or mitigated negative declaration and the initial study shall be attached to the notice of intent to adopt the proposed declaration that is sent to every responsible agency and trustee agency concerned with the project and every other public agency with jurisdiction by law over resources affected by the project.

(d) Where one or more state agencies will be a responsible agency or a trustee agency or will exercise jurisdiction by law over natural resources affected by the project, or where the project is of statewide, regional, or areawide environmental significance, the lead agency shall send copies of the proposed negative declaration or mitigated negative declaration to the State Clearinghouse for distribution to state



agencies.

(e) The lead agency shall notify in writing any public agency which comments on a proposed negative declaration or mitigated negative declaration of any public hearing to be held for the project for which the document was prepared. A notice provided to a public agency pursuant to Section 15072 satisfies this requirement.

**Note:** Authority cited: Section 21083, Public Resources Code; References: Sections 21000(e), 21003(b), 21080(c), 21081.6, 21091, and 21092.5, Public Resources Code; *Plaggmier v. City of San Jose* (1980) 101 Cal.App.3d 842..

### **15073.5. Recirculation of a Negative Declaration Prior to Adoption.**

(a) A lead agency is required to recirculate a negative declaration when the document must be substantially revised after public notice of its availability has previously been given pursuant to Section 15072, but prior to its adoption. Notice of recirculation shall comply with Sections 15072 and 15073.

(b) A "substantial revision" of the negative declaration shall mean:

(1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or

(2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

(c) Recirculation is not required under the following circumstances:

(1) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.

(2) New project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects.

(3) Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.

(4) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.

(d) If during the negative declaration process there is substantial evidence in light of the whole record, before the lead agency that the project, as revised, may have a significant effect on the environment which cannot be mitigated or avoided, the lead agency shall prepare a draft EIR and certify a final EIR prior to approving the project. It shall circulate the draft EIR for consultation and review pursuant to Sections 15086 and 15087, and advise reviewers in writing that a proposed negative declaration had previously been circulated for the project.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21080, Public Resources Code; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; *Leonoff v. Monterey County Board of Supervisors* (1990) 222 Cal.App.3d 1337; *Long Beach Savings and Loan Assn. v. Long Beach Redevelopment Agency* (1986) 188 Cal.App.3d 249.

## **15074. Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration.**

- (a) Any advisory body of a public agency making a recommendation to the decisionmaking body shall consider the proposed negative declaration or mitigated negative declaration before making its recommendation.
- (b) Prior to approving a project, the decisionmaking body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration together with any comments received during the public review process. The decisionmaking body shall adopt the proposed negative declaration or mitigated negative declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration or mitigated negative declaration reflects the lead agency's independent judgment and analysis.
- (c) When adopting a negative declaration or mitigated negative declaration, the lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.
- (d) When adopting a mitigated negative declaration, the lead agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to mitigate or avoid significant environmental effects.
- (e) A lead agency shall not adopt a negative declaration or mitigated negative declaration for a project within the boundaries of a comprehensive airport land use plan or, if a comprehensive airport land use plan has not been adopted, for a project within two nautical miles of a public airport or public use airport, without first considering whether the project will result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.
- (f) When a non-elected official or decisionmaking body of a local lead agency adopts a negative declaration or mitigated negative declaration, that adoption may be appealed to the agency's elected decisionmaking body, if one exists. For example, adoption of a negative declaration for a project by a city's planning commission may be appealed to the city council. A local lead agency may establish procedures governing such appeals.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080(c), 21081.6, 21082.1, 21096, and 21151, Public Resources Code; *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988.

### **15074.1. Substitution of Mitigation Measures in a Proposed Mitigated Negative Declaration.**

- (a) As a result of the public review process for a proposed mitigated negative declaration, including any administrative decisions or public hearings conducted on the project prior to its approval, the lead agency may conclude that certain mitigation measures identified in the mitigated negative declaration are infeasible or otherwise undesirable. Prior to approving the project, the lead agency may, in accordance with this section, delete those mitigation measures and substitute for them other measures which the lead agency determines are equivalent or more effective.
- (b) Prior to deleting and substituting for a mitigation measure, the lead agency shall do both of the

following:

- (1) Hold a public hearing on the matter. Where a public hearing is to be held in order to consider the project, the public hearing required by this section may be combined with that hearing. Where no public hearing would otherwise be held to consider the project, then a public hearing shall be required before a mitigation measure may be deleted and a new measure adopted in its place.
- (2) Adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.
- (c) No recirculation of the proposed mitigated negative declaration pursuant to Section 15072 is required where the new mitigation measures are made conditions of, or are otherwise incorporated into, project approval in accordance with this section.
- (d) "Equivalent or more effective" means that the new measure will avoid or reduce the significant effect to at least the same degree as, or to a greater degree than, the original measure and will create no more adverse effect of its own than would have the original measure.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(f), Public Resources Code.

### **15075. Notice of Determination on a Project for which a Proposed Negative or Mitigated Negative Declaration has been Approved.**

- (a) The lead agency shall file a notice of determination within five working days after deciding to carry out or approve the project. For projects with more than one phase, the lead agency shall file a notice of determination for each phase requiring a discretionary approval.
- (b) The notice of determination shall include:
  - (1) An identification of the project including the project title as identified on the proposed negative declaration, its location, and the State Clearinghouse identification number for the proposed negative declaration if the notice of determination is filed with the State Clearinghouse.
  - (2) A brief description of the project.
  - (3) The agency's name and the date on which the agency approved the project.
  - (4) The determination of the agency that the project will not have a significant effect on the environment.
  - (5) A statement that a negative declaration or a mitigated negative declaration was adopted pursuant to the provisions of CEQA.
  - (6) A statement indicating whether mitigation measures were made a condition of the approval of the project, and whether a mitigation monitoring plan/program was adopted.
  - (7) The address where a copy of the negative declaration or mitigated negative declaration may be examined.
- (c) If the lead agency is a state agency, the lead agency shall file the notice of determination with the Office of Planning and Research within five working days after approval of the project by the lead

agency.

(d) If the lead agency is a local agency, the local lead agency shall file the notice of determination with the county clerk of the county or counties in which the project will be located, within five working days after approval of the project by the lead agency. If the project requires a discretionary approval from any state agency, the local lead agency shall also, within five working days of this approval, file a copy of the notice of determination with the Office of Planning and Research.

(e) A notice of determination filed with the county clerk shall be available for public inspection and shall be posted by the county clerk within 24 hours of receipt for a period of at least 30 days. Thereafter, the clerk shall return the notice to the local lead agency with a notation of the period during which it was posted. The local lead agency shall retain the notice for not less than 12 months.

(f) A notice of determination filed with the Office of Planning and Research shall be available for public inspection and shall be posted for a period of at least 30 days. The Office of Planning and Research shall retain each notice for not less than 12 months.

(g) The filing of the notice of determination pursuant to subdivision (c) above for state agencies and the filing and posting of the notice of determination pursuant to subdivisions (d) and (e) above for local agencies, start a 30-day statute of limitations on court challenges to the approval under CEQA.

(h) A sample notice of determination is provided in Appendix D. Each public agency may devise its own form, but the minimum content requirements of subdivision (b) above shall be met. Public agencies are encouraged to make copies of all notices filed pursuant to this section available in electronic format on the Internet. Such electronic notices are in addition to the posting requirements of these guidelines and the Public Resources Code.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21080(c), 21108(a) and (c), 21152(a) and (c) and 21167(b), Public Resources Code; *Citizens of Lake Murray Area Association v. City Council* (1982) 129 Cal. App. 3d 436.

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## **Article 7. EIR Process**

### **Sections 15080 to 15097**

#### **15080. General**

To the extent possible, the EIR process should be combined with the existing planning, review, and project approval process used by each public agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21003, 21061, 21100, and 21151, Public Resources Code.

#### **15081. Decision to Prepare an EIR**

The EIR process starts with the decision to prepare an EIR. This decision will be made either during preliminary review under Section 15060 or at the conclusion of an Initial Study after applying the standards described in Section 15064.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21100, Public Resources Code; *No Oil, Inc. v. City of Los Angeles*, (1974) 13 Cal. 3d 68; *Friends of B Street v. City of Hayward*, (1980) 106 Cal. App. 3d 988.

#### **15081.5 EIRs Required by Statute**

(a) A lead agency shall prepare or have prepared an EIR for the following types of projects. An initial study may be prepared to help identify the significant effects of the project.

(1) The burning of municipal wastes, hazardous wastes, or refuse-derived fuel, including but not limited to tires, if the project is either:

(A) The construction of a new facility; or

(B) The expansion of an existing facility that burns hazardous waste that would increase its permitted capacity by more than 10 percent. This does not apply to any project exclusively burning hazardous waste for which a determination to prepare a negative declaration, or mitigated negative declaration or environmental impact report was made prior to July 14, 1989. The amount of expansion of an existing facility is calculated pursuant to subdivision (b) of Section 21151.1 of the Public Resources Code.

(C) Subdivision (1) of this subdivision does not apply to:

1. Projects for which the State Energy Resources Conservation and Development Commission has assumed jurisdiction pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code.

2. Any of the types of burn or thermal processing projects listed in subdivision (d) of Section 21151.1 of the Public Resources Code.

(2) The initial issuance of a hazardous waste facilities permit to a land disposal facility, as defined in subdivision (d) of Section 25199.1 of the Health and Safety Code. Preparation of an EIR is not mandatory if the facility only manages hazardous waste which is identified or listed pursuant to Section 25140 or Section 25141 of the Health and Safety Code on or after January 1, 1992; or only conducts activities which are regulated pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code on or after January 1, 1992. "Initial issuance" does not include the issuance of a closure or postclosure permit pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

(3) The initial issuance of a hazardous waste facility permit pursuant to Section 25200 of the Health and Safety Code to an off-site large treatment facility, as defined pursuant to subdivision (d) of Section 25205.1 of that code. Preparation of an EIR is not mandatory if the facility only manages hazardous waste which is identified or listed pursuant to Section 25140 or Section 25141 of the Health and Safety Code on or after January 1, 1992; or only conducts activities which are regulated pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code on or after January 1, 1992. "Initial issuance" does not include the issuance of a closure or postclosure permit pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

(4) Any open pit mining operation which is subject to the permit requirements of the Surface Mining and Reclamation Act (beginning at Section 2710 of the Public Resources Code) and which utilizes a cyanide heap-leaching process for the purpose of extracting gold or other precious metals.

(5) An initial base reuse plan as defined in Section 15229.

(b) A lead agency shall prepare or have prepared an EIR for the selection of a California Community College, California State University, University of California, or California Maritime Academy campus location and approval of a long range development plan for that campus.

(1) The EIR for a long range development plan for a campus shall include an analysis of, among other significant impacts, those environmental effects relating to changes in enrollment levels.

(2) Subsequent projects within the campus may be addressed in environmental analyses tiered on the EIR prepared for the long range development plan.

**Note:** Authority cited: Section 21083, Public Resources Code; References: Sections 21080.09, 21083.8.1, 21151.1, and 21151.7, Public Resources Code.

## **15082. Notice of Preparation and Determination of Scope of EIR**

(a) Notice of Preparation. Immediately after deciding that an environmental impact report is required for a project, the lead agency shall send to the Office of Planning and Research and each responsible and trustee agency a notice of preparation stating that an environmental impact report will be prepared. This notice shall also be sent to every federal agency involved in approving or funding the project. If the United States Department of Defense or any branch of the United States Armed Forces has given the lead agency written notification of the specific boundaries of a low-level flight path, military impact zone, or

special use airspace and provided the lead agency with written notification of the military contact office and address for the military service pursuant to subdivision (b) of Section 15190.5, then the lead agency shall include the specified military contact office in the list of organizations and individuals receiving a notice of preparation of an EIR pursuant to this section for projects that meet the criteria set forth in subdivision (c) of Section 15190.5.

(1) The notice of preparation shall provide the responsible and trustee agencies and the Office of Planning and Research with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response. At a minimum, the information shall include:

(A) Description of the project,

(B) Location of the project (either by street address and cross street, for a project in an urbanized area, or by attaching a specific map, preferably a copy of a U.S.G.S. 15' or 7-1/2' topographical map identified by quadrangle name), and

(C) Probable environmental effects of the project.

(2) A sample notice of preparation is shown in Appendix I. Public agencies are free to devise their own formats for this notice. A copy of the initial study may be sent with the notice to supply the necessary information.

(3) To send copies of the notice of preparation, the lead agency shall use either certified mail or any other method of transmittal that provides it with a record that the notice was received.

(4) The lead agency may begin work on the draft EIR immediately without awaiting responses to the notice of preparation. The draft EIR in preparation may need to be revised or expanded to conform to responses to the notice of preparation. A lead agency shall not circulate a draft EIR for public review before the time period for responses to the notice of preparation has expired.

(b) Response to Notice of Preparation. Within 30 days after receiving the notice of preparation under subdivision (a), each responsible and trustee agency and the Office of Planning and Research shall provide the lead agency with specific detail about the scope and content of the environmental information related to the responsible or trustee agency's area of statutory responsibility that must be included in the draft EIR.

(1) The response at a minimum shall identify:

(A) The significant environmental issues and reasonable alternatives and mitigation measures that the responsible or trustee agency, or the Office of Planning and Research will need to have explored in the draft EIR; and

(B) Whether the agency will be a responsible agency or trustee agency for the project.

(2) If a responsible or trustee agency, or the Office of Planning and Research fails by the end of the 30-day period to provide the lead agency with either a response to the notice or a well-justified request for additional time, the lead agency may presume that none of those entities have a response to make.

(3) A generalized list of concerns not related to the specific project shall not meet the requirements of this section for a response.

(c) Meetings. In order to expedite the consultation, the lead agency, a responsible agency, a trustee

agency, the Office of Planning and Research, or a project applicant may request one or more meetings between representatives of the agencies involved to assist the lead agency in determining the scope and content of the environmental information that the responsible or trustee agency may require. Such meetings shall be convened by the lead agency as soon as possible, but no later than 30 days after the meetings were requested. On request, the Office of Planning and Research will assist in convening meetings that involve state agencies.

(1) For projects of statewide, regional or areawide significance pursuant to Section 15206, the lead agency shall conduct at least one scoping meeting. A scoping meeting held pursuant to the National Environmental Policy Act, 42 USC 4321 et seq. (NEPA) in the city or county within which the project is located satisfies this requirement if the lead agency meets the notice requirements of subsection (c)(2) below.

(2) The lead agency shall provide notice of the scoping meeting to all of the following:

(A) any county or city that borders on a county or city within which the project is located, unless otherwise designated annually by agreement between the lead agency and the county or city;

(B) any responsible agency

(C) any public agency that has jurisdiction by law with respect to the project;

(D) any organization or individual who has filed a written request for the notice.

(3) A lead agency shall call at least one scoping meeting for a proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation if the meeting is requested by the department. The lead agency shall call the scoping meeting as soon as possible but not later than 30 days after receiving the request from the Department of Transportation.

(d) Office of Planning and Research. The Office of Planning and Research will ensure that the state responsible and trustee agencies reply to the lead agency within 30 days of receipt of the notice of preparation by the state responsible and trustee agencies.

(e) Identification Number. When the notice of preparation is submitted to the State Clearinghouse, the state identification number issued by the Clearinghouse shall be the identification number for all subsequent environmental documents on the project. The identification number should be referenced on all subsequent correspondence regarding the project, specifically on the title page of the draft and final EIR and on the notice of determination.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21083.9, 21080.4, and 21098, Public Resources Code.

## **15083. Early Public Consultation**

Prior to completing the draft EIR, the Lead Agency may also consult directly with any person or organization it believes will be concerned with the environmental effects of the project. Many public agencies have found that early consultation solves many potential problems that would arise in more serious forms later in the review process. This early consultation may be called scoping. Scoping will be necessary when preparing an EIR/EIS jointly with a federal agency.

(a) Scoping has been helpful to agencies in identifying the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in an EIR and in eliminating from detailed study



issues found not to be important.

(b) Scoping has been found to be an effective way to bring together and resolve the concerns of affected federal, state, and local agencies, the proponent of the action, and other interested persons including those who might not be in accord with the action on environmental grounds.

(c) Where scoping is used, it should be combined to the extent possible with consultation under Section 15082.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21082.1, Public Resources Code; Section 4, Chapter 480 of the Statutes of 1981; 40 Code of Federal Regulations, Part 1501.7.

## **15083.5. [Deleted]**

## **15084. Preparing the Draft EIR**

(a) The draft EIR shall be prepared directly by or under contract to the Lead Agency. The required contents of a draft EIR are discussed in Article 9 beginning with Section 15120.

(b) The Lead Agency may require the project applicant to supply data and information both to determine whether the project may have a significant effect on the environment and to assist the Lead Agency in preparing the draft EIR. The requested information should include an identification of other public agencies which will have jurisdiction by law over the project.

(c) Any person, including the applicant, may submit information or comments to the Lead Agency to assist in the preparation of the draft EIR. The submittal may be presented in any format, including the form of a draft EIR. The Lead Agency must consider all information and comments received. The information or comments may be included in the draft EIR in whole or in part.

(d) The Lead Agency may choose one of the following arrangements or a combination of them for preparing a draft EIR.

(1) Preparing the draft EIR directly with its own staff.

(2) Contracting with another entity, public or private, to prepare the draft EIR.

(3) Accepting a draft prepared by the applicant, a consultant retained by the applicant, or any other person.

(4) Executing a third party contract or Memorandum of Understanding with the applicant to govern the preparation of a draft EIR by an independent contractor.

(5) Using a previously prepared EIR.

(e) Before using a draft prepared by another person, the Lead Agency shall subject the draft to the agency's own review and analysis. The draft EIR which is sent out for public review must reflect the independent judgment of the Lead Agency. The Lead Agency is responsible for the adequacy and objectivity of the draft EIR.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21082.1, Public Resources Code.

## **15085. Notice of Completion**

(a) As soon as the draft EIR is completed, a notice of completion must be filed with the Office of Planning and Research in a printed hard copy or in electronic form on a diskette or by electronic mail transmission.

(b) The notice of completion shall include:

(1) A brief description of the project,

(2) The proposed location of the project (either by street address and cross street, for a project in an urbanized area, or by attaching a specific map, preferably a copy of a U.S.G.S. 15' or 7-1/2' topographical map identified by quadrangle name).

(3) An address where copies of the draft EIR are available, and

(4) The review period during which comments will be received on the draft EIR.

(c) A sample form for the notice of completion is included in Appendix L.

(d) Where the EIR will be reviewed through the state review process handled by the State Clearinghouse, the notice of completion cover form required by the State Clearinghouse will serve as the notice of completion (see Appendix C).

(e) Public agencies are encouraged to make copies of notices of completion filed pursuant to this section available in electronic format on the Internet.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

## **15086. Consultation Concerning Draft EIR**

(a) The Lead Agency shall consult with and request comments on the draft EIR from:

(1) Responsible Agencies,

(2) Trustee agencies with resources affected by the project, and

(3) Any other state, federal, and local agencies which have jurisdiction by law with respect to the project or which exercise authority over resources which may be affected by the project, including water agencies consulted pursuant to section 15083.5.

(4) Any city or county which borders on a city or county within which the project is located.

(5) For a project of statewide, regional, or areawide significance, the transportation planning agencies and public agencies which have transportation facilities within their jurisdictions which could be affected by the project. "Transportation facilities" includes: major local arterials and public transit within five miles of the project site, and freeways, highways and rail transit service within 10 miles of the project site.

(6) For a state lead agency when the EIR is being prepared for a highway or freeway project, the State Air Resources Board as to the air pollution impact of the potential vehicular use of the highway or freeway

and if a non-attainment area, the local air quality management district for a determination of conformity with the air quality management plan.

(7) For a subdivision project located within one mile of a facility of the State Water Resources Development System, the California Department of Water Resources.

(b) The lead agency may consult directly with:

(1) Any person who has special expertise with respect to any environmental impact involved,

(2) Any member of the public who has filed a written request for notice with the lead agency or the clerk of the governing body.

(3) Any person identified by the applicant whom the applicant believes will be concerned with the environmental effects of the project.

(c) A responsible agency or other public agency shall only make substantive comments regarding those activities involved in the project that are within an area of expertise of the agency or which are required to be carried out or approved by the responsible agency. Those comments shall be supported by specific documentation.

(d) Prior to the close of the public review period, a responsible agency or trustee agency which has identified what that agency considers to be significant environmental effects shall advise the lead agency of those effects. As to those effects relevant to its decision, if any, on the project, the responsible or trustee agency shall either submit to the lead agency complete and detailed performance objectives for mitigation measures addressing those effects or refer the lead agency to appropriate, readily available guidelines or reference documents concerning mitigation measures. If the responsible or trustee agency is not aware of mitigation measures that address identified effects, the responsible or trustee agency shall so state.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21081.6, 21092.4, 21092.5, 21104 and 21153, Public Resources Code.

## **15087. Public Review of Draft EIR**

(a) The lead agency shall provide public notice of the availability of a draft EIR at the same time it sends a notice of completion to the Office of Planning and Research. If the United States Department of Defense or any branch of the United States Armed Forces has given the lead agency written notification of the specific boundaries of a low-level flight path, military impact zone, or special use airspace and provided the lead agency with written notification of the contact office and address for the military service pursuant to subdivision (b) of Section 15190.5, then the lead agency shall include the specified military contact office in the list of organizations and individuals receiving a notice of availability of a draft EIR pursuant to this section for projects that meet the criteria set forth in subdivision (c) of Section 15190.5. The public notice shall be given as provided under Section 15105 (a sample form is provided in Appendix L). Notice shall be mailed to the last known name and address of all organizations and individuals who have previously requested such notice in writing, and shall also be given by at least one of the following procedures:

(1) Publication at least one time by the public agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

(2) Posting of notice by the public agency on and off the site in the area where the project is to be located.

(3) Direct mailing to the owners and occupants of property contiguous to the parcel or parcels on which

the project is located. Owners of such property shall be identified as shown on the latest equalized assessment roll.

(b) The alternatives for providing notice specified in subdivision (a) shall not preclude a public agency from providing additional notice by other means if such agency so desires, nor shall the requirements of this section preclude a public agency from providing the public notice required by this section at the same time and in the same manner as public notice otherwise required by law for the project.

(c) The notice shall disclose the following:

(1) A brief description of the proposed project and its location.

(2) The starting and ending dates for the review period during which the lead agency will receive comments. If the review period is shortened, the notice shall disclose that fact.

(3) The date, time, and place of any scheduled public meetings or hearings to be held by the lead agency on the proposed project when known to the lead agency at the time of notice.

(4) A list of the significant environmental effects anticipated as a result of the project, to the extent which such effects are known to the lead agency at the time of the notice.

(5) The address where copies of the EIR and all documents referenced in the EIR will be available for public review. This location shall be readily accessible to the public during the lead agency's normal working hours.

(6) The presence of the site on any of the lists of sites enumerated under Section 65962.5 of the Government Code including, but not limited to, lists of hazardous waste facilities, land designated as hazardous waste property, hazardous waste disposal sites and others, and the information in the Hazardous Waste and Substances Statement required under subdivision (f) of that Section.

(d) The notice required under this section shall be posted in the office of the county clerk of each county in which the project will be located for a period of at least 30 days. The county clerk shall post such notices within 24 hours of receipt.

(e) In order to provide sufficient time for public review, the review period for a draft EIR shall be as provided in Section 15105. The review period shall be combined with the consultation required under Section 15086. When a draft EIR has been submitted to the State Clearinghouse, the public review period shall be at least as long as the review period established by the State Clearinghouse. The public review period and the state agency review period may, but are not required to, begin and end at the same time. Day one of the state review period shall be the date that the State Clearinghouse distributes the document to state agencies.

(f) Public agencies shall use the State Clearinghouse to distribute draft EIRs to state agencies for review and should use areawide clearinghouses to distribute the documents to regional and local agencies.

(g) To make copies of EIRs available to the public, Lead Agencies should furnish copies of draft EIRs to public library systems serving the area involved. Copies should also be available in offices of the Lead Agency.

(h) Public agencies should compile listings of other agencies, particularly local agencies, which have jurisdiction by law and/or special expertise with respect to various projects and project locations. Such listings should be a guide in determining which agencies should be consulted with regard to a particular project.

(i) Public hearings may be conducted on the environmental documents, either in separate proceedings or in conjunction with other proceedings of the public agency. Public hearings are encouraged, but not

required as an element of the CEQA process.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21091, 21092, 21092.2, 21092.3, 21092.6, 21098, 21104, 21152, 21153 and 21161, Public Resources Code.

## **15088. Evaluation of and Response to Comments**

(a) The lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The Lead Agency shall respond to comments received during the noticed comment period and any extensions and may respond to late comments.

(b) The lead agency shall provide a written proposed response to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report.

(c) The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, the major environmental issues raised when the Lead Agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.

(d) The response to comments may take the form of a revision to the draft EIR or may be a separate section in the final EIR. Where the response to comments makes important changes in the information contained in the text of the draft EIR, the Lead Agency should either:

(1) Revise the text in the body of the EIR, or

(2) Include marginal notes showing that the information is revised in the response to comments.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21092.5, 21104, and 21153, Public Resources Code; *People v. County of Kern* (1974) 39 Cal. App. 3d 830; *Cleary v. County of Stanislaus* (1981) 118 Cal. App. 3d 348.

### **15088.5. Recirculation of an EIR Prior to Certification**

(a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation include, for example, a disclosure showing that:

(1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

(2) A substantial increase in the severity of an environmental impact would result unless mitigation

measures are adopted that reduce the impact to a level of insignificance.

(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.

(4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043)

(b) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

(c) If the revision is limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified.

(d) Recirculation of an EIR requires notice pursuant to Section 15087, and consultation pursuant to Section 15086.

(e) A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.

(f) The lead agency shall evaluate and respond to comments as provided in Section 15088. Recirculating an EIR can result in the lead agency receiving more than one set of comments from reviewers. The following are two ways in which the lead agency may identify the set of comments to which it will respond. This dual approach avoids confusion over whether the lead agency must respond to comments which are duplicates or which are no longer pertinent due to revisions to the EIR. In no case shall the lead agency fail to respond to pertinent comments on significant environmental issues.

(1) When an EIR is substantially revised and the entire document is recirculated, the lead agency may require reviewers to submit new comments and, in such cases, need not respond to those comments received during the earlier circulation period. The lead agency shall advise reviewers, either in the text of the revised EIR or by an attachment to the revised EIR, that although part of the administrative record, the previous comments do not require a written response in the final EIR, and that new comments must be submitted for the revised EIR. The lead agency need only respond to those comments submitted in response to the recirculated revised EIR.

(2) When the EIR is revised only in part and the lead agency is recirculating only the revised chapters or portions of the EIR, the lead agency may request that reviewers limit their comments to the revised chapters or portions of the recirculated EIR. The lead agency need only respond to (i) comments received during the initial circulation period that relate to chapters or portions of the document that were not revised and recirculated, and (ii) comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated. The lead agency's request that reviewers limit the scope of their comments shall be included either within the text of the revised EIR or by an attachment to the revised EIR.

(3) As part of providing notice of recirculation as required by Public Resources Code Section 21092.1, the lead agency shall send a notice of recirculation to every agency, person, or organization that commented on the prior EIR. The notice shall indicate, at a minimum, whether new comments may be submitted only on the recirculated portions of the EIR or on the entire EIR in order to be considered by the agency.

(g) When recirculating a revised EIR, either in whole or in part, the lead agency shall, in the revised EIR or by an attachment to the revised EIR, summarize the revisions made to the previously circulated draft EIR.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21092.1, Public

Resources Code; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal. 4th 1112.

## **15089. Preparation of Final EIR**

(a) The Lead Agency shall prepare a final EIR before approving the project. The contents of a final EIR are specified in Section 15132 of these Guidelines.

(b) Lead Agencies may provide an opportunity for review of the final EIR by the public or by commenting agencies before approving the project. The review of a final EIR should focus on the responses to comments on the draft EIR.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21100, 21105, and 21151, Public Resources Code; *City of Carmel-by-the-Sea v. Board of Supervisors*, (1977) 71 Cal. App. 3d 84.

## **15090. Certification of the Final EIR**

(a) Prior to approving a project the lead agency shall certify that:

(1) The final EIR has been completed in compliance with CEQA;

(2) The final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project; and

(3) The final EIR reflects the lead agency's independent judgment and analysis.

(b) When an EIR is certified by a non-elected decision-making body within a local lead agency, that certification may be appealed to the local lead agency's elected decision-making body, if one exists. For example, certification of an EIR for a tentative subdivision map by a city's planning commission may be appealed to the city council. Each local lead agency shall provide for such appeals.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21082.1, 21100, and 21151, Public Resources Code; *City of Carmel-by-the-Sea v. Board of Supervisors* (1977) 71 Cal.App.3d 84; *Kleist v. City of Glendale* (1976) 56 Cal.App.3d 770.

## **15091. Findings**

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

(1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and

should be adopted by such other agency.

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

(b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.

(c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subsection (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.

(d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

(e) The public agency shall specify the location and custodian of the documents or other material which constitute the record of the proceedings upon which its decision is based.

(f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21002.1, 21081, and 21081.6, Public Resources Code; *Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515; *Cleary v. County of Stanislaus* (1981) 118 Cal.App.3d 348; *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212; *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433.

## **15092. Approval**

(a) After considering the final EIR and in conjunction with making findings under Section 15091, the Lead Agency may decide whether or how to approve or carry out the project.

(b) A public agency shall not decide to approve or carry out a project for which an EIR was prepared unless either:

(1) The project as approved will not have a significant effect on the environment, or

(2) The agency has:

(A) Eliminated or substantially lessened all significant effects on the environment where feasible as shown in findings under Section 15091, and

(B) Determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns as described in Section 15093.

(c) With respect to a project which includes housing development, the public agency shall not reduce the proposed number of housing units as a mitigation measure if it determines that there is another feasible specific mitigation measure available that will provide a comparable level of mitigation.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21002, 21002.1,



21081 and 21159.26, Public Resources Code; *Friends of Mammoth v. Board of Supervisors*, (1972) 8 Cal. App. 3d 247; *San Francisco Ecology Center v. City and County of San Francisco*, (1975) 48 Cal. App. 3d 584; *City of Carmel-by-the-Sea v. Board of Supervisors*, (1977) 71 Cal. App. 3d 84; *Laurel Hills Homeowners Association v. City Council*, (1978) 83 Cal. App. 3d 515.

## **15093. Statement of Overriding Considerations**

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002 and 21081, Public Resources Code; *San Francisco Ecology Center v. City and County of San Francisco* (1975) 48 Cal.App.3d 584; *City of Carmel-by-the-Sea v. Board of Supervisors* (1977) 71 Cal.App.3d 84; *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212; *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433.

## **15094. Notice of Determination**

(a) The lead agency shall file a notice of determination within five working days after deciding to carry out or approve the project.

(b) The notice of determination shall include:

(1) An identification of the project including the project title as identified on the draft EIR, and the location of the project (either by street address and cross street for a project in an urbanized area or by attaching a specific map, preferably a copy of a U.S.G.S. 15' or 7-1/2' topographical map identified by quadrangle name). If the notice of determination is filed with the State Clearinghouse, the State Clearinghouse identification number for the draft EIR shall be provided.

(2) A brief description of the project.

(3) The lead agency's name and the date on which the agency approved the project. If a responsible agency files the notice of determination pursuant to Section 15096(i), the responsible agency's name and date of approval shall also be identified.

(4) The determination of the agency whether the project in its approved form will have a significant effect on the environment.

- (5) A statement that an EIR was prepared and certified pursuant to the provisions of CEQA.
  - (6) Whether mitigation measures were made a condition of the approval of the project, and whether a mitigation monitoring plan/program was adopted.
  - (7) Whether findings were made pursuant to Section 15091.
  - (8) Whether a statement of overriding considerations was adopted for the project.
  - (9) The address where a copy of the final EIR and the record of project approval may be examined.
- (c) If the lead agency is a state agency, the lead agency shall file the notice of determination with the Office of Planning and Research within five working days after approval of the project by the lead agency.
- (d) If the lead agency is a local agency, the local lead agency shall file the notice of determination with the county clerk of the county or counties in which the project will be located, within five working days after approval of the project by the lead agency. If the project requires discretionary approval from any state agency, the local lead agency shall also, within five working days of this approval, file a copy of the notice of determination with the Office of Planning and Research.
- (e) A notice of determination filed with the county clerk shall be available for public inspection and shall be posted within 24 hours of receipt for a period of at least 30 days. Thereafter, the clerk shall return the notice to the local lead agency with a notation of the period during which it was posted. The local lead agency shall retain the notice for not less than 12 months.
- (f) A notice of determination filed with the Office of Planning and Research shall be available for public inspection and shall be posted for a period of at least 30 days. The Office of Planning and Research shall retain each notice for not less than 12 months.
- (g) The filing of the notice of determination pursuant to subdivision (c) above for state agencies and the filing and posting of the notice of determination pursuant to subdivisions (d) and (e) above for local agencies, start a 30-day statute of limitations on court challenges to the approval under CEQA.
- (h) A sample notice of determination is provided in Appendix D. Each public agency may devise its own form, but any such form shall include, at a minimum, the information required by subdivision (b). Public agencies are encouraged to make copies of all notices filed pursuant to this section available in electronic format on the Internet. Such electronic notices are in addition to the posting requirements of the Guidelines and the Public Resources Code.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21108, 21152 and 21167, Public Resources Code; *Citizens of Lake Murray Area Association v. City Council* (1982) 129 Cal. App. 3d 436.

## **15095. Disposition of a Final EIR**

The lead agency shall:

- (a) File a copy of the final EIR with the appropriate planning agency of any city, county, or city and county where significant effects on the environment may occur.

(b) Include the final EIR as part of the regular project report which is used in the existing project review and budgetary process if such a report is used.

(c) Retain one or more copies of the final EIR as public records for a reasonable period of time.

(d) Require the applicant to provide a copy of the certified, final EIR to each responsible agency.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21105, 21151 and 21165, Public Resources Code; County of Inyo v. Yorty, (1973) 32 Cal. App. 3d 795.

## **15096. Process for a Responsible Agency**

(a) General. A Responsible Agency complies with CEQA by considering the EIR or Negative Declaration prepared by the Lead Agency and by reaching its own conclusions on whether and how to approve the project involved. This section identifies the special duties a public agency will have when acting as a Responsible Agency.

(b) Response to Consultation. A Responsible Agency shall respond to consultation by the Lead Agency in order to assist the Lead Agency in preparing adequate environmental documents for the project. By this means, the Responsible Agency will ensure that the documents it will use will comply with CEQA.

(1) In response to consultation, a Responsible Agency shall explain its reasons for recommending whether the Lead Agency should prepare an EIR or Negative Declaration for a project. Where the Responsible Agency disagrees with the Lead Agency's proposal to prepare a Negative Declaration for a project, the Responsible Agency should identify the significant environmental effects which it believes could result from the project and recommend either that an EIR be prepared or that the project be modified to eliminate the significant effects.

(2) As soon as possible, but not longer than 30 days after receiving a Notice of Preparation from the Lead Agency, the Responsible Agency shall send a written reply by certified mail or any other method which provides the agency with a record showing that the notice was received. The reply shall 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. The Lead Agency shall include this information in the EIR.

(c) Meetings. The Responsible Agency shall designate employees or representatives to attend meetings requested by the Lead Agency to discuss the scope and content of the EIR.

(d) Comments on Draft EIRs and Negative Declarations. A Responsible Agency should review and comment on draft EIRs and Negative Declarations for projects which the Responsible Agency would later be asked to approve. 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. The comments shall be limited to those project activities which are within the agency's area of expertise or which are required to be carried out or approved by the agency or which will be subject to the exercise of powers by the agency. Comments shall be as specific as possible and supported by either oral or written documentation.

(e) Decision on Adequacy of EIR or Negative Declaration. If a Responsible Agency believes that the final EIR or Negative Declaration prepared by the Lead Agency is not adequate for use by the Responsible Agency, the Responsible Agency must either:

(1) Take the issue to court within 30 days after the Lead Agency files a Notice of Determination;

- (2) Be deemed to have waived any objection to the adequacy of the EIR or Negative Declaration;
  - (3) Prepare a subsequent EIR if permissible under Section 15162; or
  - (4) Assume the Lead Agency role as provided in Section 15052(a)(3).
- (f) Consider the EIR or Negative Declaration. Prior to reaching a decision on the project, the Responsible Agency must consider the environmental effects of the project as shown in the EIR or Negative Declaration. A subsequent or supplemental EIR can be prepared only as provided in Sections 15162 or 15163.
- (g) Adoption of Alternatives or Mitigation Measures.
- (1) When considering alternatives and mitigation measures, a Responsible Agency is more limited than a Lead Agency. A Responsible Agency has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve.
- (2) When an EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment. With respect to a project which includes housing development, the Responsible Agency shall not reduce the proposed number of housing units as a mitigation measure if it determines that there is another feasible specific mitigation measure available that will provide a comparable level of mitigation.
- (h) Findings. The Responsible Agency shall make the findings required by Section 15091 for each significant effect of the project and shall make the findings in Section 15093 if necessary.
- (i) Notice of Determination. The Responsible Agency should file a Notice of Determination in the same manner as a Lead Agency under Section 15075 or 15094 except that the Responsible Agency does not need to state that the EIR or Negative Declaration complies with CEQA. The Responsible Agency should state that it considered the EIR or Negative Declaration as prepared by a Lead Agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21165, 21080.1, 21080.3, 21080.4, 21082.1, and 21002.1(b) and (d), Public Resources Code.

## **15097. Mitigation Monitoring or Reporting.**

- (a) This section applies when a public agency has made the findings required under paragraph (1) of subdivision (a) of Section 15091 relative to an EIR or adopted a mitigated negative declaration in conjunction with approving a project. In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.
- (b) Where the project at issue is the adoption of a general plan, specific plan, community plan or other plan-level document (zoning, ordinance, regulation, policy), the monitoring plan shall apply to policies and any other portion of the plan that is a mitigation measure or adopted alternative. The monitoring plan may consist of policies included in plan-level documents. The annual report on general plan status

required pursuant to the Government Code is one example of a reporting program for adoption of a city or county general plan.

(c) The public agency may choose whether its program will monitor mitigation, report on mitigation, or both. "Reporting" generally consists of a written compliance review that is presented to the decision making body or authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure. "Monitoring" is generally an ongoing or periodic process of project oversight. There is often no clear distinction between monitoring and reporting and the program best suited to ensuring compliance in any given instance will usually involve elements of both. The choice of program may be guided by the following:

(1) Reporting is suited to projects which have readily measurable or quantitative mitigation measures or which already involve regular review. For example, a report may be required upon issuance of final occupancy to a project whose mitigation measures were confirmed by building inspection.

(2) Monitoring is suited to projects with complex mitigation measures, such as wetlands restoration or archeological protection, which may exceed the expertise of the local agency to oversee, are expected to be implemented over a period of time, or require careful implementation to assure compliance.

(3) Reporting and monitoring are suited to all but the most simple projects. Monitoring ensures that project compliance is checked on a regular basis during and, if necessary after, implementation. Reporting ensures that the approving agency is informed of compliance with mitigation requirements.

(d) Lead and responsible agencies should coordinate their mitigation monitoring or reporting programs where possible. Generally, lead and responsible agencies for a given project will adopt separate and different monitoring or reporting programs. This occurs because of any of the following reasons: the agencies have adopted and are responsible for reporting on or monitoring different mitigation measures; the agencies are deciding on the project at different times; each agency has the discretion to choose its own approach to monitoring or reporting; and each agency has its own special expertise.

(e) At its discretion, an agency may adopt standardized policies and requirements to guide individually adopted monitoring or reporting programs. Standardized policies and requirements may describe, but are not limited to:

(1) The relative responsibilities of various departments within the agency for various aspects of monitoring or reporting, including lead responsibility for administering typical programs and support responsibilities.

(2) The responsibilities of the project proponent.

(3) Agency guidelines for preparing monitoring or reporting programs.

(4) General standards for determining project compliance with the mitigation measures or revisions and related conditions of approval.

(5) Enforcement procedures for noncompliance, including provisions for administrative appeal.

(6) Process for informing staff and decision makers of the relative success of mitigation measures and using those results to improve future mitigation measures.

(f) Where a trustee agency, in timely commenting upon a draft EIR or a proposed mitigated negative declaration, proposes mitigation measures or project revisions for incorporation into a project, that agency, at the same time, shall prepare and submit to the lead or responsible agency a draft monitoring or reporting program for those measures or revisions. The lead or responsible agency may use this information in preparing its monitoring or reporting program.

(g) When a project is of statewide, regional, or areawide importance, any transportation information generated by a required monitoring or reporting program shall be submitted to the transportation planning agency in the region where the project is located and to the California Department of Transportation. Each transportation planning agency and the California Department of Transportation shall adopt guidelines for the submittal of such information.

**Note:** Authority: Section 21083, Public Resources Code. References: Sections 21081.6 and 21081.7, Public Resources Code.



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## **Article 8. Time Limits**

### **Sections 15100 to 15112**

#### **15100. General**

(a) Public agencies shall adopt time limits to govern their implementation of CEQA consistent with this article.

(b) Public agencies should carry out their responsibilities for preparing and reviewing EIRs within a reasonable period of time. The requirement for the preparation of an EIR should not cause undue delays in the processing of applications for permits or other entitlements to use.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000-21176, Public Resources Code.

#### **15101. Review of Application for Completeness**

A Lead Agency or Responsible Agency shall determine whether an application for a permit or other entitlement for use is complete within 30 days from the receipt of the application except as provided in Section 15111. If no written determination of the completeness of the application is made within that period, the application will be deemed complete on the 30th day.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21083, Public Resources Code; Section 65943, Government Code.

#### **15102. Initial Study**

The Lead Agency shall determine within 30 days after accepting an application as complete whether it intends to prepare an EIR or a Negative Declaration or use a previously prepared EIR or Negative Declaration except as provided in Section 15111. The 30 day period may be extended 15 days upon the consent of the lead agency and the project applicant.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.2, Public Resources Code.

### **15103. Response to Notice of Preparation**

Responsible and Trustee Agencies, and the Office of Planning and Research shall provide a response to a Notice of Preparation to the Lead Agency within 30 days after receipt of the notice. If they fail to reply within the 30 days with either a response or a well justified request for additional time, the Lead Agency may assume that none of those entities have a response to make and may ignore a late response.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.4, Public Resources Code.

### **15104. Convening of Meetings**

The Lead Agency shall convene a meeting with agency representatives to discuss the scope and content of the environmental information a Responsible Agency will need in the EIR as soon as possible but no later than 30 days after receiving a request for the meeting. The meeting may be requested by the Lead Agency, a Responsible Agency, a Trustee Agency, the Office of Planning and Research or by the project applicant.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.4, Public Resources Code.

### **15105. Public Review Period for a Draft EIR or a Proposed Negative Declaration or Mitigated Negative Declaration**

(a) The public review period for a draft EIR shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances. When a draft EIR is submitted to the State Clearinghouse for review by state agencies, the public review period shall not be less than 45 days, unless a shorter period, not less than 30 days, is approved by the State Clearinghouse.

(b) The public review period for a proposed negative declaration or mitigated negative declaration shall be not less than 20 days. When a proposed negative declaration or mitigated negative declaration is submitted to the State Clearinghouse for review by state agencies, the public review period shall not be less than 30 days, unless a shorter period, not less than 20 days, is approved by the State Clearinghouse.

(c) If a draft EIR or proposed negative declaration or mitigated negative declaration has been submitted to the State Clearinghouse for review by state agencies, the public review period shall be at least as long as the review period established by the State Clearinghouse. The public review period and the state agency review period may, but are not required to, begin and end at the same time. Day one of the state review period shall be the date that the State Clearinghouse distributes the document to state agencies.

(d) A shortened Clearinghouse review period may be granted in accordance with the provisions of Appendix K and the following principles:

(1) A shortened review shall not be granted for any proposed project of statewide, areawide, or regional environmental significance.

(2) Requests for shortened review periods shall be submitted to the Clearinghouse in writing by the decision-making body of the lead agency, or a representative authorized by ordinance, resolution, or



delegation of the decision-making body.

(3) The lead agency has contacted responsible and trustee agencies and they have agreed to the shortened review period.

(e) The State Clearinghouse shall distribute a draft EIR or proposed negative declaration or mitigated negative declaration within three working days after the date of receipt if the submittal is determined by the State Clearinghouse to be complete.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21091 and 21092, Public Resources Code; *People v. County of Kern* (1974) 39 Cal.App.3d 830.

## **15106. [Deleted]**

## **15107. Completion of Negative Declaration**

With private projects involving the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies, the negative declaration must be completed and approved within 180 days from the date when the lead agency accepted the application as complete.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21100.2 and 21151.5, Public Resources Code.

## **15108. Completion and Certification of EIR**

With a private project, the Lead Agency shall complete and certify the final EIR as provided in Section 15090 within one year after the date when the Lead Agency accepted the application as complete. Lead Agency procedures may provide that the one-year time limit may be extended once for a period of not more than 90 days upon consent of the Lead Agency and the applicant.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21100.2 and 21151.5, Public Resources Code; Government Code Section 65950.

## **15109. Suspension of Time Periods**

An unreasonable delay by an applicant in meeting requests by the Lead Agency necessary for the preparation of a Negative Declaration or an EIR shall suspend the running of the time periods described in Sections 15107 and 15108 for the period of the unreasonable delay. Alternatively, an agency may disapprove a project application where there is unreasonable delay in meeting requests. The agency may allow a renewed application to start at the same point in the process where the application was when it was disapproved.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21100.2 and 21151.5, Public Resources Code; *Carmel Valley View, Ltd. v. Maggini*, 91 Cal. App. 3d 318.

## **15110. Projects with Federal Involvement**

(a) At the request of an applicant, the Lead Agency may waive the one-year time limit for completing and certifying a final EIR or the 105-day period for completing a Negative Declaration if:

- (1) The project will be subject to CEQA and to the National Environmental Policy Act,
- (2) Additional time will be required to prepare a combined EIR-EIS or combined Negative Declaration-Finding of No Significant Impact as provided in Section 15221, and
- (3) The time required to prepare the combined document will be shorter than the time required to prepare the documents separately.

(b) The time limits for taking final action on a permit for a development project may also be waived where a combined EIR-EIS will be prepared.

(c) The time limits for processing permits for development projects under Government Code Sections 65950-65960 shall not apply if federal statutes or regulations require time schedules which exceed the state time limits. In this event, any state agencies involved shall make a final decision on the project within the federal time limits.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21083.6 and 21083.7, Public Resources Code; Sections 65951 and 65954, Government Code; Public Law 91-190 as amended, 42 U.S.C.A. 4321-4347.

## **15111. Projects with Short Time Periods for Approval**

(a) A few statutes or ordinances require agencies to make decisions on permits within time limits that are so short that review of the project under CEQA would be difficult. To enable the Lead Agency to comply with both the permit statute and CEQA, the Lead Agency shall deem an application for a project not received for filing under the permit statute or ordinance until such time as progress toward completing the environmental documentation required by CEQA is sufficient to enable the Lead Agency to finish the CEQA process within the short permit time limit. This section will apply where all of the following conditions are met:

- (1) The enabling legislation for a program, other than Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, requires the Lead Agency to take action on an application within a specified period of time that is six months or less, and
- (2) The enabling legislation provides that the project will become approved by operation of law if the Lead Agency fails to take any action within such specified time period, and
- (3) The project involves the issuance of a lease, permit, license, certificate, or other entitlement for use.

(b) Examples of time periods subject to this section include, but are not limited to:

(1) Action on a timber harvesting plan by the Director of Forestry within 15 days pursuant to Section 4582.7 of the Public Resources Code,

(2) Action on a permit by the San Francisco Bay Conservation and Development Commission within 90 days pursuant to Section 66632(f) of the Government Code, and

(3) Action on an oil and gas permit by the Division of Oil and Gas within 10 days pursuant to Sections 3203 and 3724 of the Public Resources Code.

(c) In any case described in this section, the environmental document shall be completed or certified and the decision on the project shall be made within the period established under the Permit Streamlining Act (Government Code Sections 65920, et seq.).

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21100.2 and 21151.5, Public Resources Code; *N.R.D.C. v. Arcata National Corp.* (1976) 59 Cal.App.3d 959.

## **15112. Statutes of Limitations**

(a) CEQA provides unusually short statutes of limitations on filing court challenges to the approval of projects under the Act.

(b) The statute of limitations periods are not public review periods or waiting periods for the person whose project has been approved. The project sponsor may proceed to carry out the project as soon as the necessary permits have been granted. The statute of limitations cuts off the right of another person to file a court action challenging approval of the project after the specified time period has expired.

(c) The statute of limitations periods under CEQA are as follows:

(1) Where the public agency filed a Notice of Determination in compliance with Sections 15075 or 15094, 30 days after the filing of the notice and the posting on a list of such notices.

(2) Where the public agency filed a Notice of Exemption in compliance with Section 15062, 35 days after the filing of the notice and the posting on a list of such notices.

(3) Where a certified state regulatory agency files a Notice of Decision in compliance with Public Resources Code Section 21080.5(d)(2)(E), 30 days after the filing of the notice.

(4) Where the Secretary for Resources certifies a state environmental regulatory agency under Public Resources Code Section 21080.5, the certification may be challenged only during the 30 days following the certification decision.

(5) Where none of the other statute of limitations periods in this section apply, 180 days after either:

(A) The public agency's decision to carry out or approve the project, or

(B) Commencement of the project if the project is undertaken without a formal decision by the public agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21167, 21167.3, and 21080.5, Public Resources Code; *Kriebel v. City Council*, 112 Cal. App. 3d 693; *Citizens of Lake Murray Area Association v. City Council*, (1982) 129 Cal. App. 3d 436.

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## **Article 9. Contents of Environmental Impact Reports**

### **Sections 15120 to 15132**

#### **15120. General**

- (a) Environmental Impact Reports shall contain the information outlined in this article, but the format of the document may be varied. Each element must be covered, and when these elements are not separated into distinct sections, the document shall state where in the document each element is discussed.
- (b) The EIR may be prepared as a separate document, as part of a general plan, or as part of a project report. If prepared as a part of the project report, it must still contain one separate and distinguishable section providing either analysis of all the subjects required in an EIR or, as a minimum, a table showing where each of the subjects is discussed. When the Lead Agency is a state agency, the EIR shall be included as part of the regular project report if such a report is used in the agency's existing review and budgetary process.
- (c) Draft EIRs shall contain the information required by Sections 15122 through 15131. Final EIRs shall contain the same information and the subjects described in Section 15132.
- (d) No document prepared pursuant to this article that is available for public examination shall include a "trade secret" as defined in Section 6254.7 of the Government Code, information about the location of archaeological sites and sacred lands, or any other information that is subject to the disclosure restrictions of Section 6254 of the Government Code.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21100, 21105 and 21160, Public Resources Code.

#### **15121. Informational Document**

- (a) An EIR is an informational document which will inform public agency decision-makers and the public generally of the significant environmental effect of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The public agency shall consider the information in the EIR along with other information which may be presented to the agency.
- (b) While the information in the EIR does not control the agency's ultimate discretion on the project, the agency must respond to each significant effect identified in the EIR by making findings under Section 15091 and if necessary by making a statement of overriding consideration under Section 15093.
- (c) The information in an EIR may constitute substantial evidence in the record to support the agency's action on the project if its decision is later challenged in court.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21061, Public Resources Code; *Carmel Valley View, Ltd. v. Board of Supervisors*, (1976) 58 Cal. App. 3d 817.

## **15122. Table of Contents or Index**

An EIR shall contain at least a table of contents or an index to assist readers in finding the analysis of different subjects and issues.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21061, Public Resources Code.

## **15123. Summary**

(a) An EIR shall contain a brief summary of the proposed actions and its consequences. The language of the summary should be as clear and simple as reasonably practical.

(b) The summary shall identify:

(1) Each significant effect with proposed mitigation measures and alternatives that would reduce or avoid that effect;

(2) Areas of controversy known to the Lead Agency including issues raised by agencies and the public; and

(3) Issues to be resolved including the choice among alternatives and whether or how to mitigate the significant effects.

(c) The summary should normally not exceed 15 pages.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21061, Public Resources Code.

## **15124. Project Description**

The description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.

(a) The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map.

(b) A statement of objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project..

(c) A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.

(d) A statement briefly describing the intended uses of the EIR.

- (1) This statement shall include, to the extent that the information is known to the Lead Agency,
- (A) A list of the agencies that are expected to use the EIR in their decision-making, and
  - (B) A list of permits and other approvals required to implement the project.
  - (C) A list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements.
- (2) If a public agency must make more than one decision on a project, all its decisions subject to CEQA should be listed, preferably in the order in which they will occur. On request, the Office of Planning and Research will provide assistance in identifying state permits for a project.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.3, 21080.4, 21165, 21166, and 21167.2, Public Resources Code; *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185.

## **15125. Environmental Setting**

- (a) An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives.
- (b) When preparing an EIR for a plan for the reuse of a military base, lead agencies should refer to the special application of the principle of baseline conditions for determining significant impacts contained in Section 15229.
- (c) Knowledge of the regional setting is critical to the assessment of environmental impacts. Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context.
- (d) The EIR shall discuss any inconsistencies between the proposed project and applicable general plans and regional plans. Such regional plans include, but are not limited to, the applicable air quality attainment or maintenance plan or State Implementation Plan, area-wide waste treatment and water quality control plans, regional transportation plans, regional housing allocation plans, habitat conservation plans, natural community conservation plans and regional land use plans for the protection of the Coastal Zone, Lake Tahoe Basin, San Francisco Bay, and Santa Monica Mountains.
- (e) Where a proposed project is compared with an adopted plan, the analysis shall examine the existing physical conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced as well as the potential future conditions discussed in the plan.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061 and 21100, Public Resources Code; *E.P.I.C. v. County of El Dorado* (1982) 131 Cal.App.3d 350; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713; *Bloom v. McGurk*

(1994) 26 Cal.App.4th 1307.

## **15126. Consideration and Discussion of Environmental Impacts**

All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation. The subjects listed below shall be discussed as directed in Sections 15126.2, 15126.4 and 15126.6, preferably in separate sections or paragraphs of the EIR. If they are not discussed separately, the EIR shall include a table showing where each of the subjects is discussed.

- (a) Significant Environmental Effects of the Proposed Project.
- (b) Significant Environmental Effects Which Cannot be Avoided if the Proposed Project is Implemented.
- (c) Significant Irreversible Environmental Changes Which Would be Involved in the Proposed Project Should it be Implemented.
- (d) Growth-Inducing Impact of the Proposed Project.
- (e) The Mitigation Measures Proposed to Minimize the Significant Effects.
- (f) Alternatives to the Proposed Project.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21003, 21100, and 21081.6, Public Resources Code; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; and *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112.

### **15126.2 Consideration and Discussion of Significant Environmental Impacts.**

(a) The Significant Environmental Effects of the Proposed Project. An EIR shall identify and focus on the significant environmental effects of the proposed project. In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced. Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), health and safety problems caused by the physical changes, and other aspects of the resource base such as water, historical resources, scenic quality, and public services. The EIR shall also analyze any significant environmental effects the project might cause by bringing development and people into the area affected. For example, an EIR on a subdivision astride an active fault line should identify as a significant effect the seismic hazard to future occupants of the subdivision. The subdivision would have the effect of attracting people to the location and exposing them to the hazards found there.

(b) Significant Environmental Effects Which Cannot be Avoided if the Proposed Project is Implemented. Describe any significant impacts, including those which can be mitigated but not reduced to a level of insignificance. Where there are impacts that cannot be alleviated without imposing an alternative design,

their implications and the reasons why the project is being proposed, notwithstanding their effect, should be described.

(c) Significant Irreversible Environmental Changes Which Would be Caused by the Proposed Project Should it be Implemented. Uses of nonrenewable resources during the initial and continued phases of the project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary impacts and, particularly, secondary impacts (such as highway improvement which provides access to a previously inaccessible area) generally commit future generations to similar uses. Also irreversible damage can result from environmental accidents associated with the project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified.

(d) Growth-Inducing Impact of the Proposed Project. Discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth (a major expansion of a waste water treatment plant might, for example, allow for more construction in service areas). Increases in the population may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects. Also discuss the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21002, 21003, and 21100, Public Resources Code; *Citizens of Goleta Valley v. Board of Supervisors*, (1990) 52 Cal.3d 553; *Laurel Heights Improvement Association v. Regents of the University of California*, (1988) 47 Cal.3d 376; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; and *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112; *Goleta Union School Dist. v. Regents of the Univ. Of Calif* (1995) 37 Cal. App.4th 1025.

## **15126.4 Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects.**

(a) Mitigation Measures in General.

(1) An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.

(A) The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

(B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.

(C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix F.

(D) If a mitigation measure would cause one or more significant effects in addition to those that would be



caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (*Stevens v. City of Glendale*(1981) 125 Cal.App.3d 986.)

(2) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.

(3) Mitigation measures are not required for effects which are not found to be significant.

(4) Mitigation measures must be consistent with all applicable constitutional requirements, including the following:

(A) There must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); and

(B) The mitigation measure must be "roughly proportional" to the impacts of the project. *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Where the mitigation measure is an *ad hoc* exaction, it must be "roughly proportional" to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854.

(5) If the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency's determination.

(b) Mitigation Measures Related to Impacts on Historical Resources.

(1) Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of the historical resource will be conducted in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer, the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus is not significant.

(2) In some circumstances, documentation of an historical resource, by way of historic narrative, photographs or architectural drawings, as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur.

(3) Public agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors shall be considered and discussed in an EIR for a project involving such an archaeological site:

(A) Preservation in place is the preferred manner of mitigating impacts to archaeological sites. Preservation in place maintains the relationship between artifacts and the archaeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.

(B) Preservation in place may be accomplished by, but is not limited to, the following:

1. Planning construction to avoid archaeological sites;
2. Incorporation of sites within parks, greenspace, or other open space;
3. Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site.
4. Deeding the site into a permanent conservation easement.

(C) When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code. If an artifact must be removed during project excavation or testing, curation may be an appropriate mitigation.

(D) Data recovery shall not be required for an historical resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center.

**Note:** Authority: Section 21083, Public Resources Code. Reference: Sections 5020.5, 21002, 21003, 21100 and 21084.1, Public Resources Code; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112; and *Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011.

## **15126.6 Consideration and Discussion of Alternatives to the Proposed Project.**

(a) Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553 and *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376).

(b) Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

(c) Selection of a range of reasonable alternatives. The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination. Additional information explaining the choice of alternatives may be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.

(d) Evaluation of alternatives. The EIR shall include sufficient information about each alternative to allow

meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed. (*County of Inyo v. City of Los Angeles* (1981) 124 Cal.App.3d 1).

(e) "No project" alternative.

(1) The specific alternative of "no project" shall also be evaluated along with its impact. The purpose of describing and analyzing a no project alternative is to allow decisionmakers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. The no project alternative analysis is not the baseline for determining whether the proposed project's environmental impacts may be significant, unless it is identical to the existing environmental setting analysis which does establish that baseline (see Section 15125).

(2) The "no project" analysis shall discuss the existing conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. If the environmentally superior alternative is the "no project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.

(3) A discussion of the "no project" alternative will usually proceed along one of two lines:

(A) When the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the "no project" alternative will be the continuation of the existing plan, policy or operation into the future. Typically this is a situation where other projects initiated under the existing plan will continue while the new plan is developed. Thus, the projected impacts of the proposed plan or alternative plans would be compared to the impacts that would occur under the existing plan.

(B) If the project is other than a land use or regulatory plan, for example a development project on identifiable property, the "no project" alternative is the circumstance under which the project does not proceed. Here the discussion would compare the environmental effects of the property remaining in its existing state against environmental effects which would occur if the project is approved. If disapproval of the project under consideration would result in predictable actions by others, such as the proposal of some other project, this "no project" consequence should be discussed. In certain instances, the no project alternative means "no build" wherein the existing environmental setting is maintained. However, where failure to proceed with the project will not result in preservation of existing environmental conditions, the analysis should identify the practical result of the project's non-approval and not create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment.

(C) After defining the no project alternative using one of these approaches, the lead agency should proceed to analyze the impacts of the no project alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.

(f) Rule of reason. The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making.

(1) Feasibility. Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent). No one of these factors establishes a fixed limit on the scope of reasonable alternatives. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; see *Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal.App.4th 1745, 1753, fn. 1).

(2) Alternative locations.

(A) Key question. The key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.

(B) None feasible. If the lead agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion, and should include the reasons in the EIR. For example, in some cases there may be no feasible alternative locations for a geothermal plant or mining project which must be in close proximity to natural resources at a given location.

(C) Limited new analysis required. Where a previous document has sufficiently analyzed a range of reasonable alternative locations and environmental impacts for projects with the same basic purpose, the lead agency should review the previous document. The EIR may rely on the previous document to help it assess the feasibility of potential project alternatives to the extent the circumstances remain substantially the same as they relate to the alternative. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 573).

(3) An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative. (*Residents Ad Hoc Stadium Committee v. Board of Trustees* (1979) 89 Cal. App.3d 274).

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21002, 21002.1, 21003, and 21100, Public Resources Code; *Citizens of Goleta Valley v. Board of Supervisors*, (1990) 52 Cal.3d 553; *Laurel Heights Improvement Association v. Regents of the University of California*, (1988) 47 Cal.3d 376; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; and *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112.

## **15127. Limitations on Discussion of Environmental Impact**

The information required by Section 15126.2(c) concerning irreversible changes, need be included only in EIRs prepared in connection with any of the following activities:

- (a) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency;
- (b) The adoption by a Local Agency Formation Commission of a resolution making determinations; or
- (c) A project which will be subject to the requirement for preparing an environmental impact statement pursuant to the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21100.1, Public Resources Code.

## **15128. Effects Not Found to be Significant**

An EIR shall contain a statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and were therefore not discussed in detail in the EIR. Such a statement may be contained in an attached copy of an Initial Study.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21100, Public Resources Code.

## **15129. Organizations and Persons Consulted**

The EIR shall identify all federal, state, or local agencies, other organizations, and private individuals consulted in preparing the draft EIR, and the persons, firm, or agency preparing the draft EIR, by contract or other authorization.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21104 and 21153, Public Resources Code.

## **15130. Discussion of Cumulative Impacts**

(a) An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in section 15065(a)(3). Where a lead agency is examining a project with an incremental effect that is not "cumulatively considerable," a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

(1) As defined in Section 15355, a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR should not discuss impacts which do not result in part from the project evaluated in the EIR.

(2) When the combined cumulative impact associated with the project's incremental effect and the effects of other projects is not significant, the EIR shall briefly indicate why the cumulative impact is not significant and is not discussed in further detail in the EIR. A lead agency shall identify facts and analysis supporting the lead agency's conclusion that the cumulative impact is less than significant.

(3) An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. The lead agency shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable.

(b) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact. The following elements are necessary to an adequate discussion of significant cumulative impacts:

(1) Either:

(A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or

(B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or areawide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.

(2) When utilizing a list, as suggested in paragraph (1) of subdivision (b), factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.

(3) Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.

(4) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available; and

(5) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.

(c) With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.

(d) Previously approved land use documents such as general plans, specific plans, and local coastal plans may be used in cumulative impact analysis. A pertinent discussion of cumulative impacts contained in one or more previously certified EIRs may be incorporated by reference pursuant to the provisions for tiering and program EIRs. No further cumulative impacts analysis is required when a project is consistent with a general, specific, master or comparable programmatic plan where the lead agency determines that the regional or areawide cumulative impacts of the proposed project have already been adequately addressed, as defined in section 15152(f), in a certified EIR for that plan.

(e) If a cumulative impact was adequately addressed in a prior EIR for a community plan, zoning action, or general plan, and the project is consistent with that plan or action, then an EIR for such a project should not further analyze that cumulative impact, as provided in Section 15183(j).

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21083(b), 21093, 21094 and 21100, Public Resources Code; *Whitman v. Board of Supervisors*, (1979) 88 Cal. App. 3d 397; *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692; *Laurel Heights Homeowners Association v. Regents of the University of California* (1988) 47 Cal.3d 376; *Sierra Club v. Gilroy* (1990) 220 Cal.App.3d 30; *Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal.App.3d 421; *Concerned Citizens of South Cent. Los Angeles v. Los Angeles Unified Sch. Dist.* (1994) 24 Cal.App.4th 826; *Las Virgenes Homeowners Fed'n v. County of Los Angeles* (1986) 177 Cal.App.3d 300; *San Joaquin Raptor/Wildlife Rescue Ctr v. County of Stanislaus* (1994) 27 Cal.App.4th 713; *Fort Mojave Indian Tribe v. Cal. Dept. Of Health Services* (1995) 38 Cal.App.4th 1574; and *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98.

## **15131. Economic and Social Effects**

Economic or social information may be included in an EIR or may be presented in whatever form the agency desires.

(a) Economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes.

(b) Economic or social effects of a project may be used to determine the significance of physical changes caused by the project. For example, if the construction of a new freeway or rail line divides an existing community, the construction would be the physical change, but the social effect on the community would be the basis for determining that the effect would be significant. As an additional example, if the construction of a road and the resulting increase in noise in an area disturbed existing religious practices in the area, the disturbance of the religious practices could be used to determine that the construction and use of the road and the resulting noise would be significant effects on the environment. The religious practices would need to be analyzed only to the extent to show that the increase in traffic and noise would conflict with the religious practices. Where an EIR uses economic or social effects to determine that a physical change is significant, the EIR shall explain the reason for determining that the effect is significant.

(c) Economic, social, and particularly housing factors shall be considered by public agencies together with technological and environmental factors in deciding whether changes in a project are feasible to reduce or avoid the significant effects on the environment identified in the EIR. If information on these factors is not contained in the EIR, the information must be added to the record in some other manner to allow the agency to consider the factors in reaching a decision on the project.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21001(e) and (g), 21002, 21002.1, 21060.5, 21080.1, 21083(c), and 21100, Public Resources Code.

## **15132. Contents of Final Environmental Impact Report**

The Final EIR shall consist of:

(a) The draft EIR or a revision of the draft.

(b) Comments and recommendations received on the draft EIR either verbatim or in summary.

(c) A list of persons, organizations, and public agencies commenting on the draft EIR.

(d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process.

(e) Any other information added by the Lead Agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21100, Public Resources Code.



*Title 14. California Code of Regulations*  
**Chapter 3. Guidelines for Implementation of the  
California Environmental Quality Act**

## **Article 10. Considerations in Preparing EIRs and Negative Declarations**

### **Sections 15140 to 15155**

#### **15140. Writing**

EIRs shall be written in plain language and may use appropriate graphics so that decision-makers and the public can rapidly understand the documents.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21003 and 21100, Public Resources Code.

#### **15141. Page Limits**

The text of draft EIRs should normally be less than 150 pages and for proposals of unusual scope or complexity should normally be less than 300 pages.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21100, Public Resources Code.

#### **15142. Interdisciplinary Approach**

An EIR shall be prepared using an interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the consideration of qualitative as well as quantitative factors. The interdisciplinary analysis shall be conducted by competent individuals, but no single discipline shall be designated or required to undertake this evaluation.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference Sections 21000, 21001, and 21100, Public Resources Code.

#### **15143. Emphasis**

The EIR shall focus on the significant effects on the environment. The significant effects should be discussed with emphasis in proportion to their severity and probability of occurrence. Effects dismissed in



an Initial Study as clearly insignificant and unlikely to occur need not be discussed further in the EIR unless the Lead Agency subsequently receives information inconsistent with the finding in the Initial Study. A copy of the Initial Study may be attached to the EIR to provide the basis for limiting the impacts discussed.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21003, 21061, and 21100, Public Resources Code.

## **15144. Forecasting**

Drafting an EIR or preparing a Negative Declaration necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21003, 21061, and 21100, Public Resources Code.

## **15145. Speculation**

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 discussion of the impact.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21003, 21061, and 21100, Public Resources Code; *Topanga Beach Renters Association v. Department of General Services*, (1976) 58 Cal. App. 3d 712.

## **15146. Degree of Specificity**

The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.

(a) An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy.

(b) An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21003, 21061, and 21100, Public Resources Code. Formerly Section 15147.

## **15147. Technical Detail**

The information contained in an EIR shall include summarized technical data, maps, plot plans, diagrams, and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public. Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR. Appendices to the EIR may be prepared in volumes separate from the basic EIR document, but shall be readily available for public examination and shall be submitted to all clearinghouses which assist in public review.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21003, 21061, and 21100, Public Resources Code.

## **15148. Citation**

Preparation of EIRs is dependent upon information from many sources, including engineering project reports and many scientific documents relating to environmental features. These documents should be cited but not included in the EIR. The EIR shall cite all documents used in its preparation including, where possible, the page and section number of any technical reports which were used as the basis for any statements in the EIR.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21003, 21061, and 21100, Public Resources Code.

## **15149. Use of Registered Professionals in Preparing EIRs**

(a) A number of statutes provide that certain professional services can be provided to the public only by individuals who have been registered by a registration board established under California law. Such statutory restrictions apply to a number of professions including but not limited to engineering, land surveying, forestry, geology, and geophysics.

(b) In its intended usage, an EIR is not a technical document that can be prepared only by a registered professional. The EIR serves as a public disclosure document explaining the effects of the proposed project on the environment, alternatives to the project, and ways to minimize adverse effects and to increase beneficial effects. As a result of information in the EIR, the Lead Agency should establish requirements or conditions on project design, construction, or operation in order to protect or enhance the environment. State statutes may provide that only registered professionals can prepare technical studies which will be used in or which will control the detailed design, construction, or operation of the proposed project and which will be prepared in support of an EIR.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21003, 21061, and 21100, Public Resources Code.

## **15150. Incorporation by Reference**

(a) An EIR or Negative Declaration may incorporate by reference all or portions of another document which is a matter of public record or is generally available to the public. Where all or part of another

document is incorporated by reference, the incorporated language shall be considered to be set forth in full as part of the text of the EIR or Negative Declaration.

(b) Where part of another document is incorporated by reference, such other document shall be made available to the public for inspection at a public place or public building. The EIR or Negative Declaration shall state where the incorporated documents will be available for inspection. At a minimum, the incorporated document shall be made available to the public in an office of the Lead Agency in the county where the project would be carried out or in one or more public buildings such as county offices or public libraries if the Lead Agency does not have an office in the county.

(c) Where an EIR or Negative Declaration uses incorporation by reference, the incorporated part of the referenced document shall be briefly summarized where possible or briefly described if the data or information cannot be summarized. The relationship between the incorporated part of the referenced document and the EIR shall be described.

(d) Where an agency incorporates information from an EIR that has previously been reviewed through the state review system, the state identification number of the incorporated document should be included in the summary or designation described in subdivision (c).

(e) Examples of materials that may be incorporated by reference include but are not limited to:

(1) A description of the environmental setting from another EIR.

(2) A description of the air pollution problems prepared by an air pollution control agency concerning a process involved in the project.

(3) A description of the city or county general plan that applies to the location of the project.

(f) Incorporation by reference is most appropriate for including long, descriptive, or technical materials that provide general background but do not contribute directly to the analysis of the problem at hand.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference Sections 21003, 21061, and 21100, Public Resources Code.

## **15151. Standards for Adequacy of an EIR**

An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061 and 21100, Public Resources Code; *San Francisco Ecology Center v. City and County of San Francisco*, (1975) 48 Cal. App. 3d 584.

## **15152. Tiering**

(a) "Tiering" refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower

projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later project.

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(b) Agencies are encouraged to tier the environmental analyses which they prepare for separate but related projects including general plans, zoning changes, and development projects. This approach can eliminate repetitive discussions of the same issues and focus the later EIR or negative declaration on the actual issues ripe for decision at each level of environmental review. Tiering is appropriate when the sequence of analysis is from an EIR prepared for a general plan, policy, or program to an EIR or negative declaration for another plan, policy, or program of lesser scope, or to a site-specific EIR or negative declaration. Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental effects of the project and does not justify deferring such analysis to a later tier EIR or negative declaration. However, the level of detail contained in a first tier EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed.

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(c) Where a lead agency is using the tiering process in connection with an EIR for a large-scale planning approval, such as a general plan or component thereof (e.g., an area plan or community plan), the development of detailed, site-specific information may not be feasible but can be deferred, in many instances, until such time as the lead agency prepares a future environmental document in connection with a project of a more limited geographical scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand.

(d) Where an EIR has been prepared and certified for a program, plan, policy, or ordinance consistent with the requirements of this section, any lead agency for a later project pursuant to or consistent with the program, plan, policy, or ordinance should limit the EIR or negative declaration on the later project to effects which:

(1) Were not examined as significant effects on the environment in the prior EIR; or

(2) Are susceptible to substantial reduction or avoidance by the choice of specific revisions in the project, by the imposition of conditions, or other means.

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(e) Tiering under this section shall be limited to situations where the project is consistent with the general plan and zoning of the city or county in which the project is located, except that a project requiring a rezone to achieve or maintain conformity with a general plan may be subject to tiering.

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(f) A later EIR shall be required when the initial study or other analysis finds that the later project may cause significant effects on the environment that were not adequately addressed in the prior EIR. A negative declaration shall be required when the provisions of Section 15070 are met.

(1) Where a lead agency determines that a cumulative effect has been adequately addressed in the prior EIR, that effect is not treated as significant for purposes of the later EIR or negative declaration, and need not be discussed in detail.

(2) When assessing whether there is a new significant cumulative effect, the lead agency shall consider whether the incremental effects of the project would be considerable when viewed in the context of past, present, and probable future projects. At this point, the question is not whether there is a significant cumulative impact, but whether the effects of the project are cumulatively considerable. For a discussion on how to assess whether project impacts are cumulatively considerable, see Section 15064(i).

(3) Significant environmental effects have been "adequately addressed" if the lead agency determines that:

(A) they have been mitigated or avoided as a result of the prior environmental impact report and findings adopted in connection with that prior environmental report; or

(B) they have been examined at a sufficient level of detail in the prior environmental impact report to

enable those effects to be mitigated or avoided by site specific revisions, the imposition of conditions, or by other means in connection with the approval of the later project.

(g) When tiering is used, the later EIRs or negative declarations shall refer to the prior EIR and state where a copy of the prior EIR may be examined. The later EIR or negative declaration should state that the lead agency is using the tiering concept and that it is being tiered with the earlier EIR.

(h) There are various types of EIRs that may be used in a tiering situation. These include, but are not limited to, the following:

(1) General plan EIR (Section 15166).

(2) Staged EIR (Section 15167).

(3) Program EIR (Section 15168).

(4) Master EIR (Section 15175).

(5) Multiple-family residential development / residential and commercial or retail mixed-use development (Section 15179.5).

(6) Redevelopment project (Section 15180).

(7) Projects consistent with community plan, general plan, or zoning (Section 15183).

**Note:** Authority: Section 21083, Public Resources Code. Reference: Sections 21003, 21061, 21093, 21094, 21100, and 21151, Public Resources Code; *Stanislaus Natural Heritage Project, Sierra Club v. County of Stanislaus* (1996) 48 Cal.App.4th 182; *Al Larson Boat Shop, Inc. v. Board of Harbor Commissioners* (1993) 18 Cal.App. 4th 729; and *Sierra Club v. County of Sonoma* (1992) 6 Cal.App. 4th 1307.

### **15153. Use of an EIR from an Earlier Project**

(a) The Lead Agency may employ a single EIR to describe more than one project, if such projects are essentially the same in terms of environmental impact. Further, the Lead Agency may use an earlier EIR prepared in connection with an earlier project to apply to a later project, if the circumstances of the projects are essentially the same.

(b) When a Lead Agency proposes to use an EIR from an earlier project as the EIR for a separate, later project, the Lead Agency shall use the following procedures:

(1) The Lead Agency shall review the proposed project with an Initial Study, using incorporation by reference if necessary, to determine whether the EIR would adequately describe:

(A) The general environmental setting of the project,

(B) The significant environmental impacts of the project, and

(C) Alternatives and mitigation measures related to each significant effect.

(2) If the Lead Agency believes that the EIR would meet the requirements of subdivision (1), it shall provide public review as provided in Section 15087 stating that it plans to use the previously prepared

EIR as the draft EIR for this project. The notice shall include as a minimum:

- (A) An identification of the project with a brief description;
  - (B) A statement that the agency plans to use a certain EIR prepared for a previous project as the EIR for this project;
  - (C) A listing of places where copies of the EIR may be examined; and
  - (D) A statement that the key issues involving the EIR are whether the EIR should be used for this project and whether there are any additional, reasonable alternatives or mitigation measures that should be considered as ways of avoiding or reducing the significant effects of the project.
- (3) The Lead Agency shall prepare responses to comments received during the review period.
- (4) Before approving the project, the decision-maker in the Lead Agency shall:
- (A) Consider the information in the EIR including comments received during the review period and responses to those comments,
  - (B) Decide either on its own or on a staff recommendation whether the EIR is adequate for the project at hand, and
  - (C) Make or require certification to be made as described in Section 15090.
  - (D) Make findings as provided in Sections 15091 and 15093 as necessary.
- (5) After making a decision on the project, the Lead Agency shall file a Notice of Determination.
- (c) An EIR prepared for an earlier project may also be used as part of an Initial Study to document a finding that a later project will not have a significant effect. In this situation a Negative Declaration will be prepared.
  - (d) An EIR prepared for an earlier project shall not be used as the EIR for a later project if any of the conditions described in Section 15162 would require preparation of a subsequent or supplemental EIR.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21100, 21151, and 21165, Public Resources Code.

## **15154. Projects Near Airports**

- (a) When a lead agency prepares an EIR for a project within the boundaries of a comprehensive airport land use plan or, if a comprehensive airport land use plan has not been adopted for a project within two nautical miles of a public airport or public use airport, the agency shall utilize the Airport Land Use Planning Handbook published by Caltrans' Division of Aeronautics to assist in the preparation of the EIR relative to potential airport-related safety hazards and noise problems.
- (b) A lead agency shall not adopt a negative declaration or mitigated negative declaration for a project described in subdivision (a) unless the lead agency considers whether the project will result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21096, Public Resources Code.

## **§ 15155. City or County Consultation with Water Agencies.**

(a) The following definitions are applicable to this section.

(1) A “water-demand project” means:

(A) A residential development of more than 500 dwelling units.

(B) A shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space.

(C) A commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space.

(D) A hotel or motel, or both, having more than 500 rooms.

(E) An industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area.

(F) A mixed-use project that includes one or more of the projects specified in subdivisions (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (a)(1)(E), and (a)(1)(G) of this section.

(G) A project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project.

(H) For public water systems with fewer than 5,000 service connections, a project that meets the following criteria:

1. A proposed residential, business, commercial, hotel or motel, or industrial development that would account for an increase of 10 percent or more in the number of a public water system's existing service connections; or

2. A mixed-use project that would demand an amount of water equivalent to, or greater than, the amount of water required by residential development that would represent an increase of 10 percent or more in the number of the public water system's existing service connections.

(2) "Public water system" means a system for the provision of piped water to the public for human consumption that has 3000 or more service connections. A public water system includes all of the following:

(A) Any collection, treatment, storage, and distribution facility under control of the operator of the system which is used primarily in connection with the system.

(B) Any collection or pretreatment storage facility not under the control of the operator that is used primarily in connection with the system.

(C) Any person who treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

(3) “Water acquisition plans” means any plans for acquiring additional water supplies prepared by the public water system or a city or county lead agency pursuant to subdivision (a) of section 10911 of the Water Code.

(4) “Water assessment” means the water supply assessment that must be prepared by the governing body of a public water system, or the city or county lead agency, pursuant to and in compliance with sections 10910 to 10915 of the Water Code, and that includes, without limitation, the elements of the assessment required to comply with subdivisions (d), (e), (f), and (g) of section 10910 of the Water Code.

(5) “City or county lead agency” means a city or county, acting as lead agency, for purposes of certifying or approving an environmental impact report, a negative declaration, or a mitigated negative declaration for a water-demand project.

(b) Subject to section 15155, subdivision (d) below, at the time a city or county lead agency determines whether an environmental impact report, a negative declaration, or a mitigated negative declaration, or any supplement thereto, is required for the water-demand project, the city or county lead agency shall take the following steps:

(1) The city or county lead agency shall identify any water system that either: (A) is a public water system that may supply water to the water-demand project, or (B) that may become such a public water system as a result of supplying water to the water-demand project. The city or county lead agency shall request the governing body of each such public water system to determine whether the projected water demand associated with a water-demand project was included in the most recently adopted urban water management plan adopted pursuant to Part 2.6 (commencing with section 10610) of the Water Code, and to prepare a water assessment approved at a regular or special meeting of that governing body.

(2) If the city or county lead agency is not able to identify any public water system that may supply water for the water-demand project, the city or county lead agency shall prepare a water assessment after consulting with any entity serving domestic water supplies whose service area includes the site of the water-demand project, the local agency formation commission, and the governing body of any public water system adjacent to the site of the water-demand project. The governing body of the city or county lead agency must approve the water assessment prepared pursuant to this section at a regular or special meeting.

(c) The city or county lead agency shall grant any reasonable request for an extension of time that is made by the governing body of a public water system preparing the water assessment, provided that the request for an extension of time is made within 90 days after the date on which the governing body of the public water system received the request to prepare a water assessment. If the governing body of the public water system fails to request and receive an extension of time, or fails to submit the water assessment notwithstanding the 30-day extension, the city or county lead agency may seek a writ of mandamus to compel the governing body of the public water system to comply with the requirements of Part 2.10 of Division 6 (commencing with section 10910) of the Water Code relating to the submission of the water assessment.

(d) If a water-demand project has been the subject of a water assessment, no additional water assessment shall be required for subsequent water-demand projects that were included in such larger water-demand project if all of the following criteria are met:

(1) The entity completing the water assessment had concluded that its water supplies are sufficient to meet the projected water demand associated with the larger water-demand project, in addition to the existing and planned future uses, including, but not limited to, agricultural and industrial uses; and



(2) None of the following changes has occurred since the completion of the water assessment for the larger water-demand project:

(A) Changes in the larger water-demand project that result in a substantial increase in water demand for the water-demand project.

(B) Changes in the circumstances or conditions substantially affecting the ability of the public water system or the water supplying city or county identified in the water assessment to provide a sufficient supply of water for the water demand project.

(C) Significant new information becomes available which was not known and could not have been known at the time when the entity had reached the conclusion in subdivision (d)(1).

(e) The city or county lead agency shall include the water assessment, and any water acquisition plan in the EIR, negative declaration, or mitigated negative declaration, or any supplement thereto, prepared for the water-demand project, and may include an evaluation of the water assessment and water acquisition plan information within such environmental document. The city or county lead agency shall determine, based on the entire record, whether projected water supplies will be sufficient to satisfy the demands of the project, in addition to existing and planned future uses. If a city or county lead agency determines that water supplies will not be sufficient, the city or county lead agency shall include that determination in its findings for the water-demand project.

**Note:** Authority Cited: Section 21083, Public Resources Code. Reference: Section 21151.9, Public Resources Code, Sections 10910-10915 of the Water Code.



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## **Article 11. Types of EIRs**

### **Sections 15160 to 15170**

#### **15160. General**

This article describes a number of examples of variations in EIRs as the documents are tailored to different situations and intended uses. These variations are not exclusive. Lead Agencies may use other variations consistent with the Guidelines to meet the needs of other circumstances. All EIRs must meet the content requirements discussed in Article 9 beginning with Section 15120.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061, 21100, and 21151, Public Resources Code.

#### **15161. Project EIR**

The most common type of EIR examines the environmental impacts of a specific development project. This type of EIR should focus primarily on the changes in the environment that would result from the development project. The EIR shall examine all phases of the project including planning, construction, and operation.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061, 21100, and 21151, Public Resources Code.

#### **15162. Subsequent EIRs and Negative Declarations**

(a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known

with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

(b) If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subdivision (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.

(c) Once a project has been approved, the lead agency's role in project approval is completed, unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. If after the project is approved, any of the conditions described in subdivision (a) occurs, a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any. In this situation no other responsible agency shall grant an approval for the project until the subsequent EIR has been certified or subsequent negative declaration adopted.

(d) A subsequent EIR or subsequent negative declaration shall be given the same notice and public review as required under Section 15087 or Section 15072. A subsequent EIR or negative declaration shall state where the previous document is available and can be reviewed.

**Note:** Authority cited: Public Resources Code Section 21083; Reference: Section 21166, Public Resources Code; *Bowman v. City of Petaluma* (1986) 185 Cal.App.3d 1065; *Benton v. Board of Supervisors* (1991) 226 Cal.App.3d 1467; and *Fort Mojave Indian Tribe v. California Department of Health Services et al.* (1995) 38 Cal.App.4th 1574.

## **15163. Supplement to an EIR**

(a) The Lead or Responsible Agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

(1) Any of the conditions described in Section 15162 would require the preparation of a subsequent EIR, and

(2) Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

(b) The supplement to the EIR need contain only the information necessary to make the previous EIR adequate for the project as revised.

(c) A supplement to an EIR shall be given the same kind of notice and public review as is given to a draft EIR under Section 15087.

(d) A supplement to an EIR may be circulated by itself without recirculating the previous draft or final EIR.

(e) When the agency decides whether to approve the project, the decision-making body shall consider the previous EIR as revised by the supplemental EIR. A finding under Section 15091 shall be made for each significant effect shown in the previous EIR as revised.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21166, Public Resources Code.

## **15164. Addendum to an EIR or Negative Declaration**

(a) The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.

(b) An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

(c) An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.

(d) The decision making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.

(e) A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

**Note:** Authority cited: Public Resources Code Section 21083; Reference: Section 21166, Public Resources Code; *Bowman v. City of Petaluma* (1986) 185 Cal.App.3d 1065; and *Benton v. Board of Supervisors* (1991) 226 Cal.App.3d 1467.

## **15165. Multiple and Phased Projects**

Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the Lead Agency shall prepare a single program EIR for the ultimate project as described in Section 15168. Where an individual project is a necessary precedent for action on a larger project, or commits the Lead Agency to a larger project, with significant environmental effect, an EIR must address itself to the scope of the larger project. Where one project is one of several similar projects of a public agency, but is not deemed a part of a larger undertaking or a larger project, the agency may prepare one EIR for all projects, or one for each project, but shall in either case comment upon the cumulative effect.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061, 21100, and 21151, Public Resources Code; *Whitman v. Board of Supervisors*, (1979) 88 Cal. App. 3d 397.

## **15166. EIR as Part of a General Plan**

(a) The requirements for preparing an EIR on a local general plan, element, or amendment thereof will be satisfied by using the general plan, or element document, as the EIR and no separate EIR will be required, if:

- (1) The general plan addresses all the points required to be in an EIR by Article 9 of these Guidelines, and
- (2) The document contains a special section or a cover sheet identifying where the general plan document addresses each of the points required.

(b) Where an EIR rather than a Negative Declaration has been prepared for a general plan, element, or amendment thereto, the EIR shall be forwarded to the State Clearinghouse for review. The requirement shall apply regardless of whether the EIR is prepared as a separate document or as a part of the general plan or element document.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21003, 21061, 21083, 21100, 21104, 21151, and 21152, Public Resources Code.

## **15167. Staged EIR**

(a) Where a large capital project will require a number of discretionary approvals from government agencies and one of the approvals will occur more than two years before construction will begin, a staged EIR may be prepared covering the entire project in a general form. The staged EIR shall evaluate the proposal in light of current and contemplated plans and produce an informed estimate of the environmental consequences of the entire project. The aspect of the project before the public agency for approval shall be discussed with a greater degree of specificity.

(b) When a staged EIR has been prepared, a supplement to the EIR shall be prepared when a later approval is required for the project, and the information available at the time of the later approval would permit consideration of additional environmental impacts, mitigation measures, or reasonable alternatives to the project.

(c) Where a statute such as the Warren-Alquist Energy Resources Conservation and Development Act provides that a specific agency shall be the Lead Agency for a project and requires the Lead Agency to prepare an EIR, a Responsible Agency which must grant an approval for the project before the Lead Agency has completed the EIR may prepare and consider a staged EIR.

(d) An agency requested to prepare a staged EIR may decline to act as the Lead Agency if it determines, among other factors, that:

- (1) Another agency would be the appropriate Lead Agency; and
- (2) There is no compelling need to prepare a staged EIR and grant an approval for the project before the appropriate Lead Agency will take its action on the project.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21003, Public Resources Code.

## **15168. Program EIR**

(a) General. A program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either:

- (1) Geographically,
- (2) A logical parts in the chain of contemplated actions,
- (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or
- (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.

(b) Advantages. Use of a program EIR can provide the following advantages. The program EIR can:

- (1) Provide an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action,
- (2) Ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis,
- (3) Avoid duplicative reconsideration of basic policy considerations,
- (4) Allow the Lead Agency to consider broad policy alternatives and programwide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts, and
- (5) Allow reduction in paperwork.

(c) Use with Later Activities. Subsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.

- (1) If a later activity would have effects that were not examined in the program EIR, a new Initial Study would need to be prepared leading to either an EIR or a Negative Declaration.
- (2) If the agency finds that pursuant to Section 15162, no new effects could occur or no new mitigation measures would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required.
- (3) An agency shall incorporate feasible mitigation measures and alternatives developed in the program EIR into subsequent actions in the program.
- (4) Where the subsequent activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR.
- (5) A program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible. With a good and detailed analysis of the program, many subsequent activities could be found to be within the scope of the project described in the program EIR, and no further environmental documents would be required.

(d) Use with Subsequent EIRs and Negative Declarations. A program EIR can be used to simplify the task of preparing environmental documents on later parts of the program. The program EIR can:

- (1) Provide the basis in an Initial Study for determining whether the later activity may have any significant effects.
  - (2) Be incorporated by reference to deal with regional influences, secondary effects, cumulative impacts, broad alternatives, and other factors that apply to the program as a whole.
  - (3) Focus an EIR on a subsequent project to permit discussion solely of new effects which had not been considered before.
- (e) Notice with Later Activities. When a law other than CEQA requires public notice when the agency later proposes to carry out or approve an activity within the program and to rely on the program EIR for CEQA compliance, the notice for the activity shall include a statement that:

- (1) This activity is within the scope of the program approved earlier, and
- (2) The program EIR adequately describes the activity for the purposes of CEQA.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21003, Public Resources Code; *County of Inyo v. Yorty*, (1973) 32 Cal. App. 3d 795.

## **15169. Master Environmental Assessment**

(a) General. A public agency may prepare a Master Environmental Assessment, inventory, or data base for all, or a portion of, the territory subject to its control in order to provide information which may be used or referenced in EIRs or Negative Declarations. Neither the content, the format, nor the procedures to be used to develop a Master Environmental Assessment are prescribed by these Guidelines. The descriptions contained in this section are advisory. A Master Environmental Assessment is suggested solely as an approach to identify and organize environmental information for a region or area of the state.

(b) Contents. A Master Environmental Assessment may contain an inventory of the physical and biological characteristics of the area for which it is prepared and may contain such additional data and information as the public agency determines is useful or necessary to describe environmental characteristics of the area. It may include identification of existing levels of quality and supply of air and water, capacities and levels of use of existing services and facilities, and generalized incremental effects of different categories of development projects by type, scale, and location.

(c) Preparation.

(1) A Master Environmental Assessment or inventory may be prepared in many possible ways. For example, a Master Environmental Assessment may be prepared as a special, comprehensive study of the area involved, as part of the EIR on a general plan, or as a data base accumulated by indexing EIRs prepared for individual projects or programs in the area involved.

(2) The information contained in a Master Environmental Assessment should be reviewed periodically and revised as needed so that it is accurate and current.

(3) When advantageous to do so, Master Environmental Assessments may be prepared through a joint exercise of powers agreement with neighboring local agencies or with the assistance of the appropriate Council of Governments.

(d) Uses.

(1) A Master Environmental Assessment can identify the environmental characteristics and constraints of

an area. This information can be used to influence the design and location of individual projects.

(2) A Master Environmental Assessment may provide information agencies can use in initial studies to decide whether certain environmental effects are likely to occur and whether certain effects will be significant.

(3) A Master Environmental Assessment can provide a central source of current information for use in preparing individual EIRs and Negative Declarations.

(4) Relevant portions of a Master Environmental Assessment can be referenced and summarized in EIRs and Negative Declarations.

(5) A Master Environmental Assessment can assist in identifying long range, areawide, and cumulative impacts of individual projects proposed in the area covered by the assessment.

(6) A Master Environmental Assessment can assist a city or county in formulating a general plan or any element of such a plan by identifying environmental characteristics and constraints that need to be addressed in the general plan.

(7) A Master Environmental Assessment can serve as a reference document to assist public agencies which review other environmental documents dealing with activities in the area covered by the assessment. The public agency preparing the assessment should forward a completed copy to each agency which will review projects in the area.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21003, Public Resources Code.

## **15170. Joint EIR-EIS**

A Lead Agency under CEQA may work with a federal agency to prepare a joint document which will meet the requirements of both CEQA and NEPA. Use of such a joint document is described in Article 14, beginning with Section 15220.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21083.5 and 21083.7, Public Resources Code.





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## **Article 11.5 Master Environmental Impact Report**

### **Sections 15175 to 15179.5**

#### **15175. Master EIR**

(a) The Master EIR procedure is an alternative to preparing a project EIR, staged EIR, or program EIR for certain projects which will form the basis for later decision making. It is intended to streamline the later environmental review of projects or approval included within the project, plan or program analyzed in the Master EIR. Accordingly, a Master EIR shall, to the greatest extent feasible, evaluate the cumulative impacts, growth inducing impacts, and irreversible significant effects on the environment of subsequent projects.

(b) A lead agency may prepare a Master EIR for any of the following classes of projects:

(1) A general plan, general plan update, general plan element, general plan amendment, or specific plan.

(2) Public or private projects that will be carried out or approved pursuant to, or in furtherance of, a redevelopment plan.

(3) A project that consists of smaller individual projects which will be carried out in phases.

(4) A rule or regulation which will be implemented by later projects.

(5) Projects that will be carried out or approved pursuant to a development agreement.

(6) A state highway project or mass transit project which will be subject to multiple stages of review or approval.

(7) A plan proposed by a local agency, including a joint powers authority, for the reuse of a federal military base or reservation that has been closed or is proposed for closure by the federal government.

(8) A regional transportation plan or congestion management plan.

(9) Regulations adopted by the California Department of Fish and Game for the regulation of hunting and fishing.

(c) A lead agency may develop and implement a fee program in accordance with applicable provisions of law to generate the revenue necessary to prepare a Master EIR.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21156, 21157, and 21089, Public Resources Code.

## **15176. Contents of a Master EIR**

A lead agency shall include in a Master EIR all of the following:

- (a) A detailed discussion as required by Section 15126.
- (b) A description of anticipated subsequent projects that are within the scope of the Master EIR, including information with regard to the kind, size, intensity, and location of the subsequent projects, including, but not limited to all of the following:
  - (1) The specific type of project anticipated to be undertaken such as a single family development, office-commercial development, sewer line installation or other activities.
  - (2) The maximum and minimum intensity of any anticipated subsequent project, such as the number of residences in a residential development, and with regard to a public works facility, its anticipated capacity and service area.
  - (3) The anticipated location for any subsequent development projects, and, consistent with the rule of reason set forth in Section 15126.6(f), alternative locations for any such projects.
  - (4) A capital outlay or capital improvement program, or other scheduling or implementing device that governs the submission and approval of subsequent projects, or an explanation as to why practical planning considerations render it impractical to identify any such program or scheduling or other device at the time of preparing the Master EIR.
- (c) A description of potential impacts of anticipated projects for which there is not sufficient information reasonably available to support a full assessment of potential impacts in the Master EIR. This description shall not be construed as a limitation on the impacts which may be considered in a focused EIR.
- (d) Where a Master EIR is prepared in connection with a project identified in subdivision (b)(1) of section 15175, the anticipated subsequent projects included within a Master EIR may consist of later planning approvals, including parcel-specific approvals, consistent with the overall planning decision (e.g., general plan, or specific plan, or redevelopment plan) for which the Master EIR has been prepared. Such subsequent projects shall be adequately described for purposes of subdivision (b) or of this section (15176) if the Master EIR and any other documents embodying or relating to the overall planning decision identify the land use designations and the permissible densities and intensities of use for the affected parcel(s). The proponents of such subsequent projects shall not be precluded from relying on the Master EIR solely because that document did not specifically identify or list, by name, the subsequent project as ultimately proposed for approval.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21157, Public Resources Code.

## **15177. Subsequent Projects Within the Scope of the MEIR**

- (a) After a Master EIR has been prepared and certified, subsequent projects which the lead agency determines as being within the scope of the Master EIR will be subject to only limited environmental review.
- (b) Except as provided in subdivision (2) of this subdivision, neither a new environmental document nor the preparation of findings pursuant to section 15091 shall be required of a subsequent project when all

the following requirements are met:

- (1) The lead agency for the subsequent project is the lead agency or any responsible agency identified in the Master EIR.
  - (2) The lead agency for the subsequent project prepares an initial study on the proposal. The initial study shall analyze whether the subsequent project was described in the Master EIR and whether the subsequent project may cause any additional significant effect on the environment which was not previously examined in the Master EIR.
  - (3) The lead agency for the subsequent project determines, on the basis of written findings, that no additional significant environmental effect will result from the proposal, no new additional mitigation measures or alternatives may be required, and that the project is within the scope of the Master EIR. "Additional significant environmental effect" means any project-specific effect which was not addressed as a significant effect in the Master EIR.
- (c) Whether a subsequent project is within the scope of the Master EIR is a question of fact to be determined by the lead agency based upon a review of the initial study to determine whether there are additional significant effects or new additional mitigation measures or alternatives required for the subsequent project that are not already discussed in the Master EIR.
- (d) Prior to approval of the proposed subsequent project, the lead agency shall incorporate all feasible mitigation measures or feasible alternatives appropriate to the project as set forth in the Master EIR and provide notice in the manner required by Section 15087.
- (e) When the lead agency approves a project pursuant to this section, the lead agency shall file a notice in the manner required by Section 15075.

**Note:** Authority cited: Section 21083, Public Resources Code; References: Sections 21157, 21157.6 and 21158, Public Resources Code.

## **15178. Subsequent Projects Identified in the MEIR**

- (a) When a proposed subsequent project is identified in the Master EIR, but the lead agency cannot make a determination pursuant to Section 15177 that the subsequent project is within the scope of the Master EIR, and the lead agency determines that the cumulative impacts, growth inducing impacts and irreversible significant effects analysis in the Master EIR is adequate for the subsequent project, the lead agency shall prepare a mitigated negative declaration or a focused EIR if, after preparing an initial study, the lead agency determines that the project may result in new or additional significant effects. Whether the cumulative impacts, growth inducing impacts and irreversible significant effects analyses are adequate is a question of fact to be determined by the lead agency based upon a review of the proposed subsequent project in light of the Master EIR.
- (b) A lead agency shall prepare a mitigated negative declaration for any proposed subsequent project if both of the following occur:
- (1) The initial study prepared pursuant to Section 15177 has identified potentially new or additional significant environmental effects that were not analyzed in the Master EIR; and
  - (2) Feasible mitigation measures or alternatives will be incorporated to revise the subsequent project before the negative declaration is released for public review pursuant to Section 15073 in order to avoid or mitigate the identified effects to a level of insignificance.

(c) A lead agency shall prepare a focused EIR if the subsequent project may have a significant effect on the environment and a mitigated negative declaration pursuant to subdivision (b) of this section cannot be prepared.

(1) The focused EIR shall incorporate by reference the Master EIR and analyze only the subsequent project's additional significant environmental effects and any new or additional mitigation measures or alternatives that were not identified and analyzed by the Master EIR. "Additional significant environmental effects" are those project-specific effects on the environment which were not addressed as significant in the Master EIR.

(2) A focused EIR need not examine those effects which the lead agency, prior to public release of the focused EIR, finds, on the basis of the initial study, related documents, and commitments from the proponent of a subsequent project, have been mitigated in one of the following manners:

(A) Mitigated or avoided as a result of mitigation measures identified in the Master EIR which the lead agency will require as part of the approval of the subsequent project;

(B) Examined at a sufficient level of detail in the Master EIR to enable those significant effects to be mitigated or avoided by specific revisions to the project, the imposition of conditions of approval, or by other means in connection with approval of the subsequent project; or

(C) The mitigation or avoidance of which is the responsibility of and within the jurisdiction of another public agency and is, or can and should be, undertaken by that agency.

(3) The lead agency's findings pursuant to subdivision (2) shall be included in the focused EIR prior to public release pursuant to Section 15087.

(4) A focused EIR prepared pursuant to this section shall analyze any significant environmental effects when:

(A) Substantial new or additional information shows that the adverse environmental effect may be more significant than was described in the Master EIR; or

(B) Substantial new or additional information shows that mitigation measures or alternatives which were previously determined to be infeasible are feasible and will avoid or reduce the significant effects of the subsequent project to a level of insignificance.

(d) A lead agency shall file a notice of determination shall be filed pursuant to Section 15075 if a project has been approved for which a mitigated negative declaration has been prepared pursuant to this section and a notice of determination shall be filed pursuant to Section 15094 if a project has been approved for which a focused EIR has been prepared pursuant to this section.

(e) When a lead agency determines that the cumulative impacts, growth inducing impacts and irreversible significant effects analysis in the Master EIR is inadequate for the subsequent project, the subsequent project is no longer eligible for the limited environmental review available under the Master EIR process and shall be reviewed according to Article 7 (commencing with Section 15080) of these guidelines. The lead agency shall tier the project specific EIR upon the Master EIR to the extent feasible under Section 15152.

**Note:** Authority cited: Section 21083, Public Resources Code; References: Sections 21081(a)(2), 21157.5 and 21158, Public Resources Code.

## **15179. Limitations on the Use of the Master EIR**

(a) The certified Master EIR shall not be used for a subsequent project described in the Master EIR in accordance with this article if either:

(1) The Master EIR was certified more than five years prior to the filing of an application for a subsequent project except as set forth in subsection (b) below, or

(2) After the certification of the Master EIR, a project not described in the certified Master EIR as an anticipated subsequent project is approved and the approved project may affect the adequacy of the Master EIR for any subsequent project that was described in the Master EIR.

(b) A Master EIR that was certified more than five years prior to the filing of an application for a subsequent project described in the Master EIR may be used in accordance with this article to review such a subsequent project if the lead agency reviews the adequacy of the Master EIR and takes either of the following steps:

(1) Finds that no substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, or that there is no new available information which was not known and could not have been known at the time the Master EIR was certified; or

(2) Prepares an initial study and, pursuant to the findings of the initial study, does either (A) or (B) below:

(A) certifies a subsequent or supplemental EIR that updates or revises the Master EIR and which either:

1. is incorporated into the previously certified Master EIR, or
2. references any deletions, additions or other modifications to the previously certified Master EIR;

(B) approves a mitigated negative declaration that addresses substantial changes that have occurred with respect to the circumstances under which the Master EIR was certified or the new information that was not known and could not have been known at the time the Master EIR was certified.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21157.6, Public Resources Code.

### **15179.5. Focused EIRs and Small Projects**

(a) When a project is a multiple family residential development of 100 units or less or is a residential and commercial or retail mixed-use commercial development of not more than 100,000 square feet, whether or not the project is identified in the Master EIR, a focused EIR shall be prepared pursuant to this section when the following conditions are met:

(1) The project is consistent with a general plan, specific plan, community plan, or zoning ordinance for which an EIR was prepared within five years of certification of the focused EIR; and

(2) The parcel on which the project is to be developed is either:

(A) Surrounded by immediately contiguous urban development;

(B) Previously developed with urban uses; or

(C) Within one-half mile of an existing rail transit station.

(b) A focused environmental impact report prepared pursuant to this section shall be limited to a discussion of potentially significant effects on the environment specific to the project, or which substantial new information shows will be more significant than described in the prior environmental impact report. No discussion shall be required of alternatives to the project, cumulative impacts of the project, or the growth inducing impacts of the project.

(c) This section does not apply where the lead agency can make a finding pursuant to Section 15177 that the subsequent project is within the scope of the Master EIR, where the lead agency can prepare a mitigated negative declaration or focused EIR pursuant to Section 15178, or where, pursuant to Section 15162 or Section 15163, the environmental impact report referenced in subdivision (a)(1) of this section must be updated through the preparation of a subsequent environmental impact report or a supplemental environmental impact report.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21158.5, Public Resources Code.



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*Title 14. California Code of Regulations*  
**Chapter 3. Guidelines for Implementation of the  
California Environmental Quality Act**

## **Article 12. Special Situations**

### **Sections 15180 to 15190.5**

#### **15180. Redevelopment Projects**

(a) An EIR for a redevelopment plan may be a Master EIR, a program EIR, or a project EIR. An EIR for a redevelopment plan must specify whether it is a Master EIR, a program EIR, or a project EIR.

(b) If the EIR for a redevelopment plan is a project EIR, all public and private activities or undertakings pursuant to or in furtherance of the redevelopment plan shall constitute a single project, which shall be deemed approved at the time of adoption of the redevelopment plan by the legislative body. The EIR in connection with the redevelopment plan shall be submitted in accordance with Section 33352 of the Health and Safety Code.

If a project EIR has been certified for the redevelopment plan, no subsequent EIRs are required for individual components of the redevelopment plan unless a subsequent EIR or a supplement to an EIR would be required by Section 15162 or 15163.

(c) If the EIR for a redevelopment plan is a Master EIR, subsequent projects which the lead agency determines as being within the scope of the Master EIR will be subject to the review required by Section 15177. If the EIR for a redevelopment plan is a program EIR, subsequent activities in the program will be subject to the review required by Section 15168.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21090 and 21166, Public Resources Code.

**[15181. Removed]**

#### **15182. Residential Projects Pursuant to a Specific Plan**

(a) Exemption. Where a public agency has prepared an EIR on a specific plan after January 1, 1980, no EIR or negative declaration need be prepared for a residential project undertaken pursuant to and in conformity to that specific plan if the project meets the requirements of this section.

(b) Scope. Residential projects covered by this section include but are not limited to land subdivisions, zoning changes, and residential planned unit developments.

(c) Limitation. This section is subject to the limitation that if after the adoption of the specific plan, an event described in Section 15162 should occur, this exemption shall not apply until the city or county

which adopted the specific plan completes a subsequent EIR or a supplement to an EIR on the specific plan. The exemption provided by this section shall again be available to residential projects after the Lead Agency has filed a Notice of Determination on the specific plan as reconsidered by the subsequent EIR or supplement to the EIR.

(c) Fees. The Lead Agency has authority to charge fees to applicants for projects which benefit from this section. The fees shall be calculated in the aggregate to defray but not to exceed the cost of developing and adopting the specific plan including the cost of preparing the EIR.

(e) Statute of Limitations. A court action challenging the approval of a project under this section for failure to prepare a supplemental EIR shall be commenced within 30 days after the Lead Agency's decision to carry out or approve the project in accordance with the specific plan.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 65453, Government Code.

### **15183. Projects Consistent with a Community Plan or Zoning**

(a) CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies.

(b) In approving a project meeting the requirements of this section, a public agency shall limit its examination of environmental effects to those which the agency determines, in an initial study or other analysis:

(1) Are peculiar to the project or the parcel on which the project would be located,

(2) Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent,

(3) Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or

(4) Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.

(c) If an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, as contemplated by subdivision (e) below, then an additional EIR need not be prepared for the project solely on the basis of that impact.

(d) This section shall apply only to projects which meet the following conditions:

(1) The project is consistent with:

(A) A community plan adopted as part of a general plan,

(B) A zoning action which zoned or designated the parcel on which the project would be located to accommodate a particular density of development, or



(C) A general plan of a local agency, and

(2) An EIR was certified by the lead agency for the zoning action, the community plan, or the general plan.

(e) This section shall limit the analysis of only those significant environmental effects for which:

(1) Each public agency with authority to mitigate any of the significant effects on the environment identified in the planning or zoning action undertakes or requires others to undertake mitigation measures specified in the EIR which the lead agency found to be feasible, and

(2) The lead agency makes a finding at a public hearing as to whether the feasible mitigation measures will be undertaken.

(f) An effect of a project on the environment shall not be considered peculiar to the project or the parcel for the purposes of this section if uniformly applied development policies or standards have been previously adopted by the city or county with a finding that the development policies or standards will substantially mitigate that environmental effect when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect. The finding shall be based on substantial evidence which need not include an EIR. Such development policies or standards need not apply throughout the entire city or county, but can apply only within the zoning district in which the project is located, or within the area subject to the community plan on which the lead agency is relying. Moreover, such policies or standards need not be part of the general plan or any community plan, but can be found within another pertinent planning document such as a zoning ordinance. Where a city or county, in previously adopting uniformly applied development policies or standards for imposition on future projects, failed to make a finding as to whether such policies or standards would substantially mitigate the effects of future projects, the decisionmaking body of the city or county, prior to approving such a future project pursuant to this section, may hold a public hearing for the purpose of considering whether, as applied to the project, such standards or policies would substantially mitigate the effects of the project. Such a public hearing need only be held if the city or county decides to apply the standards or policies as permitted in this section.

(g) Examples of uniformly applied development policies or standards include, but are not limited to:

(1) Parking ordinances.

(2) Public access requirements.

(3) Grading ordinances.

(4) Hillside development ordinances.

(5) Flood plain ordinances.

(6) Habitat protection or conservation ordinances.

(7) View protection ordinances.

(h) An environmental effect shall not be considered peculiar to the project or parcel solely because no uniformly applied development policy or standard is applicable to it.

(i) Where the prior EIR relied upon by the lead agency was prepared for a general plan or community plan that meets the requirements of this section, any rezoning action consistent with the general plan or community plan shall be treated as a project subject to this section.

(1) "Community plan" is defined as a part of the general plan of a city or county which applies to a

defined geographic portion of the total area included in the general plan, includes or references each of the mandatory elements specified in Section 65302 of the Government Code, and contains specific development policies and implementation measures which will apply those policies to each involved parcel.

(2) For purposes of this section, "consistent" means that the density of the proposed project is the same or less than the standard expressed for the involved parcel in the general plan, community plan or zoning action for which an EIR has been certified, and that the project complies with the density-related standards contained in that plan or zoning. Where the zoning ordinance refers to the general plan or community plan for its density standard, the project shall be consistent with the applicable plan.

(j) This section does not affect any requirement to analyze potentially significant offsite or cumulative impacts if those impacts were not adequately discussed in the prior EIR. If a significant offsite or cumulative impact was adequately discussed in the prior EIR, then this section may be used as a basis for excluding further analysis of that offsite or cumulative impact.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21083.3, Public Resources Code.

## **15184. State Mandated Local Projects**

Whenever a state agency issues an order which requires a local agency to carry out a project subject to CEQA, the following rules apply:

(a) If an EIR is prepared for the project, the local agency shall limit the EIR to considering those factors and alternatives which will not conflict with the order.

(b) If a local agency undertakes a project to implement a rule or regulation imposed by a certified state environmental regulatory program listed in Section 15251, the project shall be exempt from CEQA with regard to the significant effects analyzed in the document prepared by the state agency as a substitute for an EIR. The local agency shall comply with CEQA with regard to any site-specific effect of the project which was not analyzed by the certified state agency as a significant effect on the environment. The local agency need not re-examine the general environmental effects of the state rule or regulation.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080, 21080.5, and 21154, Public Resources Code.

## **15185. Administrative Appeals**

(a) Where an agency allows administrative appeals upon the adequacy of an environmental document, an appeal shall be handled according to the procedures of that agency. Public notice shall be handled in accordance with individual agency requirements and Section 15202(e).

(b) The decision-making body to which an appeal has been made shall consider the environmental document and make findings under Sections 15091 and 15093 if appropriate.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21082 and 21083, Public Resources Code.

## **15186. School Facilities.**

(a) CEQA establishes a special requirement for certain school projects, as well as certain projects near schools, to ensure that potential health impacts resulting from exposure to hazardous materials, wastes, and substances will be carefully examined and disclosed in a negative declaration or EIR, and that the lead agency will consult with other agencies in this regard.

(b) Before certifying an EIR or adopting a negative declaration for a project located within one-fourth mile of a school that involves the construction or alteration of a facility that might reasonably be anticipated to emit hazardous air emissions or that would handle an extremely hazardous substance or a mixture containing extremely hazardous substances in a quantity equal to or greater than the state threshold quantity specified in subdivision (j) of Section 25532 of the Health and Safety Code, that may impose a health or safety hazard to persons who would attend or would be employed at the school, the lead agency must do both of the following:

(1) Consult with the affected school district or districts regarding the potential impact of the project on the school; and

(2) Notify the affected school district or districts of the project, in writing, not less than 30 days prior to approval or certification of the negative declaration or EIR.

(c) When the project involves the purchase of a school site or the construction of a secondary or elementary school by a school district, the negative declaration or EIR prepared for the project shall not be adopted or certified unless:

(1) The negative declaration, mitigated negative declaration, or EIR contains sufficient information to determine whether the property is:

(A) The site of a current or former hazardous waste or solid waste disposal facility and, if so, whether wastes have been removed.

(B) A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the Health and Safety Code for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(C) The site of one or more buried or above ground pipelines which carry hazardous substances, acutely hazardous materials, or hazardous wastes, as defined in Division 20 of the Health and Safety Code. This does not include a natural gas pipeline used only to supply the school or neighborhood.

(D) Within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.

(2) The lead agency has notified in writing and consulted with the county or city administering agency (as designated pursuant to Section 25502 of the Health and Safety Code) and with any air pollution control district or air quality management district having jurisdiction, to identify facilities within one-fourth mile of the proposed school site which might reasonably be anticipated to emit hazardous emissions or handle hazardous or acutely hazardous material, substances, or waste. The notice shall include a list of the school sites for which information is sought. Each agency or district receiving notice shall provide the requested information and provide a written response to the lead agency within 30 days of receiving the notification. If any such agency or district fails to respond within that time, the negative declaration or EIR shall be conclusively presumed to comply with this section as to the area of responsibility of that agency.

(3) The school district makes, on the basis of substantial evidence, one of the following written findings:

(A) Consultation identified none of the facilities specified in paragraph (2).

(B) The facilities specified in paragraph (2) exist, but one of the following conditions applies:

1. The health risks from the facilities do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school.
2. Corrective measures required under an existing order by another agency having jurisdiction over the facilities will, before the school is occupied, mitigate all chronic or accidental hazardous air emissions to levels that do not constitute any actual or potential public health danger to persons who would attend or be employed at the proposed school. When the school district board makes such a finding, it shall also make a subsequent finding, prior to occupancy of the school, that the emissions have been so mitigated.
3. For a school site with boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the school district determines, through a health risk assessment pursuant to subdivision (b)(2) of Section 44360 of the Health and Safety Code, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.

(C) The facilities or other pollution sources specified in subsection (c)(2) exist, but conditions in subdivisions (c)(3)(B)(1), (2) or (3) cannot be met, and the school district is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in subdivision (a) of Section 17213 of the Education Code. If the school district makes this finding, the school board shall prepare an EIR and adopt a statement of overriding considerations.

This finding shall be in addition to any findings which may be required pursuant to Sections 15074, 15091 or 15093.

(d) When the lead agency has carried out the consultation required by paragraph (2) of subdivision (b), the negative declaration or EIR shall be conclusively presumed to comply with this section, notwithstanding any failure of the consultation to identify an existing facility.

(e) The following definitions shall apply for the purposes of this section:

- (1) "Acutely hazardous material," is as defined in 22 C.C.R. § 66260.10.
- (2) "Administering agency," is as defined in Section 25501 of the Health and Safety Code.
- (3) "Extremely hazardous substance," is as defined in subdivision (g)(2)(B) of Section 25532 of the Health and Safety Code and listed in Section 2770.5, Table 3, of Title 19 of the California Code of Regulations.
- (4) "Facilities" means any source with a potential to use, generate, emit or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the California Air Resources Board.
- (5) "Freeway or other busy traffic corridors" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area, as defined in Section 50101 of the Health and Safety Code, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety Code.
- (6) "Handle" means to use, generate, process, produce, package, treat, store, emit, discharge, or dispose of a hazardous material in any fashion.

(7) "Hazardous air emissions," is as defined in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(8) "Hazardous substance," is as defined in Section 25316 of the Health and Safety Code.

(9) "Hazardous waste," is as defined in Section 25117 of the Health and Safety Code.

(10) "Hazardous waste disposal site," is as defined in Section 25114 of the Health and Safety Code.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21151.4 and 21151.8, Public Resources Code.

## **15187. Environmental Review of New Rules and Regulations**

(a) At the time of the adoption of a rule or regulation requiring the installation of pollution control equipment, establishing a performance standard, or establishing a treatment requirement, the California Air Resources Board, Department of Toxic Substances Control, Integrated Waste Management Board, State Water Resources Control Board, all regional water quality control boards, and all air pollution control districts and air quality management districts, as defined in Section 39025 of the Health and Safety Code, must perform an environmental analysis of the reasonably foreseeable methods by which compliance with that rule or regulation will be achieved.

(b) If an EIR is prepared by the agency at the time of adoption of a rule or regulation, it satisfies the requirements of this section provided that the document contains the information specified in subdivision (c) below. Similarly, for those State agencies whose regulatory programs have been certified by the Resources Agency pursuant to Section 21080.5 of the Public Resources Code, an environmental document prepared pursuant to such programs satisfies the requirements of this section, provided that the document contains the information specified in subdivision (c) below.

(c) The environmental analysis shall include at least the following:

(1) An analysis of reasonably foreseeable environmental impacts of the methods of compliance;

(2) An analysis of reasonably foreseeable feasible mitigation measures relating to those impacts; and

(3) An analysis of reasonably foreseeable alternative means of compliance with the rule or regulation, which would avoid or eliminate the identified impacts.

(d) The environmental analysis shall take into account a reasonable range of environmental, economic, and technical factors, population and geographic areas, and specific sites. The agency may utilize numerical ranges and averages where specific data is not available, but is not required to, nor should it, engage in speculation or conjecture.

(e) Nothing in this section shall require the agency to conduct a project level analysis.

(f) Nothing in this section is intended, or may be used, to delay the adoption of any rule or regulation for which this section requires an environmental analysis.

**Note:** Authority cited: Section 21083, Public Resources Code; References: Sections 21159 and 21159.4, Public Resources Code.

## **15188. Focused EIR for Pollution Control Equipment**

This section applies to projects consisting solely of the installation of pollution control equipment and other components necessary to the installation of that equipment which are undertaken for the purpose of complying with a rule or regulation which was the subject of an environmental analysis as described in Section 15187.

(a) The lead agency for the compliance project may prepare a focused EIR to analyze the effects of that project when the following occur:

(1) the agency which promulgated the rule or regulation certified an EIR on that rule or regulation, or reviewed it pursuant to an environmental analysis prepared under a certified regulatory program and, in either case, the review included an assessment of growth inducing impacts and cumulative impacts of, and alternatives to, the project;

(2) the focused EIR for the compliance project is certified within five years of the certified EIR or environmental analysis required by subdivision (a)(1); and

(3) the EIR prepared in connection with the adoption of the rule or regulation need not be updated through the preparation of a subsequent EIR or supplemental EIR pursuant to section 15162 or section 15163.

(b) The discussion of significant environmental effects in the focused EIR shall be limited to project-specific, potentially significant effects which were not discussed in the environmental analysis required under Section 15187. No discussion of growth-inducing or cumulative impacts is required. Discussion of alternatives shall be limited to alternative means of compliance, if any, with the rule or regulation.

**Note:** Authority: Section 21083, Public Resources Code; Reference: Section 21159.1, Public Resources Code.

## **15189. Compliance with Performance Standard or Treatment Requirement Rule or Regulation**

This section applies to projects consisting solely of compliance with a performance standard or treatment requirement which was the subject of an environmental analysis as described in Section 15187.

(a) If preparing a negative declaration, mitigated negative declaration or EIR on the compliance project the lead agency for the compliance project shall, to the greatest extent feasible, use the environmental analysis prepared pursuant to Section 15187. The use of numerical averages or ranges in the environmental analysis prepared under Section 15187 does not relieve the lead agency on the compliance project from its obligation to identify and evaluate the environmental effects of the project.

(b) Where the lead agency determines that an EIR is required for the compliance project, the EIR need address only the project-specific issues or other issues that were not discussed in sufficient detail in the environmental analysis prepared under Section 15187. The mitigation measures imposed by the lead agency shall be limited to addressing the significant effects on the environment of the compliance project. The discussion of alternatives shall be limited to a discussion of alternative means of compliance, if any, with the rule or regulation.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21159.2, Public Resources Code.

## **15190. Deadlines for Compliance with Sections 15188 and 15189**

(a) The lead agency for a compliance project under either Section 15188 or Section 15189 shall determine whether an EIR or negative declaration should be prepared within 30 days of its determination that the application for the project is complete.

(b) Where the EIR will be prepared under contract to the lead agency for the compliance project, the agency shall issue a request for proposal for preparation of the EIR not later than 30 days after the deadline for response to the notice of preparation has expired. The contract shall be awarded within 30 days of the response date on the request for proposals.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21159.3, Public Resources Code.

### **§ 15190.5. Department Of Defense Notification Requirement.**

(a) For purposes of this section, the following definitions are applicable.

(1) "Low-level flight path" means any flight path for any aircraft owned, maintained, or that is under the jurisdiction of the United States Department of Defense that flies lower than 1,500 feet above ground level, as indicated in the United States Department of Defense Flight Information Publication, "Area Planning Military Training Routes: North and South America (AP/1B)" published by the United States National Imagery and Mapping Agency, or its successor, as of the date the military service gives written notification to a lead agency pursuant to subdivision (b).

(2) "Military impact zone" means any area, including airspace, that meets both of the following criteria:

(A) Is within two miles of a military installation, including, but not limited to, any base, military airport, camp, post, station, yard, center, homeport facility for a ship, or any other military activity center that is under the jurisdiction of the United States Department of Defense; and

(B) Covers greater than 500 acres of unincorporated land, or greater than 100 acres of city incorporated land.

(3) "Military service" means the United States Department of Defense or any branch of the United States Armed Forces.

(4) "Special use airspace" means the land area underlying the airspace that is designated for training, research, development, or evaluation for a military service, as that land area is established by the United States Department of Defense Flight Information Publication, "Area Planning: Special Use Airspace: North and South America (AP/1A)" published by the United States National Imagery and Mapping Agency, or its successor, as of the date the military service gives written notification to a lead agency pursuant to subdivision (b).

(b) A military service may give written notification to a lead agency of the specific boundaries of a low-level flight path, military impact zone, or special use airspace, and provide the lead agency, in writing, the military contact office and address for the military service. If the notice references the specific boundaries of a low-level flight path, such notification must include a copy of the applicable United States Department of Defense Flight Information Publication, "Area Planning Military Training Routes: North and South America (AP/1B)." If the notice references the specific boundaries of a special use airspace, such notification must include a copy of the applicable United States Department of Defense Flight Information Publication, "Area Planning: Special Use Airspace: North and South America (AP/1A)."

(c) If a military service provides the written notification specified in subdivision (b) of this section, a lead agency must include the specified military contact office in the list of organizations and individuals receiving a notice of intent to adopt a negative declaration or a mitigated negative declaration pursuant to Section 15072, in the list of organizations and individuals receiving a notice of preparation of an EIR pursuant to Section 15082, and in the list of organizations and individuals receiving a notice of availability of a draft EIR pursuant to Section 15087 for any project that meets all of the criteria specified below:

(1) The project to be carried out or approved by the lead agency is within the boundaries specified in subdivision (b).

(2) The project is one of the following:

(A) a project that includes a general plan amendment; or

(B) a project that is of statewide, regional, or areawide significance; or

(C) a project that relates to a public use airport and the area surrounding such airport which is required to be referred to the airport land use commission, or appropriately designated body, pursuant to Sections 21670-21679.5 of the Public Utilities Code.

(3) The project is not one of the actions described below. A lead agency does not need to send to the specified military contact office a notice of intent to adopt a negative declaration or a mitigated negative declaration, a notice of preparation of an EIR, or a notice of availability of a draft EIR for such actions.

(A) a response action taken pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(B) a response action taken pursuant to Chapter 6.85 (commencing with Section 25396) of Division 20 of the Health and Safety Code.

(C) a project undertaken at a site in response to a corrective action order issued pursuant to Section 25187 of the Health and Safety Code.

The lead agency shall send the specified military contact office a notice of intent or a notice of availability sufficiently prior to adoption or certification of the environmental documents by the lead agency to allow the military service the review period provided under Section 15105.

(d) The effect or potential effect that a project may have on military activities does not itself constitute an adverse effect on the environment for the purposes of CEQA.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21098, Public Resources Code.





*Title 14. California Code of Regulations*  
**Chapter 3. Guidelines for Implementation of the  
California Environmental Quality Act**

## **Article 12.5 Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects**

### **Sections 15191 to 15196**

#### **§ 15191. Definitions.**

For purposes of this Article 12.5 only, the following words shall have the following meanings:

(a) "Agricultural employee" means a person engaged in agriculture, including: farming in all its branches, and, among other things, includes: (1) the cultivation and tillage of the soil, (2) dairying, (3) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in Section 1141j(g) of Title 12 of the United States Code), (4) the raising of livestock, bees, furbearing animals, or poultry, and (5) any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market and delivery to storage or to market or to carriers for transportation to market. This definition is subject to the following limitations:

This definition shall not be construed to include any person other than those employees excluded from the coverage of the National Labor Relations Act, as amended, as agricultural employees, pursuant to Section 2(3) of the Labor Management Relations Act (Section 152(3), Title 29, United States Code), and Section 3(f) of the Fair Labor Standards Act (Section 203(f), Title 29, United States Code).

This definition shall not apply, or be construed to apply, to any employee who performs work to be done at the site of the construction, alteration, painting, or repair of a building, structure, or other work (as these terms have been construed under Section 8(e) of the Labor Management Relations Act, 29 U.S.C. Sec. 158(e)) or logging or timber-clearing operations in initial preparation of land for farming, or who does land leveling or only land surveying for any of the above. As used in this definition, "land leveling" shall include only major land moving operations changing the contour of the land, but shall not include annual or seasonal tillage or preparation of land for cultivation.

(b) "Census-defined place" means a specific unincorporated land area within boundaries determined by the United States Census Bureau in the most recent decennial census.

(c) "Community-level environmental review" means either of the following:

(1) An EIR certified on any of the following:

(A) A general plan.

(B) A revision or update to the general plan that includes at least the land use and circulation elements.

(C) An applicable community plan.

(D) An applicable specific plan.

(E) A housing element of the general plan, if the environmental impact report analyzed the environmental effects of the density of the proposed project.

(2) A negative declaration or mitigated negative declaration adopted as a subsequent environmental review document, following and based upon an EIR on a general plan, an applicable community plan, or an applicable specific plan, provided that the subsequent environmental review document is allowed by CEQA following a master EIR or a program EIR, or is required pursuant to Section 21166.

(d) "Developed open space" means land that meets all of the following criteria:

(1) land that is publicly owned, or financed in whole or in part by public funds,

(2) is generally open to, and available for use by, the public, and

(3) is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ball fields, enclosed child play areas, and picnic facilities.

Developed open space may include land that has been designated for acquisition by a public agency for developed open space but does not include lands acquired by public funds dedicated to the acquisition of land for housing purposes.

(e) "Infill site" means a site in an urbanized area that meets one of the following criteria:

(1) The site has been previously developed for qualified urban uses; or

(2) The site has not been developed for qualified urban uses but all immediately adjacent parcels are developed with existing qualified urban uses; or

(3) The site has not been developed for qualified urban uses, no parcel within the site has been created within the past 10 years, and the site is situated so that:

(A) at least 75 percent of the perimeter of the site is adjacent to parcels that are developed with existing qualified urban uses at the time the lead agency receives an application for an approval; and

(B) the remaining 25 percent of the perimeter of the site adjoins parcels that had been previously developed for qualified urban uses.

(f) "Low- and moderate-income households" means "persons and families of low or moderate income" as defined in Section 50093 of the Health and Safety Code to mean persons and families whose income does not exceed 120 percent of area median income, adjusted for family size by the Department of Housing and Community Development, in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

(g) "Low-income households" means households of persons and families of very low and low income, which are defined in Sections 50093 and 50105 of the Health and Safety Code as follows:

(1) "Persons and families of low income" or "persons of low income" is defined in Section 50093 of the Health & Safety Code to mean persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of housing financed pursuant to this

division.

(2) "Very low income households" is defined in Section 50105 of the Health & Safety Code to mean persons and families whose incomes do not exceed the qualifying limits for very low income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. "Very low income households" includes extremely low income households, as defined in Section 50106 of the Health & Safety Code.

(h) "Lower income households" is defined in Section 50079.5 of the Health and Safety Code to mean any of the following:

(1) "Lower income households," which means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937.

(2) "Very low income households," which means persons and families whose incomes do not exceed the qualifying limits for very low income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937.

(3) "Extremely low income households," which means persons and families whose incomes do not exceed the qualifying limits for extremely low income families as established and amended from time to time by the Secretary of Housing and Urban Development and defined in Section 5.603(b) of Title 24 of the Code of Federal Regulations.

(i) "Major transit stop" means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

(j) "Project-specific effect" means all the direct or indirect environmental effects of a project other than cumulative effects and growth-inducing effects.

(k) "Qualified urban use" means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(l) "Residential" means a use consisting of either of the following:

(1) Residential units only.

(2) Residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15 percent of the total floor area of the project.

(m) "Urbanized area" means either of the following:

(1) An incorporated city that either by itself or in combination with two contiguous incorporated cities has a population of at least 100,000 persons; or

(2) An unincorporated area that meets the requirements set forth in subdivision (m)(2)(A) and subdivision (m)(2)(B) below.

(A) The unincorporated area must meet one of the following location or density requirements:

1. The unincorporated area must be: (i) completely surrounded by one or more incorporated cities, (ii) have a population of at least 100,000 persons either by itself or in combination with the surrounding incorporated city or cities, and (iii) have a population density that at least equals the population density of the surrounding city or cities; or

2. The unincorporated area must be located within an urban growth boundary and have an existing residential population of at least 5,000 persons per square mile. For purposes of this subparagraph, an "urban growth boundary" means a provision of a locally adopted general plan that allows urban uses on one side of the boundary and prohibits urban uses on the other side.

(B) The board of supervisors with jurisdiction over the unincorporated area must have taken the following steps:

1. The board has prepared a draft document by which the board would find that the general plan, zoning ordinance, and related policies and programs applicable to the unincorporated area are consistent with principles that: (i) encourage compact development in a manner that promotes efficient transportation systems, economic growth, affordable housing, energy efficiency, and an appropriate balance of jobs and housing, and (ii) protects the environment, open space, and agricultural areas.

2. The board has submitted the draft document to OPR and allowed OPR thirty days to submit comments on the draft findings to the board.

3. No earlier than thirty days after submitting the draft document to OPR, the board has adopted a final finding in substantial conformity with the draft finding described in the draft document referenced in subdivision (m)(2)(B)(1) above.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21159.20, 21159.21, 21159.22, 21159.23, 21159.24, Public Resources Code.

## **§ 15192. Threshold Requirements for Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects.**

In order to qualify for an exemption set forth in sections 15193, 15194 or 15195, a housing project must meet all of the threshold criteria set forth below.

(a) The project must be consistent with:

(1) Any applicable general plan, specific plan, or local coastal program, including any mitigation measures required by such plan or program, as that plan or program existed on the date that the application for the project pursuant to Section 65943 of the Government Code was deemed complete; and

(2) Any applicable zoning ordinance, as that zoning ordinance existed on the date that the application for the project pursuant to Section 65943 of the Government Code was deemed complete, unless the zoning of project property is inconsistent with the general plan because the project property has not been rezoned to conform to the general plan.

(b) Community-level environmental review has been adopted or certified.

(c) The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.

(d) The site of the project:

(1) Does not contain wetlands, as defined in Section 328.3 of Title 33 of the Code of Federal Regulations.

(2) Does not have any value as an ecological community upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(3) Does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(4) Does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.

(e) The site of the project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.

(f) The site of the project is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity. In addition, the following steps have been taken in response to the results of this assessment:

(1) If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(2) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(g) The project does not have a significant effect on historical resources pursuant to Section 21084.1 of the Public Resources Code.

(h) The project site is not subject to wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(i) The project site does not have an unusually high risk of fire or explosion from materials stored or used on nearby properties.

(j) The project site does not present a risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(k) Either the project site is not within a delineated earthquake fault zone or a seismic hazard zone, as determined pursuant to Section 2622 and 2696 of the Public Resources Code respectively, or the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake or seismic hazard.

(l) Either the project site does not present a landslide hazard, flood plain, flood way, or restriction zone, or the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

(m) The project site is not located on developed open space.

(n) The project site is not located within the boundaries of a state conservancy.

(o) The project has not been divided into smaller projects to qualify for one or more of the exemptions set forth in sections 15193 to 15195.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21159.21, 21159.27,

Public Resources Code.

### **§ 15193. Agricultural Housing Exemption.**

CEQA does not apply to any development project that meets the following criteria.

(a) The project meets the threshold criteria set forth in section 15192.

(b) The project site meets the following size criteria:

(1) The project site is located in an area with a population density of at least 1,000 persons per square mile and is two acres or less in area; or

(2) The project site is located in an area with a population density of less than 1,000 persons per square mile and is five acres or less in area.

(c) The project meets the following requirements regarding location and number of units.

(1) If the proposed development project is located on a project site within city limits or in a census-defined place, it must meet the following requirements:

(A) The proposed project location must be within one of the following:

1. Incorporated city limits; or

2. A census defined place with a minimum population density of at least 5,000 persons per square mile; or

3. A census-defined place with a minimum population density of at least 1,000 persons per square mile, unless a public agency that is carrying out or approving the project determines that there is a reasonable possibility that the project, if completed, would have a significant effect on the environment due to unusual circumstances or that the cumulative impacts of successive projects of the same type in the same area, over time, would be significant.

(B) The proposed development project must be located on a project site that is adjacent, on at least two sides, to land that has been developed.

(C) The proposed development project must meet either of the following requirements:

1. Consist of not more than 45 units, or

2. Consist of housing for a total of 45 or fewer agricultural employees if the housing consists of dormitories, barracks, or other group living facilities.

(2) If the proposed development project is located on a project site zoned for general agricultural use, it must meet either of the following requirements:

(A) Consist of not more than 20 units, or

(B) Consist of housing for a total of 20 or fewer agricultural employees if the housing consists of dormitories, barracks, or other group living facilities.

(d) The project meets the following requirements regarding provision of housing for agricultural employees:

(1) The project must consist of the construction, conversion, or use of residential housing for agricultural employees.

(2) If the project lacks public financial assistance, then:

(A) The project must be affordable to lower income households; and

(B) The developer of the development project must provide sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for lower income households for a period of at least 15 years.

(3) If public financial assistance exists for the project, then:

(A) The project must be housing for very low, low-, or moderate-income households; and

(B) The developer of the development project must provide sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for low- and moderate-income households for a period of at least 15 years.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21159.22, Public Resources Code.

## **§ 15194. Affordable Housing Exemption.**

CEQA does not apply to any development project that meets the following criteria:

(a) The project meets the threshold criteria set forth in section 15192.

(b) The project meets the following size criteria: the project site is not more than five acres in area.

(c) The project meets both of the following requirements regarding location:

(1) The project meets one of the following location requirements relating to population density:

(A) The project site is located within an urbanized area or within a census-defined place with a population density of at least 5,000 persons per square mile.

(B) If the project consists of 50 or fewer units, the project site is located within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.

(C) The project is located within either an incorporated city or a census defined place with a population density of at least 1,000 persons per square mile and there is no reasonable possibility that the project would have a significant effect on the environment or the residents of the project due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.

(2) The project meets one of the following site-specific location requirements:

(A) The project site has been previously developed for qualified urban uses; or

(B) The parcels immediately adjacent to the project site are developed with qualified urban uses.

(C) The project site has not been developed for urban uses and all of the following conditions are met:

1. No parcel within the site has been created within 10 years prior to the proposed development of the site.
2. At least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses.
3. The existing remaining 25 percent of the perimeter of the site adjoins parcels that have previously been developed for qualified urban uses.

(d) The project meets both of the following requirements regarding provision of affordable housing.

(1) The project consists of the construction, conversion, or use of residential housing consisting of 100 or fewer units that are affordable to low-income households.

(2) The developer of the project provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for lower income households for a period of at least 30 years, at monthly housing costs deemed to be “affordable rent” for lower income, very low income, and extremely low income households, as determined pursuant to Section 50053 of the Health and Safety Code.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21159.23, Public Resources Code.

## **§ 15195. Residential Infill Exemption.**

(a) Except as set forth in subdivision (b), CEQA does not apply to any development project that meets the following criteria:

(1) The project meets the threshold criteria set forth in section 15192; provided that with respect to the requirement in section 15192(b) regarding community-level environmental review, such review must be certified or adopted within five years of the date that the lead agency deems the application for the project to be complete pursuant to Section 65943 of the Government Code.

(2) The project meets both of the following size criteria:

(A) The site of the project is not more than four acres in total area.

(B) The project does not include any single level building that exceeds 100,000 square feet.

(3) The project meets both of the following requirements regarding location:

(A) The project is a residential project on an infill site.

(B) The project is within one-half mile of a major transit stop.

(4) The project meets both of the following requirements regarding number of units:

(A) The project does not contain more than 100 residential units.

(B) The project promotes higher density infill housing. The lead agency may establish its own criteria for determining whether the project promotes higher density infill housing except in either of the following two circumstances:

1. A project with a density of at least 20 units per acre is conclusively presumed to promote higher density infill housing.



2. A project with a density of at least 10 units per acre and a density greater than the average density of the residential properties within 1,500 feet shall be presumed to promote higher density infill housing unless the preponderance of the evidence demonstrates otherwise.

(5) The project meets the following requirements regarding availability of affordable housing: The project would result in housing units being made available to moderate, low or very low income families as set forth in either A or B below:

(A) The project meets one of the following criteria, and the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units as set forth below at monthly housing costs determined pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code.

1. At least 10 percent of the housing is sold to families of moderate income, or
2. Not less than 10 percent of the housing is rented to families of low income, or
3. Not less than 5 percent of the housing is rented to families of very low income.

(B) If the project does not result in housing units being available as set forth in subdivision (A) above, then the project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to subparagraph (A).

(b) A project that otherwise meets the criteria set forth in subdivision (a) is not exempt from CEQA if any of the following occur:

- (1) There is a reasonable possibility that the project will have a project-specific, significant effect on the environment due to unusual circumstances.
- (2) Substantial changes with respect to the circumstances under which the project is being undertaken that are related to the project have occurred since community-level environmental review was certified or adopted.
- (3) New information becomes available regarding the circumstances under which the project is being undertaken and that is related to the project that was not known, and could not have been known at the time that community-level environmental review was certified or adopted.

If a project is not exempt from CEQA due to subdivision (b), the analysis of the environmental effects of the project covered in the EIR or the negative declaration shall be limited to an analysis of the project-specific effect of the projects and any effects identified pursuant to subdivisions (b)(2) and (3).

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21159.24, Public Resources Code.

## **§ 15196. Notice of Exemption for Agricultural Housing, Affordable Housing, and Residential Infill Projects.**

(a) When a local agency determines that a project is not subject to CEQA under Section 15193, 15194, or 15195, and it approves or determines to carry out that project, the local agency or person seeking project approval shall file the notice required by Section 21152.1 of the Public Resources Code, pursuant to Section 15062.

(b) Failure to file the notice required by this section does not affect the validity of a project.

(c) Nothing in this section affects the time limitations contained in Section 21167.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: 21152.1, Public Resources Code.



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## **Article 13. Review and Evaluation of EIRs and Negative Declarations**

### **Sections 15200 to 15209**

#### **15200. Purposes of Review**

The purposes of review of EIRs and Negative Declarations include:

- (a) Sharing expertise,
- (b) Disclosing agency analyses,
- (c) Checking for accuracy,
- (d) Detecting omissions,
- (e) Discovering public concerns, and
- (f) Soliciting counter proposals.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000, 21108, and 21152, Public Resources Code; *Environmental Defense Fund v. Coastside County Water District*, (1972) 27 Cal. App. 3d 695; *County of Inyo v. City of Los Angeles*, (1977) 71 Cal. App. 3d 185.

#### **15201. Public Participation**

Public participation is an essential part of the CEQA process. Each public agency should include provisions in its CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issues related to the agency's activities. Such procedures should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000, 21082, 21108, and 21152, Public Resources Code; *Environmental Defense Fund v. Coastside County Water District*, (1972) 27 Cal. App. 3d 695; *People v. County of Kern*, (1974) 39 Cal. App. 3d 830; *County of Inyo v. City of Los Angeles*, (1977) 71 Cal. App. 3d 185.

## 15202. Public Hearings

- (a) CEQA does not require formal hearings at any stage of the environmental review process. Public comments may be restricted to written communication.
- (b) If an agency provides a public hearing on its decision to carry out or approve a project, the agency should include environmental review as one of the subjects for the hearing.
- (c) A public hearing on the environmental impact of a project should usually be held when the Lead Agency determines it would facilitate the purposes and goals of CEQA to do so. The hearing may be held in conjunction with and as a part of normal planning activities.
- (d) A draft EIR or Negative Declaration should be used as a basis for discussion at a public hearing. The hearing may be held at a place where public hearings are regularly conducted by the Lead Agency or at another location expected to be convenient to the public.
- (e) Notice of all public hearings shall be given in a timely manner. This notice may be given in the same form and time as notice for other regularly conducted public hearings of the public agency. To the extent that the public agency maintains an Internet web site, notice of all public hearings should be made available in electronic format on that site.
- (f) A public agency may include, in its implementing procedures, procedures for the conducting of public hearings pursuant to this section. The procedures may adopt existing notice and hearing requirements of the public agency for regularly conducted legislative, planning, and other activities.
- (g) There is no requirement for a public agency to conduct a public hearing in connection with its review of an EIR prepared by another public agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000, 21082, 21108, and 21152, Public Resources Code; *Concerned Citizens of Palm Desert, Inc. v. Board of Supervisors*, (1974) 38 Cal. App. 3d 272.

## 15203. Adequate Time for Review and Comment

The Lead Agency shall provide adequate time for other public agencies and members of the public to review and comment on a draft EIR or Negative Declaration that it has prepared.

- (a) Public agencies may establish time periods for review in their implementing procedures and shall notify the public and reviewing agencies of the time for receipt of comments on EIRs. These time periods shall be consistent with applicable statutes, the State CEQA Guidelines, and applicable Clearinghouse review periods.
- (b) A review period for an EIR does not require a halt in other planning or evaluation activities related to a project. Planning should continue in conjunction with environmental evaluation.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21082, 21108 and 21152, Public Resources Code.

## 15204. Focus of Review

(a) In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.

(b) In reviewing negative declarations, persons and public agencies should focus on the proposed finding that the project will not have a significant effect on the environment. If persons and public agencies believe that the project may have a significant effect, they should:

- (1) Identify the specific effect,
- (2) Explain why they believe the effect would occur, and
- (3) Explain why they believe the effect would be significant.

(c) Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.

(d) Reviewing agencies or organizations should include with their comments the name of a contact person who would be available for later consultation if necessary. Each responsible agency and trustee agency shall focus its comments on environmental information germane to that agency's statutory responsibility.

(e) This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section.

(f) Prior to the close of the public review period for an EIR or mitigated negative declaration, a responsible or trustee agency which has identified significant effects on the environment may submit to the lead agency proposed mitigation measures which would address those significant effects. Any such measures shall be limited to impacts affecting those resources which are subject to the statutory authority of that agency. If mitigation measures are submitted, the responsible or trustee agency shall either submit to the lead agency complete and detailed performance objectives for the mitigation measures, or shall refer the lead agency to appropriate, readily available guidelines or reference documents which meet the same purpose.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Sections 21080, 21081.6, and 21080.4, 21104 and 21153, Public Resources Code, Formerly Section 15161; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1996) 42 Cal.App.4th 608; and *Leonoff v. Monterey County Board of Supervisors* (1990) 222 Cal.App.3d 1337.

## 15205. Review by State Agencies

(a) Draft EIRs and negative declarations to be reviewed by state agencies shall be submitted to the State Clearinghouse, 1400 Tenth Street, Sacramento, California 95814. For U.S. Mail, submit to P.O. Box 3044, Sacramento, California 95812-3044. When submitting such documents to the State Clearinghouse, the public agency shall include, in addition to the printed copy, a copy of the document in electronic form on a diskette or by electronic mail transmission, if available.

(b) The following environmental documents shall be submitted to the State Clearinghouse for review by state agencies:

(1) Draft EIRs and Negative Declarations prepared by a state agency where such agency is a Lead Agency.

(2) Draft EIRs and Negative Declarations prepared by a public agency where a state agency is a Responsible Agency, Trustee Agency, or otherwise has jurisdiction by law with respect to the project.

(3) Draft EIRs and Negative Declarations on projects identified in Section 15206 as being of statewide, regional, or areawide significance.

(4) Draft EISs, environmental assessments, and findings of no significant impact prepared pursuant to NEPA, the Federal Guidelines (Title 40 CFR, Part 1500, commencing with Section 1500.1).

(c) Public agencies may send environmental documents to the State Clearinghouse for review where a state agency has special expertise with regard to the environmental impacts involved. The areas of statutory authorities of state agencies are identified in Appendix B. Any such environmental documents submitted to the State Clearinghouse shall include, in addition to the printed copy, a copy of the document in electronic format, on a diskette or by electronic mail transmission, if available.

(d) When an EIR or Negative Declaration is submitted to the State Clearinghouse for review, the review period set by the Lead Agency shall be at least as long as the period provided in the state review system operated by the State Clearinghouse. In the state review system, the normal review period is 45 days for EIRs and 30 days for Negative Declarations. In exceptional circumstances, the State Clearinghouse may set shorter review periods when requested by the Lead Agency.

(e) A sufficient number of copies of an EIR, negative declaration, or mitigated negative declaration, shall be submitted to the State Clearinghouse for review and comment by state agencies. The notice of completion form required by the State Clearinghouse must be submitted together with the copies of the EIR and may be submitted together with the copies of the negative declaration or mitigated negative declaration. The notice of completion form required by the State Clearinghouse is included in Appendix C. If the lead agency uses the on-line process for submittal of the notice of completion form to the State Clearinghouse, the form generated from the Internet shall satisfy this requirement (refer to [www.ceqanet.ca.gov](http://www.ceqanet.ca.gov)).

(f) While the Lead Agency is encouraged to contact the regional and district offices of state Responsible Agencies, the Lead Agency must, in all cases, submit documents to the State Clearinghouse for distribution in order to comply with the review requirements of this section.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21083, 21091, 21104, and 21153, Public Resources Code.

## **15206. Projects of Statewide, Regional, or Areawide Significance**

(a) Projects meeting the criteria in this section shall be deemed to be of statewide, regional, or areawide significance.

(1) A draft EIR or negative declaration prepared by any public agency on a project described in this section shall be submitted to the State Clearinghouse and should be submitted also to the appropriate metropolitan area council of governments for review and comment. The notice of completion form required by the State Clearinghouse must be submitted together with the copies of the EIR and may be submitted together with the copies of the negative declaration. The notice of completion form required by the State Clearinghouse is included in Appendix C. If the lead agency uses the on-line process for submittal of the notice of completion form to the State Clearinghouse, the form generated from the Internet shall satisfy this requirement (refer to [www.ceqanet.ca.gov](http://www.ceqanet.ca.gov)).

(2) When such documents are submitted to the State Clearinghouse, the public agency shall include, in addition to the printed copy, a copy of the document in electronic format on a diskette or by electronic mail transmission, if available.

(b) The Lead Agency shall determine that a proposed project is of statewide, regional, or areawide significance if the project meets any of the following criteria:

(1) A proposed local general plan, element, or amendment thereof for which an EIR was prepared. If a Negative Declaration was prepared for the plan, element, or amendment, the document need not be submitted for review.

(2) A project has the potential for causing significant effects on the environment extending beyond the city or county in which the project would be located. Examples of the effects include generating significant amounts of traffic or interfering with the attainment or maintenance of state or national air quality standards. Projects subject to this subdivision include:

(A) A proposed residential development of more than 500 dwelling units.

(B) A proposed shopping center or business establishment employing more than 1,000 persons or encompassing more than 500,000 square feet of floor space.

(C) A proposed commercial office building employing more than 1,000 persons or encompassing more than 250,000 square feet of floor space.

(D) A proposed hotel/motel development of more than 500 rooms.

(E) A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or encompassing more than 650,000 square feet of floor area.

(3) A project which would result in the cancellation of an open space contract made pursuant to the California Land Conservation Act of 1965 (Williamson Act) for any parcel of 100 or more acres.

(4) A project for which an EIR and not a Negative Declaration was prepared which would be located in and would substantially impact the following areas of critical environmental sensitivity:

(A) The Lake Tahoe Basin.

(B) The Santa Monica Mountains Zone as defined by Section 33105 of the Public Resources Code.

(C) The California Coastal Zone as defined in, and mapped pursuant to, Section 30103 of the Public Resources Code.

(D) An area within 1/4 mile of a wild and scenic river as defined by Section 5093.5 of the Public Resources Code.

(E) The Sacramento-San Joaquin Delta, as defined in Water Code Section 12220.

(F) The Suisun Marsh as defined in Public Resources Code Section 29101.

(G) The jurisdiction of the San Francisco Bay Conservation and Development Commission as defined in Government Code Section 66610.

(5) A project which would substantially affect sensitive wildlife habitats including but not limited to riparian lands, wetlands, bays, estuaries, marshes, and habitats for endangered, rare and threatened species as defined by Section 15380 of this Chapter.

(6) A project which would interfere with attainment of regional water quality standards as stated in the approved areawide waste treatment management plan.

(7) A project which would provide housing, jobs, or occupancy for 500 or more people within 10 miles of a nuclear power plant.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21083, Public Resources Code.

## **15207. Failure to Comment**

If any public agency or person who is consulted with regard to an EIR or Negative Declaration fails to comment within a reasonable time as specified by the Lead Agency, it shall be assumed, without a request for a specific extension of time, that such agency or person has no comment to make. Although the Lead Agency need not respond to late comments, the Lead Agency may choose to respond to them.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21104 and 21153, Public Resources Code; *Clery v. County of Stanislaus*, (1981) 118 Cal. App. 3d 348.

## **15208. Retention and Availability of Comments**

Comments received through the consultation process shall be retained for a reasonable period and available for public inspection at an address given in the final EIR. Comments which may be received on a draft EIR or Negative Declaration under preparation shall also be considered and kept on file.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21104, 21082.1 and 21153, Public Resources Code; Section 4, Chapter 480, Statutes of 1981; *People v. County of Kern*, (1974) 39 Cal. App. 3d 830. Formerly Section 15166.



## **15209. Comments on Initiative of Public Agencies**

Every public agency may comment on environmental documents dealing with projects which affect resources with which the agency has special expertise regardless of whether its comments were solicited or whether the effects fall within the legal jurisdiction of the agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21104, and 21153, Public Resources Code.



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## **Article 14. Projects Also Subject to the National Environmental Policy Act (NEPA)**

**Sections 15220 to 15229**

### **15220. General**

This article applies to projects that are subject to both CEQA and NEPA. NEPA applies to projects which are carried out, financed, or approved in whole or in part by federal agencies. Accordingly, this article applies to projects which involve one or more state or local agencies and one or more federal agencies.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21083.5, 21083.6, and 21083.7, Public Resources Code; National Environmental Policy Act of 1969, Public Law 91-190 as amended, 42 U.S.C.A. 4321-4347; NEPA Regulations, 40 Code of Federal Regulations (C.F.R.) Parts 1500-1508.

### **15221. NEPA Document Ready Before CEQA Document**

(a) When a project will require compliance with both CEQA and NEPA, state or local agencies should use the EIS or Finding of No Significant Impact rather than preparing an EIR or Negative Declaration if the following two conditions occur:

(1) An EIS or Finding of No Significant Impact will be prepared before an EIR or Negative Declaration would otherwise be completed for the project; and

(2) The EIS or Finding of No Significant Impact complies with the provisions of these Guidelines.

(b) Because NEPA does not require separate discussion of mitigation measures or growth inducing impacts, these points of analysis will need to be added, supplemented, or identified before the EIS can be used as an EIR.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21083.5 and 21083.7, Public Resources Code; Section 102(2)(C) of NEPA, 43 U.S.C.A. 4322(2)(C).

## **15222. Preparation of Joint Documents**

If a Lead Agency finds that an EIS or Finding of No Significant Impact for a project would not be prepared by the federal agency by the time when the Lead Agency will need to consider an EIR or Negative Declaration, the Lead Agency should try to prepare a combined EIR-EIS or Negative Declaration-Finding of No Significant Impact. To avoid the need for the federal agency to prepare a separate document for the same project, the Lead Agency must involve the federal agency in the preparation of the joint document.

This involvement is necessary because federal law generally prohibits a federal agency from using an EIR prepared by a state agency unless the federal agency was involved in the preparation of the document.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21083.5 and 21083.7, Public Resources Code; Section 102(2)(D) of NEPA, 43 U.S.C.A. 4322(2)(D); 40 C.F.R. Part 1506.2.

## **15223. Consultation With Federal Agencies**

When it plans to use an EIS or Finding of No Significant Impact or to prepare such a document jointly with a federal agency, the Lead Agency shall consult as soon as possible with the federal agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21083.5 and 21083.7, Public Resources Code.

## **15224. Time Limits**

Where a project will be subject to both CEQA and the National Environmental Policy Act, the one year time limit and the 105-day time limit may be waived pursuant to Section 15110.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21083.6, Public Resources Code.

## **15225. Circulation of Documents**

(a) Where the federal agency circulated the EIS or Finding of No Significant Impact for public review as broadly as state or local law may require and gave notice meeting the standards in Section 15072(a) or 15087(a), the Lead Agency under CEQA may use the federal document in the place of an EIR or Negative Declaration without recirculating the federal document for public review. One review and comment period is enough. Prior to using the federal document in this situation, the Lead Agency shall give notice that it will use the federal document in the place of an EIR or Negative Declaration and that it believes that the federal document meets the requirements of CEQA. The notice shall be given in the same manner as a notice of the public availability of a draft EIR under Section 15087.

(b) If an EIS has been prepared and filed pursuant to NEPA on the closure and reuse of a military base and the Lead Agency decides that the EIS does not fully meet the requirements of CEQA or has not been circulated for public review as state and local law may require, the Lead Agency responsible for preparation of an EIR for a reuse plan for the same base may proceed in the following manner:

(1) Prepare and circulate a notice of preparation pursuant to Section 15082. The notice shall include a

description of the reuse plan, a copy of the EIS, an address to which to send comments, and the deadline for submitting comments. The notice shall state that the lead agency intends to utilize the EIS as a draft EIR and requests comments on whether the EIS provides adequate information to serve as a draft EIR and what specific additional information, if any, is necessary.

(2) Upon the close of the comment period, the lead agency may proceed with preparation and circulation for comment of the draft EIR for the reuse plan. To the greatest extent feasible, the lead agency shall avoid duplication and utilize the EIS or information in the EIS as all or part of the draft EIR. The EIR shall be completed in compliance with the provisions of CEQA.

**Note:** Authority cited: Section 21083, Public Resources Code; References: Sections 21083.5, and 21092, Public Resources Code.

## **15226. Joint Activities**

State and local agencies should cooperate with federal agencies to the fullest extent possible to reduce duplication between the California Environmental Quality Act and the National Environmental Policy Act. Such cooperation should, to the fullest extent possible, include:

- (a) Joint planning processes,
- (b) Joint environmental research and studies,
- (c) Joint public hearings,
- (d) Joint environmental documents.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21083.5 and 21083.7, Public Resources Code; 40 C.F.R. Part 1506.2. Formerly Section 15063(h).

## **15227. State Comments on a Federal Project**

When a state agency officially comments on a proposed federal project which may have a significant effect on the environment, the comments shall include or reference a discussion of the material specified in Section 15126. An EIS on the federal project may be referenced to meet the requirements of this section.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21101, Public Resources Code.

## **15228. Where Federal Agency Will Not Cooperate**

Where a federal agency will not cooperate in the preparation of joint document and will require separate NEPA compliance for the project at a later time, the state or local agency should persist in efforts to cooperate with the federal agency. Because NEPA expressly allows federal agencies to use environmental documents prepared by an agency of statewide jurisdiction, a local agency should try to involve a state agency in helping prepare an EIR or Negative Declaration for the project. In this way there will be a greater chance that the federal agency may later use the CEQA document and not require the applicant to pay for preparation of a second document to meet NEPA requirements at a later time.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21083.5, Public Resources Code; Section 102(2)(D) of NEPA, 42 U.S.C.A. 4322(2)(D).

## **15229. Baseline Analysis for Military Base Reuse Plan EIRs**

When preparing and certifying an EIR for a plan for the reuse of a military base, including when utilizing an Environmental Impact Statement pursuant to Section 21083.5 of the Public Resources Code, the determination of whether the reuse plan may have a significant effect on the environment may, at the discretion of the lead agency, be based upon the physical conditions which were present at the time that the federal decision for the closure or realignment of the base or reservation became final. These conditions shall be referred to as the "baseline physical conditions." Impacts which do not exceed the baseline physical conditions shall not be considered significant.

(a) Prior to circulating a draft EIR pursuant to the provisions of this Section, the lead agency shall do all of the following, in order:

(1) Prepare proposed baseline physical conditions, identify pertinent responsible and trustee agencies and consult with those agencies prior to the public hearing required by subdivision (a)(2) as to the application of their regulatory authority and permitting standards to the proposed baseline physical conditions, the proposed reuse plan, and specific, planned future nonmilitary land uses of the base or reservation. The affected agencies shall have not less than 30 days prior to the public hearing to review the proposed baseline physical conditions and the proposed reuse plan and to submit their comments to the lead agency.

(2) Hold a public hearing at which is discussed the federal EIS prepared for, or being prepared for, the closure or realignment of the military base or reservation. The discussion shall include the significant effects on the environment, if any, examined in the EIS, potential methods of mitigating those effects, including feasible alternatives, and the mitigative effects of federal, state, and local laws applicable to future nonmilitary activities. Prior to the close of the hearing, the lead agency shall specify whether it will adopt any of the baseline physical conditions for the reuse plan EIR and identify those conditions. The lead agency shall specify particular baseline physical conditions, if any, which it will examine in greater detail than they were examined in the EIS. Notice of the hearing shall be given pursuant to Section 15087. The hearing may be continued from time to time.

(3) Prior to the close of the hearing, the lead agency shall do all of the following:

(A) Specify the baseline physical conditions which it intends to adopt for the reuse plan EIR, and specify particular physical conditions, if any, which it will examine in greater detail than were examined in the EIS.

(B) State specifically how it intends to integrate its discussion of the baseline physical conditions in the EIR with the reuse planning process, taking into account the adopted environmental standards of the community, including but not limited to, the adopted general plan, specific plan or redevelopment plan, and including other applicable provisions of adopted congestion management plans, habitat conservation or natural communities conservation plans, air quality management plans, integrated waste management plans, and county hazardous waste management plans.

(C) State the specific economic or social reasons, including but not limited to, new job creation, opportunities for employment of skilled workers, availability of low and moderate-income housing, and economic continuity which support selection of the baseline physical conditions.

(b) An EIR prepared under this section should identify any adopted baseline physical conditions in the environmental setting section. The baseline physical conditions should be cited in discussions of effects. The no-project alternative analyzed in an EIR prepared under this section shall discuss the conditions on

the base as they exist at the time of preparation, as well as what could be reasonably expected to occur in the foreseeable future if the reuse plan were not approved, based on current plans and consistent with available infrastructure and services.

(c) All public and private activities taken pursuant to or in furtherance of a reuse plan for which an EIR was prepared and certified pursuant to this section shall be deemed to be a single project. A subsequent or supplemental EIR shall be required only if the lead agency determines that any of the circumstances described in Section 15162 or 15163 exist.

(d) Limitations:

(1) Nothing in this section shall in any way limit the scope of review or determination of significance of the presence of hazardous or toxic wastes, substances, and materials, including but not limited to, contaminated soils and groundwater. The regulation of hazardous or toxic wastes, substances, and materials shall not be constrained by this section.

(2) This section does not apply to hazardous waste regulation and remediation projects undertaken pursuant to Chapter 6.5 (commencing with Section 25100) or Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code or pursuant to the Porter-Cologne Water Quality Control Act (Water Code Section 13000, et seq.)

(3) All subsequent development at the military base or reservation shall be subject to all applicable federal, state, or local laws, including but not limited to, those relating to air quality, water quality, traffic, threatened and endangered species, noise, and hazardous or toxic wastes, substances, or materials.

(e) "Reuse plan" means the initial plan for the reuse of military base adopted by a local government, including a redevelopment agency or joint powers authority, in the form of a general plan, general plan amendment, specific plan, redevelopment plan, or other planning document. For purposes of this section, a reuse plan also shall include a statement of development policies, a diagram or diagrams illustrating its provisions, including a designation of the proposed general distribution, location, and development intensity for housing, business, industry, open space, recreation, natural resources, public buildings and grounds, roads, and other transportation facilities, infrastructure, and other categories of proposed uses, whether public or private.

(f) This section may be applied to any reuse plan EIR for which a notice of preparation is issued within one year from the date that the federal record of decision was rendered for the military base or reservation closure or realignment and reuse, or prior to January 1, 1997, whichever is later, but only if the EIR is completed and certified within five years from the date that the federal record of decision was rendered.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21083.8.1, Public Resources Code.



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## **Article 15. Litigation**

### **Sections 15230 to 15233**

#### **15230. Time Limits and Criteria**

Litigation under CEQA must be handled under the time limits and criteria described in Sections 21167 et seq. of the Public Resources Code and Section 15112 of these Guidelines in addition to provisions in this article.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21167 et seq., Public Resources Code.

#### **15231. Adequacy of EIR or Negative Declaration for Use By Responsible Agencies**

A final EIR prepared by a Lead Agency or a Negative Declaration adopted by a Lead Agency shall be conclusively presumed to comply with CEQA for purposes of use by Responsible Agencies which were consulted pursuant to sections 15072 or 15082 unless one of the following conditions occurs:

- (a) The EIR or Negative Declaration is finally adjudged in a legal proceeding not to comply with the requirements of CEQA, or
- (b) A subsequent EIR is made necessary by Section 15162 of these Guidelines.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.1, 21166, 21167.2, and 21167.3, Public Resources Code.

#### **15232. Request for Hearing**

In a writ of mandate proceeding challenging approval of a project under CEQA, the petitioner shall, within 90 days of filing the petition, request a hearing or otherwise be subject to dismissal on the court's own motion or on the motion of any party to the suit.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21167.4, Public Resources Code.

## **15233. Conditional Permits**

If a lawsuit is filed challenging an EIR or Negative Declaration for noncompliance with CEQA, Responsible Agencies shall act as if the EIR or Negative Declaration complies with CEQA and continue to process the application for the project according to the time limits for Responsible Agency action contained in Government Code Section 65952.

(a) If an injunction or a stay has been granted in the lawsuit prohibiting the project from being carried out, the Responsible Agency shall have authority only to disapprove the project or to grant a conditional approval of the project. A conditional approval shall constitute permission to proceed with a project only when the court action results in a final determination that the EIR or Negative Declaration does comply with the provisions of CEQA (Public Resources Code Section 21167.3(a)).

(b) If no injunction or stay is granted in the lawsuit, the Responsible Agency shall assume that the EIR or Negative Declaration fully meets the requirements of CEQA. The Responsible Agency shall approve or disapprove the project within the time limits described in Article 8, commencing with Section 15100, of these Guidelines and described in Government Code Section 65952. An approval granted by a Responsible Agency in this situation provides only permission to proceed with the project at the applicant's risk prior to a final decision in the lawsuit (Public Resources Code Section 21167.3(b)).

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21167.3, Public Resources Code; Kriebel v. City Council (1980) 112 Cal. App. 3d 693.





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**Article 16. EIR Monitor**

**Section 15240**

**15240. EIR Monitor**

The Secretary for Resources may provide for publication of a bulletin entitled "California EIR Monitor" on a subscription basis to provide public notice of amendments to the Guidelines, the completion of draft EIRs, and other matters as deemed appropriate. Inquiries and subscription requests should be sent to the following address:

Secretary for Resources  
Attention: California EIR Monitor  
1416 Ninth Street, Room 1311  
Sacramento, California 95814

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21088, Public Resources Code.



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## **Article 17. Exemption for Certified State Regulatory Programs**

### **Sections 15250 to 15253**

#### **15250. General**

Section 21080.5 of the Public Resources Code provides that a regulatory program of a state agency shall be certified by the Secretary for Resources as being exempt from the requirements for preparing EIRs, Negative Declarations, and Initial Studies if the Secretary finds that the program meets the criteria contained in that code section. A certified program remains subject to other provisions in CEQA such as the policy of avoiding significant adverse effects on the environment where feasible. This article provides information concerning certified programs.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.5, Public Resources Code.

#### **15251. List of Certified Programs**

The following programs of state regulatory agencies have been certified by the Secretary for Resources as meeting the requirements of Section 21080.5:

- (a) The regulation of timber harvesting operations by the California Department of Forestry and the State Board of Forestry pursuant to Chapter 8, commencing with Section 4511 of Part 2 of Division 4 of the Public Resources Code.
- (b) The regulatory program of the Fish and Game Commission pursuant to the Fish and Game Code.
- (c) The regulatory program of the California Coastal Commission and the regional coastal commissions dealing with the consideration and granting of coastal development permits under the California Coastal Act of 1976, Division 20 (commencing with Section 30000) of the Public Resources Code.
- (d) That portion of the regulatory program of the Air Resources Board which involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans to be used in the regulatory program for the protection and enhancement of ambient air quality in California.
- (e) The regulatory program of the State Board of Forestry in adopting, amending, or repealing standards, rules, regulations, or plans under the Z'berg-Nejedly Forest Practice Act, Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code.
- (f) The program of the California Coastal Commission involving the preparation, approval, and certification of local coastal programs as provided in Sections 30500 through 30522 of the Public Resources Code.
- (g) The Water Quality Control (Basin)/208 Planning Program of the State Water Resources Control Board and the Regional Water Quality Control Boards.
- (h) The permit and planning programs of the San Francisco Bay Conservation and Development Commission under the McAteer-Petris Act, Title 7.2 (commencing with Section 66600) of the

Government Code; and the planning program of the San Francisco Bay Conservation and Development Commission under the Suisun Marsh Preservation Act, Division 19 (commencing with Section 29000) of the Public Resources Code.

(i) The pesticide regulatory program administered by the Department of Pesticide Regulation and the county agricultural commissioners insofar as the program consists of:

- (1) The registration, evaluation, and classification of pesticides.
- (2) The adoption, amendment, or repeal of regulations and standards for the licensing and regulation of pesticide dealers and pest control operators and advisors.
- (3) The adoption, amendment, or repeal of regulations for standards dealing with the monitoring of pesticides and of the human health and environmental effects of pesticides.
- (4) The regulation of the use of pesticides in agricultural and urban areas of the state through the permit system administered by the county agricultural commissioners.

(j) The power plant site certification program of the State Energy Resources Conservation and Development Commission under Chapter 6 of the Warren-Alquist Act, commencing with Public Resources Code Section 25500.

(k) The regulatory program of the State Water Resources Control Board to establish instream beneficial use protection programs.

(l) That portion of the regulatory program of the South Coast Air Quality Management District which involves the adoption, amendment, and repeal of regulations pursuant to the provisions of the Health and Safety Code.

(m) The Program of the Delta Protection Commission involving the preparation and adoption of a Resources Management Plan for the Sacramento-San Joaquin Delta (Pub. Resources Code §29760 ff.), and the Commission's review and action on general plan amendments proposed by local governments to Resources Code §29763.5).

(n) The program of the Department of Fish and Game for the adoption of regulations under the Fish and Game Code.

(o) The program of the Department of Fish and Game implementing the incidental take permit application process under the California Endangered Species Act ("CESA"), Fish and Game Code sections 2080 and 2081, and specifically the regulation governing the Department of Fish and Game's role as a "lead agency" when issuing incidental take permits, found at California Code of Regulations, Title 14, section 783.5(d).

(p) The regulatory program of the Department of Fish and Game for review and approval of voluntary local programs for routine and ongoing agricultural activities, as authorized by the California Endangered Species Act, Fish and Game Code section 2086.

**Note:** Authority cited: Sections 21083 and 21080.5, Public Resources Code; Reference: Section 21080.5, Public Resources Code.

## **15252. Substitute Document**

(a) The document used as a substitute for an EIR or Negative Declaration in a certified program shall include at least the following items:

- (1) A description of the proposed activity, and
- (2) Either:
  - (A) Alternatives to the activity and mitigation measures to avoid or reduce any significant or potentially significant effects that the project might have on the environment, or
  - (B) A statement that the agency's review of the project showed that the project would not have any significant or potentially significant effects on the environment and therefore no alternatives or mitigation measures are proposed to avoid or reduce any significant effects on the environment. This statement shall be supported by a checklist or other documentation to show the possible effects that the agency examined in reaching this conclusion.

(b) The notice of the decision on the proposed activity shall be filed with the Secretary for Resources.

Authority cited: Section 21083, Public Resources Code. Reference: Section 21080.5, Public Resources Code.

## **15253. Use of an EIR Substitute by a Responsible Agency**

(a) An environmental analysis document prepared for a project under a certified program listed in Section 15251 shall be used by another agency granting an approval for the same project where the conditions in subsection (b) have been met. In this situation, the certified agency shall act as Lead Agency, and the other permitting agencies shall act as Responsible Agencies using the certified agency's document.

(b) The conditions under which a public agency shall act as a Responsible Agency when approving a project using an environmental analysis document prepared under a certified program in the place of an EIR or Negative Declaration are as follows:

(1) The certified agency is the first agency to grant a discretionary approval for the project.

(2) The certified agency consults with the Responsible Agencies, but the consultation need not include the exchange of written notices.

(3) The environmental analysis document identifies:

(A) The significant environmental effects within the jurisdiction or special expertise of the Responsible Agency.

(B) Alternatives or mitigation measures that could avoid or reduce the severity of the significant environmental effects.

(4) Where written notices were not exchanged in the consultation process, the Responsible Agency was afforded the opportunity to participate in the review of the project by the certified agency in a regular manner designed to inform the certified agency of the concerns of the Responsible Agency before release of the EIR substitute for public review.

(5) The certified agency established a consultation period between the certified agency and the Responsible Agency that was at least as long as the period allowed for public review of the EIR substitute document.

(6) The certified agency exercised the powers of a Lead Agency by considering all the significant environmental effects of the project and making a finding under Section 15091 for each significant effect.

(c) Certified agencies are not required to adjust their activities to meet the criteria in subdivision (b).

Where a certified agency does not meet the criteria in subdivision (b):

(1) The substitute document prepared by the agency shall not be used by other permitting agencies in the place of an EIR or Negative Declaration, and (2) Any other agencies granting approvals for the project shall comply with CEQA in the normal manner. A permitting agency shall act as a Lead Agency and prepare an EIR or a Negative Declaration. Other permitting agencies, if any, shall act as Responsible Agencies and use the EIR or Negative Declaration prepared by the Lead Agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002.1(d), 21080.5, and 21165, Public Resources Code.



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## **Article 18. Statutory Exemptions**

### **Sections 15260 to 15285**

#### **15260. General**

This article describes the exemptions from CEQA granted by the Legislature. The exemptions take several forms. Some exemptions are complete exemptions from CEQA. Other exemptions apply to only part of the requirements of CEQA, and still other exemptions apply only to the timing of CEQA compliance.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b), Public Resources Code.

#### **15261. Ongoing Project**

(a) If a project being carried out by a public agency was approved prior to November 23, 1970, the project shall be exempt from CEQA unless either of the following conditions exist:

(1) A substantial portion of public funds allocated for the project have not been spent, and it is still feasible to modify the project to mitigate potentially adverse environmental effects, or to choose feasible alternatives to the project, including the alternative of "no project" or halting the project; provided that a project subject to the National Environmental Policy Act (NEPA) shall be exempt from CEQA as an on-going project if, under regulations promulgated under NEPA, the project would be too far advanced as of January 1, 1970, to require preparation of an EIS.

(2) A public agency proposes to modify the project in such a way that the project might have a new significant effect on the environment.

(b) A private project shall be exempt from CEQA if the project received approval of a lease, license, certificate, permit, or other entitlement for use from a public agency prior to April 5, 1973, subject to the following provisions:

(1) CEQA does not prohibit a public agency from considering environmental factors in connection with the approval or disapproval of a project, or from imposing reasonable fees on the appropriate private person or entity for preparing an environmental report under authority other than CEQA. Local agencies may require environmental reports for projects covered by this paragraph pursuant to local ordinances during this interim period.

(2) Where a project was approved prior to December 5, 1972, and prior to that date the project was legally challenged for noncompliance with CEQA, the project shall be bound by special rules set forth in Section 21170 of CEQA.

(3) Where a private project has been granted a discretionary governmental approval for part of the project before April 5, 1973, and another or additional discretionary governmental approvals after April 5, 1973, the project shall be subject to CEQA only if the approval or approvals after April 5, 1973, involve a greater degree of responsibility or control over the project as a whole than did the approval or approvals prior to that date.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21169, 21170, and 21171, Public Resources Code; County of Inyo v. Yorty, 32 Cal. App. 3d 795.

## **15262. Feasibility and Planning Studies**

A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or Negative Declaration but does require consideration of environmental factors. This section does not apply to the adoption of a plan that will have a legally binding effect on later activities.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21102 and 21150, Public Resources Code.

## **15263. Discharge Requirements**

The State Water Resources Control Board and the regional boards are exempt from the requirement to prepare an EIR or a Negative Declaration prior to the adoption of waste discharge requirements, except requirements for new sources as defined in the Federal Water Pollution Control Act or in other acts which amend or supplement the Federal Water Pollution Control Act. The term "waste discharge requirements" as used in this section is the equivalent of the term "permits" as used in the Federal Water Pollution Control Act.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 13389, Water Code.

## **15264. Timberland Preserves**

Local agencies are exempt from the requirement to prepare an EIR or Negative Declaration on the adoption of timberland preserve zones under Government Code Sections 51100 et seq. (Gov. Code, Sec. 51119).

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Government Code Section 51119, Government Code.

## **15265. Adoption of Coastal Plans and Programs**

(a) CEQA does not apply to activities and approvals pursuant to the California Coastal Act (commencing with Section 30000 of the Public Resources Code) by:

(1) Any local government, as defined in Section 30109 of the Public Resources Code, necessary for the preparation and adoption of a local coastal program, or

(2) Any state university or college, as defined in Section 30119, as necessary for the preparation and adoption of a long-range land use development plan.

(b) CEQA shall apply to the certification of a local coastal program or long-range land use development plan by the California Coastal Commission.

(c) This section shifts the burden of CEQA compliance from the local agency or the state university or college to the California Coastal Commission. The Coastal Commission's program of certifying local coastal programs and long-range land use development plans has been certified under Section 21080.5, Public Resources Code. See: Section 15192.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.9, Public Resources Code.

## **15266. General Plan Time Extension**

CEQA shall not apply to the granting of an extension of time by the Office of Planning and Research to a city or county for the preparation and adoption of one or more elements of a city or county general plan.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.10(a), Public Resources Code.

## **15267. Financial Assistance to Low or Moderate Income Housing**

CEQA does not apply to actions taken by the Department of and Community Development to provide financial assistance for the development and construction of residential housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. The residential project which is the subject of the application for financial assistance will be subject to CEQA when approvals are granted by another agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.10(b), Public Resources Code.

## **15268. Ministerial Projects**

(a) Ministerial projects are exempt from the requirements of CEQA. The determination of what is "ministerial" can most appropriately be made by the particular public agency involved based upon its analysis of its own laws, and each public agency should make such determination either as a part of its implementing regulations or on a case-by-case basis.

(b) In the absence of any discretionary provision contained in the local ordinance or other law establishing the requirements for the permit, license, or other entitlement for use, the following actions shall be presumed to be ministerial:

(1) Issuance of building permits.

(2) Issuance of business licenses.

(3) Approval of final subdivision maps.

(4) Approval of individual utility service connections and disconnections.

(c) Each public agency should, in its implementing regulations or ordinances, provide an identification or itemization of its projects and actions which are deemed ministerial under the applicable laws and ordinances.

(d) Where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(1), Public Resources Code; *Day v. City of Glendale*, 51 Cal. App. 3d 817.

## 15269. Emergency Projects

The following emergency projects are exempt from the requirements of CEQA.

(a) Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code. This includes projects that will remove, destroy, or significantly alter an historical resource when that resource represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic Preservation pursuant to Section 5028(b) of Public Resources Code.

(b) Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare.

(c) Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.

(d) Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This exemption does not apply to highways designated as official state scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

(e) Seismic work on highways and bridges pursuant to Section 180.2 of the Streets and Highways Code, Section 180 et seq.

**Note:** Authority: Section 21083, Public Resources Code. Reference: Sections 21080(b)(2), (3), and (4), 21080.33 and 21172, Public Resources Code; *Castaic Lake Water Agency v. City of Santa Clarita* (1995) 41 Cal.App.4th 1257; and *Western Municipal Water District of Riverside County v. Superior Court of San Bernardino County* (1987) 187 Cal.App.3d 1104.



## **15270. Projects Which are Disapproved**

- (a) CEQA does not apply to projects which a public agency rejects or disapproves.
- (b) This section is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved.
- (c) This section shall not relieve an applicant from paying the costs for an EIR or Negative Declaration prepared for his project prior to the Lead Agency's disapproval of the project after normal evaluation and processing.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(5), Public Resources Code.

## **15271. Early Activities Related to Thermal Power Plants**

(a) CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for such a thermal power plant, if the thermal power plant site and related facility will be the subject of an EIR or Negative Declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by:

- (1) The State Energy Resources Conservation and Development Commission,
- (2) The Public Utilities Commission, or
- (3) The city or county in which the power plant and related facility would be located.

(b) The EIR, Negative Declaration, or other document prepared for the thermal power plant site or facility, shall include the environmental impact, if any, of the early activities described in this section.

(c) This section acts to delay the timing of CEQA compliance from the early activities of a utility to the time when a regulatory agency is requested to approve the thermal power plant and shifts the responsibility for preparing the document to the regulatory agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 15080(b)(6), Public Resources Code.

## **15272. Olympic Games**

CEQA does not apply to activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, Olympic Games under the authority of the International Olympic Committee, except for the construction of facilities necessary for such Olympic Games. If the facilities are required by the International Olympic Committee as a condition of being awarded the Olympic Games, the Lead Agency need not discuss the "no project" alternative in an EIR with respect to those facilities.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(7), Public

Resources Code.

## **15273. Rates, Tolls, Fares, and Charges**

(a) CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of:

- (1) Meeting operating expenses, including employee wage rates and fringe benefits,
- (2) Purchasing or leasing supplies, equipment, or materials,
- (3) Meeting financial reserve needs and requirements,
- (4) Obtaining funds for capital projects, necessary to maintain service within existing service areas, or
- (5) Obtaining funds necessary to maintain such intra-city transfers as are authorized by city charter.

(b) Rate increases to fund capital projects for the expansion of a system remain subject to CEQA. The agency granting the rate increase shall act either as the Lead Agency if no other agency has prepared environmental documents for the capital project or as a Responsible Agency if another agency has already complied with CEQA as the Lead Agency.

(c) The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this section is claimed setting forth with specificity the basis for the claim of exemption.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(8), Public Resources Code.

## **15274. Family Day Care Homes**

(a) CEQA does not apply to establishment or operation of a large family day care home, which provides in-home care for up to fourteen children, as defined in Section 1596.78 of the Health and Safety Code.

(b) Under the Health and Safety Code, local agencies cannot require use permits for the establishment or operation of a small family day care home, which provides in-home care for up to eight children, and the establishment or operation of a small family day care home is a ministerial action which is not subject to CEQA.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21083, Public Resources Code.

## **15275. Specified Mass Transit Projects**

CEQA does not apply to the following mass transit projects:

(a) The institution or increase of passenger or commuter service on rail lines or high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities;

(b) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(11), (12), and (13), Public Resources Code.

## **15276. Transportation Improvement and Congestion Management Programs**

(a) CEQA does not apply to the development or adoption of a regional transportation improvement program or the state transportation improvement program. Individual projects developed pursuant to these programs shall remain subject to CEQA.

(b) CEQA does not apply to preparation and adoption of a congestion management program by a county congestion management agency pursuant to Government Code Section 65089, et seq.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(13), Public Resources Code.

## **15277. Projects Located Outside California**

CEQA does not apply to any project or portion thereof located outside of California which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or pursuant to a law of that state requiring preparation of a document containing essentially the same points of analysis as in an Environmental Impact Statement prepared under the National Environmental Policy Act of 1969. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to CEQA where a California public agency has authority over the emissions or discharges.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(15), Public Resources Code; 58 Opinions of the California Attorney General 614 (S.O. 75/50).

## **15278. Application of Coatings**

(a) CEQA does not apply to a discretionary decision by an air quality management district for a project consisting of the application of coatings within an existing facility at an automotive manufacturing plant if the district finds all of the following:

(1) The project will not cause a net increase in any emissions of any pollutant for which a national or state ambient air quality standard has been established after the internal emission accounting for previous emission reductions achieved at the facility and recognized by the district.

(2) The project will not cause a net increase in adverse impacts of toxic air contaminants as determined by a health risk assessment. The term "net increase in adverse impacts of toxic air contaminants as determined by a health risk assessment" shall be determined in accordance with the rules and regulations of the district.

(3) The project will not cause any other adverse effect on the environment.

(b) The district shall provide a 10-day notice, at the time of the issuance of the permit, of any such exemption. Notice shall be published in two newspapers of general circulation in the area of the project

and shall be mailed to any person who makes a written request for such a notice. The notice shall state that the complete file on the project and the basis for the district's findings of exemption are available for inspection and copying at the office of the district.

(c) Any person may appeal the issuance of a permit based on an exemption under subdivision (a) to the hearing board as provided in Section 42302.1 of the Health and Safety Code. The permit shall be revoked by the hearing board if there is substantial evidence in light of the whole record before the board that the project may not satisfy one or more of the criteria established pursuant to subdivision (a). If there is no such substantial evidence, the exemption shall be upheld. Any appeal under this subdivision shall be scheduled for hearing on the calendar of the hearing board within 10 working days of the appeal being filed. The hearing board shall give the appeal priority on its calendar and shall render a decision on the appeal within 21 working days of the appeal being filed. The hearing board may delegate the authority to hear and decide such an appeal to a subcommittee of its body.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Chapter 1131, Statutes of 1993, Section 1.

**[15279 Removed]**

**[15280 Removed]**

## **15281. Air Quality Permits**

CEQA does not apply to the issuance, modification, amendment, or renewal of any permit by an air pollution control district or air quality management district pursuant to Title V, as defined in Section 39053.3 of the Health and Safety Code, or pursuant to an air district Title V program established under Sections 42301.10, 42301.11, and 42301.12 of the Health and Safety Code, unless the issuance, modification, amendment, or renewal authorizes a physical or operational change to a source or facility.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.24, Public Resources Code.

## **15282. Other Statutory Exemptions**

The following is a list of existing statutory exemptions. Each subdivision summarizes statutory exemptions found in the California Code. Lead agencies are not to rely on the language contained in the summaries below but must rely on the actual statutory language that creates the exemption. This list is intended to assist lead agencies in finding them, but not as a substitute for them. This section is merely a reference tool.

(a) The notification of discovery of Native American burial sites as set forth in Section 5097.98(c) of the Public Resources Code .

(b) Specified prison facilities as set forth in Sections 21080.01, 21080.02, 21080.03 and 21080.07 of the Public Resources Code.

- (c) The lease or purchase of the rail right-of-way used for the San Francisco Peninsula commute service between San Francisco and San Jose as set forth in Section 21080.05 of the Public Resources Code.
- (d) Any activity or approval necessary for or incidental to project funding or authorization for the expenditure of funds for the project, by the Rural Economic Development Infrastructure Panel as set forth in Section 21080.08 of the Public Resources Code.
- (e) The conversion of an existing rental mobilehome park to a resident initiated subdivision, cooperative, or condominium for mobilehomes as set forth in Section 21080.8 of the Public Resources Code.
- (f) Settlements of title and boundary problems by the State Lands Commission and to exchanges or leases in connection with those settlements as set forth in Section 21080.11 of the Public Resources Code.
- (g) Any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation as set forth in Section 21080.13 of the Public Resources Code.
- (h) The adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code .
- (i) The closing of any public school or the transfer of students from that public school to another school in which kindergarten or any grades 1 through 12 is maintained as set forth in 21080.18 of the Public Resources Code.
- (j) A project for restriping streets or highways to relieve traffic congestion as set forth in Section 21080.19 of the Public Resources Code.
- (k) The installation of new pipeline or maintenance, repair, restoration, removal, or demolition of an existing pipeline as set forth in Section 21080.21 of the Public Resources Code, as long as the project does not exceed one mile in length.
- (l) The activities and approvals by a local government necessary for the preparation of general plan amendments pursuant to Public Resources Code §29763 as set forth in Section 21080.22 of the Public Resources Code. Section 29763 of the Public Resources Code refers to local government amendments made for consistency with the Delta Protection Commission's regional plan.
- (m) Minor alterations to utilities made for the purposes of complying with Sections 116410 and 116415 of the Health and Safety Code as set forth in Section 21080.26 of the Public Resources Code.
- (n) The adoption of an ordinance exempting a city or county from the provisions of the Solar Shade Control Act as set forth in Section 25985 of the Public Resources Code.
- (o) The acquisition of land by the Department of Transportation if received or acquired within a statewide or regional priority corridor designated pursuant to Section 65081.3 of the Government Code as set forth in Section 33911 of the Public Resources Code .
- (p) The adoption or amendment of a nondisposal facility element as set forth in Section 41735 of the Public Resources Code.
- (q) Cooperative agreements for the development of Solid Waste Management Facilities on Indian country as set forth in Section 44203(g) of the Public Resources Code .
- (r) Determinations made regarding a city or county's regional housing needs as set forth in Section 65584 of the Government Code.

(s) Any action necessary to bring a general plan or relevant mandatory element of the general plan into compliance pursuant to a court order as set forth in Section 65759 of the Government Code.

(t) Industrial Development Authority activities as set forth in Section 91543 of the Government Code .

(u) Temporary changes in the point of diversion, place of use, of purpose of use due to a transfer or exchange of water or water rights as set forth in Section 1729 of the Water Code.

(v) The preparation and adoption of Urban Water Management Plans pursuant to the provisions of Section 10652 of the Water Code.

**Note:** Authority: Section 21083, Public Resources Code; References: Sections 5097.98(c), 21080.01, 21080.02, 21080.03, 21080.05, 21080.07, 21080.08, 21080.7, 21080.8, 21080.11, 21080.13, 21080.17, 21080.18, 21080.19, 21080.21, 21080.22, 21080.26, 25985, 33911, 41735, and 44203(g), Public Resources Code.

### **15283. Housing Needs Allocation.**

CEQA does not apply to regional housing needs determinations made by the Department of Housing and Community Development, a council of governments, or a city or county pursuant to Section 65584 of the Government Code.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 65584, Government Code.

### **15284. Pipelines.**

(a) CEQA does not apply to any project consisting of the inspection, maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of an existing hazardous or volatile liquid pipeline or any valve, flange, meter, or other piece of equipment that is directly attached to the pipeline.

(b) To qualify for this exemption, the diameter of the affected pipeline must not be increased and the project must be located outside the boundaries of an oil refinery. The project must also meet all of the following criteria:

(1) The affected section of pipeline is less than eight miles in length and actual construction and excavation activities are not undertaken over a length of more than one-half mile at a time.

(2) The affected section of pipeline is not less than eight miles distance from any section of pipeline that had been subject to this exemption in the previous 12 months.

(3) The project is not solely for the purpose of excavating soil that is contaminated by hazardous materials.

(4) To the extent not otherwise required by law, the person undertaking the project has, in advance of undertaking the project, prepared a plan that will result in notification of the appropriate agencies so that they may take action, if necessary, to provide for the emergency evacuation of members of the public who may be located in close proximity to the project, and those agencies, including but not limited to the local fire department, police, sheriff, and California Highway Patrol as appropriate, have reviewed and agreed to that plan.

(5) Project activities take place within an existing right-of-way and that right-of-way will be restored to its pre-project condition upon completion of the project.

(6) The project applicant will comply with all conditions otherwise authorized by law, imposed by the city or county as part of any local agency permit process, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Public Resources Code Section 5810, et seq.), the California Endangered Species Act (Fish and Game Code Section 2050, et seq.), other applicable state laws, and all applicable federal laws.

(c) When the lead agency determines that a project meets all of the criteria of subdivisions (a) and (b), the party undertaking the project shall do all of the following:

(1) Notify in writing all responsible and trustee agencies, as well as any public agency with environmental, public health protection, or emergency response authority, of the lead agency's invocation of this exemption.

(2) Mail notice of the project to the last known name and address of all organizations and individuals who have previously requested such notice and notify the public in the affected area by at least one of the following procedures:

(A) Publication at least one time in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

(B) Posting of notice on and off site in the area where the project is to be located.

(C) Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll.

The notice shall include a brief description of the proposed project and its location, and the date, time, and place of any public meetings or hearings on the proposed project. This notice may be combined with the public notice required under other law, as applicable, but shall meet the preceding minimum requirements.

(3) In the case of private rights-of-way over private property, receive from the underlying property owner permission for access to the property.

(4) Immediately inform the lead agency if any soil contaminated with hazardous materials is discovered.

(5) Comply with all conditions otherwise authorized by law, imposed by the city or county as part of any local agency permit process, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Public Resources Code Section 5810, et seq.), the California Endangered Species Act (Fish and Game Code Section 2050, et seq.), other applicable state laws, and all applicable federal laws.

(d) For purposes of this section, "pipeline" is used as defined in subdivision (a) of Government Code Section 51010.5. This definition includes every intrastate pipeline used for the transportation of hazardous liquid substances or highly volatile liquid substances, including a common carrier pipeline, and all piping containing those substances located within a refined products bulk loading facility which is owned by a common carrier and is served by a pipeline of that common carrier, and the common carrier owns and serves by pipeline at least five such facilities in California.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21080.23, Public Resources Code.

## **15285. Transit Agency Responses to Revenue Shortfalls.**

(a) CEQA does not apply to actions taken on or after July 1, 1995 to implement budget reductions made by a publicly owned transit agency as a result of a fiscal emergency caused by the failure of agency revenues to adequately fund agency programs and facilities. Actions shall be limited to those directly undertaken by or financially supported in whole or in part by the transit agency pursuant to Section 15378(a)(1) or (2), including actions which reduce or eliminate the availability of an existing publicly owned transit service, facility, program, or activity.

(b) When invoking this exemption, the transit agency shall make a specific finding that there is a fiscal emergency. Before taking its proposed budgetary actions and making the finding of fiscal emergency, the transit agency shall hold a public hearing. After this public hearing, the transit agency shall respond within 30 days at a regular public meeting to suggestions made by the public at that initial hearing. The transit agency may make the finding of fiscal emergency only after it has responded to public suggestions.

(c) For purposes of this subdivision, "fiscal emergency" means that the transit agency is projected to have negative working capital within one year from the date that the agency finds that a fiscal emergency exists. "Working capital" is defined as the sum of all unrestricted cash, unrestricted short-term investments, and unrestricted short-term accounts receivable, minus unrestricted accounts payable. Employee retirements funds, including deferred compensation plans and Section 401(k) plans, health insurance reserves, bond payment reserves, workers' compensation reserves, and insurance reserves shall not be included as working capital.

(d) This exemption does not apply to the action of any publicly owned transit agency to reduce or eliminate a transit service, facility, program, or activity that was approved or adopted as a mitigation measure in any environmental document certified or adopted by any public agency under either CEQA or NEPA. Further, it does not apply to actions of the Los Angeles County Metropolitan Transportation Authority.

**Note:** Authority cited: Section 21083, Public Resources Code. References: Sections 21080 and 21080.32, Public Resources Code.





*Title 14. California Code of Regulations*  
**Chapter 3. Guidelines for Implementation of the  
California Environmental Quality Act**

## **Article 18. Statutory Exemptions**

### **Sections 15260 to 15285**

#### **15260. General**

This article describes the exemptions from CEQA granted by the Legislature. The exemptions take several forms. Some exemptions are complete exemptions from CEQA. Other exemptions apply to only part of the requirements of CEQA, and still other exemptions apply only to the timing of CEQA compliance.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b), Public Resources Code.

#### **15261. Ongoing Project**

(a) If a project being carried out by a public agency was approved prior to November 23, 1970, the project shall be exempt from CEQA unless either of the following conditions exist:

(1) A substantial portion of public funds allocated for the project have not been spent, and it is still feasible to modify the project to mitigate potentially adverse environmental effects, or to choose feasible alternatives to the project, including the alternative of "no project" or halting the project; provided that a project subject to the National Environmental Policy Act (NEPA) shall be exempt from CEQA as an on-going project if, under regulations promulgated under NEPA, the project would be too far advanced as of January 1, 1970, to require preparation of an EIS.

(2) A public agency proposes to modify the project in such a way that the project might have a new significant effect on the environment.

(b) A private project shall be exempt from CEQA if the project received approval of a lease, license, certificate, permit, or other entitlement for use from a public agency prior to April 5, 1973, subject to the following provisions:

(1) CEQA does not prohibit a public agency from considering environmental factors in connection with the approval or disapproval of a project, or from imposing reasonable fees on the appropriate private person or entity for preparing an environmental report under authority other than CEQA. Local agencies may require environmental reports for projects covered by this paragraph pursuant to local ordinances during this interim period.

(2) Where a project was approved prior to December 5, 1972, and prior to that date the project was legally challenged for noncompliance with CEQA, the project shall be bound by special rules set forth in Section 21170 of CEQA.

(3) Where a private project has been granted a discretionary governmental approval for part of the project before April 5, 1973, and another or additional discretionary governmental approvals after April 5, 1973, the project shall be subject to CEQA only if the approval or approvals after April 5, 1973, involve a greater degree of responsibility or control over the project as a whole than did the approval or approvals prior to that date.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21169, 21170, and 21171, Public Resources Code; County of Inyo v. Yorty, 32 Cal. App. 3d 795.

## **15262. Feasibility and Planning Studies**

A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or Negative Declaration but does require consideration of environmental factors. This section does not apply to the adoption of a plan that will have a legally binding effect on later activities.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21102 and 21150, Public Resources Code.

## **15263. Discharge Requirements**

The State Water Resources Control Board and the regional boards are exempt from the requirement to prepare an EIR or a Negative Declaration prior to the adoption of waste discharge requirements, except requirements for new sources as defined in the Federal Water Pollution Control Act or in other acts which amend or supplement the Federal Water Pollution Control Act. The term "waste discharge requirements" as used in this section is the equivalent of the term "permits" as used in the Federal Water Pollution Control Act.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 13389, Water Code.

## **15264. Timberland Preserves**

Local agencies are exempt from the requirement to prepare an EIR or Negative Declaration on the adoption of timberland preserve zones under Government Code Sections 51100 et seq. (Gov. Code, Sec. 51119).

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Government Code Section 51119, Government Code.

## **15265. Adoption of Coastal Plans and Programs**

(a) CEQA does not apply to activities and approvals pursuant to the California Coastal Act (commencing with Section 30000 of the Public Resources Code) by:

(1) Any local government, as defined in Section 30109 of the Public Resources Code, necessary for the preparation and adoption of a local coastal program, or

(2) Any state university or college, as defined in Section 30119, as necessary for the preparation and adoption of a long-range land use development plan.

(b) CEQA shall apply to the certification of a local coastal program or long-range land use development plan by the California Coastal Commission.

(c) This section shifts the burden of CEQA compliance from the local agency or the state university or college to the California Coastal Commission. The Coastal Commission's program of certifying local coastal programs and long-range land use development plans has been certified under Section 21080.5, Public Resources Code. See: Section 15192.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.9, Public Resources Code.

## **15266. General Plan Time Extension**

CEQA shall not apply to the granting of an extension of time by the Office of Planning and Research to a city or county for the preparation and adoption of one or more elements of a city or county general plan.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.10(a), Public Resources Code.

## **15267. Financial Assistance to Low or Moderate Income Housing**

CEQA does not apply to actions taken by the Department of and Community Development to provide financial assistance for the development and construction of residential housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. The residential project which is the subject of the application for financial assistance will be subject to CEQA when approvals are granted by another agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.10(b), Public Resources Code.

## **15268. Ministerial Projects**

(a) Ministerial projects are exempt from the requirements of CEQA. The determination of what is "ministerial" can most appropriately be made by the particular public agency involved based upon its analysis of its own laws, and each public agency should make such determination either as a part of its implementing regulations or on a case-by-case basis.

(b) In the absence of any discretionary provision contained in the local ordinance or other law establishing the requirements for the permit, license, or other entitlement for use, the following actions shall be presumed to be ministerial:

(1) Issuance of building permits.

(2) Issuance of business licenses.

(3) Approval of final subdivision maps.

(4) Approval of individual utility service connections and disconnections.

(c) Each public agency should, in its implementing regulations or ordinances, provide an identification or itemization of its projects and actions which are deemed ministerial under the applicable laws and ordinances.

(d) Where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(1), Public Resources Code; *Day v. City of Glendale*, 51 Cal. App. 3d 817.

## 15269. Emergency Projects

The following emergency projects are exempt from the requirements of CEQA.

(a) Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code. This includes projects that will remove, destroy, or significantly alter an historical resource when that resource represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic Preservation pursuant to Section 5028(b) of Public Resources Code.

(b) Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare.

(c) Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.

(d) Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This exemption does not apply to highways designated as official state scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

(e) Seismic work on highways and bridges pursuant to Section 180.2 of the Streets and Highways Code, Section 180 et seq.

**Note:** Authority: Section 21083, Public Resources Code. Reference: Sections 21080(b)(2), (3), and (4), 21080.33 and 21172, Public Resources Code; *Castaic Lake Water Agency v. City of Santa Clarita* (1995) 41 Cal.App.4th 1257; and *Western Municipal Water District of Riverside County v. Superior Court of San Bernardino County* (1987) 187 Cal.App.3d 1104.

## **15270. Projects Which are Disapproved**

(a) CEQA does not apply to projects which a public agency rejects or disapproves.

(b) This section is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved.

(c) This section shall not relieve an applicant from paying the costs for an EIR or Negative Declaration prepared for his project prior to the Lead Agency's disapproval of the project after normal evaluation and processing.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(5), Public Resources Code.

## **15271. Early Activities Related to Thermal Power Plants**

(a) CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for such a thermal power plant, if the thermal power plant site and related facility will be the subject of an EIR or Negative Declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by:

(1) The State Energy Resources Conservation and Development Commission,

(2) The Public Utilities Commission, or

(3) The city or county in which the power plant and related facility would be located.

(b) The EIR, Negative Declaration, or other document prepared for the thermal power plant site or facility, shall include the environmental impact, if any, of the early activities described in this section.

(c) This section acts to delay the timing of CEQA compliance from the early activities of a utility to the time when a regulatory agency is requested to approve the thermal power plant and shifts the responsibility for preparing the document to the regulatory agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 15080(b)(6), Public Resources Code.

## **15272. Olympic Games**

CEQA does not apply to activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, Olympic Games under the authority of the International Olympic Committee, except for the construction of facilities necessary for such Olympic Games. If the facilities are required by the International Olympic Committee as a condition of being awarded the Olympic Games, the Lead Agency need not discuss the "no project" alternative in an EIR with respect to those facilities.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(7), Public

Resources Code.

## **15273. Rates, Tolls, Fares, and Charges**

(a) CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of:

- (1) Meeting operating expenses, including employee wage rates and fringe benefits,
- (2) Purchasing or leasing supplies, equipment, or materials,
- (3) Meeting financial reserve needs and requirements,
- (4) Obtaining funds for capital projects, necessary to maintain service within existing service areas, or
- (5) Obtaining funds necessary to maintain such intra-city transfers as are authorized by city charter.

(b) Rate increases to fund capital projects for the expansion of a system remain subject to CEQA. The agency granting the rate increase shall act either as the Lead Agency if no other agency has prepared environmental documents for the capital project or as a Responsible Agency if another agency has already complied with CEQA as the Lead Agency.

(c) The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this section is claimed setting forth with specificity the basis for the claim of exemption.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(8), Public Resources Code.

## **15274. Family Day Care Homes**

(a) CEQA does not apply to establishment or operation of a large family day care home, which provides in-home care for up to fourteen children, as defined in Section 1596.78 of the Health and Safety Code.

(b) Under the Health and Safety Code, local agencies cannot require use permits for the establishment or operation of a small family day care home, which provides in-home care for up to eight children, and the establishment or operation of a small family day care home is a ministerial action which is not subject to CEQA.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21083, Public Resources Code.

## **15275. Specified Mass Transit Projects**

CEQA does not apply to the following mass transit projects:

(a) The institution or increase of passenger or commuter service on rail lines or high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities;

(b) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(11), (12), and (13), Public Resources Code.

## **15276. Transportation Improvement and Congestion Management Programs**

(a) CEQA does not apply to the development or adoption of a regional transportation improvement program or the state transportation improvement program. Individual projects developed pursuant to these programs shall remain subject to CEQA.

(b) CEQA does not apply to preparation and adoption of a congestion management program by a county congestion management agency pursuant to Government Code Section 65089, et seq.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(13), Public Resources Code.

## **15277. Projects Located Outside California**

CEQA does not apply to any project or portion thereof located outside of California which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or pursuant to a law of that state requiring preparation of a document containing essentially the same points of analysis as in an Environmental Impact Statement prepared under the National Environmental Policy Act of 1969. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to CEQA where a California public agency has authority over the emissions or discharges.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(15), Public Resources Code; 58 Opinions of the California Attorney General 614 (S.O. 75/50).

## **15278. Application of Coatings**

(a) CEQA does not apply to a discretionary decision by an air quality management district for a project consisting of the application of coatings within an existing facility at an automotive manufacturing plant if the district finds all of the following:

(1) The project will not cause a net increase in any emissions of any pollutant for which a national or state ambient air quality standard has been established after the internal emission accounting for previous emission reductions achieved at the facility and recognized by the district.

(2) The project will not cause a net increase in adverse impacts of toxic air contaminants as determined by a health risk assessment. The term "net increase in adverse impacts of toxic air contaminants as determined by a health risk assessment" shall be determined in accordance with the rules and regulations of the district.

(3) The project will not cause any other adverse effect on the environment.

(b) The district shall provide a 10-day notice, at the time of the issuance of the permit, of any such exemption. Notice shall be published in two newspapers of general circulation in the area of the project

and shall be mailed to any person who makes a written request for such a notice. The notice shall state that the complete file on the project and the basis for the district's findings of exemption are available for inspection and copying at the office of the district.

(c) Any person may appeal the issuance of a permit based on an exemption under subdivision (a) to the hearing board as provided in Section 42302.1 of the Health and Safety Code. The permit shall be revoked by the hearing board if there is substantial evidence in light of the whole record before the board that the project may not satisfy one or more of the criteria established pursuant to subdivision (a). If there is no such substantial evidence, the exemption shall be upheld. Any appeal under this subdivision shall be scheduled for hearing on the calendar of the hearing board within 10 working days of the appeal being filed. The hearing board shall give the appeal priority on its calendar and shall render a decision on the appeal within 21 working days of the appeal being filed. The hearing board may delegate the authority to hear and decide such an appeal to a subcommittee of its body.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Chapter 1131, Statutes of 1993, Section 1.

**[15279 Removed]**

**[15280 Removed]**

## **15281. Air Quality Permits**

CEQA does not apply to the issuance, modification, amendment, or renewal of any permit by an air pollution control district or air quality management district pursuant to Title V, as defined in Section 39053.3 of the Health and Safety Code, or pursuant to an air district Title V program established under Sections 42301.10, 42301.11, and 42301.12 of the Health and Safety Code, unless the issuance, modification, amendment, or renewal authorizes a physical or operational change to a source or facility.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.24, Public Resources Code.

## **15282. Other Statutory Exemptions**

The following is a list of existing statutory exemptions. Each subdivision summarizes statutory exemptions found in the California Code. Lead agencies are not to rely on the language contained in the summaries below but must rely on the actual statutory language that creates the exemption. This list is intended to assist lead agencies in finding them, but not as a substitute for them. This section is merely a reference tool.

(a) The notification of discovery of Native American burial sites as set forth in Section 5097.98(c) of the Public Resources Code .

(b) Specified prison facilities as set forth in Sections 21080.01, 21080.02, 21080.03 and 21080.07 of the Public Resources Code.



- (c) The lease or purchase of the rail right-of-way used for the San Francisco Peninsula commute service between San Francisco and San Jose as set forth in Section 21080.05 of the Public Resources Code.
- (d) Any activity or approval necessary for or incidental to project funding or authorization for the expenditure of funds for the project, by the Rural Economic Development Infrastructure Panel as set forth in Section 21080.08 of the Public Resources Code.
- (e) The conversion of an existing rental mobilehome park to a resident initiated subdivision, cooperative, or condominium for mobilehomes as set forth in Section 21080.8 of the Public Resources Code.
- (f) Settlements of title and boundary problems by the State Lands Commission and to exchanges or leases in connection with those settlements as set forth in Section 21080.11 of the Public Resources Code.
- (g) Any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation as set forth in Section 21080.13 of the Public Resources Code.
- (h) The adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code .
- (i) The closing of any public school or the transfer of students from that public school to another school in which kindergarten or any grades 1 through 12 is maintained as set forth in 21080.18 of the Public Resources Code.
- (j) A project for restriping streets or highways to relieve traffic congestion as set forth in Section 21080.19 of the Public Resources Code.
- (k) The installation of new pipeline or maintenance, repair, restoration, removal, or demolition of an existing pipeline as set forth in Section 21080.21 of the Public Resources Code, as long as the project does not exceed one mile in length.
- (l) The activities and approvals by a local government necessary for the preparation of general plan amendments pursuant to Public Resources Code §29763 as set forth in Section 21080.22 of the Public Resources Code. Section 29763 of the Public Resources Code refers to local government amendments made for consistency with the Delta Protection Commission's regional plan.
- (m) Minor alterations to utilities made for the purposes of complying with Sections 116410 and 116415 of the Health and Safety Code as set forth in Section 21080.26 of the Public Resources Code.
- (n) The adoption of an ordinance exempting a city or county from the provisions of the Solar Shade Control Act as set forth in Section 25985 of the Public Resources Code.
- (o) The acquisition of land by the Department of Transportation if received or acquired within a statewide or regional priority corridor designated pursuant to Section 65081.3 of the Government Code as set forth in Section 33911 of the Public Resources Code .
- (p) The adoption or amendment of a nondisposal facility element as set forth in Section 41735 of the Public Resources Code.
- (q) Cooperative agreements for the development of Solid Waste Management Facilities on Indian country as set forth in Section 44203(g) of the Public Resources Code .
- (r) Determinations made regarding a city or county's regional housing needs as set forth in Section 65584 of the Government Code.

(s) Any action necessary to bring a general plan or relevant mandatory element of the general plan into compliance pursuant to a court order as set forth in Section 65759 of the Government Code.

(t) Industrial Development Authority activities as set forth in Section 91543 of the Government Code .

(u) Temporary changes in the point of diversion, place of use, of purpose of use due to a transfer or exchange of water or water rights as set forth in Section 1729 of the Water Code.

(v) The preparation and adoption of Urban Water Management Plans pursuant to the provisions of Section 10652 of the Water Code.

**Note:** Authority: Section 21083, Public Resources Code; References: Sections 5097.98(c), 21080.01, 21080.02, 21080.03, 21080.05, 21080.07, 21080.08, 21080.7, 21080.8, 21080.11, 21080.13, 21080.17, 21080.18, 21080.19, 21080.21, 21080.22, 21080.26, 25985, 33911, 41735, and 44203(g), Public Resources Code.

### **15283. Housing Needs Allocation.**

CEQA does not apply to regional housing needs determinations made by the Department of Housing and Community Development, a council of governments, or a city or county pursuant to Section 65584 of the Government Code.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 65584, Government Code.

### **15284. Pipelines.**

(a) CEQA does not apply to any project consisting of the inspection, maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of an existing hazardous or volatile liquid pipeline or any valve, flange, meter, or other piece of equipment that is directly attached to the pipeline.

(b) To qualify for this exemption, the diameter of the affected pipeline must not be increased and the project must be located outside the boundaries of an oil refinery. The project must also meet all of the following criteria:

(1) The affected section of pipeline is less than eight miles in length and actual construction and excavation activities are not undertaken over a length of more than one-half mile at a time.

(2) The affected section of pipeline is not less than eight miles distance from any section of pipeline that had been subject to this exemption in the previous 12 months.

(3) The project is not solely for the purpose of excavating soil that is contaminated by hazardous materials.

(4) To the extent not otherwise required by law, the person undertaking the project has, in advance of undertaking the project, prepared a plan that will result in notification of the appropriate agencies so that they may take action, if necessary, to provide for the emergency evacuation of members of the public who may be located in close proximity to the project, and those agencies, including but not limited to the local fire department, police, sheriff, and California Highway Patrol as appropriate, have reviewed and agreed to that plan.

(5) Project activities take place within an existing right-of-way and that right-of-way will be restored to its pre-project condition upon completion of the project.

(6) The project applicant will comply with all conditions otherwise authorized by law, imposed by the city or county as part of any local agency permit process, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Public Resources Code Section 5810, et seq.), the California Endangered Species Act (Fish and Game Code Section 2050, et seq.), other applicable state laws, and all applicable federal laws.

(c) When the lead agency determines that a project meets all of the criteria of subdivisions (a) and (b), the party undertaking the project shall do all of the following:

(1) Notify in writing all responsible and trustee agencies, as well as any public agency with environmental, public health protection, or emergency response authority, of the lead agency's invocation of this exemption.

(2) Mail notice of the project to the last known name and address of all organizations and individuals who have previously requested such notice and notify the public in the affected area by at least one of the following procedures:

(A) Publication at least one time in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

(B) Posting of notice on and off site in the area where the project is to be located.

(C) Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll.

The notice shall include a brief description of the proposed project and its location, and the date, time, and place of any public meetings or hearings on the proposed project. This notice may be combined with the public notice required under other law, as applicable, but shall meet the preceding minimum requirements.

(3) In the case of private rights-of-way over private property, receive from the underlying property owner permission for access to the property.

(4) Immediately inform the lead agency if any soil contaminated with hazardous materials is discovered.

(5) Comply with all conditions otherwise authorized by law, imposed by the city or county as part of any local agency permit process, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Public Resources Code Section 5810, et seq.), the California Endangered Species Act (Fish and Game Code Section 2050, et seq.), other applicable state laws, and all applicable federal laws.

(d) For purposes of this section, "pipeline" is used as defined in subdivision (a) of Government Code Section 51010.5. This definition includes every intrastate pipeline used for the transportation of hazardous liquid substances or highly volatile liquid substances, including a common carrier pipeline, and all piping containing those substances located within a refined products bulk loading facility which is owned by a common carrier and is served by a pipeline of that common carrier, and the common carrier owns and serves by pipeline at least five such facilities in California.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21080.23, Public Resources Code.

## **15285. Transit Agency Responses to Revenue Shortfalls.**

(a) CEQA does not apply to actions taken on or after July 1, 1995 to implement budget reductions made by a publicly owned transit agency as a result of a fiscal emergency caused by the failure of agency revenues to adequately fund agency programs and facilities. Actions shall be limited to those directly undertaken by or financially supported in whole or in part by the transit agency pursuant to Section 15378(a)(1) or (2), including actions which reduce or eliminate the availability of an existing publicly owned transit service, facility, program, or activity.

(b) When invoking this exemption, the transit agency shall make a specific finding that there is a fiscal emergency. Before taking its proposed budgetary actions and making the finding of fiscal emergency, the transit agency shall hold a public hearing. After this public hearing, the transit agency shall respond within 30 days at a regular public meeting to suggestions made by the public at that initial hearing. The transit agency may make the finding of fiscal emergency only after it has responded to public suggestions.

(c) For purposes of this subdivision, "fiscal emergency" means that the transit agency is projected to have negative working capital within one year from the date that the agency finds that a fiscal emergency exists. "Working capital" is defined as the sum of all unrestricted cash, unrestricted short-term investments, and unrestricted short-term accounts receivable, minus unrestricted accounts payable. Employee retirements funds, including deferred compensation plans and Section 401(k) plans, health insurance reserves, bond payment reserves, workers' compensation reserves, and insurance reserves shall not be included as working capital.

(d) This exemption does not apply to the action of any publicly owned transit agency to reduce or eliminate a transit service, facility, program, or activity that was approved or adopted as a mitigation measure in any environmental document certified or adopted by any public agency under either CEQA or NEPA. Further, it does not apply to actions of the Los Angeles County Metropolitan Transportation Authority.

**Note:** Authority cited: Section 21083, Public Resources Code. References: Sections 21080 and 21080.32, Public Resources Code.



*Title 14. California Code of Regulations*  
**Chapter 3. Guidelines for Implementation of the  
California Environmental Quality Act**

## **Article 19. Categorical Exemptions**

### **Sections 15300 to 15333**

#### **15300. Categorical Exemptions**

Section 21084 of the Public Resources Code requires these Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA.

In response to that mandate, the Secretary for Resources has found that the following classes of projects listed in this article do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

#### **15300.1. Relation to Ministerial Projects**

Section 21080 of the Public Resources Code exempts from the application of CEQA those projects over which public agencies exercise only ministerial authority. Since ministerial projects are already exempt, categorical exemptions should be applied only where a project is not ministerial under a public agency's statutes and ordinances. The inclusion of activities which may be ministerial within the classes and examples contained in this article shall not be construed as a finding by the Secretary for Resources that such an activity is discretionary.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

#### **15300.2. Exceptions**

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

**Note:** Authority cited: Section 21083, Public Resources Code; References: Sections 21084 and 21084.1, Public Resources Code; *Wildlife Alive v. Chickering* (1977) 18 Cal.3d 190; *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896; *Citizens for Responsible Development in West Hollywood v. City of West Hollywood* (1995) 39 Cal.App.4th 925; *City of Pasadena v. State of California* (1993) 14 Cal.App.4th 810; *Association for the Protection etc. Values v. City of Ukiah* (1991) 2 Cal.App.4th 720; and *Baird v. County of Contra Costa* (1995) 32 Cal.App.4th 1464

### **15300.3. Revisions to List of Categorical Exemptions**

A public agency may, at any time, request that a new class of categorical exemptions be added, or an existing one amended or deleted. This request must be made in writing to the Office of Planning and Research and shall contain detailed information to support the request. The granting of such request shall be by amendment to these Guidelines.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15300.4. Application By Public Agencies**

Each public agency shall, in the course of establishing its own procedures, list those specific activities which fall within each of the exempt classes, subject to the qualification that these lists must be consistent with both the letter and the intent expressed in the classes. Public agencies may omit from their implementing procedures classes and examples that do not apply to their activities, but they may not require EIRs for projects described in the classes and examples in this article except under the provisions of Section 15300.2.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15301. Existing Facilities**

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use.

Examples include but are not limited to:

- (a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;
- (b) Existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;
- (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety).
- (d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;
- (e) Additions to existing structures provided that the addition will not result in an increase of more than:
  - (1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or
  - (2) 10,000 square feet if:
    - (A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and
    - (B) The area in which the project is located is not environmentally sensitive.
- (f) Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices;
- (g) New copy on existing on and off-premise signs;
- (h) Maintenance of existing landscaping, native growth, and water supply reservoirs (excluding the use of pesticides, as defined in Section 12753, Division 7, Chapter 2, Food and Agricultural Code);
- (i) Maintenance of fish screens, fish ladders, wildlife habitat areas, artificial wildlife waterway devices, streamflows, springs and waterholes, and stream channels (clearing of debris) to protect fish and wildlife resources;
- (j) Fish stocking by the California Department of Fish and Game;
- (k) Division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt;
- (l) Demolition and removal of individual small structures listed in this subdivision;
  - (1) One single-family residence. In urbanized areas, up to three single-family residences may be demolished under this exemption.
  - (2) A duplex or similar multifamily residential structure. In urbanized areas, this exemption applies to duplexes and similar structures where not more than six dwelling units will be demolished.
  - (3) A store, motel, office, restaurant, or similar small commercial structure if designed for an occupant

load of 30 persons or less. In urbanized areas, the exemption also applies to the demolition of up to three such commercial buildings on sites zoned for such use.

(4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

(m) Minor repairs and alterations to existing dams and appurtenant structures under the supervision of the Department of Water Resources.

(n) Conversion of a single family residence to office use.

(o) Installation, in an existing facility occupied by a medical waste generator, of a steam sterilization unit for the treatment of medical waste generated by that facility provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.

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(p) Use of a single-family residence as a small family day care home, as defined in Section 1596.78 of the Health and Safety Code.

**Note:** Authority cited: Section 21083, Public Resources Code; References: Sections 21084, Public Resources Code; *Bloom v. McGurk* (1994) 26 Cal.App.4th 1307.

## **15302. Replacement or Reconstruction**

Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

(a) Replacement or reconstruction of existing schools and hospitals to provide earthquake resistant structures which do not increase capacity more than 50 percent.

(b) Replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity.

(c) Replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity.

(d) Conversion of overhead electric utility distribution system facilities to underground including connection to existing overhead electric utility distribution lines where the surface is restored to the condition existing prior to the undergrounding.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15303. New Construction or Conversion of Small Structures**

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

(a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to



three single-family residences may be constructed or converted under this exemption.

(b) A duplex or similar multi-family residential structure, totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes and similar structures designed for not more than six dwelling units.

(c) A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

(d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.

(e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

(f) An accessory steam sterilization unit for the treatment of medical waste at a facility occupied by a medical waste generator, provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21084 and 21084.2, Public Resources Code.

## **15304. Minor Alterations to Land**

Class 4 consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. Examples include, but are not limited to:

(a) Grading on land with a slope of less than 10 percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist.

(b) New gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping.

(c) Filling of earth into previously excavated land with material compatible with the natural features of the site;

(d) Minor alterations in land, water, and vegetation on existing officially designated wildlife management areas or fish production facilities which result in improvement of habitat for fish and wildlife resources or greater fish production;

(e) Minor temporary use of land having negligible or no permanent effects on the environment, including carnivals, sales of Christmas trees, etc;

(f) Minor trenching and backfilling where the surface is restored;

(g) Maintenance dredging where the spoil is deposited in a spoil area authorized by all applicable state

and federal regulatory agencies;

(h) The creation of bicycle lanes on existing rights-of-way.

(i) Fuel management activities within 30 feet of structures to reduce the volume of flammable vegetation, provided that the activities will not result in the taking of endangered, rare, or threatened plant or animal species or significant erosion and sedimentation of surface waters. This exemption shall apply to fuel management activities within 100 feet of a structure if the public agency having fire protection responsibility for the area has determined that 100 feet of fuel clearance is required due to extra hazardous fire conditions.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15305. Minor Alterations in Land Use Limitations**

Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to:

(a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;

(b) Issuance of minor encroachment permits;

(c) Reversion to acreage in accordance with the Subdivision Map Act.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15306. Information Collection**

Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15307. Actions by Regulatory Agencies for Protection of Natural Resources**

Class 7 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. Examples include but are not limited to wildlife preservation activities of the State Department of Fish and Game. Construction activities are not included in this exemption.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15308. Actions by Regulatory Agencies for Protection of the Environment**

Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code; *International Longshoremen's and Warehousemen's Union v. Board of Supervisors*, (1981) 116 Cal. App. 3d 265.

## **15309. Inspections**

Class 9 consists of activities limited entirely to inspections, to check for performance of an operation, or quality, health, or safety of a project, including related activities such as inspection for possible mislabeling, misrepresentation, or adulteration of products.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15310. Loans**

Class 10 consists of loans made by the Department of Veterans Affairs under the Veterans Farm and Home Purchase Act of 1943, mortgages for the purchase of existing structures where the loan will not be used for new construction and the purchase of such mortgages by financial institutions. Class 10 includes but is not limited to the following examples:

(a) Loans made by the Department of Veterans Affairs under the Veterans Farm and Home Purchase Act of 1943.

(b) Purchases of mortgages from banks and mortgage companies by the Public Employees Retirement System and by the State Teachers Retirement System.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15311. Accessory Structures**

Class 11 consists of construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to:

(a) On-premise signs;

(b) Small parking lots;

(c) Placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar items in generally the same locations from time to time in publicly owned parks, stadiums, or other facilities designed for public use.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15312. Surplus Government Property Sales**

Class 12 consists of sales of surplus government property except for parcels of land located in an area of statewide, regional, or areawide concern identified in Section 15206(b)(4). However, even if the surplus property to be sold is located in any of those areas, its sale is exempt if:

(a) The property does not have significant values for wildlife habitat or other environmental purposes, and

(b) Any of the following conditions exist:

(1) The property is of such size, shape, or inaccessibility that it is incapable of independent development or use; or

(2) The property to be sold would qualify for an exemption under any other class of categorical exemption in these Guidelines; or

(3) The use of the property and adjacent property has not changed since the time of purchase by the public agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15313. Acquisition of Lands for Wildlife Conservation Purposes**

Class 13 consists of the acquisition of lands for fish and wildlife conservation purposes including (a) preservation of fish and wildlife habitat, (b) establishing ecological reserves under Fish and Game Code Section 1580, and (c) preserving access to public lands and waters where the purpose of the acquisition is to preserve the land in its natural condition.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15314. Minor Additions to Schools**

Class 14 consists of minor additions to existing schools within existing school grounds where the addition does not increase original student capacity by more than 25% or ten classrooms, whichever is less. The addition of portable classrooms is included in this exemption.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15315. Minor Land Divisions**

Class 15 consists of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local

standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15316. Transfer of Ownership of Land in Order to Create Parks**

Class 16 consists of the acquisition, sale, or other transfer of land in order to establish a park where the land is in a natural condition or contains historical or archaeological resources and either:

(a) The management plan for the park has not been prepared, or

(b) The management plan proposes to keep the area in a natural condition or preserve the historic or archaeological resources. CEQA will apply when a management plan is proposed that will change the area from its natural condition or cause substantial adverse change in the significance of the historic or archaeological resource.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21084, 21083.2, and 21084.1, Public Resources Code.

### **15317. Open Space Contracts or Easements**

Class 17 consists of the establishment of agricultural preserves, the making and renewing of open space contracts under the Williamson Act, or the acceptance of easements or fee interests in order to maintain the open space character of the area. The cancellation of such preserves, contracts, interests, or easements is not included and will normally be an action subject to the CEQA process.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15318. Designation of Wilderness Areas**

Class 18 consists of the designation of wilderness areas under the California Wilderness System.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15319. Annexations of Existing Facilities and Lots for Exempt Facilities**

Class 19 consists of only the following annexations:

(a) Annexations to a city or special district of areas containing existing public or private structures developed to the density allowed by the current zoning or pre-zoning of either the gaining or losing governmental agency whichever is more restrictive, provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities.

(b) Annexations of individual small parcels of the minimum size for facilities exempted by Section 15303,

New Construction or Conversion of Small Structures.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15320. Changes in Organization of Local Agencies**

Class 20 consists of changes in the organization or reorganization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised. Examples include but are not limited to:

- (a) Establishment of a subsidiary district;
- (b) Consolidation of two or more districts having identical powers;
- (c) Merger with a city of a district lying entirely within the boundaries of the city.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15321. Enforcement Actions by Regulatory Agencies**

Class 21 consists of:

(a) Actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency. Such actions include, but are not limited to, the following:

- (1) The direct referral of a violation of lease, permit, license, certificate, or entitlement for use or of a general rule, standard, or objective to the Attorney General, District Attorney, or City Attorney as appropriate, for judicial enforcement;
  - (2) The adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.
- (b) Law enforcement activities by peace officers acting under any law that provides a criminal sanction;
- (c) Construction activities undertaken by the public agency taking the enforcement or revocation action are not included in this exemption.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15322. Educational or Training Programs Involving No Physical Changes**

Class 22 consists of the adoption, alteration, or termination of educational or training programs which involve no physical alteration in the area affected or which involve physical changes only in the interior of existing school or training structures. Examples include but are not limited to:

- (a) Development of or changes in curriculum or training methods.
- (b) Changes in the grade structure in a school which do not result in changes in student transportation.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15323. Normal Operations of Facilities for Public Gatherings**

Class 23 consists of the normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same or similar kind of purpose. For the purposes of this section, "past history" shall mean that the same or similar kind of activity has been occurring for at least three years and that there is a reasonable expectation that the future occurrence of the activity would not represent a change in the operation of the facility. Facilities included within this exemption include, but are not limited to, racetracks, stadiums, convention centers, auditoriums, amphitheaters, planetariums, swimming pools, and amusement parks.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15324. Regulations of Working Conditions**

Class 24 consists of actions taken by regulatory agencies, including the Industrial Welfare Commission as authorized by statute, to regulate any of the following:

- (a) Employee wages,
- (b) Hours of work, or
- (c) Working conditions where there will be no demonstrable physical changes outside the place of work.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15325. Transfers of Ownership of Interest In Land to Preserve Existing Natural Conditions and Historical Resources**

Class 25 consists of the transfers of ownership of interests in land in order to preserve open space, habitat, or historical resources. Examples include but are not limited to:

- (a) Acquisition, sale, or other transfer of areas to preserve the existing natural conditions, including plant or animal habitats.
- (b) Acquisition, sale, or other transfer of areas to allow continued agricultural use of the areas.
- (c) Acquisition, sale, or other transfer to allow restoration of natural conditions, including plant or animal habitats.
- (d) Acquisition, sale, or other transfer to prevent encroachment of development into flood plains.
- (e) Acquisition, sale, or other transfer to preserve historical resources.
- (f) Acquisition, sale, or other transfer to preserve open space or lands for park purposes.

Authority cited: Section 21083, Public Resources Code. Reference: Section 21084, Public Resources Code.

## **15326. Acquisition of Housing for Housing Assistance Programs**

Class 26 consists of actions by a redevelopment agency, housing authority, or other public agency to implement an adopted Housing Assistance Plan by acquiring an interest in housing units. The housing units may be either in existence or possessing all required permits for construction when the agency makes its final decision to acquire the units.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15327. Leasing New Facilities**

(a) Class 27 consists of the leasing of a newly constructed or previously unoccupied privately owned facility by a local or state agency where the local governing authority determined that the building was exempt from CEQA. To be exempt under this section, the proposed use of the facility:

- (1) Shall be in conformance with existing state plans and policies and with general, community, and specific plans for which an EIR or Negative Declaration has been prepared;
- (2) Shall be substantially the same as that originally proposed at the time the building permit was issued;
- (3) Shall not result in a traffic increase of greater than 10% of front access road capacity; and
- (4) Shall include the provision of adequate employee and visitor parking facilities.

(b) Examples of Class 27 include, but are not limited to:

- (1) Leasing of administrative offices in newly constructed office space;
- (2) Leasing of client service offices in newly constructed retail space;



(3) Leasing of administrative and/or client service offices in newly constructed industrial parks.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15328. Small Hydroelectric Projects at Existing Facilities**

Class 28 consists of the installation of hydroelectric generating facilities in connection with existing dams, canals, and pipelines where:

- (a) The capacity of the generating facilities is 5 megawatts or less;
- (b) Operation of the generating facilities will not change the flow regime in the affected stream, canal, or pipeline including but not limited to:
  - (1) Rate and volume of flow;
  - (2) Temperature;
  - (3) Amounts of dissolved oxygen to a degree that could adversely affect aquatic life; and
  - (4) Timing of release.
- (c) New power lines to connect the generating facilities to existing power lines will not exceed one mile in length if located on a new right of way and will not be located adjacent to a wild or scenic river;
- (d) Repair or reconstruction of the diversion structure will not raise the normal maximum surface elevation of the impoundment;
- (e) There will be no significant upstream or downstream passage of fish affected by the project;
- (f) The discharge from the power house will not be located more than 300 feet from the toe of the diversion structure;
- (g) The project will not cause violations of applicable state or federal water quality standards;
- (h) The project will not entail any construction on or alteration of a site included in or eligible for inclusion in the National Register of Historic Places; and
- (i) Construction will not occur in the vicinity of any endangered, rare, or threatened species.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

## **15329. Cogeneration Projects at Existing Facilities**

Class 29 consists of the installation of cogeneration equipment with a capacity of 50 megawatts or less at existing facilities meeting the conditions described in this section.

- (a) At existing industrial facilities, the installation of cogeneration facilities will be exempt where it will:

(1) Result in no net increases in air emissions from the industrial facility, or will produce emissions lower than the amount that would require review under the new source review rules applicable in the county, and

(2) Comply with all applicable state, federal, and local air quality laws.

(b) At commercial and institutional facilities, the installation of cogeneration facilities will be exempt if the installation will:

(1) Meet all the criteria described in subdivision (a);

(2) Result in no noticeable increase in noise to nearby residential structures;

(3) Be contiguous to other commercial or institutional structures.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15330. Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances.**

Class 30 consists of any minor cleanup actions taken to prevent, minimize, stabilize, mitigate, or eliminate the release or threat of release of a hazardous waste or substance which are small or medium removal actions costing \$1 million or less.

(a) No cleanup action shall be subject to this Class 30 exemption if the action requires the onsite use of a hazardous waste incinerator or thermal treatment unit or the relocation of residences or businesses, or the action involves the potential release into the air of volatile organic compounds as defined in Health and Safety Code §25123.6, except for small scale in situ soil vapor extraction and treatment systems which have been permitted by the local Air Pollution Control District or Air Quality Management District. All actions must be consistent with applicable state and local environmental permitting requirements including, but not limited to, off-site disposal, air quality rules such as those governing volatile organic compounds and water quality standards, and approved by the regulatory body with jurisdiction over the site.

(b) Examples of such minor cleanup actions include but are not limited to:

(1) Removal of sealed, non-leaking drums or barrels of hazardous waste or substances that have been stabilized, containerized and are designated for a lawfully permitted destination;

(2) Maintenance or stabilization of berms, dikes, or surface impoundments;

(3) Construction or maintenance or interim of temporary surface caps;

(4) Onsite treatment of contaminated soils or sludges provided treatment system meets Title 22 requirements and local air district requirements;

(5) Excavation and/or offsite disposal of contaminated soils or sludges in regulated units;

(6) Application of dust suppressants or dust binders to surface soils;

- (7) Controls for surface water run-on and run-off that meets seismic safety standards;
- (8) Pumping of leaking ponds into an enclosed container;
- (9) Construction of interim or emergency ground water treatment systems;
- (10) Posting of warning signs and fencing for a hazardous waste or substance site that meets legal requirements for protection of wildlife.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21084, Public Resources Code.

### **15331. Historical Resource Restoration/Rehabilitation.**

Class 31 consists of projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21084, Public Resources Code.

### **15332. In-Fill Development Projects.**

Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21084, Public Resources Code.

### **15333. Small Habitat Restoration Projects.**

Class 33 consists of projects not to exceed five acres in size to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife provided that:

- (a) There would be no significant adverse impact on endangered, rare or threatened species or their habitat

pursuant to section 15065,

- (b) There are no hazardous materials at or around the project site that may be disturbed or removed, and
- (c) The project will not result in impacts that are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.
- (d) Examples of small restoration projects may include, but are not limited to:
  - (1) revegetation of disturbed areas with native plant species;
  - (2) wetland restoration, the primary purpose of which is to improve conditions for waterfowl or other species that rely on wetland habitat;
  - (3) stream or river bank revegetation, the primary purpose of which is to improve habitat for amphibians or native fish;
  - (4) projects to restore or enhance habitat that are carried out principally with hand labor and not mechanized equipment.
  - (5) stream or river bank stabilization with native vegetation or other bioengineering techniques, the primary purpose of which is to reduce or eliminate erosion and sedimentation; and
  - (6) culvert replacement conducted in accordance with published guidelines of the Department of Fish and Game or NOAA Fisheries, the primary purpose of which is to improve habitat or reduce sedimentation.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21084, Public Resources Code.



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*Title 14. California Code of Regulations*  
**Chapter 3. Guidelines for Implementation of the  
California Environmental Quality Act**

## **Article 20. Definitions**

### **Sections 15350 to 15387**

#### **15350. General**

The definitions contained in this article apply to terms used throughout the Guidelines unless a term is otherwise defined in a particular section.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21083, Public Resources Code.

#### **15351. Applicant**

"Applicant" means a person who proposes to carry out a project which needs a lease, permit, license, certificate, or other entitlement for use or financial assistance from one or more public agencies when that person applies for the governmental approval or assistance.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21065, Public Resources Code.

#### **15352. Approval**

(a) "Approval" means the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person. The exact date of approval of any project is a matter determined by each public agency according to its rules, regulations, and ordinances. Legislative action in regard to a project often constitutes approval.

(b) With private projects, approval occurs upon the earliest commitment to issue or the issuance by the public agency of a discretionary contract, grant, subsidy, loan, or other form of financial assistance, lease, permit, license, certificate, or other entitlement for use of the project.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061 and 21065, Public Resources Code.

## **15353. CEQA**

"CEQA" means the California Environmental Quality Act, California Public Resources Code Sections 21000 et seq.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21050, Public Resources Code.

## **15354. Categorical Exemption**

"Categorical exemption" means an exemption from CEQA for a class of projects based on a finding by the Secretary for Resources that the class of projects does not have a significant effect on the environment.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080(b)(10) and 21084, Public Resources Code.

## **15355. Cumulative Impacts**

"Cumulative impacts" refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.

(a) The individual effects may be changes resulting from a single project or a number of separate projects.

(b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21083(b), Public Resources Code; *Whitman v. Board of Supervisors*, 88 Cal. App. 3d 397, *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal. App. 3d 61, Formerly Section 15023.5.

## **15356. Decision-Making Body**

"Decision-making body" means any person or group of people within a public agency permitted by law to approve or disapprove the project at issue.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21003(b), Public Resources Code; *Kleist v. City of Glendale*, (1976) 56 Cal. App. 3d 770.

## 15357. Discretionary Project

"Discretionary project" means a project which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations. A timber harvesting plan submitted to the State Forester for approval under the requirements of the Z'berg-Nejedly Forest Practice Act of 1973 (Pub. Res. Code Sections 4511 et seq.) constitutes a discretionary project within the meaning of the California Environmental Quality Act. Section 21065(c).

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(a), Public Resources Code; *Johnson v. State of California*, (1968) 69 Cal. 2d 782; *People v. Department of Housing and Community Development*, (1975) 45 Cal. App. 3d 185; *Day v. City of Glendale*, (1975) 51 Cal. App. 3d 817; *N.R.D.C. v. Arcata National Corp.*, (1976) 59 Cal. App. 3d 959.

## 15358. Effects

"Effects" and "impacts" as used in these Guidelines are synonymous.

(a) Effects include:

- (1) Direct or primary effects which are caused by the project and occur at the same time and place.
- (2) Indirect or secondary effects which are caused by the project and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect or secondary effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems.

(b) Effects analyzed under CEQA must be related to a physical change.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21068 and 21100, Public Resources Code.

## 15359. Emergency

"Emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(2), (3), and (4), Public Resources Code.

## 15360. Environment

"Environment" means the physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical

or aesthetic significance. The area involved shall be the area in which significant effects would occur either directly or indirectly as a result of the project. The "environment" includes both natural and man-made conditions.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21060.5, Public Resources Code.

## **15361. Environmental Documents**

"Environmental documents" means Initial Studies, Negative Declarations, draft and final EIRs, documents prepared as substitutes for EIRs and Negative Declarations under a program certified pursuant to Public Resources Code Section 21080.5, and documents prepared under NEPA and used by a state or local agency in the place of an Initial Study, Negative Declaration, or an EIR.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061, 21080(b), 21080.5, 21108, and 21152, Public Resources Code.

## **15362. EIR - Environmental Impact Report**

"EIR" or "Environmental Impact Report" means a detailed statement prepared under CEQA describing and analyzing the significant environmental effects of a project and discussing ways to mitigate or avoid the effects. The contents of an EIR are discussed in Article 9, commencing with Section 15120 of these Guidelines. The term "EIR" may mean either a draft or a final EIR depending on the context.

(a) Draft EIR means an EIR containing the information specified in Sections 15122 through 15131.

(b) Final EIR means an EIR containing the information contained in the draft EIR, comments either verbatim or in summary received in the review process, a list of persons commenting, and the response of the Lead Agency to the comments received. The final EIR is discussed in detail in Section 15132.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061, 21100, and 21151, Public Resources Code.

## **15363. EIS - Environmental Impact Statement**

"EIS" or "Environmental Impact Statement" means an environmental impact document prepared pursuant to the National Environmental Policy Act (NEPA). NEPA uses the term EIS in the place of the term EIR which is used in CEQA.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21083.5, 21083.6, and 21083.7, Public Resources Code; 43 U.S.C.A. 4322(2)(c).

## **15364. Feasible**

"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.



**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21002.1, 21004, 21061.1, 21080.5, and 21081, Public Resources Code; Section 4, Chapter 1438 of the Statutes of 1982.

## **15365. Initial Study**

"Initial Study" means a preliminary analysis prepared by the Lead Agency to determine whether an EIR or a Negative Declaration must be prepared or to identify the significant environmental effects to be analyzed in an EIR. Use of the Initial Study is discussed in Article 5, commencing with Section 15060.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.1, 21080.2, 21080.3, and 21100, Public Resources Code.

## **15366. Jurisdiction by Law**

(a) "Jurisdiction by law" means the authority of any public agency:

- (1) To grant a permit or other entitlement for use;
- (2) To provide funding for the project in question; or
- (3) To exercise authority over resources which may be affected by the project.

(b) A city or county will have jurisdiction by law with respect to a project when the city or county having primary jurisdiction over the area involved is:

- (1) The site of the project;
- (2) The area in which the major environmental effects will occur; and/or
- (3) The area in which reside those citizens most directly concerned by any such environmental effects.

(c) Where an agency having jurisdiction by law must exercise discretionary authority over a project in order for the project to proceed, it is also a Responsible Agency, see Section 15381, or the Lead Agency, see Section 15367.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.3, 21080.4, 21104, and 21153, Public Resources Code.

## **15367. Lead Agency**

"Lead Agency" means the public agency which has the principal responsibility for carrying out or approving a project. The Lead Agency will decide whether an EIR or Negative Declaration will be required for the project and will cause the document to be prepared. Criteria for determining which agency will be the Lead Agency for a project are contained in Section 15051.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21165, Public Resources Code.

## **15368. Local Agency**

"Local agency" means any public agency other than a state agency, board, or commission. Local agency includes but is not limited to cities, counties, charter cities and counties, districts, school districts, special districts, redevelopment agencies, local agency formation commissions, and any board, commission, or organizational subdivision of a local agency when so designated by order or resolution of the governing legislative body of the local agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21062 and 21151, Public Resources Code.

## **15369. Ministerial**

"Ministerial" describes a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out. Common examples of ministerial permits include automobile registrations, dog licenses, and marriage licenses. A building permit is ministerial if the ordinance requiring the permit limits the public official to determining whether the zoning allows the structure to be built in the requested location, the structure would meet the strength requirements in the Uniform Building Code, and the applicant has paid his fee.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(1), Public Resources Code; *Johnson v. State of California*, 69 Cal. 2d 782; *Day v. City of Glendale*, 51 Cal. App. 3d 817.

## **15369.5. Mitigated Negative Declaration**

"Mitigated negative declaration" means a negative declaration prepared for a project when the initial study has identified potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21064.5, Public Resources Code.

## **15370. Mitigation**

"Mitigation" includes:

- (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.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21002.1, 21081, and 21100(c), Public Resources Code.

### **15371. Negative Declaration**

"Negative Declaration" means a written statement by the Lead Agency briefly describing the reasons that a proposed project, not exempt from CEQA, will not have a significant effect on the environment and therefore does not require the preparation of an EIR. The contents of a Negative Declaration are described in Section 15071.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(c), Public Resources Code.

### **15372. Notice of Completion**

"Notice of Completion" means a brief notice filed with the Office of Planning and Research by a Lead Agency as soon as it has completed a draft EIR and is prepared to send out copies for review. The contents of this notice are explained in Section 15085.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21161, Public Resources Code.

### **15373. Notice of Determination**

"Notice of Determination" means a brief notice to be filed by a public agency after it approves or determines to carry out a project which is subject to the requirements of CEQA. The contents of this notice are explained in Sections 15075 and 15094.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21108(a) and 21152, Public Resources Code.

### **15374. Notice of Exemption**

"Notice of Exemption" means a brief notice which may be filed by a public agency after it has decided to carry out or approve a project and has determined that the project is exempt from CEQA as being ministerial, categorically exempt, an emergency, or subject to another exemption from CEQA. Such a notice may also be filed by an applicant where such a determination has been made by a public agency which must approve the project. The contents of this notice are explained in Section 15062.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21108(b) and 21152(b), Public Resources Code.

## **15375. Notice of Preparation**

"Notice of Preparation" means a brief notice sent by a Lead Agency to notify the Responsible Agencies, Trustee Agencies, the Office of Planning and Research, and involved federal agencies that the Lead Agency plans to prepare an EIR for the project. The purpose of the notice is to solicit guidance from those agencies as to the scope and content of the environmental information to be included in the EIR. Public agencies are free to develop their own formats for this notice. The contents of this notice are described in Section 15082.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.4, Public Resources Code.

## **15376. Person**

"Person" includes any person, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, city, county, city and county, town, the state, and any of the agencies and political subdivisions of such entities, and, to the extent permitted by federal law, the United States, or any of its agencies or political subdivisions.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21066, Public Resources Code.

## **15377. Private Project**

A "private project" means a project which will be carried out by a person other than a governmental agency, but the project will need a discretionary approval from one or more governmental agencies for:

- (a) A contract or financial assistance, or
- (b) A lease, permit, license, certificate, or other entitlement for use.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21065, Public Resources Code.

## **15378. Project**

(a) "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:

- (1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans

or elements thereof pursuant to Government Code Sections 65100-65700.

(2) An activity undertaken by a person which is supported in whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.

(3) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

(b) Project does not include:

(1) Proposals for legislation to be enacted by the State Legislature;

(2) Continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, general policy and procedure making (except as they are applied to specific instances covered above);

(3) The submittal of proposals to a vote of the people of the state or of a particular community that does not involve a public agency sponsored initiative. (*Stein v. City of Santa Monica* (1980) 110 Cal.App.3d 458; *Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165);

(4) The creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

(5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

(c) The term "project" refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term "project" does not mean each separate governmental approval.

(d) Where the Lead Agency could describe the project as either the adoption of a particular regulation under subdivision (a)(1) or as a development proposal which will be subject to several governmental approvals under subdivisions (a)(2) or (a)(3), the Lead Agency shall describe the project as the development proposal for the purpose of environmental analysis. This approach will implement the Lead Agency principle as described in Article 4.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21065, Public Resources Code; *Kaufman and Broad-South Bay, Inc. v. Morgan Hill Unified School District* (1992) 9 Cal.App.4th 464; *Fullerton Joint Union High School District v. State Board of Education* (1982) 32 Cal.3d 779; *Simi Valley Recreation and Park District v. Local Agency Formation Commission of Ventura County* (1975) 51 Cal.App.3d 648; and *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98.

## **15379. Public Agency**

"Public agency" includes any state agency, board, or commission and any local or regional agency, as defined in these Guidelines. It does not include the courts of the state. This term does not include agencies of the federal government.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21063, Public Resources Code.

## **15380. Endangered, Rare or Threatened Species**

- (a) "Species" as used in this section means a species or subspecies of animal or plant or a variety of plant.
- (b) A species of animal or plant is:
- (1) "Endangered" when its survival and reproduction in the wild are in immediate jeopardy from one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, disease, or other factors; or
  - (2) "Rare" when either:
    - (A) Although not presently threatened with extinction, the species is existing in such small numbers throughout all or a significant portion of its range that it may become endangered if its environment worsens; or
    - (B) The species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range and may be considered "threatened" as that term is used in the Federal Endangered Species Act.
- (c) A species of animal or plant shall be presumed to be endangered, rare or threatened, as it is listed in:
- (1) Sections 670.2 or 670.5, Title 14, California Code of Regulations; or
  - (2) Title 50, Code of Federal Regulations Section 17.11 or 17.12 pursuant to the Federal Endangered Species Act as rare, threatened, or endangered.
- (d) A species not included in any listing identified in subdivision (c) shall nevertheless be considered to be endangered, rare or threatened, if the species can be shown to meet the criteria in subdivision (b).
- (e) This definition shall not include any species of the Class Insecta which is a pest whose protection under the provisions of CEQA would present an overwhelming and overriding risk to man as determined by:
- (1) The Director of Food and Agriculture with regard to economic pests; or
  - (2) The Director of Health Services with regard to health risks.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21001(c), Public Resources Code.

## **15381. Responsible Agency**

"Responsible Agency" means a public agency which proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purposes of CEQA, the term "Responsible Agency" includes all public agencies other than the Lead Agency which have discretionary approval power over the project.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002.1, 21069, 21080.1, 21080.3, 21080.4, 21167.2, and 21167.3, Public Resources Code.

## **15382. Significant Effect on the Environment**

"Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21068, 21083, 21100, and 21151, Public Resources Code; *Hecton v. People of the State of California*, 58 Cal. App. 3d 653.

## **15383. State Agency**

"State agency" means a governmental agency in the executive branch of the State Government or an entity which operates under the direction and control of an agency in the executive branch of State Government and is funded primarily by the State Treasury.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21100, Public Resources Code.

## **15384. Substantial Evidence**

(a) "Substantial evidence" as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

**Note:** Authority cited: Section 21083, Public Resources Code; References: Sections 21080, 21082.2, 21168, and 21168.5, Public Resources Code; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68; *Running Fence Corp. v. Superior Court* (1975) 51 Cal.App.3d 400; *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988..

## **15385. Tiering**

"Tiering" refers to the coverage of general matters in broader EIRs (such as on general plans or policy statements) with subsequent narrower EIRs or ultimately site-specific EIRs incorporating by reference the general discussions and concentrating solely on the issues specific to the EIR subsequently prepared. Tiering is appropriate when the sequence of EIRs is:

(a) From a general plan, policy, or program EIR to a program, plan, or policy EIR of lesser scope or to a site-specific EIR;

(b) From an EIR on a specific action at an early stage to a subsequent EIR or a supplement to an EIR at a later stage. Tiering in such cases is appropriate when it helps the Lead Agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21003, 21061, and 21100, Public Resources Code.

## **15386. Trustee Agency**

"Trustee Agency" means a state agency having jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State of California. Trustee Agencies include:

- (a) The California Department of Fish and Game with regard to the fish and wildlife of the state, to designated rare or endangered native plants, and to game refuges, ecological reserves, and other areas administered by the department;
- (b) The State Lands Commission with regard to state owned "sovereign" lands such as the beds of navigable waters and state school lands;
- (c) The State Department of Parks and Recreation with regard to units of the State Park System;
- (d) The University of California with regard to sites within the Natural Land and Water Reserves System.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.3 and 21080.4, Public Resources Code.

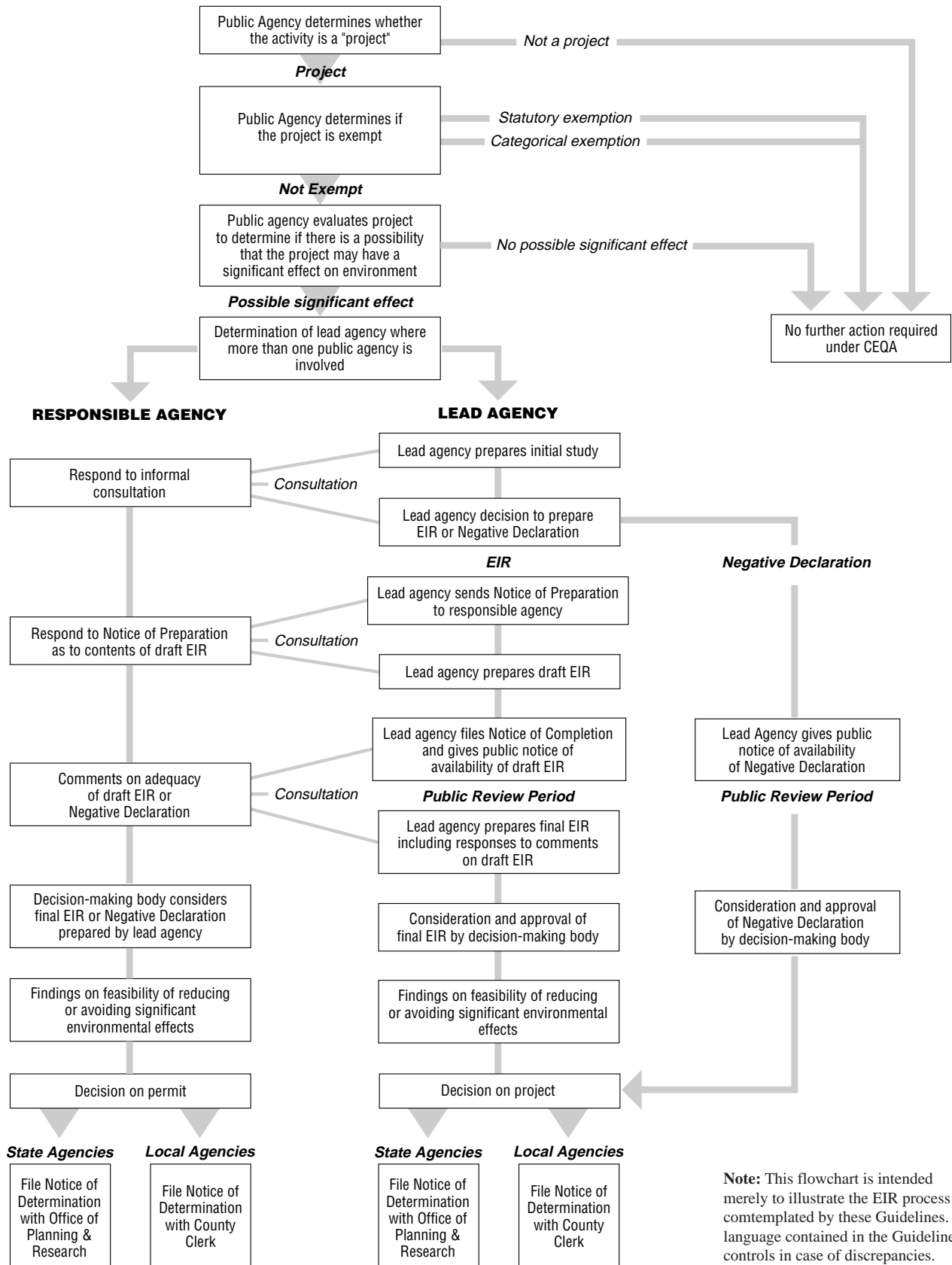
## **15387. Urbanized Area**

"Urbanized area" means a central city or a group of contiguous cities with a population of 50,000 or more, together with adjacent densely populated areas having a population density of at least 1,000 persons per square mile. A Lead Agency shall determine whether a particular area meets the criteria in this section either by examining the area or by referring to a map prepared by the U.S. Bureau of the Census which designates the area as urbanized. Maps of the designated urbanized areas can be found in the California EIR Monitor of February 7, 1979. The maps are also for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The maps are sold in sets only as Stock Number 0301-3466. Use of the term "urbanized area" in Section 15182 is limited to areas mapped and designated as urbanized by the U.S. Bureau of the Census.

**Note:** Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21080.7 and 21083, and 21084, Public Resources Code.



## Appendix A CEQA PROCESS FLOW CHART



**Note:** This flowchart is intended merely to illustrate the EIR process contemplated by these Guidelines. The language contained in the Guidelines controls in case of discrepancies.

Appendix B

**STATUTORY  
AUTHORITY  
OF STATE  
DEPARTMENTS**

Bay Conservation and Development Commission	Air Resources Board	Resources Agency	Health Services	Savings and Loan	Real Estate	Caltrans	Dept of Housing and Community Development	Dept of Motor Vehicles	Corporations	California Highway Patrol	Aeronautics	Food and Agriculture	
	X		X					X		16	X	1	1. Air quality and air pollution control
			X									X	2. Chemical contamination and food products
26			7										3. Coastal areas, wetlands, estuaries, waterfowl refuges, and beaches
	24		8		X		X						4. Congestion in urban areas, housing, and building displacement
			X									X	5. Disease control
	X		X										6. Electric energy generation and supply
			9		X	X	X						7. Environmental effects with special impact in low-income neighborhoods
					X							X	8. Flood plains and watersheds
			X									X	9. Food additives and food sanitation
		X	X									X	10. Herbicides
						X							11. Historic and archaeological sites
	X		X									2	12. Human ecology
			X									X	13. Microbiological contamination
													14. Mineral land reclamation
													15. Natural gas energy development generation and supply
	16		10								X		16. Navigable airways
25													17. Navigable waterways
			X							X	X		18. Noise control and abatement
25												X	19. Parks, forests, trees and outdoor recreation areas
		X	X									X	20. Pesticides
		X	X										21. Radiation and radiological health
	24		11	X	X	X	X				X		22. Regional comprehensive planning
			X									X	23. Rodent control
			X										24. Sanitation and waste systems
			X										25. Shellfish sanitation
												X	26. Soil and plant life, sedimentation, erosion, and hydrologic conditions
			X									X	27. Toxic Materials
			X					X		X		4	28. Transportation and handling of hazardous materials
			X									X	29. Water quality and water pollution control
			12									5	30. Fish and wildlife
25			13										31. Activities with special impact on regional jurisdictions
	24												32. Water project formulation
	24												33. Geothermal energy
													34. Oil and petroleum development, generation and supply
													35. Statewide land use patterns
	24												36. Open space policy
						X							37. Statewide overview — cumulative impact of separate projects
							X						38. Seismic hazards

Appendix B  
*continued*

Office of Planning & Research	Native American Heritage Commission	Water Resources	State Water Resources Control Board	State Reclamation Board	State Lands Commission	Solid Waste Mgmt Board	Parks and Recreation	Forestry	Fish and Game	Energy Commission	Conservation	Colorado River Board	CTRAPA	Coastal Commission	Boating and Waterways	
			X								X		27			1. Air quality and air pollution control
			X						X							2. Chemical contamination and food products
		X	X		X		X		X		X	14	27	26	X	3. Coastal areas, wetlands, estuaries, waterfowl refuges, and beaches
			21										27	26		4. Congestion in urban areas, housing, and building displacement
			X					22	X			14				5. Disease control
		X					X	23	X	X		14		26	X	6. Electric energy generation and supply
							19									7. Environmental effects with special impact in low-income neighborhoods
		X		20	X		X		X		X	14	27	26		8. Flood plains and watersheds
																9. Food additives and food sanitation
			X				X	22	X			14				10. Herbicides
	X				X		X						27	26		11. Historic and archaeological sites
X							X		X				27	26		12. Human ecology
			X						X			14				13. Microbiological contamination
					X		X		X		X		27	26		14. Mineral land reclamation
					X				15	X	X			26		15. Natural gas energy development generation and supply
									16							16. Navigable airways
				20	X				X			14	27	26	X	17. Navigable waterways
									17							18. Noise control and abatement
	X				X		X		X		X	14	27	26	X	19. Parks, forests, trees and outdoor recreation areas
		X	X				X	22	X							20. Pesticides
									X	X		14				21. Radiation and radiological health
X		X	X		X		X		X	X	X	14	27	26	X	22. Regional comprehensive planning
							X	22	X							23. Rodent control
		X	X			X			18		X	14		26		24. Sanitation and waste systems
			X						X							25. Shellfish sanitation
		X	X		X		X		X		X	14	27	26		26. Soil and plant life, sedimentation, erosion, and hydrologic conditions
			X			X	X		X			14				27. Toxic Materials
			X							X	X					28. Transportation and handling of hazardous materials
		X	X						X		X	14	27	26	X	29. Water quality and water pollution control
			21				X		X			14	27	26		30. Fish and wildlife
		X		20			X					14	27	26		31. Activities with special impact on regional jurisdictions
		X	X	20			X	23	X			14			X	32. Water project formulation
		X	21		X				X	X	X	14				33. Geothermal energy
			21		X				X	X	X			26		34. Oil and petroleum development, generation and supply
X					X				X	X	X		27	26		35. Statewide land use patterns
X	X				X				X		X		27	26		36. Open space policy
X										X						37. Statewide overview — cumulative impact of separate projects
		X								X	X		27	26		38. Seismic hazards

## *Appendix B Footnotes*

1. **Food and Agriculture** - Effects on plants and animals.
2. **Food and Agriculture** - Protection of food and fiber.
3. **Food and Agriculture** - Agricultural, dairy and feed lot Systems.
4. **Food and Agriculture** - As pertains to transportation, handling, storage and decontamination of pesticides.
5. **Food and Agriculture** - Pesticide effects, predatory animal control, bird control.
6. **California Highway Patrol** - Enforcement of motor vehicle regulations.
7. **Health Services - Beach sanitation**, water pollution, solid waste and mosquito control.
8. **Health Services** - Pertains to health component.
9. **Health Services** - Most if these are strongly related to health.
10. **Health Services** - Pertains to noise.
11. **Health Services** - Pertains to personal and environmental health components.
12. **Health Services** - As it may pertain to human health hazards.
13. **Health Services** - Pertains to comprehensive health planning.
14. **Colorado River Board** - As pertains to the Colorado, New and Alamo Rivers.
15. **Fish and Game** - As field development and distribution systems may affect fish and wildlife.
16. **Fish and Game** - As may affect migrating and resident wildlife.
17. **Fish and Game** - As excessive noise may affect wildlife.
18. **Fish and Game** - As water quality may affect fish and wildlife.
19. **Parks and Recreation - In impacted** areas only.
20. **Reclamation Board** - In areas of Board's jurisdiction only — the Sacramento-San Joaquin Valley.
21. **State Water Resources Control Board** - As may pertain to water quality.
22. **Forestry** - With respect to forest land.
23. **Forestry** - (6) and (32) - As related to fire protection or State (fire protection) responsibility land.
24. **Air Resources Board** - (4), (22), (32), (33), and (36) - As may pertain to residential, commercial, industrial or transportation growth.
25. **San Francisco Bay Conservation and Development Commission** - (3), (17), (19), and (30) - With respect to San Francisco Bay, Suisun Bay and adjacent shore areas.
26. **California Coastal Commission** - (3), (4), (6), (8), (11), (12), (14), (15), (17), (19), (22), (23), (26), (29), (30), (31), (34), (35), and (36) - With respect to effects within the California Coastal Zone.
27. **California Tahoe Regional Planning Agency** - With respect to effects in the Tahoe Basin.
28. **Native American Heritage Commission** - With respect to places of special religious or social significance to Native Americans including archaeological sites, cemeteries, and places of worship.

*NOTE: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.3, 21080.4, 21104, and 21153, Public Resources Code.*

**Notice of Completion & Environmental Document Transmittal**

*Appendix C*

For U.S. Mail: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044  
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH# \_\_\_\_\_

**Project Title:** \_\_\_\_\_

Lead Agency: \_\_\_\_\_ Contact Person: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
City: \_\_\_\_\_ Zip: \_\_\_\_\_ County: \_\_\_\_\_

**Project Location:**

County: \_\_\_\_\_ City/Nearest Community: \_\_\_\_\_ Total Acres: \_\_\_\_\_  
Cross Streets: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Assessor's Parcel No. \_\_\_\_\_ Section: \_\_\_\_\_ Twp. \_\_\_\_\_ Range: \_\_\_\_\_ Base: \_\_\_\_\_  
Within 2 miles: State Hwy#: \_\_\_\_\_ Waterways: \_\_\_\_\_  
Airports: \_\_\_\_\_ Railways: \_\_\_\_\_ Schools: \_\_\_\_\_

**Document Type:**

**CEQA:**

- NOP
- Early Cons
- Neg Dec
- Mit Neg Dec
- Draft EIR
- Supplement to EIR
- Subsequent EIR
- Other: \_\_\_\_\_

**NEPA:**

- NOI
- EA
- Draft EIS
- FONSI

**Other:**

- Joint Document
- Final Document
- Other: \_\_\_\_\_

**Local Action Type:**

- General Plan Update
- General Plan Amendment
- General Plan Element
- Community Plan
- Specific Plan
- Master Plan
- Planned Unit Development
- Site Plan
- Rezone
- Prezone
- Use Permit
- Land Division (Subdivision, etc.)
- Annexation
- Redevelopment
- Coastal Permit
- Other: \_\_\_\_\_

**Development Type:**

- Residential: Units \_\_\_\_\_ Acres \_\_\_\_\_
- Office: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_
- Commercial: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_
- Industrial: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_
- Educational \_\_\_\_\_
- Recreational \_\_\_\_\_
- Water Facilities: Type \_\_\_\_\_ MGD \_\_\_\_\_
- Transportation: Type \_\_\_\_\_
- Mining: Mineral \_\_\_\_\_
- Power: Type \_\_\_\_\_ MW \_\_\_\_\_
- Waste Treatment: Type \_\_\_\_\_ MGD \_\_\_\_\_
- Hazardous Waste: Type \_\_\_\_\_
- Other: \_\_\_\_\_

**Project Issues That May Have A Significant Or Potentially Significant Impact:**

- Aesthetic/Visual
- Agricultural Land
- Air Quality
- Archeological/Historical
- Biological Resources
- Coastal Zone
- Drainage/Absorption
- Economic/Jobs
- Fiscal
- Flood Plain/Flooding
- Forest Land/Fire Hazard
- Geologic/Seismic
- Minerals
- Noise
- Population/Housing Balance
- Public Services/Facilities
- Recreation/Parks
- Schools/Universities
- Septic Systems
- Sewer Capacity
- Soil Erosion/Compaction/Grading
- Solid Waste
- Toxic/Hazardous
- Traffic/Circulation
- Vegetation
- Water Quality
- Water Supply/Groundwater
- Wetland/Riparian
- Growth Inducement
- Land Use
- Cumulative Effects
- Other: \_\_\_\_\_

**Present Land Use/Zoning/General Plan Designation:**

**Project Description:** (please use a separate page if necessary)

NOTE: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice or Preparation or previous draft document) please fill in.

**Reviewing Agencies Checklist**

*Appendix C continued*

*Lead Agencies may recommend State Clearinghouse distribution by marking agencies below.*

- |   |   |
|---|---|
| <input type="checkbox"/> Air Resources Board                    | <input type="checkbox"/> Office of Emergency Services                                   |
| <input type="checkbox"/> Boating & Waterways, Department of     | <input type="checkbox"/> Office of Historic Preservation                                |
| <input type="checkbox"/> California Highway Patrol              | <input type="checkbox"/> Parks & Recreation   |
| <input type="checkbox"/> Caltrans District # _____              | <input type="checkbox"/> Pesticide Regulation, Department of                            |
| <input type="checkbox"/> Caltrans Division of Aeronautics       | <input type="checkbox"/> Public Utilities Commission                                    |
| <input type="checkbox"/> Caltrans Planning                      | <input type="checkbox"/> Reclamation Board  |
| <input type="checkbox"/> Coachella Valley Mountains Conservancy | <input type="checkbox"/> Regional WQCB # _____  |
| <input type="checkbox"/> Coastal Commission                     | <input type="checkbox"/> Resources Agency   |
| <input type="checkbox"/> Colorado River Board                   | <input type="checkbox"/> S.F. Bay Conservation & Development                            |
| <input type="checkbox"/> Commission                             |   |
| <input type="checkbox"/> Conservation, Department of            | <input type="checkbox"/> San Gabriel & Lower Los Angeles Rivers & Mountains Conservancy |
| <input type="checkbox"/> Corrections, Department of             | <input type="checkbox"/> San Joaquin River Conservancy                                  |
| <input type="checkbox"/> Delta Protection Commission            | <input type="checkbox"/> Santa Monica Mountains Conservancy                             |
| <input type="checkbox"/> Education, Department of               | <input type="checkbox"/> State Lands Commission   |
| <input type="checkbox"/> Office of Public School Construction   | <input type="checkbox"/> SWRCB: Clean Water Grants                                      |
| <input type="checkbox"/> Energy Commission                      | <input type="checkbox"/> SWRCB: Water Quality   |
| <input type="checkbox"/> Fish & Game Region # _____             | <input type="checkbox"/> SWRCB: Water Rights  |
| <input type="checkbox"/> Food & Agriculture, Department of      | <input type="checkbox"/> Tahoe Regional Planning Agency                                 |
| <input type="checkbox"/> Forestry & Fire Protection             | <input type="checkbox"/> Toxic Substances Control, Department of                        |
| <input type="checkbox"/> General Services, Department of        | <input type="checkbox"/> Water Resources, Department of                                 |
| <input type="checkbox"/> Health Services, Department of         |   |
| <input type="checkbox"/> Housing & Community Development        |   |
| <input type="checkbox"/> Integrated Waste Management Board      | <input type="checkbox"/> Other: _____   |
| <input type="checkbox"/> Native American Heritage Commission    | <input type="checkbox"/> Other: _____   |

**Local Public Review Period** (to be filled in by lead agency)

Starting Date \_\_\_\_\_ Ending Date \_\_\_\_\_

**Lead Agency** (Complete if applicable):

Consulting Firm: _____	Applicant: _____
_____	Address: _____
Address: _____	_____
_____	City/State/Zip: _____
City/State/Zip: _____	_____
Contact: _____	Phone: ( _____ ) _____
Phone: ( _____ ) _____	

**Signature of Lead Agency Representative** \_\_\_\_\_ **Date:** \_\_\_\_\_

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.



**Notice of Determination**

*Appendix D*

**TO:**

Office of Planning and Research

*For U.S. Mail:*

P.O. Box Box 3044

Sacramento, CA 95812-3044

*Street Address:*

1400 Tenth Street

Sacramento, CA 95814

County Clerk

County of: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**FROM:**

Public Agency: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

Lead Agency (if different from above):

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

**SUBJECT: *Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.***

State Clearinghouse Number (if submitted to State Clearinghouse): \_\_\_\_\_

Project Title: \_\_\_\_\_

Project Location (include county): \_\_\_\_\_

Project Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This is to advise that the \_\_\_\_\_ has approved the above described

( Lead Agency or  Responsible Agency)

project on \_\_\_\_\_ and has made the following determinations regarding the above

(Date)

described project:

1. The project [ will  will not] have a significant effect on the environment.
2.  An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.  
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [ were  were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [  was  was not ] adopted for this project.
5. A statement of Overriding Considerations [ was  was not] adopted for this project.
6. Findings [  were  were not ] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the Negative Declaration, is available to the General Public at:

\_\_\_\_\_  
Signature (Public Agency) \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date Received for filing at OPR: \_\_\_\_\_

Authority cited: Section 21083, Public Resources Code.

Reference: Sections 21000-21174, Public Resources Code.

**Revised 2005**





To:  Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

From: (Public Agency) \_\_\_\_\_  
\_\_\_\_\_  
(Address)

County Clerk  
County of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Project Title: \_\_\_\_\_

Project Location - Specific: \_\_\_\_\_  
\_\_\_\_\_

Project Location - City: \_\_\_\_\_ Project Location - County: \_\_\_\_\_

Description of Nature, Purpose, and Beneficiaries of Project:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of Public Agency Approving Project: \_\_\_\_\_

Name of Person or Agency Carrying Out Project: \_\_\_\_\_

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number:
- Statutory Exemptions. State code number:

Reasons why project is exempt: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Lead Agency

Contact Person: \_\_\_\_\_ Area Code/Telephone/Extension: \_\_\_\_\_

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?  Yes  No

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Title: \_\_\_\_\_

- Signed by Lead Agency Date received for filing at OPR:
- Signed by Applicant

To:  Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

From: (Public Agency) \_\_\_\_\_  
\_\_\_\_\_  
(Address)

County Clerk  
County of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Project Title: \_\_\_\_\_

Project Location - Specific: \_\_\_\_\_  
\_\_\_\_\_

Project Location - City: \_\_\_\_\_ Project Location - County: \_\_\_\_\_

Description of Nature, Purpose, and Beneficiaries of Project:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of Public Agency Approving Project: \_\_\_\_\_

Name of Person or Agency Carrying Out Project: \_\_\_\_\_

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number:
- Statutory Exemptions. State code number:

Reasons why project is exempt: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Lead Agency

Contact Person: \_\_\_\_\_ Area Code/Telephone/Extension: \_\_\_\_\_

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?  Yes  No

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Title: \_\_\_\_\_

- Signed by Lead Agency Date received for filing at OPR:
- Signed by Applicant

## *Appendix F*

# ENERGY CONSERVATION

### I. Introduction

The goal of conserving energy implies the wise and efficient use of energy. The means of achieving this goal include:

- (1) decreasing overall per capita energy consumption,
- (2) decreasing reliance on natural gas and oil, and
- (3) increasing reliance on renewable energy sources.

In order to assure that energy implications are considered in project decisions, the California Environmental Quality Act requires that EIRs include a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy.

Energy conservation implies that a project's cost effectiveness be reviewed not only in dollars, but also in terms of energy requirements. For many projects, lifetime costs may be determined more by energy efficiency than by initial dollar costs.

### II. EIR Contents

Potentially significant energy implications of a project should be considered in an EIR. The following list of energy impact possibilities and potential conservation measures is designed to assist in the preparation of an EIR. In many instances, specific items may not apply or additional items may be needed.

A. Project Description may include the following items:

1. Energy consuming equipment and processes which will be used during construction, operation, and/or removal of the project. If appropriate, this discussion should consider the energy intensiveness of materials and equipment required for the project.
2. Total energy requirements of the project by fuel type and end use.
3. Energy conservation equipment and design features.
4. Initial and life-cycle energy costs or supplies.
5. Total estimated daily trips to be generated by the project and the additional energy consumed per trip by mode.

B. Environmental Setting may include existing energy supplies and energy use patterns in the region and locality.

C. Environmental Impacts may include:

1. The project's energy requirements and its energy use efficiencies by amount and fuel type for each stage of the project's life cycle including construction, opera-

tion, maintenance and/or removal. If appropriate, the energy intensiveness of materials may be discussed.

2. The effects of the project on local and regional energy supplies and on requirements for additional capacity.
3. The effects of the project on peak and base period demands for electricity and other forms of energy.
4. The degree to which the project complies with existing energy standards.
5. The effects of the project on energy resources.
6. The project's projected transportation energy use requirements and its overall use of efficient transportation alternatives.

D. Mitigation Measures may include:

1. Potential measures to reduce wasteful, inefficient and unnecessary consumption of energy during construction, operation, maintenance and/or removal. The discussion should explain why certain measures were incorporated in the project and why other measures were dismissed.
2. The potential of siting, orientation, and design to minimize energy consumption, including transportation energy.
3. The potential for reducing peak energy demand.
4. Alternate fuels (particularly renewable ones) or energy systems.
5. Energy conservation which could result from recycling efforts.

E. Alternatives should be compared in terms of overall energy consumption and in terms of reducing wasteful, inefficient and unnecessary consumption of energy.

F. Unavoidable Adverse Effects may include wasteful, inefficient and unnecessary consumption of energy during the project construction, operation, maintenance and/or removal that cannot be feasibly mitigated.

G. Irreversible Commitment of Resources may include a discussion of how the project preempts future energy development or future energy conservation.

H. Short-Term Gains versus Long-Term Impacts can be compared by calculating the energy costs over the lifetime of the project.

I. Growth Inducing Effects may include the estimated energy consumption of growth induced by the project.

## Appendix G

### Environmental Checklist Form

1. Project title:  
\_\_\_\_\_
2. Lead agency name and address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Contact person and phone number:  
\_\_\_\_\_
4. Project location:  
\_\_\_\_\_
5. Project sponsor's name and address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. General plan designation: \_\_\_\_\_ 7. Zoning: \_\_\_\_\_
8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Surrounding land uses and setting: Briefly describe the project's surroundings:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Other public agencies whose approval is required (e.g., permits, financing approval, or

participation agreement.)

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---

---

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Aesthetics                    | <input type="checkbox"/> Agriculture Resources              | <input type="checkbox"/> Air Quality            |
| <input type="checkbox"/> Biological Resources          | <input type="checkbox"/> Cultural Resources                 | <input type="checkbox"/> Geology/Soils          |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology/Water Quality            | <input type="checkbox"/> Land Use/Planning      |
| <input type="checkbox"/> Mineral Resources             | <input type="checkbox"/> Noise                              | <input type="checkbox"/> Population/Housing     |
| <input type="checkbox"/> Public Services               | <input type="checkbox"/> Recreation                         | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities/Service Systems     | <input type="checkbox"/> Mandatory Findings of Significance |   |

**DETERMINATION:** (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

_____	_____
Signature	Date
_____	_____
Printed Name	For

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR

or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

- a) Earlier Analysis Used. Identify and state where they are available for review.
  - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
  - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
- a) the significance criteria or threshold, if any, used to evaluate each question; and
  - b) the mitigation measure identified, if any, to reduce the impact to less than significance



SAMPLE QUESTION

Issues:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:</p>				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>IV. BIOLOGICAL RESOURCES -- Would the project:</p>				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
filling, hydrological interruption, or other means?				
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>V. CULTURAL RESOURCES -- Would the project:</b>				
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>VI. GEOLOGY AND SOILS -- Would the project:</b>				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>VII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:</b>				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>VIII. HYDROLOGY AND WATER QUALITY -</b>				
- Would the project:				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
river, in a manner which would result in substantial erosion or siltation on- or off-site?				
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>IX. LAND USE AND PLANNING - Would the project:</b>				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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X. MINERAL RESOURCES -- Would the project:

- |   |                          |                          |                          |                          |
|---|--------------------------|--------------------------|--------------------------|--------------------------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?                                | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

XI. NOISE -- Would the project result in:

- |   |                          |                          |                          |                          |
|---|--------------------------|--------------------------|--------------------------|--------------------------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>XII. POPULATION AND HOUSING -- Would the project:</b>				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>XIII. PUBLIC SERVICES</b>				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>XIV. RECREATION</b>				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

XV. TRANSPORTATION/TRAFFIC -- Would the project:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

XVI. UTILITIES AND SERVICE SYSTEMS -- Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	--------------------------

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**XVII. MANDATORY FINDINGS OF SIGNIFICANCE**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	<b>Potentially Significant Impact</b>	<b>Less Than Significant with Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
--	---	---	---	----------------------

effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

**Note:** Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21080(c), 21080.1, 21080.3, 21082.1, 21083, 21083.3, 21093, 21094, 21151, Public Resources Code; Sundstrom v. County of Mendocino, 202 Cal.App.3d 296 (1988); Leonoff v. Monterey Board of Supervisors, 222 Cal.App.3d 1337 (1990).

*Appendix H*  
**ENVIRONMENTAL INFORMATION FORM**

*(To be Completed by Applicant)*

Date Filed \_\_\_\_\_

**General Information**

1. Name and address of developer or project sponsor: \_\_\_\_\_
2. Address of project: \_\_\_\_\_  
Assessor's Block and Lot Number: \_\_\_\_\_
3. Name, address, and telephone number of person to be contacted concerning this project:  
\_\_\_\_\_  
\_\_\_\_\_
4. Indicate number of the permit application for the project to which this form pertains: \_\_\_\_\_
5. List and describe any other related permits and other public approvals required for this project, including those required by city, regional, state and federal agencies:  
\_\_\_\_\_
6. Existing zoning district: \_\_\_\_\_
7. Proposed use of site (Project for which this form is filed): \_\_\_\_\_  
\_\_\_\_\_

**Project Description**

8. Site size.
9. Square footage.
10. Number of floors of construction.
11. Amount of off-street parking provided.
12. Attach plans.
13. Proposed scheduling.
14. Associated projects.
15. Anticipated incremental development.
16. If residential, include the number of units, schedule of unit sizes, range of sale prices or rents, and type of household size expected.
17. If commercial, indicate the type, whether neighborhood, city or regionally oriented, square footage of sales area, and loading facilities.
18. If industrial, indicate type, estimated employment per shift, and loading facilities.

- 19. If institutional, indicate the major function, estimated employment per shift, estimated occupancy, loading facilities, and community benefits to be derived from the project.
- 20. If the project involves a variance, conditional use or rezoning application, state this and indicate clearly why the application is required.

Are the following items applicable to the project or its effects? Discuss below all items checked yes (attach additional sheets as necessary).

	Yes	No
21. Change in existing features of any bays, tidelands, beaches, or hills, or substantial alteration of ground contours.	<input type="checkbox"/>	<input type="checkbox"/>
22. Change in scenic views or vistas from existing residential areas or public lands or roads.	<input type="checkbox"/>	<input type="checkbox"/>
23. Change in pattern, scale or character of general area of project.	<input type="checkbox"/>	<input type="checkbox"/>
24. Significant amounts of solid waste or litter.	<input type="checkbox"/>	<input type="checkbox"/>
25. Change in dust, ash, smoke, fumes or odors in vicinity.	<input type="checkbox"/>	<input type="checkbox"/>
26. Change in ocean, bay, lake, stream or ground water quality or quantity, or alteration of existing drainage patterns.	<input type="checkbox"/>	<input type="checkbox"/>
27. Substantial change in existing noise or vibration levels in the vicinity.	<input type="checkbox"/>	<input type="checkbox"/>
28. Site on filled land or on slope of 10 percent or more.	<input type="checkbox"/>	<input type="checkbox"/>
29. Use of disposal of potentially hazardous materials, such as toxic substances, flammables or explosives.	<input type="checkbox"/>	<input type="checkbox"/>
30. Substantial change in demand for municipal services (police, fire, water, sewage, etc.).	<input type="checkbox"/>	<input type="checkbox"/>
31. Substantially increase fossil fuel consumption (electricity, oil, natural gas, etc.).	<input type="checkbox"/>	<input type="checkbox"/>
32. Relationship to a larger project or series of projects.	<input type="checkbox"/>	<input type="checkbox"/>

### Environmental Setting

- 33. Describe the project site as it exists before the project, including information on topography, soil stability, plants and animals, and any cultural, historical or scenic aspects. Describe any existing structures on the site, and the use of the structures. Attach photographs of the site. Snapshots or polaroid photos will be accepted.
- 34. Describe the surrounding properties, including information on plant~ and animals and any cultural, historical or scenic aspects. Indicate the type of land use (residential, commercial, etc.), intensity of land use (one-family, apartment houses, shops, department stores, etc.), and scale of development (height, frontage, set-back, rear yard, etc.). Attach photographs of the vicinity. Snapshots or polaroid photos will be accepted.

### Certification

I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and in formation presented are true and correct to the best of my knowledge and belief.

Date \_\_\_\_\_

Signature \_\_\_\_\_

For \_\_\_\_\_

*Appendix I*  
**NOTICE OF PREPARATION**

To: \_\_\_\_\_  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_

From: \_\_\_\_\_  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_

**Subject: Notice of Preparation of a Draft Environmental Impact Report**

\_\_\_\_\_ will be the Lead Agency and will prepare an environmental impact report for the project identified below. We need to know the views of your agency as to the scope and content of the environmental information which is germane to your agency's statutory responsibilities in connection with the proposed project. Your agency will need to use the EIR prepared by our agency when considering your permit or other approval for the project.

The project description, location, and the potential environmental effects are contained in the attached materials. A copy of the Initial Study (  is  is not) attached.

Due to the time limits mandated by State law, your response must be sent at the earliest possible date but not later than 30 days after receipt of this notice.

Please send your response to \_\_\_\_\_ at the address shown above. We will need the name for a contact person in your **agency**.

**Project Title:** \_\_\_\_\_

**Project Applicant, if any:** \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Telephone \_\_\_\_\_

*Reference:* California Code of Regulations, Title 14, (CEQA Guidelines) Sections 15082(a), 15103, 15375.

## APPENDIX J

### Examples of Tiering EIR's

#### FIRST TIER EIR (15152)

- project encompasses separate but related projects such as general plan, zoning, development
- later tiers move from general to specific analysis of projects

#### Later Project EIR

- later project is consistent with general plan or zoning
- initial study must examine significant effects not covered in prior EIR
- later EIR must state lead agency is using tiering concept and must comply with section 15152

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#### STAGED EIR (15167)

- one large project will require a number of discretionary approvals from govt. agencies and one of those approvals will occur more than two years before construction commences

#### Supplement to the Staged EIR

- supplements to the staged EIR are prepared for later government agency approvals on the same overall project if information available at the time of that later approval would permit consideration of additional environmental impacts, mitigation measures or reasonable alternatives

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#### PROGRAM EIR (15168)

- series of actions or activities that can be characterized as one large project and are related either:
  - geographically
  - as logical parts of a chain of activities
  - in connection with rules, regulations, plans or other general criteria governing a continuing program
  - as individual activities carried out under common authority (statutory or regulatory) and having similar environmental effects which can be mitigated in similar ways

Subsequent Project EIR

- only if subsequent activity has effects not examined in the previously certified program EIR will additional environmental documentation be required (if subsequent activity has no new effects, that activity is covered by the program EIR)

MASTER EIR  
(15175)

- alternative to project, staged, or program EIR
- can be used for:
  - general plan (or gen. plan element, amendment, or update)
  - redevelopment plan projects (public or private)
  - project consisting of phases of smaller individual projects
  - other activities described in 15175
- after five years from initial certification, adopting authority must review the Master EIR and prepare subsequent or supplemental EIR if substantial changes have occurred with respect to circumstances under which the original Master EIR was adopted
- no new EIR is required for subsequent projects within the scope of the Master EIR which cause no additional significant effect

Focused EIR  
(15177)

- a subsequent, Focused EIR is required only where:
  - substantial new/additional information shows adverse environmental effects not examined in Master EIR or more significant than described in EIR, or
  - substantial new/additional information shows mitigation measures previously determined to be infeasible are now feasible and will avoid/reduce the significant effects to a level of insignificance

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**SPECIAL SITUATIONS / EIRs**

**Multiple-family residential development / residential and commercial or retail mixed-use development (PRC 21158.5 and Guideline §15179.5)**

- project is multiple-family residential development up to 100 units or is a residential and commercial or retail mixed-use development of not more than 100,000 square feet
- if project complies with procedures in section 21158.5, only a focused EIR need be prepared, notwithstanding the fact that the project wasn't identified in the Master EIR

**Redevelopment Project (15180)**

- all public and private activities or undertakings in furtherance of a redevelopment plan (public or private) constitute a single project
- the redevelopment plan EIR is treated as a program EIR



- no subsequent EIR is required for individual components of the redevelopment plan unless substantial changes or substantial new information triggers a subsequent EIR or supplement to an EIR pursuant to (sections 15162 or 15163)

**Housing/neighborhood commercial facilities (15181)**

- a project involving construction of housing or neighborhood commercial facilities in an urbanized area
- a prior EIR for a specific plan, local coastal program, or port master plan may be used as the EIR for such a project (no new EIR need be prepared) provided section 15181 procedures are complied with

**Projects Consistent with Community Plan, General Plan, or Zoning (15183)**

- a project which is consistent with a community plan adopted as part of a general plan or zoning ordinance or a general plan of a local agency and where there was an EIR certified for the zoning action or master plan
- the EIR for the residential project need only examine certain significant environmental effects, as outlined in section 15183

**Regulations on Pollution Control Equipment (PRC section 21159)**

- section 21159 requires environmental analysis of reasonably foreseeable methods of compliance at the time of adoption of rule or regulation requiring the installation of pollution control equipment
- an EIR prepared at the time of adoption of the rule or regulation is deemed to satisfy the requirement of section 21159

**Installation of Pollution Control Equipment (PRC section 21159.1)**

- a focused EIR is permitted where project 1) consists solely of installation of pollution control equipment; 2) is required by rule or regulation adopted by the State Air Resources Board, an air pollution control district or air quality management district, the State Water Resources Control Board, a California regional water quality control board, the Dept. of Toxic Substances Control, or the California Integrated Waste Management Board; and 3) meets the procedural requirements outlined in section 21159.1

## *Appendix K*

# **CRITERIA FOR SHORTENED CLEARINGHOUSE REVIEW**

Under exceptional circumstances, and when requested in writing by the lead agency, the State Clearinghouse in the Office of Planning and Research (OPR) may shorten the usual review periods for proposed negative declarations, mitigated negative declarations and draft EIRs submitted to the Clearinghouse. A request must be made by the decision-making body of the lead agency, or by a properly authorized representative of the decision-making body.

A shortened review period may be granted when any of the following circumstances exist:

(1) The lead agency is operating under an extension of the one-year period for completion of an EIR and would not otherwise be able to complete the EIR within the extended period.

(2) The public project applicant is under severe time constraints with regard to obtaining financing or exercising options which cannot be met without shortening the review period.

(3) The document is a supplement to a draft EIR or proposed negative declaration or mitigated negative declaration previously submitted to the State Clearinghouse.

(4) The health and safety of the community would be at risk unless the project is approved expeditiously.

(5) The document is a revised draft EIR, or proposed negative declaration or mitigated negative declaration, where changes in the document are primarily the result of comments from agencies and the public.

Shortened review cannot be provided to a draft EIR or proposed negative declaration or mitigated negative declaration which has already begun the usual review process. Prior to requesting shortened review, the lead agency should have already issued a notice of preparation and received comments from applicable State agencies, in the case of an EIR, or consulted with applicable State agencies, in the case of a proposed negative declaration or mitigated negative declaration.

No shortened review period shall be granted unless the lead agency has contacted and obtained prior approval for a shortened review from the applicable state responsible and trustee agencies. No shortened review shall be granted for any project which is of statewide, regional, or areawide significance, as defined in Section 15206 of the guidelines.

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| [CERES](#) | [CEQA Index](#) | [LUPIN](#) | [Wetlands](#) | [Comment](#) |

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*This file last modified on: Thursday, December 1, 2005.*

*Document URL: [http://ceres.ca.gov/topic/env\\_law/ceqa/guidelines/appk.html](http://ceres.ca.gov/topic/env_law/ceqa/guidelines/appk.html)*

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**Notice of Completion of Draft EIR**

***Appendix L***

Project Title

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Project Location – Specific

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Project Location – City  
Location – County

Project

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Description of Nature, Purpose, and Beneficiaries of Project

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Lead Agency

Division

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Address Where Copy of EIR is Available

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Review Period

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Contact Person  
Extension

Area Code

Phone

*Authority cited: Section 21083, Public Resources Code. Reference: Sections 21092, 21152, and 21153, Public Resources Code.*

**Revised 2005**