

# SUPREME COURT COPY

In the Supreme Court of the State of California

**FRIENDS OF THE COLLEGE OF SAN  
MATEO GARDENS,**

**Plaintiff and Respondent,**

v.

**SAN MATEO COUNTY COMMUNITY  
COLLEGE DISTRICT et al.,**

**Defendants and  
Appellants.**

Case No. S214061

SUPREME COURT  
FILED

JUN 16 2016

First Appellate District, Div. 1, Case No. A135892  
San Mateo County Superior Court, Case No. CIV508656  
The Honorable Clifford Cretan, Judge

Frank A. McGuire Clerk

Deputy

**MOTION OF THE CALIFORNIA NATURAL RESOURCES  
AGENCY AND THE GOVERNOR'S OFFICE OF PLANNING  
AND RESEARCH FOR JUDICIAL NOTICE; SUPPORTING  
DECLARATIONS; [PROPOSED] ORDER**

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Pursuant to California Rules of Court 8.252(a) and 8.520(g), the California Natural Resources Agency (Resources) and the Governor's Office of Planning and Research (OPR) (collectively, Natural Resources Agency), request that this Court take judicial notice of the matters listed below and attached to this Motion as Exhibits 1 through 12.

### **MEMORANDUM OF POINTS AND AUTHORITIES**

The matters that are the subject of this Motion are relevant to the history of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) and of the California Natural Resources Agency's implementing regulations, commonly referred to as the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000, et seq.). Their relevance is further discussed in the Natural Resource Agency's brief in response to the two questions asked by this Court in its May 11, 2016, order vacating submission of the matter and ordering supplemental briefing, including briefing by the Natural Resources Agency.

Because the Natural Resources Agency was not a party to the proceedings below or on appeal, the Natural Resources Agency does not know whether the matters it asks this Court to judicially notice were presented to the trial court. The matters presented for the Court's attention by way of this motion are subject to judicial notice under Evidence Code section 451, subdivision (a) (public statutory law of this state); section 451, subdivision (f) (facts and propositions not subject to dispute); section 452, subdivision (a) (regulations and legislative enactments issued by or under the authority of any public entity); section 452, subdivision (c) (official acts); section 452, subdivisions (g) and (h) (other facts and propositions not reasonably subject to dispute); and section 459 (providing for judicial notice in the Supreme Court).

The matters to be noticed do not relate to proceedings occurring after the order or judgment that is the subject of the appeal.

Exhibits 1 through 11 were obtained from digests showing changes in law and regulation that are maintained in book or microfiche format in the California Department of Justice's law library. The declaration of Jeffrey Reusch establishes their source and that they are accurate copies.

Exhibit 12 was copied from the public rulemaking files of the Natural Resources Agency regarding the 1993-1994 amendments to the CEQA Guidelines, California Code of Regulations, title 14, § 15000 et seq. The declaration of Emiko Burchill, Special Assistant for Policy, California Natural Resources Agency establishes its source and that it is an accurate copy.

The Attorney General requests judicial notice of the following facts and matters based on the documents and authorities cited and attached as exhibits:

**Exhibit 1:** Section 21083 originally authorized the Guidelines to “include objectives and criteria for . . . the preparation of environmental impact reports . . . .” (Stats. 1972, ch. 1154, § 2.3, p 2272.)

**Exhibit 2:** Section 21166 was enacted in 1972, identifying two conditions requiring preparation of a subsequent EIR. (Stats. 1972, ch. 1154, § 16, p. 2277.)

**Exhibit 3:** The Guideline that eventually became section 15162 was originally adopted in 1973, as Guidelines section 15067. The original version of Guidelines section 15067 established two conditions for the preparation of an “additional EIR” after an EIR had been “prepared.” The original version of Guidelines section 15067 did not reference substantial project changes following adoption of a negative declaration. (Cal. Admin. Reg. 73, No. 6-B (Feb. 10, 1973) at p. 298.)

**Exhibit 4:** The Legislature amended Section 21083 in 1976, authorizing the Guidelines to “include objectives and criteria for . . . the

preparation of environmental impact reports and negative declarations . . .  
.” (Stats. 1976, ch. 1312, § 10, p. 5893.)

**Exhibit 5:** In 1977, the Legislature amended Section 21166 to add a third condition triggering the requirement of a subsequent or supplemental EIR. (Stats. 1977, ch. 1200, § 16, p. 4003.)

**Exhibit 6:** Also in 1977, the Legislature enacted Section 21080.1, affording negative declarations the same degree of finality as EIRs. (Stats. 1977, ch. 1200, § 3, pp. 3997-3998.)

**Exhibit 7:** The Natural Resources Agency amended Guidelines section 15067 in 1978. As amended, Guidelines section 15067 provided three conditions under which an “additional EIR” (now “subsequent EIR”) would need to be prepared following the preparation of an EIR or a negative declaration. (Cal. Admin. Reg. 78, No. 5 (Feb. 4, 1978) at p. 309.)

**Exhibit 8:** Substantially the same regulatory interpretation of Sections 21083 and 21166, first embodied in Guidelines section 15162 and its predecessor, Guidelines section 15067, has remained in place for the last 38 years. (Cal. Admin. Reg. 78, No. 5 (Feb. 4, 1978) at p. 309; Cal. Admin. Reg. 80, No. 19-B (May 10, 1980) at pp. 317-318; Cal. Admin. Reg. 83, No. 29-B (July 16, 1983) at pp. 322.13; 322.14; Cal. Admin. Reg. 94, Nos. 33-34 (Aug. 26, 1994) at pp. 684-684.1; Cal. Admin. Reg. 97, No. 22 (May 30, 1997) at p. 688; Cal. Admin. Reg. 2005, No. 40 (Oct. 7, 2005) at pp. 696-697.)

**Exhibit 9:** Since 1978, the Legislature has amended Section 21083 in 1981, 2002, and 2004, and has amended Section 21080.1 in 1993 and 1994. (Stats. 1981, ch. 714, § 370, pp. 2749-2750; Stats. 2002, ch. 1052, § 2, pp. 6787-6788; Stats. 2004, ch. 689, § 1, pp. 5239-5240; Stats. 1993, ch. 1130, § 4, p. 6316; Stats. 1994, ch. 1230, § 6, p. 7685.)

**Exhibit 10:** When the Natural Resources Agency amended Guidelines section 15162 in 1994, it added the current “substantial

evidence” language. (Cal. Admin. Reg. 94, Nos. 33-34 (Aug. 26, 1994) at pp. 684-684.1)

**Exhibit 11**: Section 21081.1, and the final amendment to Section 21166, were enacted in 1977 as part of the same bill that enacted the Permit Streamlining Act, Government Code section 65920 et seq. (Stats. 1977, ch. 1200, § 1, p. 3993.)

**Exhibit 12**: In its Final Statement of Reasons for the 1994 amendments to the CEQA Guidelines, regarding section 15162, the Natural Resources Agency cited *Bowman v. City of Petaluma* (1986) 185 Cal.App.3d 1065 and *Benton v. Board of Supervisors* (1991) 226 Cal.App.3d 1467, noting that the amendment “reflects recent case law” and “applies the substantial evidence standard of review to the decision whether to prepare a subsequent EIR.” (Final Statement of Reasons at pp. 13-14.)

The Attorney General respectfully requests that the Court grant this Motion. A proposed order immediately follows the second declaration.

Dated: June 14, 2016

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
ROBERT W. BYRNE  
Senior Assistant Attorney General  
TRACY L. WINSOR  
Supervising Deputy Attorney General



JEFFREY P. REUSCH  
Deputy Attorney General  
*Attorneys for California Natural Resources  
Agency and Governor's Office of Planning  
and Research*

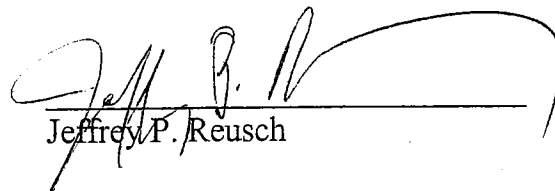
**DECLARATION OF JEFFREY P. REUSCH**

I, Jeffrey P. Reusch, declare:

I am a Deputy Attorney General with the California Department of Justice. I am licensed to practice in the State of California.

I obtained or caused to be obtained Exhibits 1 through 11 from published compilations and digests showing changes in law and regulation that are maintained in book or microfiche format in the Department of Justice's law library and believe that Exhibits 1 through 11 are accurate copies of the text of the laws and regulations referenced herein as of the dates identified.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 14, 2016, in Sacramento, California.

  
\_\_\_\_\_  
Jeffrey P. Reusch

## DECLARATION OF EMIKO BURCHILL

I, Emiko Burchill, declare:

I am Special Assistant for Policy for the California Natural Resources Agency. I am an attorney licensed to practice in the State of California.

Exhibit 12 attached to this Motion is an accurate copy of the Final Statement of Reasons for the 1994 amendments to the CEQA Guidelines as contained in the California Natural Resources Agency's public rulemaking files.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 14, 2016, in Sacramento, California.

  
\_\_\_\_\_  
Emiko Burchill

## PROPOSED ORDER

Pursuant to California Rules of Court 8.252(a) and 8.520(g), the Court grants in full the Motion for Judicial Notice filed by the California Natural Resources Agency and the Governor's Office of Planning and Research. The matters sought to be noticed are relevant to the history of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) and of the California Natural Resources Agency's implementing regulations, commonly referred to as the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000, et seq.). The matters are subject to judicial notice under Evidence Code section 451, subdivision (a) (public statutory law of this state); section 451, subdivision (f) (facts and propositions universally known and not subject to dispute); section 452, subdivision (a) (regulations and legislative enactments issued by or under the authority of any public entity); section 452, subdivision (c) (official acts); section 452, subdivisions (g) and (h) (other facts and propositions not reasonably subject to dispute); and section 459 (providing for judicial notice in this Court). The Court takes judicial notice of Exhibits 1 through 12.

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Presiding Justice



# **EXHIBIT 1**

**Volume 1**

# **STATUTES OF CALIFORNIA**

**AND DIGESTS OF MEASURES**

**1972**

**Constitution of 1879 as Amended**

**Measures Submitted to Vote of Electors,  
Special Election, June 6, 1972,  
and General Election, November 7, 1972**

**General Laws, Amendments to the Codes, Resolutions,  
and Constitutional Amendments passed by the  
California Legislature at the**

**1972 Regular Session**



*Compiled by*  
**GEORGE H. MURPHY**  
*Legislative Counsel*

public agencies.

21066. "Person" includes any person, firm, association, organization, partnership, business, trust, corporation, company, district, county, city and county, city, town, the state, and any of the agencies and political subdivisions of such entities.

21067. "Lead agency" means the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment.

SEC. 2.3. Chapter 2.6 (commencing with Section 21080) is added to Division 13 of the Public Resources Code, to read:

#### CHAPTER 2.6. GENERAL

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where such a project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to ministerial projects proposed to be carried out or approved by public agencies.

21082. All public agencies shall adopt by ordinance, resolution, rule or regulation, objectives, criteria and procedures for the evaluation of projects and the preparation of environmental impact reports pursuant to this division. The objectives, criteria and procedures shall be consistent with the provisions of this division and with the guidelines adopted by the Secretary of the Resources Agency pursuant to Section 21083. Such objectives, criteria and procedures shall be adopted by each public agency no later than 60 days after the Secretary of the Resources Agency has adopted guidelines pursuant to Section 21083.

21083. The Office of Planning and Research shall prepare and develop proposed guidelines for the implementation of this division by public agencies. Such guidelines shall include objectives and criteria for the orderly evaluation of projects and the preparation of environmental impact reports in a manner consistent with this division.

Such guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment". Such criteria shall require a finding of "significant effect on the environment" if any of the following conditions exist:

(a) A proposed project has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals;

(b) The possible effects of a project are individually limited but cumulatively considerable;

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

Such guidelines shall also include procedures for determining the lead agency pursuant to the provisions of Section 21165.

The Office of Planning and Research shall develop and prepare such proposed guidelines as soon as possible and shall transmit them immediately to the Secretary of the Resources Agency. No later than 60 days after the effective date of this section the Secretary of the Resources Agency shall certify and adopt such guidelines pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2, of the Government Code, which shall become effective upon the filing thereof, provided that such guidelines shall not be adopted without compliance with Sections 11423, 11424 and 11425 of the Government Code.

21083.5. The guidelines prepared and adopted pursuant to Section 21083 may provide that when an environmental impact statement has been, or will be, prepared for the same project pursuant to the requirements of the National Environmental Policy Act of 1969 and implementing regulations thereto, all or any part of such statement may be submitted in lieu of all or any part of an environmental impact report required by this division, provided that such statement, or the part thereof so used, shall comply with the requirements of this division and the guidelines adopted pursuant thereto.

21084. The guidelines prepared and adopted pursuant to Section 21083 shall include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall be exempt from the provisions of this division. In adopting the guidelines, the Secretary of the Resources Agency shall make a finding that the list or classification of projects referred to in this section do not have a significant effect on the environment.

21085. All classes of projects designated pursuant to Section 21084, together with emergency repairs to public service facilities necessary to maintain service, shall be exempt from the provisions of this division.

21086. A public agency may, at any time, request the addition or deletion of a class of projects, to the list designated pursuant to Section 21084. Such a request shall be made in writing to the Office of Planning and Research and shall include information supporting the public agency's position that such class of projects does, or does not, have a significant effect on the environment.

The Office of Planning and Research shall review each such request and, as soon as possible, shall submit its recommendation to the Secretary of the Resources Agency. Following the receipt of such recommendation, the Secretary of the Resources Agency may add or delete the class of projects to the list of classes of projects designated pursuant to Section 21084 which are exempt from the requirements of this division.

The addition or deletion of a class of projects, as provided in this

# **EXHIBIT 2**

**Volume 1**

# **STATUTES OF CALIFORNIA**

**AND DIGESTS OF MEASURES**

**1972**

**Constitution of 1879 as Amended**

**Measures Submitted to Vote of Electors,  
Special Election, June 6, 1972,  
and General Election, November 7, 1972**

**General Laws, Amendments to the Codes, Resolutions,  
and Constitutional Amendments passed by the  
California Legislature at the  
1972 Regular Session**



*Compiled by*  
**GEORGE H. MURPHY**  
*Legislative Counsel*

determine whether the proposed project may have a significant effect on the environment or to prepare an environmental impact report.

If any or all of the information so submitted is a "trade secret" as defined in Section 6254.7 of the Government Code by those submitting that information, it shall not be included in the impact report or otherwise disclosed by any public agency. This section shall not be construed to prohibit the exchange of properly designated trade secrets between public agencies who have lawful jurisdiction over the preparation of the impact report.

21161. Whenever a public agency has completed an environmental impact report, it shall cause a notice of completion of such report to be filed with the Secretary of the Resources Agency. The notice of completion shall briefly identify the project and shall indicate that an environmental impact report has been prepared. Failure to file the notice required by this section shall not affect the validity of a project.

SEC. 16. Chapter 6 (commencing with Section 21165) is added to Division 13 of the Public Resources Code, to read:

#### CHAPTER 6. LIMITATIONS

21165. When a project is to be carried out or approved by two or more public agencies, the determination of whether the project may have a significant effect on the environment shall be made by the lead agency and such agency shall prepare, or cause to be prepared by contract, the environmental impact report for the project, if such a report is required by this division. In the event that a dispute arises as to which is the lead agency, any public agency may submit the question to the Office of Planning and Research, and the Office of Planning and Research shall designate the lead agency, giving due consideration to the capacity of such agency to adequately fulfill the requirements of this division.

21166. When an environmental impact report has been prepared for a project pursuant to this division, no subsequent environmental impact report shall be required unless either of the following occurs:

(a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.

(b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.

21167. Any action or proceeding to attack, review, set aside, void, or annul the following acts or decisions of a public agency on the grounds of noncompliance with this division shall be commenced as follows:

(a) An action or proceeding alleging that a public agency is carrying out or has approved a project which may have a significant effect on the environment without having determined whether the project may have a significant effect on the environment shall be

# **EXHIBIT 3**



**Notice** Beginning with the first Register printed in 1953, a system of numbering the Registers to correspond to the year, 1953, No. 1, has been adopted.

(Register 78, No. 6—2-10-73)

**State of California**

**California Administrative Register 73, No. 6-B**

(February 10, 1973)

**Amendments and Additions to Rules and Regulations of**

**Title 14. Resources Agency**



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Exh. 3, p. 1

REVISION RECORD FOR REGISTER 73, No. 6  
(February 10, 1973)

**TITLE 14. NATURAL RESOURCES**

**DIVISION 6. RESOURCES AGENCY**

**CHAPTER 3. GUIDELINES FOR IMPLEMENTATION OF THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970**

This part of Register 73, No. 6, contains all the additions, amendments, and repeals affecting the above-entitled portion of the California Administrative Code which were filed with the Secretary of State from 2-3-73, to and including 2-10-73. The latest prior register containing regulations of the above agency is Register 72, No. 29 (7-15-72).

It is important that the holders of the above-entitled portion of the code check the section numbers listed below as well as the page numbers when inserting this material in the code and removing the superseded material. In case of doubt rely upon the section numbers rather than the page numbers since the section numbers must run consecutively even though there may be an error in the paging.

**SECTION CHANGES**

The sections listed below are added herein.

15000	15060 through 15078
15005	15080 through 15087
15010 through 15014	15100 through 15116
15020 through 15040	15140 through 15146
15050 through 15054	15160 through 15166

**PAGE CHANGES**

<b>REMOVE</b>	<b>INSERT</b>
Old Pages	Attached Pages
261-262	261-262
----	285-324

**It Is Suggested That Superseded Material Be Retained.** Save it and place it in a separate file under the original heading (either the appropriate title or register heading). It will then always be possible to find the prior wording of any section by using the history notes provided.

**NOTE:** This revision sheet is not a part of the code. It is chiefly for filing purposes. If preserved with the removed pages, it will afford a ready reference to the sections affected by agency action.

It is suggested that the latest Revision Record be retained for convenience in verifying whether or not the prior Register has been received.

(Precedes page 261, Title 14)

Exh. 3, p. 2

required to furnish service to the project to the agency drafting the EIR, and no separate EIR will be required in regard to such activities.

(c) Where more than one public agency equally meet the criteria set forth in paragraph (b) above, the agency which is to act first on the project in question shall be the Lead Agency (following the principle that the environmental impact should be assessed as early as possible in governmental planning).

(d) In the event that the designation of a Lead Agency is in dispute among public agencies, any public agency may submit the question to the Office of Planning and Research which shall designate the Lead Agency based on consideration of the above priorities, along with consideration of the capacity of such agency to adequately fulfill the requirements of the CEQA.

**15066. Obligations of a Lead Agency.** (a) In these Guidelines, wherever reference is made to the responsible agency for a project, this shall be the Lead Agency when more than one public agency is involved in undertaking or approving the project. The Lead Agency shall meet all obligations for which the responsible agency is responsible, including the determination of whether the project will or will not have a significant effect on the environment.

(b) The Lead Agency shall prepare or cause to be prepared the EIR or Negative Declaration after consultation with all other public agencies which must approve the project in question or a part of the project. To insure that the EIR or Negative Declaration reflects the concerns of all the public agencies involved, the Lead Agency should consult with public agencies which will issue approvals for the project. This consultation shall be done at an early stage of the development of the EIR.

(c) The Lead Agency shall include in its Notice of Completion a statement to the effect that it is a Lead Agency.

(d) The EIR prepared by the Lead Agency shall be considered by every public agency prior to its approval or disapproval of the project.

**15067. Subsequent EIR.** Where an EIR has been prepared, no additional EIR need be prepared unless:

(a) Substantial changes are proposed in the project which will require major revisions of the EIR, due to the involvement of new environmental impacts not considered in the original EIR;

(b) There are substantial changes with respect to the circumstances under which the project is to be undertaken, such as a change in the proposed location of the project, which will require major revisions in the EIR due to the involvement of new environmental impacts not covered in the original EIR.

**15068. Use of a Single EIR.** A responsible 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, a responsible agency may use an earlier EIR prepared in connection with an earlier project to apply to a later project, if the circumstances of the project

# **EXHIBIT 4**

**Volume 3**

# **STATUTES OF CALIFORNIA**

**AND DIGESTS OF MEASURES**

**1976**

**Constitution of 1879 as Amended**

**Measures Submitted to Vote of Electors,  
Primary Election, June 8, 1976,  
and General Election, November 2, 1976**

**General Laws, Amendments to the Codes, Resolutions,  
and Constitutional Amendments passed by the  
California Legislature**

**1975-76 Regular Session**



*Compiled by*  
**BION M. GREGORY**  
*Legislative Counsel*

SEC. 10. Section 21083 of the Public Resources Code is amended to read:

21083. The Office of Planning and Research shall prepare and develop proposed guidelines for the implementation of this division by public agencies. Such guidelines shall include objectives and criteria for the orderly evaluation of projects and the preparation of environmental impact reports and negative declarations in a manner consistent with this division.

Such guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment". Such criteria shall require a finding that a project may have a "significant effect on the environment" if any of the following conditions exist:

(a) A proposed project has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals.

(b) The possible effects of a project are individually limited but cumulatively considerable. As used in this subdivision, "cumulatively considerable" means that the incremental effects of an individual 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) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

Such guidelines shall also include procedures for determining the lead agency pursuant to the provisions of Section 21165.

Such guidelines shall also include criteria for public agencies to use in determining when a proposed project is of sufficient statewide, regional, or areawide environmental significance that it should be submitted to appropriate state agencies for review and comment prior to completion of an environmental impact report or negative declaration thereon.

The Office of Planning and Research shall develop and prepare such proposed guidelines as soon as possible and shall transmit them immediately to the Secretary of the Resources Agency. No later than 60 days after the effective date of this section the Secretary of the Resources Agency shall certify and adopt such guidelines pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code, which shall become effective upon the filing thereof, provided that such guidelines shall not be adopted without compliance with Sections 11423, 11424, and 11425 of the Government Code.

SEC. 10.5. Section 21084 of the Public Resources Code is amended to read:

21084. (a) The guidelines prepared and adopted pursuant to Section 21083 shall include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall be exempt from the provisions of this division. In

# **EXHIBIT 5**

**Volume 2**

# **STATUTES OF CALIFORNIA**

**AND DIGESTS OF MEASURES**

**1977**

Constitution of 1879 as Amended

General Laws, Amendments to the Codes, Resolutions,  
and Constitutional Amendments passed by the  
California Legislature

**1977-78 Regular Session**



*Compiled by*  
**BION M. GREGORY**  
*Legislative Counsel*



have a significant effect on the environment shall be made by the lead agency; and such agency shall prepare, or cause to be prepared by contract, the environmental impact report for the project, if such a report is required by this division. In the event that a dispute arises as to which is the lead agency, any public agency, or in the case of a project described in subdivision (c) of Section 21065 the applicant for such project, may submit the question to the Office of Planning and Research, and the Office of Planning and Research shall designate, within 21 days of receiving such request, the lead agency, giving due consideration to the capacity of such agency to adequately fulfill the requirements of this division.

SEC. 16. Section 21166 of the Public Resources Code is amended to read:

21166. When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

(a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.

(b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.

(c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

SEC. 17. Section 21167 of the Public Resources Code is amended to read:

21167. Any action or proceeding to attack, review, set aside, void, or annul the following acts or decisions of a public agency on the grounds of noncompliance with this division shall be commenced as follows:

(a) An action or proceeding alleging that a public agency is carrying out or has approved a project which may have a significant effect on the environment without having determined whether the project may have a significant effect on the environment shall be commenced within 180 days of the public agency's decision to carry out or approve the project, or, if a project is undertaken without a formal decision by the public agency, within 180 days after commencement of the project.

(b) Any action or proceeding alleging that a public agency has improperly determined whether a project may have a significant effect on the environment shall be commenced within 30 days after the filing of the notice required by subdivision (a) of Section 21108 or subdivision (a) of Section 21152.

(c) Any action or proceeding alleging that an environmental impact report does not comply with the provisions of this division shall be commenced within 30 days after the filing of the notice required by subdivision (a) of Section 21108 or subdivision (a) of

# **EXHIBIT 6**

**Volume 2**

# **STATUTES OF CALIFORNIA**

**AND DIGESTS OF MEASURES**

**1977**

**Constitution of 1879 as Amended**

**General Laws, Amendments to the Codes, Resolutions,  
and Constitutional Amendments passed by the  
California Legislature**

**1977-78 Regular Session**



*Compiled by*  
**BION M. GREGORY**  
*Legislative Counsel*

Exh. 6, p. 1

environmental impact is being prepared on a n 21083.6 of the Public he time limits established agency shall approve or ys after the combined ntal impact statement has

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Sections 65950 and 65952 may d 90 days upon consent of the

ic Resources Code is amended

bjectives set forth in Section lares that the following policy ental impact reports prepared vision:

ntal impact report is to identify n the environment, to identify icate the manner in which such or avoided.

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0884 155 1200

it infeasible to mitigate one or more significant effects of a project on the environment, such project may nonetheless be approved or carried out at the discretion of a public agency, provided that the project is otherwise permissible under applicable laws and regulations.

(d) In applying the policies of subdivisions (b) and (c) to individual projects, the responsibility of a public agency which is functioning as a lead agency shall differ from that of a public agency which is functioning as a responsible agency. A public agency functioning as a lead agency shall have responsibility for considering the effects, both individual and collective, of all activities involved in a project. A public agency functioning as a responsible agency shall have responsibility for considering only the effects of those activities involved in a project, which it is required by law to carry out or approve. The provisions of this subdivision shall apply only to decisions by a public agency to carry out or approve a project and shall not limit the scope of the comments such agency may wish to make pursuant to Section 21104 or 21153.

SEC. 2. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps (except where such a project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency 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 Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(c) In the event that a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, such lead agency shall adopt a negative declaration to that effect.

SEC. 3. Section 21080.1 is added to the Public Resources Code, to read:

21080.1. The lead agency shall have the responsibility for

determining whether an environmental impact report or a negative declaration shall be required for any project subject to the provisions of this division. Such determination shall be final and conclusive on all persons, including responsible agencies, unless challenged as provided in Section 21167.

SEC. 4. Section 21080.2 is added to the Public Resources Code, to read:

21080.2. In the case of a project described in subdivision (c) of Section 21065, the determination required by Section 21080.1 shall be made within 45 days from the date on which an application for a project has been received and accepted as complete by the lead agency.

SEC. 5. Section 21080.3 is added to the Public Resources Code, to read:

21080.3. (a) Prior to determining whether a negative declaration or environmental impact report is required for a project, the lead agency shall consult with all responsible agencies.

(b) In order to expedite the requirements of subdivision (a), the Office of Planning and Research, upon request of a lead agency, shall assist such lead agency in determining the various responsible agencies for a proposed project. In the case of a project described in subdivision (c) of Section 21065, such a request may also be made by the project applicant.

SEC. 6. Section 21080.4 is added to the Public Resources Code, to read:

21080.4. (a) In the event that a lead agency determines that an environmental impact report is required for a project, such lead agency shall immediately send notice of such determination by certified mail to each responsible agency. Upon receipt of such notice, each responsible agency shall specify to the lead agency the scope and content of the environmental information which is germane to such responsible agency's statutory responsibilities in connection with the proposed project and which, pursuant to the requirements of this division, shall be included in the environmental impact report. Such information shall be specified in writing and shall be communicated to the lead agency by certified mail not later than 45 days after receipt of the notice of the lead agency's determination. The lead agency shall request similar guidance from appropriate federal agencies.

(b) In order to expedite the requirements of subdivision (a), the lead agency or any responsible agency may request one or more meetings between representatives of such agencies for the purpose of assisting the lead agency to determine the scope and content of the environmental information such responsible agency may require. In the case of a project described in subdivision (c) of Section 21065, such a request may also be made by the project applicant. Such meetings shall be convened by the lead agency as soon as possible, but no later than 30 days, after they have been requested.

(c) In order to expedite the requirements of this division, the Office of Planning and Research shall assist such lead agencies and any federal agencies carrying out or approving such project as described in subdivision (a) to be made by the project applicant.

(d) In the event that a project is not in compliance with the requirements of Section 21080.2, the Office of Planning and Research shall ensure that the project is in compliance with the requirements of this division as of the date the project is transmitted to the project applicant.

SEC. 6.5. Section 21080.5 is added to the Public Resources Code, to read:

21080.5. (a) When a project is submitted to the board, or commission, for approval, the project shall comply with the requirements of this section, to be submitted in lieu of the requirements of this division; provided that the project applicant has certified the regulatory program or portions thereof to be submitted in lieu of the requirements of this division.

(b) The provisions of this section shall not apply to any project or portion thereof which is exempt from the provisions of Section 21100 of this division.

(1) The issuance of a permit, license, certificate, or approval.

(2) The adoption of a plan for use in the project.

(c) A regulatory program or portion thereof which is exempt from the provisions of Section 21100 of this division.

(d) In order to qualify for a regulatory program or portion thereof which will be used in the project, the project applicant shall meet the following criteria:

(1) The enabling legislation shall include provisions for the protection of the public interest.

(2) The rules and regulations shall be adopted by standards set forth in the enabling legislation.

(3) The rules and regulations shall require that a project be approved if there are no measures available which would avoid or minimize adverse impact which

# **EXHIBIT 7**

REVISION RECORD FOR REGISTER 78, No. 5  
(February 4, 1978)

TITLE 14. NATURAL RESOURCES

DIVISION 6. RESOURCES AGENCY

CHAPTER 3. GUIDELINES FOR IMPLEMENTATION OF THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970

CHAPTER 4. RESOURCES AGENCY—CONFLICT OF INTEREST CODE

This part of Register 78, No. 5, contains all the additions, amendments, and repeals affecting the above-entitled portion of the California Administrative Code which were filed with the Secretary of State from 1-28-78, to and including 2-4-78. The latest prior register containing regulations of the above agency is Register 77, No. 22 (5-28-77).

It is suggested that the section numbers listed below as well as the page numbers be checked when inserting this material in the code and removing the superseded material. In case of doubt rely upon the section numbers rather than the page numbers since the section numbers must run consecutively. It is further suggested that superseded material be retained with this revision record sheet so that the prior wording of any section can be easily ascertained.

SECTION CHANGES

Unless otherwise noted, the sections listed below are added herein.

15011.6	15069.6
15012 Amended	15070(e)
15023.7	15074(c) Amended
15029.6(b) Amended	15074(d) Amended
15030 Amended	15075 Renumbered
15035.7	15075
15039 Amended	15076
15050(c) (12)	15077
15050(e)	15078
15051 Amended	15079
15054.1 Amended	15080(g)
15054.2	15083(b) Amended
15054.3	15083(f) Amended
15055	15085(b) Amended
15063 Amended	15085.5
15064 Amended	15089
15065(d) Amended	15090 Repealed
15065(e) Repealed	15103(c) Amended
15065.3	15121
15065.5 Amended	15122
15066 Amended	15123
15067 Amended	15124

(Over)

**SECTION CHANGES—Continued**

15148(b) Amended

15161.6

15201

15202

15203

15411-15454, not consecutive

Appendix D Amended

Appendix G Amended

Appendix H Amended

Appendix I Amended

Appendix J

**PAGE CHANGES**

**Remove  
Old Pages**

~~261-262~~

~~285-290~~

~~293-306~~

~~306.1-306.6~~

~~307-312~~

~~312.1-312.2~~

~~315-316~~

~~318.1-318.2~~

~~318.5-318.12~~

~~324.1-324.2~~

~~324.5-324.12~~

**Insert  
Attached Pages**

261-262

285-290

290.1-290.2

293-312

312.1-312.16

315-316

318.1-318.2

318.2.1-318.2.2

318.5-318.14

324.1-324.2

324.5-324.14



(g) When one or more state agencies will be a Responsible Agency, the Lead Agency shall send a Notice of Preparation by certified mail to each state Responsible Agency with a copy to the State Clearinghouse in the Office of Planning and Research. The State Clearinghouse will ensure that the state Responsible Agencies reply to the Lead Agency within the required time.

- History:* 1. Repealer and new section filed 12-14-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 7, No. 50).  
2. Amendment filed 1-3-75; designated effective 4-1-75 (Register 75, No. 1).  
3. Amendment filed 2-2-78; effective thirtieth day thereafter (Register 78, No. 5).

**15067. Subsequent EIR.** (a) Where an EIR or Negative Declaration has been prepared, no additional EIR need be prepared unless:

(1) Subsequent changes are proposed in the project which will require major revisions of the EIR, due to the involvement of new environmental impacts not considered in a previous EIR on the project, or

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken, such as a substantial deterioration in the air quality where the project will be located, which will require major revisions in the EIR due to the involvement of new environmental impacts not covered in a previous EIR, or

(3) New information of substantial importance to the project becomes available, and

(A) The information was not known and could not have been known at the time the EIR was certified as complete or the Negative Declaration was adopted, and

(B) The new information shows any of the following:

1. The project will have one or more significant effects not discussed previously in the EIR,

2. Significant effects previously examined will be more severe than shown in the EIR,

3. 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, or

4. Mitigation measures or alternatives which were not previously considered in the EIR would substantially lessen one or more significant effects on the environment.

(b) If the EIR or Negative Declaration has been completed but the project has not yet been approved, the Lead Agency shall prepare or cause to be prepared the subsequent EIR before approving the project.

(c) If the project was approved prior to the occurrence of the conditions described in Subsection (a), the subsequent EIR shall be prepared by the public agency which grants the next discretionary approval for the project. In this situation no other Responsible Agency shall grant an approval for the project until the subsequent EIR has been completed.

- History:* 1. Amendment filed 12-14-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 50).  
2. Amendment filed 2-2-78; effective thirtieth day thereafter (Register 78, No. 5).

# **EXHIBIT 8**

REVISION RECORD FOR REGISTER 78, No. 5  
(February 4, 1978)

**TITLE 14. NATURAL RESOURCES**

**DIVISION 6. RESOURCES AGENCY**

**CHAPTER 3. GUIDELINES FOR IMPLEMENTATION OF THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970**

**CHAPTER 4. RESOURCES AGENCY—CONFLICT OF INTEREST CODE**

This part of Register 78, No. 5, contains all the additions, amendments, and repeals affecting the above-entitled portion of the California Administrative Code which were filed with the Secretary of State from 1-28-78, to and including 2-4-78. The latest prior register containing regulations of the above agency is Register 77, No. 22 (5-28-77).

It is suggested that the section numbers listed below as well as the page numbers be checked when inserting this material in the code and removing the superseded material. In case of doubt rely upon the section numbers rather than the page numbers since the section numbers must run consecutively. It is further suggested that superseded material be retained with this revision record sheet so that the prior wording of any section can be easily ascertained.

**SECTION CHANGES**

Unless otherwise noted, the sections listed below are added herein.

15011.6	15069.6
15012 Amended	15070(e)
15023.7	15074(c) Amended
15029.6(b) Amended	15074(d) Amended
15030 Amended	15075 Renumbered
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15065(e) Repealed	15103(c) Amended
15065.3	15121
15065.5 Amended	15122
15066 Amended	15123
15067 Amended	15124

(Over)

**SECTION CHANGES—Continued**

15148(b) Amended	Appendix D Amended
15161.6	Appendix C Amended
15201	Appendix H Amended
15202	Appendix I Amended
15203	Appendix J
15411-15454, not consecutive	

**PAGE CHANGES**

<b>Remove Old Pages</b>	<b>Insert Attached Pages</b>
261-262	261-262
285-290	285-290
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293-306	293-312
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306.1-306.6	312.1-312.16
307-312	315-316
312.1-312.2	318.1-318.2
315-316	318.2.1-318.2.2
318.1-318.2	318.5-318.14
<hr/>	324.1-324.2
318.5-318.12	324.5-324.14
324.1-324.2	
324.5-324.12	

(g) When one or more state agencies will be a Responsible Agency, the Lead Agency shall send a Notice of Preparation by certified mail to each state Responsible Agency with a copy to the State Clearinghouse in the Office of Planning and Research. The State Clearinghouse will ensure that the state Responsible Agencies reply to the Lead Agency within the required time.

*History:* 1. Repealer and new section filed 12-14-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 7, No. 50).  
2. Amendment filed 1-3-75; designated effective 4-1-75 (Register 75, No. 1).  
3. Amendment filed 2-2-78; effective thirtieth day thereafter (Register 78, No. 5).

**15067. Subsequent EIR.** (a) Where an EIR or Negative Declaration has been prepared, no additional EIR need be prepared unless:

(1) Subsequent changes are proposed in the project which will require major revisions of the EIR, due to the involvement of new environmental impacts not considered in a previous EIR on the project, or

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken, such as a substantial deterioration in the air quality where the project will be located, which will require major revisions in the EIR due to the involvement of new environmental impacts not covered in a previous EIR, or

(3) New information of substantial importance to the project becomes available, and

(A) The information was not known and could not have been known at the time the EIR was certified as complete or the Negative Declaration was adopted, and

(B) The new information shows any of the following:

1. The project will have one or more significant effects not discussed previously in the EIR,

2. Significant effects previously examined will be more severe than shown in the EIR,

3. 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, or

4. Mitigation measures or alternatives which were not previously considered in the EIR would substantially lessen one or more significant effects on the environment.

(b) If the EIR or Negative Declaration has been completed but the project has not yet been approved, the Lead Agency shall prepare or cause to be prepared the subsequent EIR before approving the project.

(c) If the project was approved prior to the occurrence of the conditions described in Subsection (a), the subsequent EIR shall be prepared by the public agency which grants the next discretionary approval for the project. In this situation no other Responsible Agency shall grant an approval for the project until the subsequent EIR has been completed.

*History:* 1. Amendment filed 12-14-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 50).  
2. Amendment filed 2-2-78; effective thirtieth day thereafter (Register 78, No. 5).

REVISION RECORD FOR REGISTER 80, No. 19-B  
(May 10, 1980)

TITLE 14. NATURAL RESOURCES  
DIVISION 6. RESOURCES AGENCY

This part of Register 80, No. 19, contains all the additions, amendments, and repeals affecting the above-entitled portion of the California Administrative Code which were filed with the Secretary of State from 5-3-80, to and including 5-10-80. The latest prior register containing regulations of the above agency is Register 80, No. 15 (4-12-80).

It is suggested that the section numbers listed below as well as the page numbers be checked when inserting this material in the code and removing the superseded material. In case of doubt rely upon the section numbers rather than the page numbers since the section numbers must run consecutively. It is further suggested that superseded material be retained with this revision record sheet so that the prior wording of any section can be easily ascertained.

SECTION CHANGES

Unless otherwise noted, the sections listed below are amended herein.

15002 Added	15080(c), (g)
15006 Added	15083
15016 Added	15085(b), (h)
15023.5	15085.5(d)
15032.5 Added	15088(d), (e) Added
15037(b)	15089(b)
15041 Added	15100.2(c) Added
15042 Added	15101
15043 Added	15102
15050(f) Added	15103
15054.1	15104(h) Added
15054.2(b)	15105
15055(a)	15111(c) Added
15063(h) Added	15115 Added
15066	15125 Added
15067(a)	15126 Added
15067.5 Added	15127 Added
15068.6 Added	15140(b)
15069.7 Added	15140.5 Added
15069.8 Added	15142
15074	15143(a), (c), (d)
15076	15146(b)
15079	15149(d) Added
15079.1 Added	15161.5
15079.2 Added	15161.6(b) (7) Added
15079.3 Added	15165.5 Added
15079.4 Added	Appendices A, B, D, F, G, I
15079.5 Added	

**PLEASE NOTE**

A new, simple style for the California Administrative Code is being implemented to cut both printing time and expense. We hope you are pleased with the new format which you will notice in the attached amendments.

**PAGE CHANGES**

<b>Remove Old Pages</b>	<b>Insert Attached Pages</b>
285-290	285-322
290.1-290.2	322.1-322.46
291-312	_____
312.1-312.16	_____
313-318	_____
318.1-318.2	_____
318.2.1-318.2.2	_____
318.3-318.4	_____
318.4.1-318.4.2	_____
318.5-318.16	_____
319-324	323-324
324.1-324.12	324.1-324.12

**TITLE 14**

**RESOURCES AGENCY**

§ 15067

(Register 80, No. 19—5-10-80)

(p. 317)

(h) 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 21033, Public Resources Code. Reference: Section 21033.3 and 21060.4, Public Resources Code.

**HISTORY:**

1. Repealer and new section filed 12-14-73 as an emergency; effective upon filing Certificate of Compliance included (Register 7, No. 50).
2. Amendment filed 1-3-75; designated effective 4-1-75 (Register 75, No. 1).
3. Amendment filed 2-2-78; effective thirtieth day thereafter (Register 78, No. 5).
4. Amendment filed 5-8-80; effective thirtieth day thereafter (Register 80, No. 19).

**15067. Subsequent EIR.**

(a) Where an EIR or Negative Declaration has been prepared, no additional EIR need be prepared unless:

(1) Subsequent changes are proposed in the project which will require important revisions of the EIR, due to the involvement of new significant environmental impacts not considered in a previous EIR on the project.

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken, such as a substantial deterioration in the air quality where the project will be located, which will require important revisions in the EIR due to the involvement of new significant environmental impacts not covered in a previous EIR, or

(3) New information of substantial importance to the project becomes available, and

(A) The information was not known and could not have been known at the time the EIR was certified as complete or the Negative Declaration was adopted, and

(B) The new information shows any of the following:

1. The project will have one or more significant effects not discussed previously in the EIR,

2. Significant effects previously examined will be substantially more severe than shown in the EIR,

3. 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, or

4. Mitigation measures or alternatives which were not previously considered in the EIR would substantially lessen one or more significant effects on the environment.

(b) If the EIR or Negative Declaration has been completed but the project has not yet been approved, the Lead Agency shall prepare or cause to be prepared the subsequent EIR before approving the project.



(c) If the project was approved prior to the occurrence of the conditions described in Subsection (a), the subsequent EIR shall be prepared by the public agency which grants the next discretionary approval for the project. In this situation no other Responsible Agency shall grant an approval for the project until the subsequent EIR has been completed.

NOTE: Authority cited: Section 21083, Public Resources Code. Reference: Section 21166, Public Resources Code.

**HISTORY:**

1. Amendment filed 12-14-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 50).
2. Amendment filed 2-2-78; effective thirtieth day thereafter (Register 78, No. 5).
3. Amendment of subsection (a) filed 5-8-80; effective thirtieth day thereafter (Register 80, No. 19).

**15067.5. 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 15067 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 15085(d).

(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 15088 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.

**HISTORY:**

1. New section filed 5-8-80; effective thirtieth day thereafter (Register 80, No. 19).

**15068. Use of a Single EIR.**

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. Lead Agencies may elect to write EIRs in advance for entire programs or regulations, in order to be prepared for project applications to come. Whenever an agency chooses to utilize any of these alternatives, however, it must find that the environmental effects of the projects are similar enough to warrant the same treatment in an EIR and that the EIR will adequately cover the impacts of any single project. If these tests are not met, an agency should supplement the EIR it prepares for a program to apply it to an individual project.

**HISTORY:**

1. Amendment filed 12-14-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 50).
2. Amendment filed 1-3-75; designated effective 4-1-75 (Register 75, No. 1).

UPM  
**NOTICE: Week ending July 16, 1983 is covered by Register 83, No. 29-A and  
Register 83, No. 29-B.**

(Register 83, No. 29-7-16-83)

**State of California  
California Administrative Code Supplement  
Register 83, No. 29-B  
(July 16, 1983)**

**Amendments and Additions to Rules and Regulations of**

**Title 14. Department of Conservation  
Title 14. Resources Agency**



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**Exh. 8, p. 8**

REVISION RECORD FOR REGISTER 83, No. 29-B  
(July 16, 1983)

TITLE 14. NATURAL RESOURCES  
DIVISION 6. RESOURCES AGENCY

This part of Register 83, No. 29, contains all the additions, amendments, and repeals affecting the above-entitled portion of the California Administrative Code which were filed with the Secretary of State from 7-9-83, to and including 7-16-83. The latest prior register containing regulations of the above agency is Register 82, No. 2 (1-9-82).

It is suggested that the section numbers listed below as well as the page numbers be checked when inserting this material in the code and removing the superseded material. In case of doubt rely upon the section numbers rather than the page numbers since the section numbers must run consecutively. It is further suggested that superseded material be retained with this revision record sheet so that the prior wording of any section can be easily ascertained.

SECTION CHANGES

Unless otherwise noted, the sections listed below are amended herein.

15000-15002

15003-15007 Added

Article 2 (Sections 15005 and 15006) Repealed

Article 2 (Sections 15020-15025) Added

Article 3 (Sections 15010-15016) Repealed

Article 3 (Sections 15040-15045) Added

Article 4 (Sections 15020-15043) Repealed

Article 4 (Sections 15050-15053) Added

Article 5 (Sections 15050-15055) Repealed

Article 5 (Sections 15060-15065) Added

Article 6 (Sections 15060-15069.8) Repealed

Article 6 (Sections 15070-15075) Added

Article 6.5 (Sections 15070-15079.7) Repealed

Article 7 (Sections 15080-15089) Repealed

Article 7 (Sections 15080-15096) Added

Article 8 (Sections 15100-15129) Renumbered/Amended

Article 8 (Sections 15100-15112) Added

Article 9 (Sections 15140-15151) Repealed

Article 9 (Sections 15120-15132) Added

Article 10 (Sections 15160-15167) Repealed

Article 10 (Sections 15140-15153) Added

Article 11 (Section 15180) Repealed

Article 11 (Sections 15160-15170) Added

Article 12 (Sections 15190-15193) Repealed

Article 12 (Sections 15180-15185) Added

Article 13 (Sections 15200-15203) Repealed

(Over)

Article 13 (Sections 15200-15209) Added  
 Article 14 (Sections 15220-15228) Added  
 Article 15 (Sections 15230-15233) Added  
 Article 16 (Section 15240) Added  
 Article 17 (Sections 15250-15253) Added  
 Article 18 (Sections 15260-15277) Added  
 Article 19 (Sections 15300-15329) Added  
 Article 20 (Sections 15350-15387) Added  
 Appendix K Added

**PLEASE NOTE**

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**PAGE CHANGES**

**Remove  
Old Pages**

285-322  
 322.1-322.14  
 322.14.1-322.14.2  
 322.15-322.30  
 322.30.1-322.30.2  
 322.31-322.42  
 322.42.1-322.42.2  
 322.43-322.46  
 323-324  
 324.1-324.14

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Attached Pages**

285-322  
 322.1-322.62  
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 323-324  
 324.1-324.18

- (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: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21061, 21100 and 21151, Public Resources Code.

## Article 11. Types of EIRs

### 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: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21061, 21100 and 21151, Public Resources Code.

#### HISTORY:

1. New Article 11 (Section 15180) filed 12-14-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 50).
2. Repealer of Article 11 (Section 15180) and new Article 11 (Sections 15160-15170) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).
3. Editorial correction of 7-13-83 order redesignating effective date to 8-1-83 filed 7-14-83 (Register 83, No. 29).

### 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: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21061, 21100 and 21151, Public Resources Code.

### 15162. Subsequent EIR.

(a) Where an EIR or negative declaration has been prepared, no additional EIR need be prepared unless:

(1) Subsequent changes are proposed in the project which will require important revisions of the previous EIR or negative declaration due to the involvement of new significant environmental impacts not considered in a previous EIR or negative declaration on the project;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken, such as a substantial deterioration in the air quality where the project will be located, which will require important revisions in the previous EIR or negative declaration due to the involvement of new significant environmental impacts not covered in a previous EIR or negative declaration; or

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(3) New information of substantial importance to the project becomes available, and

(A) The information was not known and could not have been known at the time the previous EIR was certified as complete or the negative declaration was adopted, and

(B) The new information shows any of the following:

1. The project will have one or more significant effects not discussed previously in the EIR;
2. Significant effects previously examined will be substantially more severe than shown in the EIR;
3. 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.

in the EIR would substantially lessen one or more significant effects on the

(b) If the EIR or negative declaration has been completed but the project has not yet been approved, the lead agency shall prepare or cause to be prepared the subsequent EIR before approving the project.

(c) If the project was approved prior to the occurrence of the conditions described in Subsection (a), the subsequent EIR shall be prepared by the public agency which grants the next discretionary approval for the project. In this situation no other responsible agency shall grant an approval for the project until the subsequent EIR has been completed.

NOTE: Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Section 21166, Public Resources Code.

**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: Sections 21083 and 21087, Public Resources Code. Reference: Section 21166, Public Resources Code.

**15164. Addendum to an EIR.**

(a) The lead agency or a responsible agency shall prepare an addendum to an EIR if:

(1) None of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred;

(2) Only minor technical changes or additions are necessary to make the EIR under consideration adequate under CEQA; and

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amined. The later EIR should state that the lead agency is using the tiering concept and that the EIR is being tiered with the earlier EIR.

NOTE: Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21003, 21061, 21100 and 21151, Public Resources Code.

### § 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 Subsection (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 decisionmaker 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: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21100, 21151 and 21166, Public Resources Code.

## Article 11. Types of EIRs

### § 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: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21061, 21100 and 21151, Public Resources Code.

#### HISTORY

1. New Article 11 (Section 15180) filed 12-14-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 50).
2. Repealer of Article 11 (Section 15180) and new Article 11 (Sections 15160-15170) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).
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### § 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: Sections 21083 and 21087, 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 subsection (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.

(c) If the project was approved prior to the occurrence of the conditions described in Subsection (a), the subsequent EIR or negative declaration shall be prepared by the public agency which grants the next discretionary approval for the project. 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: Sections 21083 and 21087, Public Resources Code. Reference: Section 21166, Public Resources Code; *Bowman v. City of Petaluma*, 185 Cal.App.3d 1065 (1986); and *Benton v. Board of Supervisors*, 226 Cal.App.3d 1467 (1991).



## HISTORY

1. Amendment of section heading, text and NOTE filed 8-19-94; operative 9-19-94 (Register 94, No. 33).

**§ 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: Sections 21083 and 21087, Public Resources Code. Reference: Section 21166, Public Resources Code.

**§ 15164. Addendum to an EIR or Negative Declaration.**

(a) The lead agency or a 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.

(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 required findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

NOTE: Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Section 21166, Public Resources Code; *Bowman v. City of Petaluma*, 185 Cal.App.3d 1065 (1986); and *Benton v. Board of Supervisors*, 226 Cal.App.3d 1467 (1991).

## HISTORY

1. Amendment of section heading, text and NOTE filed 8-19-94; operative 9-19-94 (Register 94, No. 33).

**§ 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: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21061, 21100 and 21151, Public Resources Code; *Whitman v. Board of Supervisors*, 88 Cal. App. 3d 397 (1979).

**§ 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: Sections 21083 and 21087, 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: Sections 21083 and 21087, 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) As 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 program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts,

(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.

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## HISTORY

1. New section filed 5-27-97; operative 5-27-97 pursuant to Government Code section 11343.4(b) (Register 97, No. 22).

## Article 11. Types of EIRs

### § 15180. 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: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21061, 21100, and 21151, Public Resources Code.

## HISTORY

1. New Article 11 (Section 15180) filed 12-14-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 50).
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3. Editorial correction of 7-13-83 order redesignating effective date to 8-1-83 filed 7-14-83 (Register 83, No. 29).

### § 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: Sections 21083 and 21087, 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 have 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 subsection (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.

(c) If the project was approved prior to the occurrence of the conditions described in Subsection (a), the subsequent EIR or negative declaration shall be prepared by the public agency which grants the next discretionary approval for the project. 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: Sections 21083 and 21087, Public Resources Code. Reference: Section 21166, Public Resources Code; *Bowman v. City of Petaluma*, 185 Cal.App.3d 1065 (1986); and *Benton v. Board of Supervisors*, 226 Cal.App.3d 1467 (1991).

## HISTORY

1. Amendment of section heading, text and NOTE filed 8-19-94; operative 9-19-94 (Register 94, No. 33).

### § 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: Sections 21083 and 21087, Public Resources Code. Reference: Section 21166, Public Resources Code.

### § 15164. Addendum to an EIR or Negative Declaration.

(a) The lead agency or a 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.

(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 required findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

NOTE: Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Section 21166, Public Resources Code; *Bowman v. City of Petaluma*, 185 Cal.App.3d 1065 (1986); and *Benton v. Board of Supervisors*, 226 Cal.App.3d 1467 (1991).

## HISTORY

1. Amendment of section heading, text and NOTE filed 8-19-94; operative 9-19-94 (Register 94, No. 33).

### § 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

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- (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 decisionmaker 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 21166, Public Resources Code.

#### HISTORY

1. Change without regulatory effect amending subsection (b)(2) and NOTE filed 10-6-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 40).

### § 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.

#### HISTORY

1. New section filed 5-27-97; operative 5-27-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 22).  
 2. Change without regulatory effect amending subsection (b) and NOTE filed 10-6-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 40).

## Article 11. Types of EIRs

### § 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.

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 2. Repealer of Article 11 (Section 15180), and new Article 11 (Sections 15160-15170) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).  
 3. Editorial correction of 7-13-83 order redesignating effective date to 8-1-83 filed 7-14-83 (Register 83, No. 29).  
 4. Change without regulatory effect amending NOTE filed 10-6-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 40).

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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.

#### HISTORY

1. Change without regulatory effect amending NOTE filed 10-6-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 40).

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(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: Section 21083, Public Resources Code. 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.

#### HISTORY

1. Amendment of section heading, text and NOTE: filed 8-19-94; operative 9-19-94 (Register 94, No. 33).
2. Amendment of subsection (c) and NOTE: filed 10-26-98; operative 10-26-98 pursuant to Public Resources Code section 21087 (Register 98, No. 44).
3. Change without regulatory effect amending subsections (b)-(c) and NOTE: filed 10-6-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 40).

#### § 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.

#### HISTORY

1. Change without regulatory effect amending NOTE: filed 10-6-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 40).

#### § 15164. Addendum to an EIR or Negative Declaration.

(a) The lead agency or a 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 required findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

NOTE: Authority cited: Section 21083, Public Resources Code. 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.

#### HISTORY

1. Amendment of section heading, text and NOTE: filed 8-19-94; operative 9-19-94 (Register 94, No. 33).
2. Amendment of subsection (b) and NOTE: filed 10-26-98; operative 10-26-98 pursuant to Public Resources Code section 21087 (Register 98, No. 44).
3. Change without regulatory effect amending NOTE: filed 10-6-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 40).

#### § 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*, 88 Cal. App. 3d 397 (1979).

#### HISTORY

1. Change without regulatory effect amending NOTE: filed 10-6-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 40).

#### § 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.

#### HISTORY

1. Change without regulatory effect amending NOTE: filed 10-6-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 40).

#### § 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.

# **EXHIBIT 9**

Volume 2

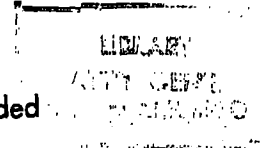
# STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

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1981

Constitution of 1879 as Amended



General Laws, Amendments to the Codes, Resolutions,  
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California Legislature

1981-82 Regular Session



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Legislative Counsel

55-2592



orderly evaluation of proposed the plan or other written document with the environmental program.

agency to consult with all public by law, with respect to the

proposed activity include the authority to significant the evaluation process.

decision of the decision by the activity with the Secretary of shall be available for public all be posted on a weekly basis Each list shall remain posted

of the plan or other written public and to any person who notification shall be made in a or any person with sufficient g.

documentation required by the

the proposed activity with measures to minimize any impact.

time for review and comment by al public.

Resources Agency shall certify a tary determines meets all the h in this section, and withdraw ie regulatory program has been qualifications. Certification and ur only after compliance with ion 11340) of Part I of Division e.

regulatory program meets the th in this section, the inquiry of ency shall extend only to the y program meets the generic ne inquiry shall not extend to nder such regulatory program, natives or mitigation measures ssen any significant adverse

s Agency determines that the ertification does not meet the th in this section, the secretary reasons for that determination.

(f) After a regulatory program has been certified pursuant to this section, any proposed change in the program which could affect compliance with the qualifications for certification specified in subdivision (d) may be submitted to the Secretary of the Resources Agency for review and comment. The scope of the secretary's review shall extend only to the question of whether the regulatory program meets the generic requirements of subdivision (d). The review shall not extend to individual decisions to be reached under the regulatory program, including specific alternatives or mitigation measures which might be proposed to lessen any significant adverse environmental effects of the activity. The secretary shall have 30 days after receipt of the proposed change to notify the state agency, board, or commission whether the proposed change will alter the regulatory program so that it no longer meets the qualification for certification established in this section and will result in a withdrawal of certification as provided in this section.

(g) Any action or proceeding to attack, review, set aside, void, or annul a determination or decision of a state agency, board, or commission approving or adopting a proposed activity under a regulatory program which has been certified pursuant to this section, on the basis that the plan or other written documentation prepared pursuant to paragraph (3) of subdivision (d) does not comply with this section shall be commenced no later than 30 days from the date of the filing of notice of the approval or adoption of the activity.

(h) Any action or proceeding to attack, review, set aside, void, or annul a determination of the Secretary of the Resources Agency to certify a regulatory program pursuant to this section, on the basis that the regulatory program does not comply with this section, shall be commenced within 30 days after certification by the secretary.

In any action brought under this subdivision, the inquiry shall extend only to whether there was a prejudicial abuse of discretion by the Secretary of the Resources Agency. Abuse of discretion is established if the secretary has not proceeded in a manner required by law or if the determination is not supported by substantial evidence.

(i) For purposes of this section, any county agricultural commissioner shall be considered a state agency.

SEC. 370. Section 21083 of the Public Resources Code is amended to read:

21083. The Office of Planning and Research shall prepare and develop proposed guidelines for the implementation of this division by public agencies. The guidelines shall include objectives and criteria for the orderly evaluation of projects and the preparation of environmental impact reports and negative declarations in a manner consistent with this division.

The guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment." The criteria shall require a finding that a project may have a "significant effect on the

environment" if any of the following conditions exist:

(a) A proposed project has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term environmental goals.

(b) The possible effects of a project are individually limited but cumulatively considerable. As used in this subdivision, "cumulatively considerable" means that the incremental effects of an individual 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) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

The guidelines shall also include procedures for determining the lead agency pursuant to Section 21165.

The guidelines shall also include criteria for public agencies to use in determining when a proposed project is of sufficient statewide, regional, or areawide environmental significance that it should be submitted to appropriate state agencies for review and comment prior to completion of an environmental impact report or negative declaration thereon.

The Office of Planning and Research shall develop and prepare the proposed guidelines as soon as possible and shall transmit them immediately to the Secretary of the Resources Agency. The Secretary of the Resources Agency shall certify and adopt the guidelines pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, which shall become effective upon the filing thereof. However, the guidelines shall not be adopted without compliance with Sections 11346.4, 11346.5, and 11346.8 of the Government Code.

SEC. 371. Section 21087 of the Public Resources Code is amended to read:

21087. The Office of Planning and Research shall periodically review the guidelines adopted pursuant to Section 21083 and shall recommend proposed changes or amendments to the Secretary of the Resources Agency. Changes or amendments to the guidelines shall be adopted by the secretary in conformance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 372. Section 25210 of the Public Resources Code is amended to read:

25210. The commission may hold any hearings and conduct any investigations in any part of the state necessary to carry out its powers and duties prescribed by this division and, for those purposes, has the same powers as are conferred upon heads of departments of the state by Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 373. Section 25213 of the Public Resources Code is amended to read:

25213. The commission shall adopt rules and regulations, as

necessary, to carry out the provisions of Chapter 3 of Part 1 of Division 3 of the Public Resources Code. The commission shall make use of proposed regulations, supporting their adoption under Section 374. Section 25502 to read:

25502. Each person proposing an electric transmission line or a notice of intention to file a site and related facility or primarily to determine whether to accommodate the facilities of the proposed sites and commission and forecasts 25309. The notice shall be and shall be supported by require.

Any site and related facility to Section 25516 is, and shall be in an application for certification required for a notice under Section 375. Section 25964 to read:

25964. After 24 months have been certified by the commission in this state any new gas without obtaining the commission, unless the commission. Beginning 24 months after certified by the commission, the state agency shall issue a permit for any new gas appliance, a building permit shows the chapter. However, any new with this chapter may be pursuant to a contract executed building permit was approved. SEC. 376. Section 26004 to read:

26004. There is in the Alternative Energy Source Act which constitutes a public instrument of powers conferred by essential public function.

The authority shall consist of the Finance, the Chairman of the Energy and Development Commission

**Volume 3**

# **STATUTES OF CALIFORNIA**

**AND DIGESTS OF MEASURES**

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**1993**

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Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,  
Special Statewide Election, November 2, 1993

General Laws, Amendments to the Codes, Resolutions,  
and Constitutional Amendments passed by the  
California Legislature

**1993-94 Regular Session**



*Compiled by*

**BION M. GREGORY**

*Legislative Counsel*

(e) Information developed in environmental impact reports and negative declarations be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations.

(f) All persons and public agencies involved in the environmental review process be responsible for carrying out the process in the most efficient, expeditious manner in order to conserve the available financial, governmental, physical, and social resources with the objective that those resources may be better applied toward the mitigation of actual significant effects on the environment.

SEC. 3. Section 21064.5 is added to the Public Resources Code, to read:

21064.5. "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 is 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.

SEC. 4. Section 21080.1 of the Public Resources Code is amended to read:

21080.1. (a) The lead agency shall have the responsibility for determining whether an environmental impact report or a negative declaration shall be required for any project which is subject to this division. That determination shall be final and conclusive on all persons, including responsible agencies, unless challenged, as provided in Section 21167.

(b) In the case of a project described in subdivision (c) of Section 21065, the lead agency shall, upon the request of a potential applicant, provide for consultation prior to the filing of the application regarding the range of actions, potential alternatives, mitigation measures, and any potential and significant effects on the environment of the project.

SEC. 5. Section 21080.3 of the Public Resources Code is amended to read:

21080.3. (a) Prior to determining whether a negative declaration or environmental impact report is required for a project, the lead agency shall consult with all responsible agencies and with any other public agency which has jurisdiction by law over natural resources affected by the project which are held in trust for the people of the State of California. Prior to that required consultation, the lead agency may informally contact any such agency.

(b) In order to expedite the requirements of subdivision (a), the Office of Planning and Research, upon request of a lead agency, shall assist the lead agency in determining the various responsible agencies for a proposed project. In the case of a project described in

subdivision (c) of Section 21065, project applicant.

SEC. 6. Section 21080.7 of the to read:

21080.7. (a) No environme declaration is required for any p housing or neighborhood comm if the lead agency does all of th

(1) Finds, after giving notice Section 21092 and following th regulation which would be ne pursuant to Section 21080.1, all

(A) The project is consistent document which has been (commencing with Section 654 Government Code or, in the cc certified pursuant to Article 2 ( Chapter 6 of Division 20.

(B) For purposes of this sectic pursuant to the procedure esta with Section 65450) of Chapter 3 not more than five years prior t section.

(C) The plan or program environmental impact report.

(D) The environmental impa that the significant effects on th measures necessary to mitigat determined, including any sign structures and neighborhoods of that exist in the area covered by necessary to mitigate or avoid th

(2) Makes one or more of th Section 21081.

(3) Files a notice of the decisic county clerk. Those notices shall and a list of the notices shall be p of the county clerk. Each list shd days.

(b) As used in this section:

(1) "Neighborhood comme commercial facilities which are at the construction of housing and v housing.

(2) "Urbanized area" mean surrounding closely settled territ Department of Commerce Bur Register, Volume 39, Number 8 pages 15202 and 15203, and as p

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# STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

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Primary Election, June 7, 1994  
and General Election, November 8, 1994

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and Constitutional Amendments passed by the  
California Legislature

**1993-94 Regular Session**  
**1993-94 First Extraordinary Session**



Compiled by  
**BION M. GREGORY**  
*Legislative Counsel*

30.5 is subject to this division. That a proposed project, not would not have a significant agency shall adopt a negative declaration shall be prepared in the following circumstances: in light of the whole record may have a significant effect

ally significant effects on the e project plans or proposals before the proposed negative sed for public review would s to a point where clearly no would occur, and (B) there is whole record before the lead y have a significant effect on

in light of the whole record may have a significant effect tal impact report shall be

antiated opinion or narrative, or erroneous, or evidence of not contribute to, or are not vironment, is not substantial l include facts, reasonable l expert opinion supported by

ew process for a mitigated istrative decisions and public lude that certain mitigation aph (2) of subdivision (c) are those circumstances, the lead , may delete those mitigation r mitigation measures that the lic hearing on the matter, are ating significant effects on the vel and that do not cause any environment. If those new ons of project approval or are approval, the deletion of the ion of the new mitigation on or circumstance requiring e declaration.

clude a project applicant or an administrative or judicial of project approval imposed ndition of project approval set

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aside by either an administrative body or court was necessary to avoid or lessen the likelihood of the occurrence of a significant effect on the environment, the lead agency's approval of the negative declaration and project shall be invalid and a new environmental review process shall be conducted before the project can be reapproved, unless the lead agency substitutes a new condition that the lead agency finds, after holding a public hearing on the matter, is equivalent to, or more effective in, lessening or avoiding significant effects on the environment and that does not cause any potentially significant effect on the environment.

SEC. 6. Section 21080.1 of the Public Resources Code is amended to read:

21080.1. (a) The lead agency shall be responsible for determining whether an environmental impact report, a negative declaration, or a mitigated negative declaration shall be required for any project which is subject to this division. That determination shall be final and conclusive on all persons, including responsible agencies, unless challenged as provided in Section 21167.

(b) In the case of a project described in subdivision (c) of Section 21065, the lead agency shall, upon the request of a potential applicant, provide for consultation prior to the filing of the application regarding the range of actions, potential alternatives, mitigation measures, and any potential and significant effects on the environment of the project.

SEC. 7. Section 21080.14 is added to the Public Resources Code, to read:

21080.14. (a) Except as provided in subdivision (c), this division does not apply to any development project which consists of the construction, conversion, or use of residential housing consisting of not more than 45 units in an urbanized area that is affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code, if the developer of the development 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 15 years, or that is affordable to low- and moderate-income households, as defined in paragraph (2) of subdivision (h) of Section 65589.5 of the Government Code, if the developer of the development project provides 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 at monthly housing costs as determined pursuant to paragraph (2) of subdivision (h) of Section 65589.5 of the Government Code, and the development project meets all of the following requirements:

(1) The development project is consistent with the jurisdiction's general plan as it existed on the date the application was deemed complete.

(2) The development project is consistent with the zoning designation, as specified in the zoning ordinance as it existed on the

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Volume 5

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AND DIGESTS OF MEASURES

**2002**

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Measures Submitted to Vote of Electors,  
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General Laws, Amendments to the Codes, Resolutions,  
and Constitutional Amendments passed by the  
California Legislature

**2001-02 Regular Session**  
**2001-02 Second Extraordinary Session**  
**2001-02 Third Extraordinary Session**



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Legislative Counsel

CHAPTER 1052

21082.1, 21083, and 21091 of the Public Resources Code relating to environmental quality.

Effective September 28, 2002. Filed with the State September 28, 2002.]

California do enact as follows:

Section 21082.1 of the Public Resources Code is amended to read:

(a) For every environmental impact report, negative declaration, or mitigated negative declaration prepared pursuant to the requirements of this division directly by, or under contract to, a public agency...

...shall not be construed to prohibit a public agency from submitting information or other data to the lead agency responsible for preparing an impact report, draft environmental impact report, or mitigated negative declaration. The information submitted in any format, shall be considered to be included, in whole or in part, in any report...

(b) The lead agency shall do all of the following: (1) Review and analyze any report or declaration...

...opinions that reflect its independent judgment on the merits of a negative declaration or a mitigated negative declaration. The certification of an environmental impact report or declaration reflects the independent judgment of the lead agency...

(c) The number of copies of the draft environmental impact report, negative declaration, or proposed mitigated negative declaration, or a copy of the report or declaration in accordance with the guidelines adopted pursuant to Section 21083, shall be submitted to the clearinghouse for review and comment by state agencies. The following apply: (1) The clearinghouse shall...

(d) The clearinghouse shall not exercise jurisdiction by law with respect to any project...

(C) The proposed project is of sufficient statewide, regional, or areawide environmental significance as determined pursuant to the guidelines certified and adopted pursuant to Section 21083.

SEC. 2. Section 21083 of the Public Resources Code is amended to read:

21083. (a) The Office of Planning and Research shall prepare and develop proposed guidelines for the implementation of this division by public agencies. The guidelines shall include objectives and criteria for the orderly evaluation of projects and the preparation of environmental impact reports and negative declarations in a manner consistent with this division.

(b) The guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment." The criteria shall require a finding that a project may have a "significant effect on the environment" if any of the following conditions exist:

(1) A proposed project has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals.

(2) The possible effects of a project are individually limited but cumulatively considerable. As used in this paragraph, "cumulatively considerable" means that the incremental effects of an individual 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.

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

(c) The guidelines shall include procedures for determining the lead agency pursuant to Section 21165.

(d) The guidelines shall include criteria for public agencies to use in determining when a proposed project is of sufficient statewide, regional, or areawide environmental significance that a draft environmental impact report, a proposed negative declaration, or a proposed mitigated negative declaration shall be submitted to appropriate state agencies, through the State Clearinghouse, for review and comment prior to completion of the environmental impact report, negative declaration, or mitigated negative declaration.

(e) The Office of Planning and Research shall develop and prepare the proposed guidelines as soon as possible and shall transmit them immediately to the Secretary of the Resources Agency. The Secretary of the Resources Agency shall certify and adopt the guidelines pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, which shall become effective upon the filing thereof. However, the guidelines shall not be adopted without...



compliance with Sections 11346.4, 11346.5, and 11346.8 of the Government Code.

SEC. 3. Section 21091 of the Public Resources Code is amended to read:

21091. (a) The public review period for a draft environmental impact report shall not be less than 30 days. If the draft environmental impact report is submitted to the State Clearinghouse for review, the review period shall be at least 45 days, and the lead agency shall provide a sufficient number of copies of the document to the State Clearinghouse for review and comment by state agencies.

(b) The public review period for a proposed negative declaration or proposed mitigated negative declaration shall not be less than 20 days. If the proposed negative declaration or proposed mitigated negative declaration is submitted to the State Clearinghouse for review, the review period shall be at least 30 days, and the lead agency shall provide a sufficient number of copies of the document to the State Clearinghouse for review and comment by state agencies.

(c) Notwithstanding subdivisions (a) and (b), if a draft environmental impact report, proposed negative declaration, or proposed mitigated negative declaration is submitted to the State Clearinghouse for review and the period of review by the State Clearinghouse is longer than the public review period established pursuant to subdivision (a) or (b), whichever is applicable, the public review period shall be at least as long as the period of review by the State Clearinghouse.

(d) (1) The lead agency shall consider any comments it receives on a draft environmental impact report, proposed negative declaration, or proposed mitigated negative declaration if those comments are received within the public review period.

(2) (A) With respect to the consideration of comments received on a draft environmental impact report, the lead agency shall evaluate any comments on environmental issues that are received from persons who have reviewed the draft and shall prepare a written response pursuant to subparagraph (B). The lead agency may also respond to comments that are received after the close of the public review period.

(B) The written response shall describe the disposition of any significant environmental issue that is raised by commenters. The responses shall be prepared consistent with Section 15088 of Title 14 of the California Code of Regulations, as those regulations existed on June 1, 1993.

(e) (1) Criteria for shorter review periods by the State Clearinghouse for documents that must be submitted to the State Clearinghouse shall be set forth in the written guidelines issued by the Office of Planning and Research and made available to the public.

(2) Those shortened review periods apply to a draft environmental impact declaration.

(3) Any request for a shortened review period shall be in writing by the decisionmaking body of the Office of Planning and Research. The decision shall be by resolution or ordinance and shall be adopted within the review period. Any designated person shall be notified of this request.

(4) Any request approved by the Office of Planning and Research shall be consistent with the criteria set forth in the guidelines of the Office of Planning and Research.

(5) A shortened review period shall apply to a draft environmental impact declaration or area-wide environmental significance statement pursuant to Section 21083.

(6) Any approval of a shortened review period shall be reflected in, the public notice of the draft environmental impact declaration.

(f) Prior to carrying out or approving a draft environmental impact declaration has been adopted, the lead agency shall submit the declaration together with any supporting information considered pursuant to paragraph (d) to the State Clearinghouse.

SEC. 4. No reimbursement shall be made to any agency or school district that has the responsibility for conducting or assessments sufficient to pay for the costs mandated by this act, within the meaning of the Government Code.

CHAPTER

An act to amend Section 51033 of the Government Code relating to land use.

[Approved by Governor and  
Secretary of State]

*The people of the State of California*

SECTION 1. Section 51033 of the Government Code shall read:

51033. (a) This chapter does not apply to persons licensed to practice law.

Volume 4

# STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

**2004**

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,  
Primary Election, March 2, 2004  
and General Election, November 2, 2004

General Laws, Amendments to the Codes, Resolutions,  
and Constitutional Amendments passed by the  
California Legislature

**2003-04 Regular Session**  
**2003-04 Third Extraordinary Session**  
**2003-04 Fourth Extraordinary Session**  
**2003-04 Fifth Extraordinary Session**



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OAKLAND

*Compiled by*  
DIANE F. BOYER-VINE  
*Legislative Counsel*

ation for all water demand management... d in the plan. hods, if any, that the supplier will use... water demand management measur... er the plan.

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alysis, identifying total benefits and tot...

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all water supply projects and water suppl... en by the urban water supplier to meet th... stablished pursuant to subdivision (a)... water supplier shall include a detail... e projects and programs, other than th... s identified pursuant to paragraph (1)... water supplier may implement to increas... / available to the urban water supplier... le-dry water years. The description sh... include a description of the increase... to be available from each project. Th... imate with regard to the implementati... ogram.

es for development of desalinated water... to, ocean water, brackish water, and... apply.

(f) Urban water suppliers that are members of the California Urban Water Conservation Council and submit annual reports to that council in accordance with the "Memorandum of Understanding Regarding Urban Water Conservation in California," dated September 1991, may submit the annual reports identifying water demand management measures currently being implemented, or scheduled for implementation, to satisfy the requirements of subdivisions (f) and (g).

(g) Urban water suppliers that rely upon a wholesale agency for a source of water, shall provide the wholesale agency with water use projections from that agency for that source of water in five-year increments to 20 years or as far as data is available. The wholesale agency shall provide information to the urban water supplier for inclusion in the urban water supplier's plan that identifies and quantifies, to the extent practicable, the existing and planned sources of water as required by subdivision (b), available from the wholesale agency to the urban water supplier over the same five-year increments, and during various water-year types in accordance with subdivision (c). An urban water supplier may rely upon water supply information provided by the wholesale agency in fulfilling the plan informational requirements of subdivisions (b) and (c).

CHAPTER 689

An act to amend Sections 21083, 21086, and 21151.4 of, and to repeal Section 21087 of, the Public Resources Code, relating to environmental quality.

[Approved by Governor September 22, 2004. Filed with Secretary of State September 22, 2004.]

The people of the State of California do enact as follows:

SECTION 1. Section 21083 of the Public Resources Code is amended to read:

21083. (a) The Office of Planning and Research shall prepare and develop proposed guidelines for the implementation of this division by public agencies. The guidelines shall include objectives and criteria for the orderly evaluation of projects and the preparation of environmental impact reports and negative declarations in a manner consistent with this division.

(b) The guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment." The criteria shall require

a finding that a project may have a "significant effect on the environment" if one or more of the following conditions exist:

(1) A proposed project has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals.

(2) The possible effects of a project are individually limited but cumulatively considerable. As used in this paragraph, "cumulatively considerable" means that the incremental effects of an individual 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.

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

(c) The guidelines shall include procedures for determining the lead agency pursuant to Section 21165.

(d) The guidelines shall include criteria for public agencies to use in determining when a proposed project is of sufficient statewide, regional, or areawide environmental significance that a draft environmental impact report, a proposed negative declaration, or a proposed mitigated negative declaration shall be submitted to appropriate state agencies, through the State Clearinghouse, for review and comment prior to completion of the environmental impact report, negative declaration, or mitigated negative declaration.

(e) The Office of Planning and Research shall develop and prepare the proposed guidelines as soon as possible and shall transmit them immediately to the Secretary of the Resources Agency. The Secretary of the Resources Agency shall certify and adopt the guidelines pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, which shall become effective upon the filing thereof. However, the guidelines shall not be adopted without compliance with Sections 11346.4, 11346.5, and 11346.8 of the Government Code.

(f) The Office of Planning and Research shall, at least once every two years, review the guidelines adopted pursuant to this section and shall recommend proposed changes or amendments to the Secretary of the Resources Agency. The Secretary of the Resources Agency shall certify and adopt guidelines, and any amendments thereto, at least once every two years, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, which shall become effective upon the filing thereof. However, guidelines may not be adopted or amended without compliance with Sections 11346.4, 11346.5, and 11346.8 of the Government Code.

SEC. 2. Section 21086 of the Public Resources Code is amended to read:

21086. (a) A public agency may, or deletion of a class of projects, to the 21084. That request shall be made in and Research and shall include inf agency's position that the class of pr significant effect on the environment.

(b) The Office of Planning and Re. and, as soon as possible, shall sub Secretary of the Resources Agency. recommendation, the Secretary of the delete the class of projects to the list pursuant to Section 21084 that are exer division.

(c) The addition or deletion of a cla section, to the list specified in Sec amendment to the guidelines adopted shall be adopted in the manner prescrib SEC. 3. Section 21087 of the Publ SEC. 5. Section 21151.4 of the Pul to read:

21151.4. An environmental impact a negative declaration shall not be appro construction or alteration of a facility w might reasonably be anticipated to emit would handle an extremely hazardous s extremely hazardous substances in a qua state threshold quantity specified pursu 25532 of the Health and Safety Code, t hazard to persons who would attend or v unless both of the following occur:

(a) The lead agency preparing the e negative declaration has consulted w jurisdiction regarding the potential imp.

(b) The school district has been gi project not less than 30 days prior to th environmental impact report or approva

SEC. 6. If AB 3090 is enacted on, amends Section 21087 of the Public Res this bill, which would repeal Section 2 Code, shall not become operative; and, n the Government Code, this bill shall not Section 21087 of the Public Resources

**EXHIBIT 10**

**TITLE**

**14**

anned. The later EIR should state that the lead agency is using the tiering concept and that the EIR is being tiered with the earlier EIR.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21003, 21061, 21100 and 21151, Public Resources Code.

### § 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 Subsection (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 decisionmaker 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: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21100, 21151 and 21166, Public Resources Code.

## Article 11. Types of EIRs

### § 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: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21061, 21100 and 21151, Public Resources Code.

#### HISTORY

1. New Article 11 (Section 15160) filed 12-14-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 30).
2. Repealer of Article 11 (Section 15180) and new Article 11 (Sections 15160-15170) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).
3. Editorial correction of 7-13-83 order redesignating effective date to 8-1-83 filed 7-14-83 (Register 83, No. 29).

### § 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: Sections 21083 and 21087, 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 subsection (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.

(c) If the project was approved prior to the occurrence of the conditions described in Subsection (a), the subsequent EIR or negative declaration shall be prepared by the public agency which grants the next discretionary approval for the project. 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: Sections 21083 and 21087, Public Resources Code. Reference: Section 21166, Public Resources Code; *Bowman v. City of Petaluma*, 185 Cal.App.3d 1065 (1986); and *Benton v. Board of Supervisors*, 225 Cal.App.3d 1467 (1991).

## History

1. Amendment of section heading, text and NOTE filed 8-19-94; operative 9-19-94 (Register 94, No. 33).

**§ 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: Sections 21083 and 21087, Public Resources Code. Reference: Section 21164, Public Resources Code.

**§ 15164. Addendum to an EIR or Negative Declaration.**

(a) The lead agency or a 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.

(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 required findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

NOTE: Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Section 21166, Public Resources Code; *Bowman v. City of Palatka*, 185 Cal.App.3d 1065 (1986); and *Benton v. Board of Supervisors*, 226 Cal.App.3d 1467 (1991).

## History

1. Amendment of section heading, text and NOTE filed 8-19-94; operative 9-19-94 (Register 94, No. 33).

**§ 15185. 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: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21061, 21100 and 21151, Public Resources Code; *Whitman v. Board of Supervisors*, 88 Cal. App. 3d 397 (1979).

**§ 15188. 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: Sections 21083 and 21087, 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 governmental 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: Sections 21083 and 21087, 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) As 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 program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts,

(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.



# **EXHIBIT 11**

**Volume 2**

# **STATUTES OF CALIFORNIA**

**AND DIGESTS OF MEASURES**

**1977**

Constitution of 1879 as Amended

General Laws, Amendments to the Codes, Resolutions,  
and Constitutional Amendments passed by the  
California Legislature

**1977-78 Regular Session**



*Compiled by*  
**BION M. GREGORY**  
*Legislative Counsel*

- (3) For fiscal year 1979-80 ..... 50,000
- (4) For fiscal year 1980-81 ..... 25,000
- (c) Not more than 7 percent of the funds appropriated in any fiscal year may be used for administrative costs incurred by the department.

CHAPTER 1200

An act to add Chapter 4.5 (commencing with Section 65920) to Division 1 of Title 7 of the Government Code, and to amend Sections 21002.1, 21080, 21080.5, 21083.5, 21104, 21105, 21151.5, 21153, 21165, 21166, 21167, and 21174 of, and to add Sections 21080.1, 21080.2, 21080.3, 21080.4, 21083.6, 21083.7, 21100.2, 21167.2, and 21167.3 to, the Public Resources Code, relating to development projects, and making an appropriation therefor.

[Approved by Governor September 30, 1977. Filed with Secretary of State October 1, 1977.]

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 4.5 (commencing with Section 65920) is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 4.5. REVIEW AND APPROVAL OF DEVELOPMENT PROJECTS

Article 1. General Provisions

65920. Notwithstanding any other provision of law, the provisions of this chapter shall apply to all public agencies to the extent specified in this chapter. To the extent that the provisions of this chapter conflict with any other provision of law, the provisions of this chapter shall prevail.

65921. The Legislature finds and declares that there is a statewide need to ensure clear understanding of the specific requirements which must be met in connection with the approval of development projects and to expedite decisions on such projects. Consequently, the provisions of this chapter shall be applicable to all public agencies, including charter cities.

65922. The provisions of this chapter shall not apply to the State Energy Resources Conservation and Development Commission.

65923. The Office of Planning and Research shall ensure that all state agencies comply with applicable requirements of this chapter.

65924. With respect to any development project an application for which has been accepted as complete prior to January 1, 1978, the deadlines specified in Sections 65950 and 65952 shall be measured from January 1, 1978.

# **EXHIBIT 12**

## FINAL STATEMENT OF REASONS

### INTRODUCTION

Since 1973 the Guidelines have had the function of a single source of information about valid ways to comply with CEQA. Following the State Supreme Court decision in *Friends of Mammoth v. Board of Supervisors of Mono County* (1972) 8 Cal.3d 247, the Legislature amended CEQA, adding among other items, section 21083 directing the Office of Planning and Research and the Resources Agency to develop guidelines to explain the requirements of the act. The purpose was to reduce the confusion and show people how they could comply with CEQA successfully.

The guidelines were to pull together all relevant requirements from a variety of sources. These included the statute, the then few State court decisions interpreting the statute, Federal court interpretations of the National Environmental Policy Act (NEPA), and the NEPA guidelines. With this guidance public agencies and private entities could conduct their affairs in compliance with the law without needing to consult a lawyer in every case. Codifying case law was an important aspect of the guidelines.

Since the last update to the California Environmental Quality Act (CEQA) Guidelines in 1986, and the last comprehensive update in 1983, new legislation and case law have altered CEQA's requirements for practitioners. The updated Guidelines will provide greater certainty to public agencies and project applicants in complying with CEQA's requirements. This guidance is especially important to small business that does not have immediate access to legal advice from private sources.

No technical, theoretical and/or empirical studies, reports, or documents were relied on in the preparation of this proposal, unless otherwise indicated. The key sources for developing the amendments were enacted amendments to CEQA and published court decisions interpreting CEQA.

The Resources Agency must determine that no alternatives considered would be more effective in carrying out the purpose of the proposed amendments to the Guidelines or would be as effective and less burdensome to affected private parties than the proposed changes and amendments to the Guidelines.

### LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local

agencies or school districts. Refer to the Determination on Local Mandate, Cost Estimate, and Section by Section Analysis for Cost and Mandate contained in the Rulemaking File beginning at tab 11, for additional information.

#### **SUMMARY AND RESPONSE TO COMMENTS**

The Agency's summary of and response to comments received during the original notice period of June 25, 1993, through August 25, 1993 are contained in the Rulemaking File beginning at tab 18, and are incorporated by reference into this Final Statement of Reasons. In response to comments from members of the public, the Agency made modifications to the proposed regulations. The modified text was made available to the public from May 23, 1994, through June 7, 1994. The Agency's summary of and response to comments received on the modified text are contained in the Rulemaking File at beginning at tab 35, and are incorporated by reference into this Final Statement of Reasons.

#### **ALTERNATIVES DETERMINATION**

The Agency has determined that no alternatives would be more effective in carrying out the purposes for which the regulations are proposed or would be as effective or less burdensome to affected private persons than the proposed regulations.

The following amendments are proposed:

#### **SECTION 15063. INITIAL STUDY.**

**Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation Is Intended to Address.**

Section 15063 states that a lead agency shall conduct an initial study to determine whether a project may have a significant effect on the environment so that the lead agency can determine whether to prepare an EIR or a negative declaration. Changes in requirements for initial studies due to recent legislation and court decisions are not reflected in the Guidelines. Changes are needed in order for the Guidelines to be consistent with the current state of the law, in order to fulfill their guidance function and to avoid confusion (particularly in regard to the use of other environmental documents as part of an agency's analysis, and to the preparation of initial study checklists).

#### **Specific Purpose of the Regulation.**

The proposed revisions are intended to update the requirements for

an initial study to conform with recent court opinions and legislation. A key purpose is to allow use of the initial study to assist the determination of whether all or part of the project was within the scope of a previously prepared document, whether tiering could be used, or whether one of the specially authorized processes similar to tiering could be used.

#### **Necessity and Explanation.**

##### **Subsections (b) and (c).**

The proposed changes and additions provide guidance for initial study preparation when an agency is using tiering, a program EIR, or another appropriate process that relies on another document for part of its environmental analysis. At present, tiering, program EIRs, and other appropriate tools are not addressed in the initial studies section of the CEQA Guidelines, which has prompted many questions to the Resources Agency and the Office of Planning and Research.

The proposed changes allow a lead agency to use the results of an initial study to determine which of a project's effects have been adequately examined by an earlier environmental impact report (EIR) or negative declaration, and which effects, if any, should be analyzed in a later EIR or negative declaration. The amendments add a brief description of a number of special situations added to CEQA during the past few years which allow consideration of the effects of the project through a previously prepared document and may require preparation of a new document focusing on only the new effects that were not adequately discussed in the earlier document. These special situations are identified in subsection (b)(1)(C). The amendment uses the term "another appropriate process" as a shorthand reference to special statutory authorizations.

##### **Subsections (d) and (f).**

CEQA currently requires a local agency preparing an initial study to identify a project's environmental effects by use of a checklist, matrix, or other method. Since the last revision of the CEQA Guidelines, several California Courts of Appeal decisions have stated that an agency must provide the data it used to reach the conclusions on the checklist, and that a checklist unsupported by such data is insufficient for an adequate initial study. *Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180 was the first to express displeasure with a checklist that provided no supporting explanations for the checks made on the form. *Sundstrom v. County of Mendocino*, (1988) 202 Cal.App.3d 296, 305 described only "token observance" in completing a checklist that failed to note the source or content of the data relied upon. In another appellate decision, the court held that "[t]o facilitate review, the initial study should contain supporting evidence and not mere

conclusions about potential environmental effects." *Leonoff v. Monterey County Board of Supervisors*, 222 Cal. App. 3d 1337, 1346 (1990). However, the court also held that an initial study is not required to achieve the same level of detailed explanation as a full-blown EIR.

In light of the above court decisions, Section 15063(f) is incomplete without a requirement that entries on an initial study checklist must be explained. In its current form, subsection (f) may be a potential trap for local agencies attempting to comply with the law. The proposed amendments would clarify the Guidelines by adding language requiring a brief explanation of the entries on an initial study checklist. Rather than requiring a narrative in response to every item on the list, the section would allow a reference to an information source such as a map or photographs that would provide justification for the response on the checklist. Where the reference is to a document, agencies are encouraged to include a citation to the page or pages where the information could be found so that reviewers can find the supporting information.

**Alternatives to the Proposed Regulatory Action that Would Lessen Any Adverse Economic Impact on Business.**

The proposed amendments incorporating tiering, program EIRs, and similar tools are intended to streamline and simplify the CEQA process and thus reduce the costs of compliance for project applicants and local agencies. Courts have already required that entries on an initial study checklist be explained or supported; this is not a new requirement imposed by the Agency.

The Agency considered an alternative approach suggested in comments that would have simply required citations to pages in every case when an information source is referenced. We declined to follow this suggestion because some sources such as maps or photographs may not have pages. Further, we believed that lead agencies need discretion in determining the appropriate form of reference given the wide variety of possible sources of information. We believe our approach is less rigid and less costly while remaining effective.

**15072. PUBLIC NOTICE OF A NEGATIVE DECLARATION.**

**Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation Is Intended to Address.**

Public Resources Code 21092 was amended in 1989 to include occupants as well as owners of land contiguous to a proposed project as parties to whom notice of a negative declaration must be mailed. The CEQA Guidelines do not reflect this statutory requirement. The existing section also does not contain the 20 day



minimum notice period added to the statute in 1993. People using the Guidelines as their source of information about CEQA could miss these required parts of the notice process and find the agency decision exposed to litigation and subject to being overturned by a court decision.

**Specific Purpose of the Regulation.**

The revision to Section 15072 will bring the guideline into conformity with the statutory requirements.

**Necessity and Explanation.**

The current version of Section 15072 could be a legal trap that leads otherwise complying lead agencies into inadvertent violation of CEQA requirements. The revision is necessary in order to avoid this circumstance and make the guideline congruent with the statute.

**Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Economic Impact on Business.**

The proposed revision provides clarification of an existing statutory requirement, and imposes no new burdens on business. The Agency considered the suggestion received in comments to require that the occupants of property also be identified from the latest equalized assessment roll. The problem with this approach is that occupants are not shown on the assessment roll unless they are the owners of the property. The suggestion would not lead to identification of tenant occupants, a result that would conflict with the intent of the Legislature in requiring notification of occupants in addition to owners. The approach could lead to a court invalidating the approval of a project due to a defect in the notice process. Such a result could increase the costs to the agency and to the business entities involved, so the suggestion was rejected.

**15087. PUBLIC REVIEW OF DRAFT EIR.**

**Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation Is Intended to Address.**

Public Resources Code 21092 was amended in 1989 to include occupants as well as owners of land contiguous to a proposed project as parties to whom notice of a draft EIR must be mailed if the lead agency chooses to give notice by mail. The CEQA Guidelines do not reflect this statutory requirement.

**Specific Purpose of the Regulation.**

The revision to Section 15087 will bring the guideline into conformity with the statutory requirement.

**Necessity and Explanation.**

The current version of Section 15087 could be a legal trap that leads otherwise complying lead agencies into inadvertent violation of CEQA requirements. The revision is necessary in order to avoid this circumstance and make the guideline congruent with the statute.

**Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Economic Impact on Business.**

The proposed revision provides clarification of an existing statutory requirement, and imposes no new burdens on business. The suggestion that occupants be identified from the assessment roll was rejected for reasons described under section 15072. The suggestion would have been more costly to business.

**15088.5. RECIRCULATION OF AN EIR.**

**Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address.**

Public Resources Code Section 21092.1, enacted in 1984 after the most recent comprehensive amendments to the Guidelines, requires recirculation of a draft EIR when significant new information is added after notice and consultation with responsible and trustee agencies, but prior to certification. The CEQA Guidelines do not currently address this statutory requirement or the interpretations of the section in a number of court decisions. The proposed new Section 15088.5 implements Section 21092.1, and interprets the statutory term "significant new information" in a manner consistent with court interpretations.

**Specific Purpose of the Regulation.**

This section is proposed to be added to interpret and make specific the requirements of Public Resources Code Section 21092.1 that requires the recirculation of an EIR where significant new information is added to the document after it is circulated for public review but before the document is certified. The statutory section was responding to a number of court decisions that had

already identified a requirement to recirculate an EIR if major changes were made in the document after the notice for public review. The proposed Section 15088.5 provides criteria to identify the "significant new information" that requires recirculation of a draft EIR as interpreted by the courts. The guideline clarifies the CEQA process and provides increased certainty to public agencies and project applicants, while adhering to CEQA's emphasis on public participation.

#### **Necessity and Explanation.**

##### **Introduction to Subsection (a).**

The first sentence of subsection (a) summarizes the circumstances where recirculation is necessary, based on Public Resources Code Section 21092.1. The remainder of subsection (a) provides criteria for identifying the "significant new information" that triggers recirculation. The added language codifies the interpretation of the requirement from the *Goleta II* decision so that people can comply with the decision without needing to obtain advice from a lawyer.

##### **Overview of Subsections (a)(1) - (a)(4).**

The amendment codifies the requirements from the court decisions. Subsection (a)(1) codifies the standard from *Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986. That decision established that if a change in the project would cause a new significant effect on the environment, the EIR needed to be recirculated.

Subsection (a)(2) codifies the ruling in *Sutter Sensible Planning, Inc. v. Board of Supervisors* (1981) 122 Cal.App.3d 813. That decision ruled that recirculation was required where a significant environmental impact was found to be much more severe than was previously disclosed in the EIR.

Subsection (a)(3) responds to several court decisions. The first of these is *San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738. That decision found that recirculation was required because the EIR had failed to analyze alternatives sufficiently and the petitioners had identified at least one apparently feasible alternative that the EIR writers had ignored.

The subsection also codifies part of the ruling in *Laurel Heights Improvement Association of San Francisco, Inc. v. The Regents of the University of California* (1993) 6 Cal.4th 1112 (*Laurel Heights II*). The court said that recirculation is required if new information is added to an EIR showing that a feasible project alternative or mitigation measure would clearly lessen the

environmental impacts but the project proponents declined to adopt the mitigation measure or alternative.

Subsection (a)(4) codifies the ruling in *Mountain Lion Coalition v. California Fish and Game Commission* (1989) 214 Cal.App.3d 1043 as interpreted in *Laurel Heights II*. In the *Mountain Lion Coalition* case, the court ruled that a draft EIR had to be recirculated where the draft was cursory in its treatment of several issues and the lead agency tried to cure the defects in a greatly expanded final EIR. The court was critical of the practice of deferring a detailed analysis to the final EIR because the final EIR is not circulated for public review. This is essentially the same standard as has been applied by the Federal courts under NEPA and as is described in the Federal NEPA Regulations. 40 CFR 1502.9(a).

Subsection (b) codifies a ruling from *Sutter Sensible Planning, supra*, that specified a circumstance when new information added to an EIR would not require recirculation of the document. The ruling was quoted with approval in *Laurel Heights II* by the State Supreme Court. This subsection is needed to make the law clear and easily available to people administering CEQA and to help agencies avoid the unnecessary costs of circulating documents when not required.

Subsection (c) allows a cost saving approach to recirculation in allowing an agency to recirculate only the chapters or portions of an EIR that were revised. Without this section lead agencies might feel compelled to recirculate the entire EIR rather than only portions of it and would incur greater costs.

Subsection (d) corresponds to the requirement in Public Resources Code section 21092.1 that the lead agency again provide notice and consultation for the recirculated document. The guideline section rephrases the requirement in terms of guideline sections so a reader can quickly identify the required steps. Because this subsection merely identifies requirements already in statute, the amendment does not mandate any increased level of service.

**Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Economic Impact on Business.**

The proposed new guideline provides criteria to clarify an existing statutory requirement, and imposes no new burdens on business.

**15126(d). ALTERNATIVES TO THE PROPOSED ACTION.**

**Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation Is Intended to Address.**

Section 15126(d) is intended to describe the necessary elements of an EIR's analysis of alternatives to the proposed project, which is required by Public Resources Code Section 21100. Recent court cases have considerably clarified these elements, requiring revision of Section 15126(d).

#### **Specific Purpose of the Regulation.**

The revision of this subsection has two principal purposes, update and guidance. The suggested changes are intended to:

(1) Update the Guidelines in response to recent cases, most notably the California Supreme Court's opinion in *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553 (1990) ("Goleta II").

(2) Provide guidance and clarification on preparing an alternatives analysis, including the factors to consider in assessing the feasibility of alternatives, and the circumstances in which analysis may be limited to on-site alternatives. The suggested changes in these areas are informed by recent cases, particularly the *Goleta II* decision.

#### **Necessity and Explanation.**

##### **Opening Statement.**

The proposed change clarifies that alternatives to the project should not only be feasible but should avoid or substantially lessen the project's significant effects, as provided in Public Resources Code Sections 21002 and 21002.1, and consistent with subsection (d)(1).

##### **Subsection (d)(1). Purpose.**

This subsection highlights language formerly found in subsection (d)(3) to emphasize that alternatives should be capable of avoiding or substantially reducing significant adverse environmental effects and that the purpose of examining alternatives is to lessen adverse environmental effects. This reflects Public Resources Code Sections 21002 and 21002.1. Office of Administrative Law conventions require that language moved from one subsection to another be underlined in a notice of proposed rulemaking. The language from "the discussion of alternatives..." to the end of the subsection was moved from subsection (d)(3), and is appropriately underlined. The language is modified to use the words from the policy sections in CEQA, sections 21002, 21002.1 and 21004.

##### **Subsection (d)(2). Selection of a range of alternatives.**

This subsection guides the lead agency to select alternatives based on the application of two criteria: 1) capability to avoid or substantially reduce significant environmental effects, and 2) feasibility. This subsection indicates that an EIR should briefly state why certain alternatives were selected and others rejected, and reference the information relied upon for these determinations.

Goleta II has provided that additional information explaining the choice of alternatives may be included in the administrative record but preferably should be included in the EIR. The proposed language of the section follows the court decision.

**Subsection (d)(3). Evaluation of alternatives.**

This subsection provides more detailed guidance on the evaluation of alternatives, based in part on the California Supreme Court decision in *Laurel Heights Improvement Association v. Regents of University of California*, 47 Cal. 3d 376 (1988). A matrix may be used to summarize the comparison of alternatives, but it is not required. This subsection incorporates language formerly found in subsection (4), beginning with "If an alternative would cause..." and continuing to the end of the subsection. This language has been underlined pursuant to Office of Administrative Law conventions.

**Subsection (d)(4). "No project" alternative.**

The amended description of the "no project" alternative is consistent with *Environmental Planning and Information Council v. County of El Dorado* 131 Cal. App. 3d 350 (1982), which required consideration of existing conditions as well as a projection based on current plans and policies. The changes to the last sentence of this subsection are for the purposes of clarification. The first and last sentences of this subsection were formerly found in Subsection (d)(2), and are underlined pursuant to Office of Administrative Law conventions.

**Subsection (d)(5). Rule of Reason.**

There are several suggested changes to this subsection.

**Opening Statement.**

The suggested change seeks to clarify that alternatives should not only be feasible but should avoid or substantially reduce the significant effects of the proposed project. This reflects Public Resources Code Sections 21002 and 21002.1.

The amendments to this section interpret the "rule of reason" within the parameters established by *Goleta II* and the decisions cited therein without establishing any increased level of performance. The amendment provides an approach to the analysis of alternatives that is intended to simplify analysis and reduce costs. The courts have said that alternatives must lessen the environmental effects of the project and be feasible, but they have provided little guidance on conducting the analysis.

The proposed amendment provides that the first step in analysis is to identify alternatives that would lessen any of the significant effects on the environment and that the second step is to determine which of those alternatives would be feasible. The amendment responds to the experience of reviewing EIRs where lead agencies spent great effort in analyzing the feasibility of alternatives

that offered no environmental advantages over the project as proposed. That analysis represented wasted effort.

The Resources Agency believes that identifying alternatives that would reduce the significant effects is easier than feasibility analysis because the feasibility analysis has so many factors to consider. The definition of "feasible" in Guidelines section 15364 requires at least six factors to be considered. Economic, environmental, legal, social, technological and timing factors must be evaluated in deciding whether the alternative could be successfully accomplished. Accordingly reducing the number of alternatives to be analyzed through environmental analysis should reduce the cost of the feasibility analysis that would then follow.

**Subsection (d)(5)(A). Feasibility.**

This subsection offers guidance to lead agencies by describing factors that may be taken into account in determining the feasibility of alternatives. Most of the listed factors were enumerated in the *Goleta II* decision. Site suitability is discussed in *Goleta II* (52 Cal. 3d at 575); while economic viability derives from CEQA's definition of feasible in Public Resources Code Section 21061.1. The *Goleta II* court discussed general plan consistency, while noting that this factor was appropriately applied by the defendant Santa Barbara County because the proposed project involved only a "white hole" (a blank space) in the relevant plan with regard to compliance with the California Coastal Act (*Id.* at 573, 574). The revised language shows that general plan consistency is a factor to consider in evaluating alternatives even if the proposal itself would need a general plan amendment.

Jurisdictional boundaries are also discussed in *Goleta II* (*Id.* at 575). The revised guideline provides that EIRs on projects with a regionally significant impact should consider the regional context. *Goleta II*'s emphasis on a realistic definition of feasibility suggests that projects involving, for example, a regional market, could be located elsewhere within the region. Also based on *Goleta II* is the language, "whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent)." The appellate case *Save Our Residential Environment v. City of West Hollywood*, 9 Cal. App. 4th 1745, 1753, fn.1 (1992) includes a useful example of this factor.

*Goleta II* held that individual factors were not necessarily determinative of the feasibility of alternatives, but rather a range of factors should be applied according to a rule of reason. The amended guideline reflects language from the following statement of the Court: "We emphasize that, as with site ownership, jurisdictional borders are simply a factor to be taken into account and do not establish an ironclad limit on the scope of reasonable alternatives," *Id.* at 575 (fn. 7). The court indicated that a

flexible approach was also appropriate for other factors (e.g. "in some circumstances, an EIR may consider alternatives requiring a site-specific amendment of the general plan," *Id.* at 573).

**Subsection (d)(5)(B)(1). Alternative locations.**

Subsection (d)(5)(B)(1) indicates that the key question for any specific alternative location is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in that location. This statement is needed for consistency with the opening statements of Subsections (d) and (d)(5), and comports with Public Resources Code Sections 21002 and 21002.1. The considerations for analysis of alternative locations are described in greater detail than are other subjects because the requirement to discuss alternative locations has been a subject of uncertainty and public controversy.

**Subsection (d)(5)(B)(2). None feasible.**

If no feasible alternative locations will avoid or substantially lessen any significant effects, then no alternative locations need be considered, consistent with the basic provisions of this guideline. In this case, pursuant to Section 15126(d)(2), "Selection of a range of reasonable alternatives," the EIR or the administrative record should briefly discuss each of the alternative locations rejected, the rationale for the rejection, and any information relied upon. This is based upon *Save Our Residential Environment, supra*, and *Laurel Heights I, supra*.

**Subsection (d)(5)(B)(3). Limited analyses based on previous environmental documents.**

This subsection provides that a draft EIR may rely on a previous document containing a sufficient alternatives analysis to the extent that the analysis is still current. This subsection draws upon the holding in *Goleta II*, which approved a project EIR's reliance on the Local Coastal Program's locational analysis for resort hotels. The subsection is necessary to allow for efficiency in use of prior public agency studies rather than duplicating work already done.

**Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Business.**

This action clarifies existing guidelines and provides increased guidance to the required consideration of alternatives; it is not expected to have an adverse impact on business.

**SECTION 15162. SUBSEQUENT EIRS AND NEGATIVE DECLARATIONS.**

**Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation Is Intended to Address.**



Sometimes changes in a project or its circumstances occur or new information becomes available after certification of an EIR or adoption of a negative declaration and initial project approval, and a public agency (lead agency or responsible agency) must make another decision whether to approve the project involved. The current CEQA guidelines provide guidance to agencies in these situations through Section 15162 on subsequent EIRs, and Section 15164 on addenda. These sections inform agencies whether they need to prepare a subsequent EIR on the project involved, or whether they can use other tools such addenda. These sections also provide some guidance on preparation of these documents. Court cases since the last revision of the CEQA Guidelines have established the following:

- (1) A deferential "substantial evidence" standard of review applies to an agency's decision whether a subsequent EIR is necessary; and
- (2) Section 15162 applies where a negative declaration has been previously adopted, as well as where an EIR was previously certified.

Section 15162 does not reflect the current case law on subsequent EIRs. The section needs to be amended so that public agencies can rely on the procedures and standards and know that they are complying with all applicable CEQA requirements.

#### **Specific Purpose of the Amendments.**

The proposed amendments to Section 15162 are intended to reflect current case law, and would also clarify the standards for preparation of a subsequent EIR, based upon the three factors identified in Public Resources Code Section 21166: substantial changes in the project, substantial changes in the project's circumstances, and new information of substantial importance.

A second purpose is to conform the amendment to the principle announced in *Laurel Heights II* that an EIR need not be recirculated if an alternative or mitigation measure becomes feasible for eliminating or lessening one or more of the significant effects of the project and the project proponent decides to implement the alternative or mitigation measure.

#### **Necessity and Explanation.**

##### **Title of Section.**

The words "and Negative Declarations" are added to the title of Section 15162. This change more accurately defines the scope of the section, and indicates the intent to allow subsequent negative declarations, consistent with pre-existing language in the section.

##### **Subsection (a).**

The suggested language, which applies the substantial evidence standard of review to the decision whether to prepare a subsequent EIR, reflects recent case law. See *Bowman v. City of Petaluma*, 185 Cal. App. 3d 1065, 1070-1074 (1986); *Long Beach Savings and Loan Association v. Long Beach Redevelopment Agency*, 188 Cal. App. 3d 249, 264-266 (1986); *Fund for Environmental Defense v. County of Orange*, 204 Cal. App. 3d 1538, 1544 (1988); *Stone v. Tuolumne County Board of Supervisors*, 205 Cal. App. 3d 927, 934-935 (1988); and *Benton v. Board of Supervisors*, 226 Cal. App. 3d 1467, 1479-1480 (1991). The *Bowman* court has explained why a more deferential standard of review is appropriate for decisions concerning subsequent EIRs as opposed to decisions over the need for an initial EIR. When a subsequent EIR is considered, in-depth review has already occurred, the time for challenging the sufficiency of the EIR has expired, and the question is whether circumstances have changed enough to justify repeating a substantial portion of the process. The new language calling for a substantial evidence standard of review for subsequent EIRs applies only after a previous EIR has been certified or a previous negative declaration has been adopted for a project. *Benton*, *supra* at 1481-1482.

The words "in the light of" are added to the mention of substantial evidence in the record in order to make the language consistent with the amendment to CEQA Section 21082.2 by SB 919 (Dills), Chapter 1131 of the Statutes of 1993. We believe this addition is a technical, nonsubstantive change to the language originally proposed in the June, 1993 notice. However, the addition is necessary to avoid questions in court proceedings about the meaning or significance of a difference between the statutory language and the Guidelines language.

**Subsections (a) (1-2).**

The major revisions to clauses (1) and (2) indicate that the Public Resources Code Section 21166 analysis would apply to substantial increases in severity of previously identified environmental effects, as well as to new environmental effects. This revision is consistent with language in Guidelines Section 15162(a)(3)(B), as well as the analysis in *Bowman*, *supra*, at 1075, 1079-1081.

**Subsection (a) (3).**

The major revisions to subsection (a) (3) clarify that a standard of reasonableness applies to the consideration of new information that could not have been known at the time the original EIR was certified or a negative declaration was adopted. Without reference to this standard, new information could be broadly susceptible to an argument that it could have been discovered earlier, even if only by use of extraordinary means.

**Subsection (a) (3) (A).**

The revised Section 15162(a) (3) (A) reflects the application of this section to previous negative declarations as well as previous EIRs.

**Subsection (a) (3) (B).**

This is a minor change to clarify that the EIR referred to is the previous EIR and not the subsequent EIR under consideration.

**Subsection (a) (3) (C) and (D).**

Language is added to conform the subsections to the principle announced in *Laurel Heights II* that an EIR need not be recirculated if an alternative or mitigation measure becomes feasible for eliminating or lessening one or more of the significant effects of the project and the project proponent decides to implement the alternative or mitigation measure. The Supreme Court announced this principle for recirculation but was silent about applying the principle to a subsequent EIR. The court said that before certification, the policy of encouraging public comment should be favored but that after certification, the interests of finality of decisions should be favored. *Laurel Heights II* at 1130. If a project proponent can avoid recirculation of a revised EIR by implementing an alternative or mitigation measure in a situation where public comment is favored, the rule should apply even more in the situation where a subsequent EIR could be required but finality of decisions is favored. As a result, the subsections are revised to provide that a subsequent EIR would be required where a mitigation measure or alternative previously found infeasible becomes feasible or where a new and considerably different mitigation measure or alternative becomes available, but only where the project proponents decline to adopt the mitigation measure or alternative.

**Subsection (a) (3) (D).**

The revisions to subsection (a) (3) (D) make it clear that only some types of mitigation measure would trigger the subsequent EIR process. The holding of the California Court of Appeals in *Bowman, supra*, indicates that only substantial changes in a project merit preparation of a subsequent EIR. The revision is consistent with *Bowman's* approach.

**Subsection (b).**

The amendments to Subsection (b) apply the standards of Public Resource Code Section 21166 to previously adopted negative declarations, consistent with the holding in the *Benton* decision. Describing the options available to a lead agency clarifies the procedure to be followed when changes occur to a project after the adoption of a negative declaration. A subsequent negative declaration is appropriate in such circumstances, if no subsequent EIR is required under Guidelines Section 15162(a) but the changes are greater than would be appropriate for the preparation of an addendum. Addenda are addressed in Section 15164, discussed below.

**Subsection (c).**

The revisions include reference to subsequent negative declarations. This is necessary to conform the subsections with other language in the section, and to clarify the use of negative

declarations within the scope of the section.

**Subsection (d).**

The new language of Subsection (e) indicates that subsequent EIRs and subsequent negative declarations must receive the same notice and public review as required for EIRs under Section 15087 and for negative declarations under Section 15072 of the CEQA Guidelines. A subsequent EIR or negative declaration must also state where the previous document is available for review. These requirements come from *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural Association* (1986) 42 Cal.3d 929 and *Mira Monte Homeowners Association v. County of Ventura* (1985) 165 Cal.App.3d 357 which ruled that a subsequent EIR must receive the same circulation and review as an ordinary EIR. The subsection applies the same concept to negative declarations as the courts would be expected to apply. Failure to provide full public review can lead to invalidation of project approval. See *ULTRAMAR, Inc. v. South Coast Air Quality Management District* (1993) 17 Cal.App.4th 689, 701-704. The changes are necessary to avoid invalidation of public decisions on projects.

**Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Business.**

This action clarifies existing guidelines and allows greater deference to the lead agency's decision that no subsequent EIR is necessary, consistent with case law; it is not expected to have an adverse impact on business. The alternative of not including the limitation on subsequent EIRs where the project proponents adopt a new, feasible mitigation measure or alternative, would have been more costly to public project sponsors or to businesses sponsoring private projects than will be the approach chosen in the final regulations.

**SECTION 15164. ADDENDUM TO AN EIR OR NEGATIVE DECLARATION.**

**Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation Is Intended to Address.**

Section 15164 covers circumstances when changes arise or new information becomes available such that a subsequent EIR is not required under Section 15162. Section 15164 provides for an addendum in these cases as a means for updating an existing EIR without requiring public review.

**Specific Purpose of the Regulation.**

The proposed revisions accomplish three objectives:

- (1) Remove illogical and confusing language from the circumstances where an addendum may be prepared;
- (2) Permit addenda to adopted negative declarations as well as to certified EIRs, in order to provide streamlining where appropriate; and
- (3) Clarify the pre-existing requirement for explanation of an agency's decision not to prepare a subsequent EIR when an addendum is prepared instead.

#### **Necessity and Explanation.**

##### **Subsection (a).**

The suggested revisions are intended to simplify and clarify the subsection. An addendum is appropriate when some changes or additions are necessary but a subsequent EIR is not required. The deleted language could be seen as adding additional conditions to an addendum that would create some situations where neither subsequent EIRs nor addenda, the only available choices, were appropriate. The revisions are intended to avoid this illogical and confusing situation.

##### **Subsection (b).**

Subsection (b) allows addenda to be prepared for adopted negative declarations as well as for certified EIRs. There are several reasons for this addition.

- 1) The California Court of Appeals in *Benton v. Board of Supervisors*, 226 Cal. App. 3d 1467 (1991), made it clear that Section 15162 of the Guidelines applies to previous negative declarations as well as previous EIRs.
- 2) The revision is intended to streamline the review process by providing an alternative to an entirely new negative declaration when changes or additions to a project occur that do not require a subsequent EIR. This is in keeping with the line of cases starting with *Bowman v. City of Petaluma*, 185 Cal. App. 3d 1065 (1986), which have favored streamlined updating mechanisms once an EIR has been certified or a negative declaration has been adopted.
- 3) A different standard is required for the application of addenda to adopted negative declarations, distinct from addenda to certified EIRs. Section 15162 is triggered only by significant new or increased environmental effects. If an addendum to a negative declaration applied whenever Section 15162 was not triggered, subsequent negative declarations would never be prepared, since by definition they also lack the significant effects triggering Section 15162. However, the *Benton* decision specifically provided for subsequent negative declarations. Addenda to negative

declarations must therefore be distinguished from subsequent negative declarations. The revised language limits an addendum to an adopted negative declaration to situations where the changes or additions are of a minor, technical nature.

**Subsections (c) and (d).**

The revisions make minor changes by including negative declarations as well as EIRs as documents for which addenda may be appropriate.

**Subsection (e).**

Subsection (e) clarifies a pre-existing requirement for addenda. The purpose of an addendum is to serve as an update of a previous EIR or negative declaration when minor technical changes or additions occur. The decision of the lead agency not to prepare a subsequent EIR should be explained and supported by evidence somewhere in the official record of the project.

**Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Business.**

This action clarifies potential confusion in existing guidelines and permits the use of time-saving addenda to negative declarations where appropriate; the revision is not expected to have an adverse impact on business.

**SECTION 15378. PROJECT.**

**Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address**

Section 15378 defines "project" for purposes of the California Environmental Quality Act (CEQA) Guidelines. Statutory changes and court decisions have occurred since the last update of the Guidelines which require clarification of that definition.

**Specific Purpose of the Regulation.**

The definition of project establishes the range of actions which will be subject to CEQA. The proposed changes and additions are intended to update this definition to conform to recent legislation and court decisions.

**Necessity and Explanation.**

**Subsection (b)(3).**

The change in subsection (b)(3), removing the reference to emergency repairs to public service facilities, is necessary to eliminate duplication. Public Resources Code section 21080(b)(2)

provides an exemption from the act for "emergency repairs to public service facilities necessary to maintain service." That exemption is referenced in section 15269(b) of the Guidelines which describes the statutory exemptions that apply to different kinds of emergency projects. Because these activities are already exempted from CEQA, and described as exempt projects, it appeared that there was no need to define those activities as not being projects in order to exempt them from the act. The exemption of these emergency repairs is not affected by the repeal of this language from the definition of the term "project."

**Subsection (b) (5).**

This subsection currently excludes the closing of a public school and the transfer of students to another school under specified circumstances from the definition of project. Two changes are proposed. The first is to delete its current contents. The second is to insert a new exclusion addressing government funding mechanisms or fiscal activities. The proposed deletion reflects new Public Resources Code Section 21080.18 which establishes a statutory exemption from CEQA for school closures or student transfers when the only physical changes involved are exempt. The list of activities excluded from the definition of project contained in the Guidelines does not include actions which are statutorily exempt. Deletion of this subsection is necessary to maintain a consistent format within Section 15378.

The second proposed change would offer guidance for determining whether a financing action qualifies as a project under CEQA. The appeal court in *Kaufman and Broad-South Bay, Inc. v. Morgan Hill Unified School District* 9 Cal.App.4th 464 (1992) held that creation of a financing district did not constitute a project under CEQA when financing issues alone are involved. The court reasoned that unless there is a binding commitment to spend in a particular manner, a proposal may not be sufficiently advanced to allow a meaningful environmental review.

Pursuant to Section 15004, choosing the precise time for CEQA compliance involves balancing the requirement that environmental analysis occur as early in the decision process as feasible, with the need to wait until such time as specific information is available to allow meaningful analysis. In *Fullerton Joint Union High School District v. State Board of Education* 32 Cal.3d 779 (1982), the California Supreme Court held that a key question in determining whether a proposal is a project under CEQA is whether governmental approval constitutes an essential step which would culminate in actions that may affect the environment, or whether it portends no particular action affecting the environment.

The proposed subsection would clarify and articulate those situations in which a financing action is not a project subject to CEQA, pursuant to recent court decisions and Section 15004 of the Guidelines.

**Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Economic Impact on Business.**

This action clarifies existing guidelines; it is not expected to have an adverse impact on business.

**APPENDIX I. ENVIRONMENTAL CHECKLIST FORM.**

**Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address**

Appendix I is referenced by the existing CEQA Guidelines Section 15063(f), which discusses the format of the initial study. This guideline indicates that lead agencies may use Appendix I as a sample form for preparing initial studies. Appendix I imposes no additional requirements on public agencies, because they are free to devise their own format for an initial study, as permitted by Section 15063(f).

The environmental checklist contained in Appendix I has not been revised since the early 1970's. Subsequent legislation, court decisions and evolutionary changes in CEQA practice require update of this appendix.

**Specific Purpose of the Regulation.**

The environmental checklist provides an orderly format for achieving the multiple purposes of the initial study discussed in Section 15063(c). The initial study can be used to decide whether an EIR is necessary, to document the factual basis for a proposed negative declaration, to identify mitigation measures that may enable the project to qualify for a negative declaration, and to identify environmental effects where adequate earlier analyses may be used to avoid duplicative review (among other purposes).

The amendments to the checklist provide necessary update, as described above.

**Necessity and Explanation.**

**Background Material.**

The first page of the revised Appendix I would provide additional background material for the reviewer of the checklist. The revisions would add a contact person at the lead agency and his or her phone number; a project description and its location, general plan designation and zoning; a list of other agencies which require



approval (and permits needed); and a summary of environmental factors potentially affected.

**Contact Person.**

This addition would facilitate the initial study consultation required by Public Resources Code Section 21080.3 by providing responsible and other agencies the name of a contact person within the lead agency to whom responses may be addressed.

**Project Location, General Plan Designation, Zoning and Description of the Project.**

The addition of these categories of information is intended to facilitate the initial study consultation required by Public Resources Code Section 21080.3 by informing responsible and other agencies of the project's location, the planned uses of the site, and the characteristics of the project. This information is basic to disclosing and understanding the proposal being considered and allowing early identification of significant effects, alternatives, and mitigation measures as required under Public Resources Code Section 21003.1. An initial study lacking this information was held inadequate in *Christward Ministry v. Superior Court*, 184 Cal. App. 3d 180, 197 (1986). This information will also facilitate public review of initial studies.

**Other Agencies which Require Approval (and Permits Needed).**

This information would help the lead agency to identify those agencies that would be expected to comment on the initial study, as provided under Public Resources Code Section 21003.1. It would also assist in determining when a proposed project is of statewide, regional or areawide significance, as required pursuant to Public Resources Code Section 21083.

**Environmental Factors Potentially Affected.**

This addition would provide a summary of potentially significant effects for reviewers of the initial study. This summary will support Public Resources Code Section 21003.1's requirement that reviewers provide comment to the lead agency in a timely manner.

**Determination.**

The existing checklist provides three possible determinations of the appropriate environmental document for a project, based on its potential for significant effects on the environment. The amendments would add a fourth possible determination where an adequate earlier analysis can be applied to at least one of a project's effects. This determination would allow an EIR, if required, to focus on the effects that remain to be addressed.

There are two preconditions for the use of this determination, the first requiring that "at least one effect ... has been adequately analyzed in an earlier document pursuant to applicable legal standards." CEQA provides numerous legal standards which might be applied. As of July 1993 (there are frequent changes and additions to this list), these include:

- (1) Public Resources Code Sections 21093 and 21094 and Guidelines Section 15152 ("Tiering");
- (2) Public Resources Code Section 21083.3 ("Use of a Certified EIR for Subsequent Development");
- (3) Public Resources Code Section 21080.7 and Guidelines Section 15181 ("Housing and Neighborhood Commercial Facilities");
- (4) Guidelines Section 15168 ("Program EIRs");
- (5) Public Resources Code Section 21090 and Guidelines Section 15180 ("Redevelopment Projects");
- (6) Guidelines Section 15167 ("Staged EIR"); and
- (7) Guidelines Section 15169 ("Master Environmental Assessment").

Each of these authorities involves use of an earlier analysis from a larger project than the one under review. The adequate earlier analysis could also come from a previous EIR or negative declaration on the same project, pursuant to Public Resources Code Section 21166 and Guidelines Section 15162 ("Subsequent EIRs and Negative Declarations") and Guidelines Section 15164 ("Addendum to an EIR or Negative Declaration").

The second precondition is that "if the effect is 'potentially significant' or 'potentially significant unless mitigated', it has been addressed by mitigation measures based on the previous earlier analysis as described on the attached sheets." This requirement derives from the text of the statutory and Guidelines authorities discussed above (see, for example, Public Resources Code Section 21094(a), and Guidelines Section 15168(c)(3)).

The new determination is necessary to accommodate the streamlining devices discussed above, which have been added to CEQA since Appendix I was developed. The new determination also complies with Public Resources Section Code Section 21093, which requires EIRs to be tiered whenever feasible.

#### Evaluation of Environmental Impacts.

This is the main body of the checklist, titled "Environmental Impacts" in the existing Appendix I. The existing checklist

a structure for lead agencies to support their use of earlier analyses. This section is a companion to new determination that an EIR, if required, need only consider the project's effects that remain to be addressed. Lead agencies using earlier analyses should identify the following:

- a) The earlier analyses used, and a place they are available for review (see, for example, Guidelines Section 15152(e));
- b) Impacts within the scope of and adequately analyzed by the earlier document (see, for example, Guidelines Sections 15152(d) and 15168(c)(5)); and
- c) Mitigation measures incorporated or refined from the earlier document (if an effect is "potentially significant" or "potentially significant unless mitigated"). See Public Resources Code Sections 21083.3 and 21094(a), and Guidelines Section 15168(c)(3).

**DECLARATION OF SERVICE**

Case Name: **FRIENDS OF THE COLLEGE OF SAN MATEO GARDENS v. SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT**

Case No.: **S214061**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On June 15, 2016, I served the attached **MOTION OF THE CALIFORNIA NATURAL RESOURCES AGENCY AND THE GOVERNOR'S OFFICE OF PLANNING AND RESEARCH FOR JUDICIAL NOTICE; SUPPORTING DECLARATIONS; [PROPOSED] ORDER** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Sacramento, California, addressed as follows:

California Supreme Court Earl Warren Building 350 McAllister Street, Room 1295 San Francisco, CA 94102	Original + 13 copies  Sent via Overnight (Golden State Overnight)
California Court of Appeal First Appellant District 350 McAllister Street San Francisco, CA 94102	1 copy  Sent via Overnight (Golden State Overnight)
Hon. Clifford Cretan San Mateo County Superior Court 222 Paul Scannell Drive San Mateo, CA 94402	1 copy  Sent via Overnight (Golden State Overnight)
Susan Lynne Brandt-Hawley Brandt-Hawley Law Group P.O. Box 1659 Glen Ellen, CA 95442	Attorney for Friends of the College of San Mateo Gardens : Plaintiff and Respondent  Sent via First-Class U.S. Mail

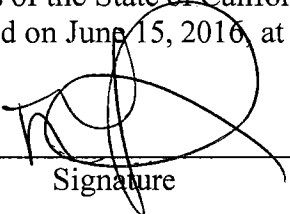
<p>Sabrina Vansteenki Teller Remy Moose and Manley LLP 555 Capitol Mall, Suite 800 Sacramento, CA 95814</p> <p>James Grether Moose Remy Moose and Manley LLP 555 Capitol Mall, Suite 800 Sacramento, CA 95814</p>	<p>Attorney for San Mateo Community College District : Defendant and Appellant</p> <p>Sent via First-Class U.S. Mail</p>
<p>Sabrina Vansteenki Teller Remy Moose and Manley LLP 555 Capitol Mall, Suite 800 Sacramento, CA 95814</p> <p>James Grether Moose Remy Moose and Manley LLP 555 Capitol Mall, Suite 800 Sacramento, CA 95814</p>	<p>Attorney for District Board of Trustees for San Mateo Community College District : Defendant and Appellant</p> <p>Sent via First-Class U.S. Mail</p>
<p>Olga Mikheeva Law Offices of Michael W. Stamp 479 Pacific Street, Suite 1 Monterey, CA 93940</p>	<p>Attorney for Open Monterey Project : Pub/Depublication Requestor</p> <p>Sent via First-Class U.S. Mail</p>
<p>Andrew B. Sabey Cox Castle and Nicholson LLP 555 California Street, 10th Floor San Francisco, CA 94104</p> <p>Linda C. Klein Cox Castle and Nicholson LLP 555 California Street, 10th Floor San Francisco, CA 94104</p>	<p>Attorney for California Building Industry Association : Amicus curiae</p> <p>Sent via First-Class U.S. Mail</p>
<p>Andrew B. Sabey Cox Castle and Nicholson LLP 555 California Street, 10th Floor San Francisco, CA 94104</p> <p>Linda C. Klein Cox Castle and Nicholson LLP 555 California Street, 10th Floor San Francisco, CA 94104</p>	<p>Attorney for Building Industry Association of the Bay Area : Amicus curiae</p> <p>Sent via First-Class U.S. Mail</p>

<p>Andrew B. Sabey Cox Castle and Nicholson LLP 555 California Street, 10th Floor San Francisco, CA 94104</p> <p>Linda C. Klein Cox Castle and Nicholson LLP 555 California Street, 10th Floor San Francisco, CA 94104</p>	<p>Attorney for California Business Properties Association : Amicus curiae</p> <p>Sent via First-Class U.S. Mail</p>
<p>Joanna Lynn Meldrum Holland and Knight LLP 50 California St Ste 2800 San Francisco, CA 94111</p> <p>Amanda Jean Monchamp Holland and Knight LLP 50 California Street, 28th Floor San Francisco, CA 94111</p>	<p>Attorney for The Regents of the University of California : Amicus curiae</p> <p>Sent via First-Class U.S. Mail</p>
<p>Michael Ward Graf Law Offices of Michael W. Graf 227 Behrens Street El Cerrito, CA 94530</p>	<p>Attorney for High Sierra Rural Alliance : Amicus curiae</p> <p>Sent via First-Class U.S. Mail</p>
<p>Jan Chatten-Brown Chatten-Brown and Carstens 2200 Pacific Coast Highway, Suite 318 Hermosa Beach, CA 90254</p> <p>Amy Christine Minter Chatten-Brown and Carstens 2200 Pacific Coast Highway, Suite 318 Hermosa Beach, CA 90254</p>	<p>Attorney for California Preservation Foundation : Amicus curiae</p> <p>Sent via First-Class U.S. Mail</p>
<p>Christian Lucier Marsh Downey Brand LLP 455 Market Street, Suite 1420 San Francisco, CA 94015</p>	<p>Attorney for California State Association of Counties : Amicus curiae</p> <p>Sent via First-Class U.S. Mail</p>

Christian Lucier Marsh Downey Brand LLP 455 Market Street, Suite 1420 San Francisco, CA 94015	Attorney for California State Association of Counties : Amicus curiae  Sent via First-Class U.S. Mail
Christian Lucier Marsh Downey Brand LLP 455 Market Street, Suite 1420 San Francisco, CA 94015	Attorney for Association of California Water Agencies : Amicus curiae  Sent via First-Class U.S. Mail
Sara Hedgpeth-Harris Law Office of Sara Hedgpeth-Harris Inc. 5445 East Lane Avenue Fresno, CA 93727	Attorney for Association of Irrigated Residents : Amicus  Sent via First-Class U.S. Mail
Sara Hedgpeth-Harris Law Office of Sara Hedgpeth-Harris Inc. 5445 East Lane Avenue Fresno, CA 93727	Attorney for Madera Oversight Coalition : Amicus curiae  Sent via First-Class U.S. Mail
Sara Hedgpeth-Harris Law Office of Sara Hedgpeth-Harris Inc. 5445 East Lane Avenue Fresno, CA 93727	Attorney for Revive the San Joaquin : Amicus curiae  Sent via First-Class U.S. Mail
Sara Hedgpeth-Harris Law Office of Sara Hedgpeth-Harris Inc. 5445 East Lane Avenue Fresno, CA 93727	Attorney for Sierra Club : Amicus curiae  Sent via First-Class U.S. Mail

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 15, 2016, at Sacramento, California.

\_\_\_\_\_  
Erika Thompson  
Declarant

  
\_\_\_\_\_  
Signature