

TITLE 14. NATURAL RESOURCES

DIVISION 6. RESOURCES AGENCY

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

ARTICLE 4. LEAD AGENCY

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

(a) If there is a dispute over which of several agencies should be the Lead Agency for a project, the disputing agencies should consult with each other in an effort to resolve the dispute prior to submitting it to the Office of Planning and Research. If an agreement cannot be reached, any of the disputing public agency-agencies, or the applicant if a private project is involved, may submit the dispute to the Office of Planning and Research for resolution.

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

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

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

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

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

ARTICLE 5. PRELIMINARY REVIEW OF PROJECTS AND CONDUCT OF INITIAL STUDY

§ 15061. Review for Exemption.

[(a): no changes]

(b) A project is exempt from CEQA if:

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

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

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

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

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

[(c) – (d): no changes]

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

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

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§ 15062. Notice of Exemption.

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

[(1) - (4): no changes]

[(b) - (d): no changes]

(e) When a local agency determines that a project is not subject to CEQA under subdivision 15192, 15193, or 15194, and it approves or determines to carry out that project, the local agency or person seeking project approval shall file a notice of the determination with OPR.

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

ARTICLE 6. NEGATIVE DECLARATION PROCESS

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

[(a) - (e): no changes]

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

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

[(1) - (6): no changes]

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

§ 15073. Public Review of a Proposed Negative Declaration or Mitigated Negative Declaration.

[(a): *no changes*]

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

[(c) – (e): *no changes*]

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

§ 15074. Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration.

[(a) – (e): *no changes*]

(f) When a non-elected official or decisionmaking body of a local lead agency adopts a negative declaration or mitigated negative declaration, that adoption may be appealed to the agency's elected decisionmaking body, if one exists. For example, adoption of a negative declaration for a project by a city's planning commission may be appealed to the city council. A local lead agency may establish procedures governing such appeals.

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

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ARTICLE 7. EIR PROCESS

§ 15082. Notice of Preparation and Determination of Scope of EIR.

(a) Notice of Preparation. Immediately after deciding that an environmental impact report is required for a project, the lead agency shall send to the Office of Planning and Research and each responsible and trustee agency a notice of preparation stating that an environmental impact report will be prepared. This notice shall also be sent to every federal agency involved in approving or funding the project. If the United States Department of Defense or any branch of the United States Armed Forces has given the lead agency written notification of the specific boundaries of a low-level flight path, military impact zone, or special use airspace and provided the lead agency with written notification of the military contact office and address for the military service pursuant to subdivision (b) of Section 15190.5, then the lead agency shall include the specified military contact office in the list of organizations and individuals receiving a notice of preparation of an EIR pursuant to this section for projects that meet the criteria set forth in subdivision (c) of Section 15190.5.

[(1) – (4): no changes]

[(b): no changes]

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

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

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

[(A) – (D): no changes]

(23) A lead agency shall call at least one scoping meeting for a proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation if the meeting is requested by the

department. The lead agency shall call the scoping meeting as soon as possible but not later than 30 days after receiving the request from the Department of Transportation.

[(d) – (e) no changes]

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

~~§ 15083.5. City or County Consultation with Water Agencies.~~

~~This guideline addresses consultation between a city or county and affected water agencies at the notice of preparation stage of environmental review.~~

~~(a) This guideline shall apply only to projects which meet all of the following criteria:~~

~~(1) The project consists of any of the following activities for which an application has been submitted to a city or county:~~

~~(A) A residential development of more than 500 dwelling units.~~

~~(B) A shopping center or business establishment that will employ more than 1,000 persons or have more than 500,000 square feet of floor space.~~

~~(C) A commercial office building that will employ more than 1,000 persons or have more than 250,000 square feet of floor space.~~

~~(D) A hotel, motel or both with more than 500 rooms.~~

~~(E) An industrial, manufacturing, or processing plant, or industrial park intended to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area.~~

~~(F) Any mixed-use project that would demand an amount of water equal to, or greater than, the amount of water needed to serve a 500-dwelling-unit project.~~

~~(2) As part of approval of the project, any of the following are required:~~

~~(A) An amendment to, or revision of, the land use element of a general plan or a specific plan, which would result in a net increase in the stated population density or building intensity to provide for additional development.~~

~~(B) The adoption of a specific plan, unless the city or county has previously complied with this section for the project.~~

~~Notwithstanding the foregoing provisions of this subdivision (a)(2), when a project is identified in connection with the revision of any part of a general plan, that project is subject to the requirements of this section only if the project results in a net increase in the stated population density or building intensity, and if the city or county has not previously complied with the requirements of this section for the project in question.~~

~~(3) A city or county has determined that an environmental impact report is required in connection with the project.~~

~~(b) For projects subject to this guideline, a city or county shall identify any water system that is, or may become, a public water system, as defined in Section 10912 of the Water Code, that may supply water for the project. When a city or county releases a notice of preparation for review, it shall send a copy of the notice to each public water system which serves or would serve the proposed project and request that the system both indicate whether the projected water demand associated with the proposed project was included in its last urban water management plan and assess whether its total projected water supplies available during normal, single dry, and multiple dry water years as included in the 20 year projection contained in its urban water management plan will meet the projected water demand associated with the proposed project, in addition to the system's existing and planned future uses.~~

~~(c) The governing body of a public water system shall approve and submit its water supply assessment to the city or county not later than 30 days after the date on which the request and notice of preparation were received. If the public water system fails to submit its assessment within the allotted time, the lead agency may assume, unless there has been a request for a specific extension of time from the public water system, that the public water system has no information to submit. If a public water system concludes there would be insufficient water to serve the proposed project, it shall provide the city or county with its plans for acquiring additional water supplies.~~

~~(d) The lead agency shall include within the EIR the public water system's assessment and any other information provided by the water agency, up to a maximum of ten typewritten pages. The assessment and information may only exceed that length with the approval of the lead agency. The lead agency may independently evaluate the water system's information and shall determine, based on the entire record, whether projected water supplies will be sufficient to satisfy the demands of the proposed project, in addition to existing and planned future uses. If the lead agency determines that water supplies will not be sufficient, the lead agency must include that determination in its findings for the project pursuant to Sections 15091 and 15093.~~

~~(e) For purposes of this section, "public water system" means a system as defined in Section 10912 of the Water Code with 3,000 or more service connections.~~

~~(f) This section does not apply to the County of San Diego and the cities in the county as provided in Section 10915 of the Water Code.~~

~~**Note:** Authority cited: Section 21083, Public Resources Code; References: Section 21151.9, Public Resources Code.~~

§ 15087. Public Review of Draft EIR.

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

[(1) – (3): no changes]

[(b) – (d): no changes]

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

[(f) – (i): no changes]

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

ARTICLE 8. TIME LIMITS

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

[(a) – (b): *no changes*]

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

[(d): *no changes*]

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

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

ARTICLE 10. CONSIDERATIONS IN PREPARING EIRS AND NEGATIVE DECLARATIONS

§ 15155. City or County Consultation with Water Agencies.

(a) The following definitions are applicable to this section.

(1) A “water-demand project” means:

(A) A residential development of more than 500 dwelling units.

(B) A shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space.

(C) A commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space.

(D) A hotel or motel, or both, having more than 500 rooms.

(E) A industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area.

(F) A mixed-use project that includes one or more of the projects specified in subdivision (a)(1) of this section.

(G) A project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project.

(H) For public water systems with fewer than 5,000 service connections, a project that meets the following criteria:

1 A proposed residential, business, commercial, hotel or motel, or industrial development that would account for an increase of 10 percent or more in the number of a public water system's existing service connections; or

2. A mixed-use project that would demand an amount of water equivalent to, or greater than, the amount of water required by residential development that would represent an increase of 10 percent or more in the number of the public water system's existing service connections.

(I) The adoption or amendment of a general plan is not, by itself, a water demand project.

(2) "Public water system" means a system for the provision of piped water to the public for human consumption that has 3000 or more service connections. A public water system includes all of the following:

(A) Any collection, treatment, storage, and distribution facility under control of the operator of the system which is used primarily in connection with the system.

(B) Any collection or pretreatment storage facility not under the control of the operator that is used primarily in connection with the system.

(C) Any person who treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

(3) “Water acquisition plans” means any plans for acquiring additional water supplies prepared by the public water system or a city or county lead agency pursuant to subdivision (a) of Section 10911 of the Water Code.

(4) “Water assessment” means the water supply assessment that must be prepared by the governing body of a public water system, or the city or county lead agency, pursuant to Sections 10910 to 10915 of the Water Code, and that includes, without limitation, the elements of the assessment required to comply with subdivisions (d), (e), (f), and (g) of section 10910 of the Water Code.

(5) “City or county lead agency” means a city or county, acting as lead agency, for purposes of certifying or approving an environmental impact report, a negative declaration, or a mitigated negative declaration for a water-demand project.

(b) At the time a city or county lead agency determines whether an environmental impact report, a negative declaration, or a mitigated negative declaration is required for the water-demand project, the city or county lead agency shall take the following steps:

(1) The city or county lead agency shall identify any water system that either: (A) is a public water system that may supply water to the water-demand project, or (B) that may become such a public water system as a result of supplying water to the water-demand project. The city or county lead agency shall request the governing body of each such public water system to prepare a water assessment. The governing body of the public water system must approve the water assessment prepared pursuant to this section at a regular or special meeting.

(2) If the city or county lead agency is not able to identify any public water system that may supply water for the water-demand project, the city or county lead agency shall prepare its own water assessment after consulting with any entity serving domestic water supplies whose service area includes the site of the water-demand project, the local agency formation commission, and the governing body of any public water system adjacent to the site of the water-demand project. The governing body of the city or

county lead agency must approve the water assessment prepared pursuant to this section at a regular or special meeting.

(c) If the governing body of a public water system is preparing the water assessment, it must submit the requested water assessment to the city or county lead agency within 90 days after the date on which the governing body of the public water system received such request. Before the expiration of the 90-day period, a representative of the governing body of the public water system may meet with the city or county lead agency and request a 30-day extension of time to prepare and adopt the water assessment. The city or county lead agency must grant any reasonable request. If the governing body of the public water system fails to request and receive an extension of time, or fails to submit the water assessment notwithstanding the 30-day extension, the city or county lead agency may seek a writ of mandamus to compel the governing body of the public water system to comply with the requirements of Sections 10910-10914 of the Water Code to submit the water assessment.

(d) If a water-demand project has been the subject of a water assessment, no additional water assessment shall be required for subsequent water-demand projects that were included in such larger water-demand project if all of the following criteria are met:

(1) The entity completing the water assessment had concluded that its water supplies are sufficient to meet the projected water demand associated with the larger water-demand project, in addition to the existing and planned future uses, including, but not limited to, agricultural and industrial uses; and

(2) None of the following changes has occurred since the completion of the water assessment for the larger water-demand project:

(A) Changes in the larger water-demand project that result in a substantial increase in water demand for the water-demand project.

(B) Changes in the circumstances or conditions substantially affecting the ability of the applicable agencies to provide a sufficient supply of water for the water-demand project.

(C) Significant new information becomes available which was not known and could not have been known at the time when the entity had reached the conclusion in subdivision (d)(1).

(e) The city or county lead agency shall include the water assessment, and any water acquisition plan provided pursuant to subdivision (a) of Section 10911 of the Water Code in the EIR, negative declaration, or mitigated negative declaration prepared for the water-demand project, and may include an evaluation of the water

assessment and water acquisition plan information within such environmental document. The city or county lead agency shall determine, based on the entire record, whether projected water supplies will be sufficient to satisfy the demands of the project, in addition to existing and planned future uses. If the a city or county lead agency determines that water supplies will not be sufficient, the city or county lead agency shall include that determination in its findings for the water-demand project pursuant to Sections 15091 and 15093.

Note: Authority Cited: Section 21083, Public Resources Code. Reference: Section 21151.9, Public Resources Code, Sections 10910- 10914 of the Water Code.

ARTICLE 11.5. MASTER ENVIRONMENTAL IMPACT RPORT

§ 15179. Limitations on the Use of the Master EIR.

(a) The certified Master EIR shall not be used for a subsequent project described in the Master EIR in accordance with this article if either:

(i1) The Master EIR ~~is~~ was certified more than five years prior to the filing of an application for a ~~later~~ subsequent project except as set forth in subsection (b) below, or

(ii2) ~~After the certification of the Master EIR,~~ a project not identified in the certified Master EIR as an anticipated subsequent project is approved and the approved project may affect the adequacy of the Master EIR for any subsequent project that was described in the Master EIR, ~~unless the lead agency does one of the following:~~

(b) A Master EIR that was certified more than five years prior to the filing of an application for a subsequent project described in the Master EIR may be used in accordance with this article to review such a subsequent project if the lead agency reviews the adequacy of the Master EIR and takes either of the following steps:

(a1) ~~Reviews the Master EIR and f~~ Finds that no substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, or that there is no new available information which was not known and could not have been known at the time the Master EIR was certified; or

(b2) Prepares an initial study, and pursuant to the findings of the initial study either:

(A) certifies a subsequent or supplemental EIR that updates or revises the Master EIR and which either (i1) is incorporated into the previously certified Master EIR, or (ii2) references any deletions,

additions or other modifications to the previously certified Master EIR; or

(B) approves a mitigated negative declaration that addresses substantial changes that have occurred with respect to the circumstances under which the Master EIR was certified or the new information that was not known and could not have been known at the time the Master EIR was certified.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21157.6, Public Resources Code.

Discussion: ~~A master EIR must be periodically reviewed, in light of changing circumstances, to determine that it is still an adequate analysis of the significant environmental effects of the project for which it was prepared. Updating the master EIR, including preparing subsequent or supplemental EIRs, maintains its effectiveness as the basis for streamlined review of projects that are within its scope.~~

ARTICLE 12. SPECIAL SITUATIONS

§ 15180. Redevelopment Projects.

(a) An EIR for a redevelopment plan may be a Master EIR, a program EIR, or a project EIR. An EIR for a redevelopment plan must specify whether it is a Master EIR, a program EIR, or a project EIR.

(b) If the EIR for a redevelopment plan is a project EIR, All public and private activities or undertakings pursuant to or in furtherance of a the redevelopment plan shall constitute a single project, which shall be deemed approved at the time of adoption of the redevelopment plan by the legislative body. The EIR in connection with the redevelopment plan shall be submitted in accordance with Section 33352 of the Health and Safety Code.

~~(b) If a project EIR has been certified for the An EIR on a redevelopment plan, shall be treated as a program EIR with no subsequent EIRs are required for individual components of the redevelopment plan unless a subsequent EIR or a supplement to an EIR would be required by Section 15162 or 15163.~~

(c) If the EIR for a redevelopment plan is a Master EIR, subsequent projects which the lead agency determines as being within the scope of the Master EIR will be subject to the review required by Section 15177. If the EIR for a redevelopment plan is a program EIR, subsequent activities in the program will be subject to the review required by Section 15168.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21090 and 21166, Public Resources Code.

Discussion: ~~This section identifies the special requirements that apply to redevelopment projects. Subsection (a) identifies the statutory requirements that apply in this situation.~~

~~Subsection (b) is an effort to relate the provisions applying to redevelopment projects to other provisions in CEQA. The language in CEQA Section 21090 providing that a redevelopment plan and undertakings in furtherance thereof are a single project, is consistent with the theory of a program EIR. Case law interpreting program EIRs has provided that the various undertakings in furtherance of a program for which a program EIR was prepared must be analyzed in the light of that program EIR. If the later activities in the program involve no new significant effects beyond those analyzed in the program EIR and are adequately handled by mitigation measures identified in the program EIR, there is no need for further documentation in the EIR process. If, however, a particular activity would involve a new significant effect, then there must be additional CEQA compliance for that effect.~~

~~This approach is also consistent with Sections 21166 and 21090 which speaks in terms of a single project. They provide that where an EIR has been prepared for a project under CEQA, no subsequent or supplemental EIR shall be required by the Lead Agency or any other Responsible Agency unless one of the three described events occurs.~~

§ 15186. School Facilities.

[(a): no changes]

~~(b) Before certifying an EIR or adopting a negative declaration for When a project located within one-fourth mile of a school that involves the construction or alteration of a facility which that might reasonably be anticipated to emit hazardous air emissions or acutely hazardous air emissions, or which that would handle acutely an extremely hazardous material substance or a mixture containing acutely extremely hazardous material substances in a quantity equal to or greater than that specified in subdivision (a) of Section 25536 of the Health and Safety Code, which the state threshold quantity specified in subdivision (j) of Section 25532 of the Health and Safety Code, that may impose a health or safety hazard to persons who would attend or would be employed at the school, the lead agency must do both of~~

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the following:

(1) Consult with the affected school district or districts regarding the potential impact of the project on the school; ~~and when circulating the proposed negative declaration or draft EIR for review.~~

(2) Notify the affected school district or districts of the project, in writing, not less than 30 days prior to approval or certification of the negative declaration or EIR. ~~This subdivision does not apply to projects for which an application was submitted prior to January 1, 1992.~~

(c) When the project involves the purchase of a school site or the construction of a secondary or elementary school by a school district, the negative declaration or EIR prepared for the project shall not be ~~approved~~ adopted or certified ~~by the school board~~ unless:

(1) The negative declaration, mitigated negative declaration, or EIR contains sufficient information to determine whether the property is:

[(A) – (C): no changes]

(D) Within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.

[(2): no changes]

(3) The school ~~board~~ district makes, on the basis of substantial evidence, one of the following written findings:

[(A): no changes]

(B) The facilities specified in paragraph (2) exist, but one of the following conditions applies:

[1. – 2.: no changes]

3. For a school site with boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the school district determines, through a health risk assessment pursuant to subdivision (b)(2) of Section 44360 of the Health and Safety Code, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.

(C) The facilities or other pollution sources specified in subsection (c)(2) exist, but conditions in subdivisions (c)(3)(B)(1), (2) or (3) cannot be met, and the school district is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in subdivision (a) of Section 17213 of the Education Code. If the school district makes this finding, the school board shall prepare an EIR and adopt a statement of overriding considerations.

This finding shall be in addition to any findings which may be required pursuant to Sections 15074, 15091 or 15093.

[(d): no changes]

(e) The following definitions shall apply for the purposes of this section:

[(1) – (2): no changes]

(3) “Extremely hazardous substance,” is as defined in subdivision (g)(2)(B) of Section 25532 of the Health and Safety Code and listed in Section 2770.5, Table 3, of Title 19 of the California Code of Regulations.

(4) "Facilities" means any source with a potential to use, generate, emit or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the California Air Resources Board.

(5) "Freeway or other busy traffic corridors" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area, as defined in Section 50101 of the Health and Safety Code, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety Code.

(6) "Handle" means to use, generate, process, produce, package, treat, store, emit, discharge, or dispose of a hazardous material in any fashion.

(37) "Hazardous air emissions," is as defined in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(48) "Hazardous substance," is as defined in Section 25316 of the Health and Safety Code.

(59) "Hazardous waste," is as defined in Section 25117 of the Health and Safety Code.

(610) "Hazardous waste disposal site," is as defined in Section 25114 of the Health and Safety Code.

Note: Authority cited: Section 21083, Public Resources Code. References: Sections 21151.4 and 21151.8, Public Resources Code.

~~**Discussion:** CEQA contains requirements applicable to school projects and projects proposed near schools which are intended to limit the exposure of school children and others to toxic or hazardous substances. This section brings the requirements of Public Resources Code sections 21151.4 and 21151.8 together in a single place for ease of reference.~~

§ 15190.5. Department Of Defense Notification Requirement.

(a) For purposes of this section, the following definitions are applicable.

(1) "Low-level flight path" means any flight path for any aircraft owned, maintained, or that is under the jurisdiction of the United States Department of Defense that flies lower than 1,500 feet above ground level, as indicated in the United States Department of Defense Flight Information Publication, "Area Planning Military Training Routes: North and South America (AP/1B)" published by the United States National Imagery and Mapping Agency, or its successor, as of the date the military service gives written notification to a lead agency pursuant to subdivision (b).

(2) "Military impact zone" means any area, including airspace, that meets both of the following criteria:

(A) Is within two miles of a military installation, including, but not limited to, any base, military airport, camp, post, station, yard, center, homeport facility for a ship, or any other military activity center that is under the jurisdiction of the United States Department of Defense; and

(B) Covers greater than 500 acres of unincorporated land, or greater than 100 acres of city incorporated land.

(3) "Military service" means the United States Department of Defense or any branch of the United States Armed Forces.

(4) "Special use airspace" means the land area underlying the airspace that is designated for training, research, development, or evaluation for a military service, as that land area is established by the United States Department of Defense Flight Information Publication, "Area Planning: Special Use Airspace: North and South America (AP/1A)" published by the United

States National Imagery and Mapping Agency, or its successor, as of the date the military service gives written notification to a lead agency pursuant to subdivision (b).

(b) A military service may give written notification to a lead agency of the specific boundaries of a low-level flight path, military impact zone, or special use airspace, and provide the lead agency, in writing, the military contact office and address for the military service. If the notice references the specific boundaries of a low-level flight path, such notification must include a copy of the applicable United States Department of Defense Flight Information Publication, "Area Planning Military Training Routes: North and South America (AP/1B)." If the notice references the specific boundaries of a special use airspace, such notification must include a copy of the applicable United States Department of Defense Flight Information Publication, "Area Planning: Special Use Airspace: North and South America (AP/1A)."

(c) If a military service provides the written notification specified in subdivision (b) of this section, a lead agency must include the specified military contact office in the list of organizations and individuals receiving a notice of intent to adopt a negative declaration or a mitigated negative declaration pursuant to Section 15072, in the list of organizations and individuals receiving a notice of preparation of an EIR pursuant to Section 15082, and in the list of organizations and individuals receiving a notice of availability of a draft EIR pursuant to Section 15087 for any project that meets all of the criteria specified below:

(1) The project to be carried out or approved by the lead agency is within the boundaries specified in subdivision (b).

(2) The project is one of the following:

(A) a project that includes a general plan amendment; or

(B) a project that is of statewide, regional, or areawide significance;
or

(C) a project that relates to a public use airport and the area surrounding such airport which is required to be referred to the airport land use commission, or appropriately designated body, pursuant to Sections 21670-21679.5 of the Public Utilities Code.

(3) The project is not one of the actions described below. A lead agency does not need to send to the specified military contact office a notice of intent to adopt a negative declaration or a mitigated negative declaration, a notice of preparation of an EIR, or a notice of availability of a draft EIR for such actions.

(A) a response action taken pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(B) a response action taken pursuant to Chapter 6.85 (commencing with Section 25396) of Division 20 of the Health and Safety Code.

(C) a project undertaken at a site in response to a corrective action order issued pursuant to Section 25187 of the Health and Safety Code.

The lead agency shall send the specified military contact office a notice of intent or a notice of availability sufficiently prior to adoption or certification of the environmental documents by the lead agency to allow the military service the review period provided under Section 15105.

(d) The effect or potential effect that a project may have on military activities does not itself constitute an adverse effect on the environment for the purposes of CEQA.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21098, Public Resources Code.

Article 12.5. Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects

§ 15191. Definitions.

For purposes of this Article 12.5 only, the following words shall have the following meanings:

(a) "Agricultural employee" means a person engaged in agriculture, including: farming in all its branches, and, among other things, includes: (1) the cultivation and tillage of the soil, (2) dairying, (3) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in Section 1141j(g) of Title 12 of the United States Code), (4) the raising of livestock, bees, furbearing animals, or poultry, and (5) any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market and delivery to storage or to market or to carriers for transportation to market. This definition is subject to the following limitations:

This definition shall not be construed to include any person other than those employees excluded from the coverage of the National Labor Relations Act, as amended, as agricultural employees, pursuant to Section 2(3) of the Labor Management Relations Act (Section 152(3), Title 29, United States Code), and

Section 3(f) of the Fair Labor Standards Act (Section 203(f), Title 29, United States Code).

This definition shall not apply, or be construed to apply, to any employee who performs work to be done at the site of the construction, alteration, painting, or repair of a building, structure, or other work (as these terms have been construed under Section 8(e) of the Labor Management Relations Act, 29 U.S.C. Sec. 158(e)) or logging or timber-clearing operations in initial preparation of land for farming, or who does land leveling or only land surveying for any of the above. As used in this definition, "land leveling" shall include only major land moving operations changing the contour of the land, but shall not include annual or seasonal tillage or preparation of land for cultivation.

(b) "Census-defined place" means a specific unincorporated land area within boundaries determined by the United States Census Bureau in the most recent decennial census.

(c) "Community-level environmental review" means either of the following:

(1) An EIR certified on any of the following:

(A) A general plan.

(B) A revision or update to the general plan that includes at least the land use and circulation elements.

(C) An applicable community plan.

(D) An applicable specific plan.

(E) A housing element of the general plan, if the environmental impact report analyzed the environmental effects of the density of the proposed project.

(2) A negative declaration or mitigated negative declaration adopted as a subsequent environmental review document, following and based upon an EIR on a general plan, an applicable community plan, or an applicable specific plan, provided that the subsequent environmental review document is allowed by CEQA following a master EIR or a program EIR, or is required pursuant to Section 21166.

(d) "Developed open space" means land that meets all of the following criteria:

(1) land that is publicly owned, or financed in whole or in part by public funds,

(2) is generally open to, and available for use by, the public, and

(3) is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ball fields, enclosed child play areas, and picnic facilities.

Developed open space may include land that has been designated for acquisition by a public agency for developed open space but does not include lands acquired by public funds dedicated to the acquisition of land for housing purposes.

(e) "Infill site" means a site in an urbanized area that meets one of the following criteria:

(1)The site has been previously developed for qualified urban uses; or

(2) The site has not been developed for qualified urban uses but all immediately adjacent parcels are developed with existing qualified urban uses; or

(3) The site has not been developed for qualified urban uses, no parcel within the site has been created within the past 10 years, and the site is situated so that:

(A) at least 75 percent of the perimeter of the site is adjacent to parcels that are developed with existing qualified urban uses at the time the lead agency receives an application for an approval; and

(B) the remaining 25 percent of the perimeter of the site adjoins parcels that had been previously developed for qualified urban uses.

(f) "Low- and moderate-income households" means "persons and families of low or moderate income" as defined in Section 50093 of the Health and Safety Code to mean persons and families whose income does not exceed 120 percent of area median income, adjusted for family size by the Department of Housing and Community Development, in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

(g) "Low-income households" means households of persons and families of very low and low income, which are defined in Sections 50093 and 50105 of the Health and Safety Code as follows:

(1) "Persons and families of low income" or "persons of low income" is defined in Section 50093 of the Health & Safety Code to mean persons or families who are eligible for financial assistance specifically provided by a

governmental agency for the benefit of occupants of housing financed pursuant to this division.

(2) "Very low income households" is defined in Section 50105 of the Health & Safety Code to mean persons and families whose incomes do not exceed the qualifying limits for very low income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. "Very low income households" includes extremely low income households, as defined in Section 50106 of the Health & Safety Code.

(h) "Lower income households" is defined in Section 50079.5 of the Health and Safety Code to mean any of the following:

(1) "Lower income households," which means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937.

(2) "Very low income households," which means persons and families whose incomes do not exceed the qualifying limits for very low income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937.

(3) "Extremely low income households," which means persons and families whose incomes do not exceed the qualifying limits for extremely low income families as established and amended from time to time by the Secretary of Housing and Urban Development and defined in Section 5.603(b) of Title 24 of the Code of Federal Regulations.

(i) "Major transit stop" means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

(j) "Project-specific effect" means all the direct or indirect environmental effects of a project other than cumulative effects and growth-inducing effects.

(k) "Qualified urban use" means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(l) "Residential" means a use consisting of either of the following:

(1) Residential units only.

(2) Residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15 percent of the total floor area of the project.

(m) "Urbanized area" means either of the following:

(1) An incorporated city that either by itself or in combination with two contiguous incorporated cities has a population of at least 100,000 persons; or

(2) An unincorporated area that meets the requirements set forth in subdivision (m)(2)(A) and subdivision (m)(2)(B) below.

(A) The unincorporated area must meet one of the following location or density requirements:

1. The unincorporated area must be: (i) completely surrounded by one or more incorporated cities, (ii) have a population of at least 100,000 persons either by itself or in combination with the surrounding incorporated city or cities, and (iii) have a population density that at least equals the population density of the surrounding city or cities; or

2. The unincorporated area must be located within an urban growth boundary and have an existing residential population of at least 5,000 persons per square mile. For purposes of this subparagraph, an "urban growth boundary" means a provision of a locally adopted general plan that allows urban uses on one side of the boundary and prohibits urban uses on the other side.

(B) The board of supervisors with jurisdiction over the unincorporated area must have taken the following steps:

1. The board has prepared a draft document by which the board would find that the general plan, zoning ordinance, and related policies and programs applicable to the unincorporated area are consistent with principles that: (i) encourage compact development in a manner that promotes efficient transportation systems, economic growth, affordable housing, energy efficiency, and an appropriate balance of jobs and housing, and (ii) protects the environment, open space, and agricultural areas.

2. The board has submitted the draft document to OPR and allowed OPR thirty days to submit comments on the draft findings to the board.

3. No earlier than thirty days after submitting the draft document to OPR, the board has adopted a final finding in substantial conformity with the draft finding described in the draft document referenced in subdivision (m)(2)(B)(1) above.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21159.20, 21159.21, 21159.22, 21159.23, 21159.24, Public Resources Code.

§ 15192. Threshold Requirements for Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects.

In order to qualify for an exemption set forth in sections 15193, 15194 or 15195, a housing project must meet all of the threshold criteria set forth below.

(a) The project must be consistent with:

(1) Any applicable general plan, specific plan, or local coastal program, including any mitigation measures required by such plan or program, as that plan or program existed on the date that the application for the project pursuant to Section 65943 of the Government Code was deemed complete; and

(2) Any applicable zoning ordinance, as that zoning ordinance existed on the date that the application for the project pursuant to Section 65943 of the Government Code was deemed complete, unless the zoning of project property is inconsistent with the general plan because the project property has not been rezoned to conform to the general plan.

(b) Community-level environmental review has been adopted or certified.

(c) The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.

(d) The site of the project:

(1) Does not contain wetlands, as defined in Section 328.3 of Title 33 of the Code of Federal Regulations.

(2) Does not have any value as an ecological community upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(3) Does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(4) Does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.

(e) The site of the project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.

(f) The site of the project is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity. In addition, the following steps have been taken in response to the results of this assessment:

(1) If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(2) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(g) The project does not have a significant effect on historical resources pursuant to Section 21084.1 of the Public Resources Code.

(h) The project site is not subject to wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(i) The project does not have an unusually high risk of fire or explosion from materials stored or used on nearby properties.

(j) The project does not present a risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(k) Either the project is not within a delineated earthquake fault zone or a seismic hazard zone, as determined pursuant to Section 2622 and 2696 of the Public

Resources Code respectively, or the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake or seismic hazard.

(l) Either the project does not present a landslide hazard, flood plain, flood way, or restriction zone, or the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

(m) The project site is not located on developed open space.

(n) The project site is not located within the boundaries of a state conservancy.

(o) The project has not been divided into smaller projects to qualify for one or more of the exemptions set forth in sections 15193 to 15195.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21159.21, 21159.27, Public Resources Code.

§ 15193. Agricultural Housing Exemption.

CEQA does not apply to any development project that meets the following criteria.

(a) The project meets the threshold criteria set forth in section 15192.

(b) The project site meets the following size criteria:

(1) The project site is located in an area with a population density of at least 1,000 persons per square mile and is two acres or less in area; or

(2) The project site is located in an area with a population density of less than 1,000 persons per square mile and is five acres or less in area.

(c) The project meets the following requirements regarding location and number of units.

(1) If the proposed development project is located on a project site within city limits or in a census-defined place, it must meet the following requirements:

(A) The proposed project location must be within one of the following:

1. Incorporated city limits; or

2. A census defined place with a minimum population density of at least 5,000 persons per square mile; or

3. A census-defined place with a minimum population density of at least 1,000 persons per square mile, unless a public agency that is carrying out or approving the project determines that there is a reasonable possibility that the project, if completed, would have a significant effect on the environment due to unusual circumstances or that the cumulative impacts of successive projects of the same type in the same area, over time, would be significant.

(B) The proposed development project must be located on a project site that is adjacent, on at least two sides, to land that has been developed.

(C) The proposed development project must meet either of the following requirements:

1. Consist of not more than 45 units, or

2. Consist of housing for a total of 45 or fewer agricultural employees if the housing consists of dormitories, barracks, or other group living facilities.

(2) If the proposed development project is located on a project site zoned for general agricultural use, it must meet either of the following requirements:

(A) Consist of not more than 20 units, or

(B) Consist of housing for a total of 20 or fewer agricultural employees if the housing consists of dormitories, barracks, or other group living facilities.

(d) The project meets the following requirements regarding provision of housing for agricultural employees:

(1) The project must consist of the construction, conversion, or use of residential housing for agricultural employees.

(2) If the project lacks public financial assistance, then:

(A) The project must be affordable to lower income households; and

(B) The developer of the development project must provide sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for lower income households for a period of at least 15 years.

(3) If public financial assistance exists for the project, then:

(A) The project must be housing for very low, low-, or moderate-income households; and

(B) The developer of the development project must provide sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for low- and moderate-income households for a period of at least 15 years.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21159.22, Public Resources Code.

§ 15194. Affordable Housing Exemption.

CEQA does not apply to any development project that meets the following criteria:

(a) The project meets the threshold criteria set forth in section 15192.

(b) The project meets the following size criteria: the project site is not more than five acres in area.

(c) The project meets both of the following requirements regarding location:

(1) The project meets one of the following location requirements relating to population density:

(A) The project site is located within an urbanized area or within a census-defined place with a population density of at least 5,000 persons per square mile.

(B) If the project consists of 50 or fewer units, the project site is located within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.

(C) The project is located within either an incorporated city or a census defined place with a population density of at least 1,000 persons per square mile and there is no reasonable possibility that the project would have a significant effect on the environment or the residents of the project due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.

§ 15195. Residential Infill Exemption.

(a) Except as set forth in subdivision (b), CEQA does not apply to any development project that meets the following criteria:

(1) The project meets the threshold criteria set forth in section 15192; provided that with respect to the requirement in section 15192(b) regarding community-level environmental review, such review must be certified or adopted within five years of the date that the lead agency deems the application for the project to be complete pursuant to Section 65943 of the Government Code.

(2) The project meets both of the following size criteria:

(A) The site of the project is not more than four acres in total area.

(B) The project does not include any single level building that exceeds 100,000 square feet.

(3) The project meets both of the following requirements regarding location:

(A) The project is a residential project on an infill site.

(B) The project is within one-half mile of a major transit stop.

(4) The project meets both of the following requirements regarding number of units:

(A) The project does not contain more than 100 residential units.

(B) The project promotes higher density infill housing. The lead agency may establish its own criteria for determining whether the project promotes higher density infill housing except in either of the following two circumstances:

1. A project with a density of at least 20 units per acre is conclusively presumed to promote higher density infill housing.

2. A project with a density of at least 10 units per acre and a density greater than the average density of the residential properties within 1,500 feet shall be presumed to promote higher density infill housing unless the preponderance of the evidence demonstrates otherwise.

///

(5) The project meets the following requirements regarding availability of affordable housing: The project would result in housing units being made available to moderate, low or very low income families as set forth in either A or B below:

(A) The project meets one of the following criteria, and the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units as set forth below at monthly housing costs determined pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code.

1. At least 10 percent of the housing is sold to families of moderate income, or

2. Not less than 10 percent of the housing is rented to families of low income, or

3. Not less than 5 percent of the housing is rented to families of very low income.

(B) If the project does not result in housing units being available as set forth in subdivision (A) above, then the project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to subparagraph (A).

(b) A project that otherwise meets the criteria set forth in subdivision (a) is not exempt from CEQA if any of the following occur:

(1) There is a reasonable possibility that the project will have a project-specific, significant effect on the environment due to unusual circumstances.

(2) Substantial changes with respect to the circumstances under which the project is being undertaken that are related to the project have occurred since community-level environmental review was certified or adopted:

(3) New information becomes available regarding the circumstances under which the project is being undertaken and that is related to the project that was not known, and could not have been known at the time that community-level environmental review was certified or adopted.

If a project is not exempt from CEQA due to subdivision (b), the analysis of the environmental effects of the project covered in the EIR or the negative declaration

shall be limited to an analysis of the project-specific effect of the projects and any effects identified pursuant to subdivisions (b)(2) and (3).

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21159.24, Public Resources Code.

§ 15196. Notice of Exemption for Agricultural Housing, Affordable Housing, and Residential Infill Projects.

(a) When a local agency determines that a project is not subject to CEQA under Section 15193, 15194, or 15195, and it approves or determines to carry out that project, the local agency or person seeking project approval shall file the notice required by Section 21152.1 of the Public Resources Code, pursuant to Section 15062.

(b) Failure to file the notice required by this section does not affect the validity of a project.

(c) Nothing in this section affects the time limitations contained in Section 21167.

Note: Authority cited: Section 21083, Public Resources Code. Reference: 21152.1, Public Resources Code.