CEQA Application of Knowledge

Thursday, February 28; 1:45 pm - 3:00 pm

Moderator:  Brian Smith, Senior Urban/Environmental Planner, URS

Speakers:

Patricia E. Curtin, Land Use Attorney and Planning Commission Chair, Wendel, Rosen, Black & Dean

David Snow, Shareholder, Richards Watson & Gershon; City Attorney- City of Yucaipa, Assistant City Attorney- Beverly Hills and Rancho Palos Verdes

Session Materials:

1. Hypothetical Project – general description of a project that will serve as the vehicle to discuss various CEQA issues.

2. State CEQA Guidelines - Statutory Exemptions Excerpt

3. State CEQA Guidelines - Categorical Exemptions Excerpt

4. New Streamlining for Infill Projects Documents – new CEQA Guideline Section 15183.3 and appendices
Tab 1:

Hypothetical Project – general description of a project that will serve as the vehicle to discuss various CEQA issues.
HYPOTHETICAL PROJECT

- 100 unit complex on 5 acres with 20% low – moderate affordable units; 3 stories in height.
- Consistent with General Plan, Specific Plan and Zoning residential designations.
- Adjacent to a major freeway, mass transit station and bus stops.
- Property is vacant other than a 100- year old structure.
- Seasonal creek traverses along one side of the property.
- Property is located in the downtown core adjacent to retail and other commercial uses.
- Property is located within ½ mile of an elementary school and high school.
Tab 2:

State CEQA Guidelines -
Statutory Exemptions Excerpt
§ 15260. General.

This article describes the exemptions from CEQA granted by the Legislature. The exemptions take several forms. Some exemptions are complete exemptions from CEQA. Other exemptions apply to only part of the requirements of CEQA, and still other exemptions apply only to the timing of CEQA compliance.

§ 15261. Ongoing Project.

(a) If a project being carried out by a public agency was approved prior to November 23, 1970, the project shall be exempt from CEQA unless either of the following conditions exists:

(1) A substantial portion of public funds allocated for the project have not been spent, and it is still feasible to modify the project to mitigate potentially adverse environmental effects, or to choose feasible alternatives to the project, including the alternative of “no project” or halting the project; provided that a project subject to the National Environmental Policy Act (NEPA) shall be exempt from CEQA as an on-going project if, under regulations promulgated under NEPA, the project would be too far advanced as of January 1, 1970, to require preparation of an EIS.
(2) A public agency proposes to modify the project in such a way that the project might have a new significant effect on the environment.

(b) A private project shall be exempt from CEQA if the project received approval of a lease, license, certificate, permit, or other entitlement for use from a public agency prior to April 5, 1973, subject to the following provisions:

(1) CEQA does not prohibit a public agency from considering environmental factors in connection with the approval or disapproval of a project, or from imposing reasonable fees on the appropriate private person or entity for preparing an environmental report under authority other than CEQA. Local agencies may require environmental reports for projects covered by this paragraph pursuant to local ordinances during this interim period.

(2) Where a project was approved prior to December 5, 1972, and prior to that date the project was legally challenged for noncompliance with CEQA, the project shall be bound by special rules set forth in Section 21170 of CEQA.

(3) Where a private project has been granted a discretionary governmental approval for part of the project before April 5, 1973, and another or additional discretionary governmental approvals after April 5, 1973, the project shall be subject to CEQA only if the approval or approvals after April 5, 1973, involve a greater degree of responsibility or control over the project as a whole than did the approval or approvals prior to that date.

§ 15262. Feasibility and Planning Studies.

A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or negative declaration but does require consideration of environmental factors. This section does not apply to the adoption of a plan that will have a legally binding effect on later activities.

§ 15263. Discharge Requirements.

The State Water Resources Control Board and the regional boards are exempt from the requirement to prepare an EIR or a negative declaration prior to the adoption of waste discharge requirements, except requirements for new sources as defined in the Federal Water Pollution Control Act or in other acts which amend or supplement the Federal Water Pollution Control Act. The term “waste discharge requirements” as used in this section is the equivalent of the term “permits” as used in the Federal Water Pollution Control Act.
§ 15264. Timberland Preserves.

Local agencies are exempt from the requirement to prepare an EIR or negative declaration on the adoption of timberland preserve zones under Government Code Sections 51100 et seq. (Gov. Code, Sec. 51119).

§ 15265. Adoption of Coastal Plans and Programs.

(a) CEQA does not apply to activities and approvals pursuant to the California Coastal Act (commencing with Section 30000 of the Public Resources Code) by:

(1) Any local government, as defined in Section 30109 of the Public Resources Code, necessary for the preparation and adoption of a local coastal program, or

(2) Any state university or college, as defined in Section 30119, as necessary for the preparation and adoption of a long-range land use development plan.

(b) CEQA shall apply to the certification of a local coastal program or long-range land use development plan by the California Coastal Commission.

(c) This section shifts the burden of CEQA compliance from the local agency or the state university or college to the California Coastal Commission. The Coastal Commission's program of certifying local coastal programs and long-range land use development plans has been certified under Section 21080.5, Public Resources Code. See Section 15192.

§ 15266. General Plan Time Extension.

CEQA shall not apply to the granting of an extension of time by the Office of Planning and Research to a city or county for the preparation and adoption of one or more elements of a city or county general plan.

§ 15267. Financial Assistance to Low or Moderate Income Housing.

CEQA does not apply to actions taken by the Department of Housing and Community Development to provide financial assistance for the development and construction of residential housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. The residential project which is the subject of the application for financial assistance...
assistance will be subject to CEQA when approvals are granted by another agency.

§ 15268. Ministerial Projects.

(a) Ministerial projects are exempt from the requirements of CEQA. The determination of what is "ministerial" can most appropriately be made by the particular public agency involved based upon its analysis of its own laws, and each public agency should make such determination either as a part of its implementing regulations or on a case-by-case basis.

(b) In the absence of any discretionary provision contained in the local ordinance or other law establishing the requirements for the permit, license, or other entitlement for use, the following actions shall be presumed to be ministerial:

(1) Issuance of building permits.

(2) Issuance of business licenses.

(3) Approval of final subdivision maps.

(4) Approval of individual utility service connections and disconnections.

(c) Each public agency should, in its implementing regulations or ordinances, provide an identification or itemization of its projects and actions which are deemed ministerial under the applicable laws and ordinances.

(d) Where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

§ 15269. Emergency Projects.

The following emergency projects are exempt from the requirements of CEQA.

(a) Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code. This includes projects that will remove, destroy, or significantly alter an historical resource when that resource represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic
Preservation pursuant to Section 5028(b) of Public Resources Code.

(b) Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety or welfare.

(c) Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.

(d) Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This exemption does not apply to highways designated as official state scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

(e) Seismic work on highways and bridges pursuant to Section 180.2 of the Streets and Highways Code, Section 180 et seq.

§ 15270. Projects Which Are Disapproved.

(a) CEQA does not apply to projects which a public agency rejects or disapproves.

(b) This section is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved.

(c) This section shall not relieve an applicant from paying the costs for an EIR or negative declaration prepared for his project prior to the lead agency's disapproval of the project after normal evaluation and processing.

§ 15271. Early Activities Related to Thermal Power Plants.

(a) CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for such a thermal power plant, if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a

regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by:

(1) The State Energy Resources Conservation and Development Commission,

(2) The Public Utilities Commission, or

(3) The city or county in which the power plant and related facility would be located.

(b) The EIR, negative declaration, or other document prepared for the thermal power plant site or facility, shall include the environmental impact, if any, of the early activities described in this section.

(c) This section acts to delay the timing of CEQA compliance from the early activities of a utility to the time when a regulatory agency is requested to approve the thermal power plant and shifts the responsibility for preparing the document to the regulatory agency.

§ 15272. Olympic Games.

CEQA does not apply to activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, Olympic Games under the authority of the International Olympic Committee, except for the construction of facilities necessary for such Olympic Games. If the facilities are required by the International Olympic Committee as a condition of being awarded the Olympic Games, the lead agency need not discuss the “no project” alternative in an EIR with respect to those facilities.

§ 15273. Rates, Tolls, Fares, and Charges.

(a) CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purpose of:

(1) Meeting operating expenses, including employee wage rates and fringe benefits,

(2) Purchasing or leasing supplies, equipment, or materials,

(3) Meeting financial reserve needs and requirements,

(4) Obtaining funds for capital projects, necessary to maintain service within
existing service areas, or

(5) Obtaining funds necessary to maintain such intra-city transfers as are authorized by city charter.

(b) Rate increases to fund capital projects for the expansion of a system remain subject to CEQA. The agency granting the rate increase shall act either as the lead agency if no other agency has prepared environmental documents for the capital project or as a responsible agency if another agency has already complied with CEQA as the lead agency.

(c) The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this section is claimed setting forth with specificity the basis for the claim of exemption.

§ 15274. Family Day Care Homes.

(a) CEQA does not apply to establishment or operation of a large family day care home, which provides in-home care for up to fourteen children, as defined in Section 1596.78 of the Health and Safety Code.

(b) Under the Health and Safety Code, local agencies cannot require use permits for the establishment or operation of a small family day care home, which provides in-home care for up to eight children, and the establishment or operation of a small family day care home is a ministerial action which is not subject to CEQA.


CEQA does not apply to the following mass transit projects:

(a) The institution or increase of passenger or commuter service on rail lines or high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities;

(b) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

§ 15276. Transportation Improvement and Congestion Management Programs.

(a) CEQA does not apply to the development or adoption of a regional
transportation improvement program or the state transportation improvement program. Individual projects developed pursuant to these programs shall remain subject to CEQA.

(b) CEQA does not apply to preparation and adoption of a congestion management program by a county congestion management agency pursuant to Government Code Section 65089, et seq.

§ 15277. Projects Located Outside California.

CEQA does not apply to any project or portion thereof located outside of California which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or pursuant to a law of that state requiring preparation of a document containing essentially the same points of analysis as in an environmental impact statement prepared under the National Environmental Policy Act of 1969. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to CEQA where a California public agency has authority over the emissions or discharges.

§ 15278. Application of Coatings.

(a) CEQA does not apply to a discretionary decision by an air quality management district for a project consisting of the application of coatings within an existing facility at an automotive manufacturing plant if the district finds all of the following:

(1) The project will not cause a net increase in any emissions of any pollutant for which a national or state ambient air quality standard has been established after the internal emission accounting for previous emission reductions achieved at the facility and recognized by the district.

(2) The project will not cause a net increase in adverse impacts of toxic air contaminants as determined by a health risk assessment. The term “net increase in adverse impacts of toxic air contaminants as determined by a health risk assessment” shall be determined in accordance with the rules and regulations of the district.

(3) The project will not cause any other adverse effect on the environment.

(b) The district shall provide a 10-day notice, at the time of the issuance of the permit, of any such exemption. Notice shall be published in two newspapers of general circulation in the area of the project and shall be mailed to any person who makes a written request for such a notice. The notice shall state that the
complete file on the project and the basis for the district's findings of exemption are available for inspection and copying at the office of the district.

(c) Any person may appeal the issuance of a permit based on an exemption under subdivision (a) to the hearing board as provided in Section 42302.1 of the Health and Safety Code. The permit shall be revoked by the hearing board if there is substantial evidence in light of the whole record before the board that the project may not satisfy one or more of the criteria established pursuant to subdivision (a). If there is no such substantial evidence, the exemption shall be upheld. Any appeal under this subdivision shall be scheduled for hearing on the calendar of the hearing board within 10 working days of the appeal being filed. The hearing board shall give the appeal priority on its calendar and shall render a decision on the appeal within 21 working days of the appeal being filed. The hearing board may delegate the authority to hear and decide such an appeal to a subcommittee of its body.

§ 15279. Housing for Agricultural Employees. [Repealed]

§ 15280. Lower-Income Housing Projects. [Repealed]

§ 15281. Air Quality Permits.

CEQA does not apply to the issuance, modification, amendment, or renewal of any permit by an air pollution control district or air quality management district pursuant to Title V, as defined in Section 39053.3 of the Health and Safety Code, or pursuant to an air district Title V program established under Sections 42301.10, 42301.11, and 42301.12 of the Health and Safety Code, unless the issuance, modification, amendment, or renewal authorizes a physical or operational change to a source or facility.

§ 15282. Other Statutory Exemptions.

The following is a list of existing statutory exemptions. Each subdivision summarizes statutory exemptions found in the California Code. Lead agencies are not to rely on the language contained in the summaries below but must rely on the actual statutory language that creates the exemption. This list is intended to assist lead agencies in finding them, but not as a substitute for them. This section is merely a reference tool.

(a) The notification of discovery of Native American burial sites as set forth in Section 5097.98(c) of the Public Resources Code.
(b) Specified prison facilities as set forth in Sections 21080.01, 21080.02, 21080.03 and 21080.07 of the Public Resources Code.

(c) The lease or purchase of the rail right-of-way used for the San Francisco Peninsula commute service between San Francisco and San Jose as set forth in Section 21080.05 of the Public Resources Code.

(d) Any activity or approval necessary for or incidental to project funding or authorization for the expenditure of funds for the project, by the Rural Economic Development Infrastructure Panel as set forth in Section 21080.08 of the Public Resources Code.

(e) The conversion of an existing rental mobilehome park to a resident initiated subdivision, cooperative, or condominium for mobilehomes as set forth in Section 21080.8 of the Public Resources Code.

(f) Settlements of title and boundary problems by the State Lands Commission and to exchanges or leases in connection with those settlements as set forth in Section 21080.11 of the Public Resources Code.

(g) Any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation as set forth in Section 21080.13 of the Public Resources Code.

(h) The adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.

(i) The closing of any public school or the transfer of students from that public school to another school in which kindergarten or any grades 1 through 12 is maintained as set forth in 21080.18 of the Public Resources Code.

(j) A project for restriping streets or highways to relieve traffic congestion as set forth in Section 21080.19 of the Public Resources Code.

(k) The installation of new pipeline or maintenance, repair, restoration, removal, or demolition of an existing pipeline as set forth in Section 21080.21 of the Public Resources Code, as long as the project does not exceed one mile in length.

(l) The activities and approvals by a local government necessary for the preparation of general plan amendments pursuant to Public Resources Code § 29763 as set forth in Section 21080.22 of the Public Resources Code. Section 29763 of the Public Resources Code refers to local government amendments made for consistency with the Delta Protection Commission’s regional plan.
(m) Minor alterations to utilities made for the purposes of complying with Sections 116410 and 116415 of the Health and Safety Code as set forth in Section 21080.26 of the Public Resources Code.

(n) The adoption of an ordinance exempting a city or county from the provisions of the Solar Shade Control Act as set forth in Section 25985 of the Public Resources Code.

(o) The acquisition of land by the Department of Transportation if received or acquired within a statewide or regional priority corridor designated pursuant to Section 65081.3 of the Government Code as set forth in Section 33911 of the Public Resources Code.

(p) The adoption or amendment of a nondisposal facility element as set forth in Section 41735 of the Public Resources Code.

(q) Cooperative agreements for the development of Solid Waste Management Facilities on Indian country as set forth in Section 44203(g) of the Public Resources Code.

(r) Determinations made regarding a city or county’s regional housing needs as set forth in Section 65584 of the Government Code.

(s) Any action necessary to bring a general plan or relevant mandatory element of the general plan into compliance pursuant to a court order as set forth in Section 65759 of the Government Code.

(t) Industrial Development Authority activities as set forth in Section 91543 of the Government Code.

(u) Temporary changes in the point of diversion, place of use, of purpose of use due to a transfer or exchange of water or water rights as set forth in Section 1729 of the Water Code.

(v) The preparation and adoption of Urban Water Management Plans pursuant to the provisions of Section 10652 of the Water Code.

§ 15283. Housing Needs Allocation.

CEQA does not apply to regional housing needs determinations made by the Department of Housing and Community Development, a council of governments, or a city or county pursuant to Section 65584 of the Government Code.
§ 15284. Pipelines.

(a) CEQA does not apply to any project consisting of the inspection, maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of an existing hazardous or volatile liquid pipeline or any valve, flange, meter, or other piece of equipment that is directly attached to the pipeline.

(b) To qualify for this exemption, the diameter of the affected pipeline must not be increased and the project must be located outside the boundaries of an oil refinery. The project must also meet all of the following criteria:

1. The affected section of pipeline is less than eight miles in length and actual construction and excavation activities are not undertaken over a length of more than one-half mile at a time.

2. The affected section of pipeline is not less than eight miles distance from any section of pipeline that had been subject to this exemption in the previous 12 months.

3. The project is not solely for the purpose of excavating soil that is contaminated by hazardous materials.

4. To the extent not otherwise required by law, the person undertaking the project has, in advance of undertaking the project, prepared a plan that will result in notification of the appropriate agencies so that they may take action, if necessary, to provide for the emergency evacuation of members of the public who may be located in close proximity to the project, and those agencies, including but not limited to the local fire department, police, sheriff, and California Highway Patrol as appropriate, have reviewed and agreed to that plan.

5. Project activities take place within an existing right-of-way and that right-of-way will be restored to its pre-project condition upon completion of the project.

6. The project applicant will comply with all conditions otherwise authorized by law, imposed by the city or county as part of any local agency permit process, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Public Resources Code Section 5810, et seq.), the California Endangered Species Act (Fish and Game Code Section 2050, et seq.), other applicable state laws, and all applicable federal laws.

(c) When the lead agency determines that a project meets all of the criteria of subdivisions (a) and (b), the party undertaking the project shall do all of the following:

(1) Notify in writing all responsible and trustee agencies, as well as any public agency with environmental, public health protection, or emergency response authority, of the lead agency's invocation of this exemption.

(2) Mail notice of the project to the last known name and address of all organizations and individuals who have previously requested such notice and notify the public in the affected area by at least one of the following procedures:

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

(B) Posting of notice on and off site in the area where the project is to be located.

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

The notice shall include a brief description of the proposed project and its location, and the date, time, and place of any public meetings or hearings on the proposed project. This notice may be combined with the public notice required under other law, as applicable, but shall meet the preceding minimum requirements.

(3) In the case of private rights-of-way over private property, receive from the underlying property owner permission for access to the property.

(4) Immediately inform the lead agency if any soil contaminated with hazardous materials is discovered.

(5) Comply with all conditions otherwise authorized by law, imposed by the city or county as part of any local agency permit process, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Public Resources Code Section 5810, et seq.), the California Endangered Species Act (Fish and Game Code Section 2050, et seq.), other applicable state laws, and all applicable federal laws.

(d) For purposes of this section, "pipeline" is used as defined in subdivision (a) of Government Code Section 51010.5. This definition includes every intrastate pipeline used for the transportation of hazardous liquid substances or highly volatile liquid substances, including a common carrier pipeline, and all piping containing those substances located within a refined products bulk loading facility which is owned by a common carrier and is served by a pipeline of that...
common carrier, and the common carrier owns and serves by pipeline at least five such facilities in California.

§ 15285. Transit Agency Responses to Revenue Shortfalls.

(a) CEQA does not apply to actions taken on or after July 1, 1995 to implement budget reductions made by a publicly owned transit agency as a result of a fiscal emergency caused by the failure of agency revenues to adequately fund agency programs and facilities. Actions shall be limited to those directly undertaken by or financially supported in whole or in part by the transit agency pursuant to Section 15378(a)(1) or (2), including actions which reduce or eliminate the availability of an existing publicly owned transit service, facility, program, or activity.

(b) When invoking this exemption, the transit agency shall make a specific finding that there is a fiscal emergency. Before taking its proposed budgetary actions and making the finding of fiscal emergency, the transit agency shall hold a public hearing. After this public hearing, the transit agency shall respond within 30 days at a regular public meeting to suggestions made by the public at that initial hearing. The transit agency may make the finding of fiscal emergency only after it has responded to public suggestions.

(c) For purposes of this subdivision, “fiscal emergency” means that the transit agency is projected to have negative working capital within one year from the date that the agency finds that a fiscal emergency exists. “Working capital” is defined as the sum of all unrestricted cash, unrestricted short-term investments, and unrestricted short-term accounts receivable, minus unrestricted accounts payable. Employee retirement funds, including deferred compensation plans and Section 401(k) plans, health insurance reserves, bond payment reserves, worker's compensation reserves, and insurance reserves shall not be included as working capital.

(d) This exemption does not apply to the action of any publicly owned transit agency to reduce or eliminate a transit service, facility, program, or activity that was approved or adopted as a mitigation measure in any environmental document certified or adopted by any public agency under either CEQA or NEPA. Further, it does not apply to actions of the Los Angeles County Metropolitan Transportation Authority.

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Tab 3:
State CEQA Guidelines - Categorical Exemptions Excerpt
§ 15300. Categorical Exemptions.

Section 21084 of the Public Resources Code requires these guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA.

In response to that mandate, the Secretary for Resources has found that the following classes of projects listed in this article do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents.

§ 15300.1. Relation to Ministerial Projects.

Section 21080 of the Public Resources Code exempts from the application of CEQA those projects over which public agencies exercise only ministerial authority. Since ministerial projects are already exempt, Categorical Exemptions should be applied only where a project is not ministerial under a public agency's statutes and ordinances. The inclusion of activities which may be ministerial within the classes and examples contained in this article shall not

be construed as a finding by the Secretary for resources that such an activity is discretionary.

§ 15300.2. Exceptions.

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

§ 15300.3. Revisions to List of Categorical Exemptions.

Any public agency may, at any time, request that a new class of Categorical Exemptions be added, or an existing one amended or deleted. This request must be made in writing to the Office of Planning and Research and shall contain detailed information to support the request. The granting of such request shall be by amendment to these guidelines.
§ 15300.4. Application by Public Agencies.

Each public agency shall, in the course of establishing its own procedures, list those specific activities which fall within each of the exempt classes, subject to the qualification that these lists must be consistent with both the letter and the intent expressed in the classes. Public agencies may omit from their implementing procedures classes and examples that do not apply to their activities, but they may not require EIRs for projects described in the classes and examples in this article except under the provisions of Section 15300.2.

§ 15301. Existing Facilities.

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of “existing facilities” itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use.

Examples include but are not limited to:

(a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;

(b) Existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;

(c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety).

(d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;

(e) Additions to existing structures provided that the addition will not result in an increase of more than:

(1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or
(2) 10,000 square feet if:

(A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and

(B) The area in which the project is located is not environmentally sensitive.

(f) Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices;

(g) New copy on existing on and off-premise signs;

(h) Maintenance of existing landscaping, native growth, and water supply reservoirs (excluding the use of pesticides, as defined in Section 12753, Division 7, Chapter 2, Food and Agricultural Code);

(i) Maintenance of fish screens, fish ladders, wildlife habitat areas, artificial wildlife waterway devices, streamflows, springs and waterholes, and stream channels (clearing of debris) to protect fish and wildlife resources;

(j) Fish stocking by the California Department of Fish and Game;

(k) Division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt;

(l) Demolition and removal of individual small structures listed in this subdivision;

(1) One single-family residence. In urbanized areas, up to three single-family residences may be demolished under this exemption.

(2) A duplex or similar multifamily residential structure. In urbanized areas, this exemption applies to duplexes and similar structures where not more than six dwelling units will be demolished.

(3) A store, motel, office, restaurant, and similar small commercial structure if designed for an occupant load of 30 persons or less. In urbanized areas, the exemption also applies to the demolition of up to three such commercial buildings on sites zoned for such use.

(4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.
(m) Minor repairs and alterations to existing dams and appurtenant structures under the supervision of the Department of Water Resources.

(n) Conversion of a single family residence to office use.

(o) Installation, in an existing facility occupied by a medical waste generator, of a steam sterilization unit for the treatment of medical waste generated by that facility provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.

(p) Use of a single-family residence as a small family day care home, as defined in Section 1596.78 of the Health and Safety Code.

§ 15302. Replacement or Reconstruction.

Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

(a) Replacement or reconstruction of existing schools and hospitals to provide earthquake resistant structures which do not increase capacity more than 50 percent;

(b) Replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity.

(c) Replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity.

(d) Conversion of overhead electric utility distribution system facilities to underground including connection to existing overhead electric utility distribution lines where the surface is restored to the condition existing prior to the undergrounding.

§ 15303. New Construction or Conversion of Small Structures.

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include
but are not limited to:

(a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

(b) A duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.

(c) A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

(d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.

(e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

(f) An accessory steam sterilization unit for the treatment of medical waste at a facility occupied by a medical waste generator, provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.

§ 15304. Minor Alterations to Land.

Class 4 consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes. Examples include but are not limited to:

(a) Grading on land with a slope of less than 10 percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist.

(b) New gardening or landscaping, including the replacement of existing
conventional landscaping with water efficient or fire resistant landscaping.

(c) Filling of earth into previously excavated land with material compatible with the natural features of the site.

(d) Minor alterations in land, water, and vegetation on existing officially designated wildlife management areas or fish production facilities which result in improvement of habitat for fish and wildlife resources or greater fish production.

(e) Minor temporary use of land having negligible or no permanent effects on the environment, including carnivals, sales of Christmas trees, etc.

(f) Minor trenching and backfilling where the surface is restored.

(g) Maintenance dredging where the spoil is deposited in a spoil area authorized by all applicable state and federal regulatory agencies.

(h) The creation of bicycle lanes on existing rights-of-way.

(i) Fuel management activities within 30 feet of structures to reduce the volume of flammable vegetation, provided that the activities will not result in the taking of endangered, rare, or threatened plant or animal species or significant erosion and sedimentation of surface waters. This exemption shall apply to fuel management activities within 100 feet of a structure if the public agency having fire protection responsibility for the area has determined that 100 feet of fuel clearance is required due to extra hazardous fire conditions.

§ 15305. Minor Alterations in Land Use Limitations.

Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to:

(a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;

(b) Issuance of minor encroachment permits;

(c) Reversion to acreage in accordance with the Subdivision Map Act.

§ 15306. Information Collection.

Class 6 consists of basic data collection, research, experimental management,
and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded.

§ 15307. Actions by Regulatory Agencies for Protection of Natural Resources.

Class 7 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. Examples include but are not limited to wildlife preservation activities of the State Department of Fish and Game. Construction activities are not included in this exemption.


Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

§ 15309. Inspections.

Class 9 consists of activities limited entirely to inspections, to check for performance of an operation, or quality, health, or safety of a project, including related activities such as inspection for possible mislabeling, misrepresentation, or adulteration of products.

§ 15310. Loans.

Class 10 consists of loans made by the Department of Veterans Affairs under the Veterans Farm and Home Purchase Act of 1943, mortgages for the purchase of existing structures where the loan will not be used for new construction and the purchase of such mortgages by financial institutions. Class 10 includes but is not limited to the following examples:

(a) Loans made by the Department of Veterans Affairs under the Veterans Farm and Home Purchase Act of 1943.
(b) Purchases of mortgages from banks and mortgage companies by the Public Employees Retirement System and by the State Teachers Retirement System.

§ 15311. Accessory Structures.

Class 11 consists of construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to:

(a) On-premise signs;
(b) Small parking lots;
(c) Placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar items in generally the same locations from time to time in publicly owned parks, stadiums, or other facilities designed for public use.

§ 15312. Surplus Government Property Sales.

Class 12 consists of sales of surplus government property except for parcels of land located in an area of statewide, regional, or areawide concern identified in Section 15206(b)(4). However, even if the surplus property to be sold is located in any of those areas, its sale is exempt if:

(a) The property does not have significant values for wildlife habitat or other environmental purposes, and
(b) Any of the following conditions exist:
   (1) The property is of such size, shape, or inaccessibility that it is incapable of independent development or use; or
   (2) The property to be sold would qualify for an exemption under any other class of categorical exemption in these guidelines; or
   (3) The use of the property and adjacent property has not changed since the time of purchase by the public agency.

§ 15313. Acquisition of Lands for Wildlife Conservation Purposes.

Class 13 consists of the acquisition of lands for fish and wildlife conservation
purposes including (a) preservation of fish and wildlife habitat, (b) establishing ecological reserves under Fish and Game Code Section 1580, and (c) preserving access to public lands and waters where the purpose of the acquisition is to preserve the land in its natural condition.

§ 15314. Minor Additions to Schools.

Class 14 consists of minor additions to existing schools within existing school grounds where the addition does not increase original student capacity by more than 25% or ten classrooms, whichever is less. The addition of portable classrooms is included in this exemption.

§ 15315. Minor Land Divisions.

Class 15 consists of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent.

§ 15316. Transfer of Ownership of Land in Order to Create Parks.

Class 16 consists of the acquisition, sale, or other transfer of land in order to establish a park where the land is in a natural condition or contains historical or archaeological resources and either:

(a) The management plan for the park has not been prepared, or

(b) The management plan proposes to keep the area in a natural condition or preserve the historic or archaeological resources. CEQA will apply when a management plan is proposed that will change the area from its natural condition or cause substantial adverse change in the significance of the historic or archaeological resource.

§ 15317. Open Space Contracts or Easements.

Class 17 consists of the establishment of agricultural preserves, the making and renewing of open space contracts under the Williamson Act, or the acceptance of easements or fee interests in order to maintain the open space character of the area. The cancellation of such preserves, contracts, interests,
or easements is not included and will normally be an action subject to the CEQA process.

§ 15318. Designation of Wilderness Areas.

Class 18 consists of the designation wilderness areas under the California Wilderness System.

§ 15319. Annexations of Existing Facilities and Lots for Exempt Facilities.

Class 19 consists of only the following annexations:

(a) Annexations to a city or special district of areas containing existing public or private structures developed to the density allowed by the current zoning or pre-zoning of either the gaining or losing governmental agency whichever is more restrictive, provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities.

(b) Annexations of individual small parcels of the minimum size for facilities exempted by Section 15303, New Construction or Conversion of Small Structures.

§ 15320. Changes in Organization of Local Agencies.

Class 20 consists of changes in the organization or reorganization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised. Examples include but are not limited to:

(a) Establishment of a subsidiary district.

(b) Consolidation of two or more districts having identical powers.

(c) Merger with a city of a district lying entirely within the boundaries of the city.

§ 15321. Enforcement Actions by Regulatory Agencies.

Class 21 consists of:

(a) Actions by regulatory agencies to enforce or revoke a lease, permit, license,
certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency. Such actions include, but are not limited to, the following:

(1) The direct referral of a violation of lease, permit, license, certificate, or entitlement for use or of a general rule, standard, or objective to the Attorney General, District Attorney, or City Attorney as appropriate, for judicial enforcement.

(2) The adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.

(b) Law enforcement activities by peace officers acting under any law that provides a criminal sanction.

(c) Construction activities undertaken by the public agency taking the enforcement or revocation action are not included in this exemption.

§ 15322. Educational or Training Programs Involving No Physical Changes.

Class 22 consists of the adoption, alteration, or termination of educational or training programs which involve no physical alteration in the area affected or which involve physical changes only in the interior of existing school or training structures. Examples include but are not limited to:

(a) Development of or changes in curriculum or training methods.

(b) Changes in the grade structure in a school which do not result in changes in student transportation.


Class 23 consists of the normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same or similar kind of purpose. For the purposes of this section, “past history” shall mean that the same or similar kind of activity has been occurring for at least three years and that there is a reasonable expectation that the future occurrence of the activity would not represent a change in the operation of the facility. Facilities included within this exemption include, but are not limited to, racetracks, stadiums, convention centers, auditoriums, amphitheaters, planetariums, swimming pools, and

amusement parks.

§ 15324. Regulations of Working Conditions.

Class 24 consists of actions taken by regulatory agencies, including the Industrial Welfare Commission as authorized by statute, to regulate any of the following:

(a) Employee wages,

(b) Hours of work, or

(c) Working conditions where there will be no demonstrable physical changes outside the place of work.

§ 15325. Transfers of Ownership in Land to Preserve Existing Natural Conditions and Historical Resources.

Class 25 consists of the transfers of ownership of interests in land in order to preserve open space, habitat, or historical resources. Examples include but are not limited to:

(a) Acquisition, sale, or other transfer of areas to preserve the existing natural conditions, including plant or animal habitats.

(b) Acquisition, sale, or other transfer of areas to allow continued agricultural use of the areas.

(c) Acquisition, sale, or other transfer to allow restoration of natural conditions, including plant or animal habitats.

(d) Acquisition, sale, or other transfer to prevent encroachment of development into flood plains.

(e) Acquisition, sale, or other transfer to preserve historical resources.

(f) Acquisition, sale, or other transfer to preserve open space or lands for park purposes.
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§ 15326. Acquisition of Housing for Housing Assistance Programs.

Class 26 consists of actions by a redevelopment agency, housing authority, or other public agency to implement an adopted Housing Assistance Plan by acquiring an interest in housing units. The housing units may be either in existence or possessing all required permits for construction when the agency makes its final decision to acquire the units.

§ 15327. Leasing New Facilities.

(a) Class 27 consists of the leasing of a newly constructed or previously unoccupied privately owned facility by a local or state agency where the local governing authority determined that the building was exempt from CEQA. To be exempt under this section, the proposed use of the facility:

(1) Shall be in conformance with existing state plans and policies and with general, community, and specific plans for which an EIR or negative declaration has been prepared,
(2) Shall be substantially the same as that originally proposed at the time the building permit was issued,

(3) Shall not result in a traffic increase of greater than 10% of front access road capacity, and

(4) Shall include the provision of adequate employee and visitor parking facilities.

(b) Examples of Class 27 include, but are not limited to:

(1) Leasing of administrative offices in newly constructed office space.

(2) Leasing of client service offices in newly constructed retail space.

(3) Leasing of administrative and/or client service offices in newly constructed industrial parks.

§ 15328. Small Hydroelectric Projects at Existing Facilities.

Class 28 consists of the installation of hydroelectric generating facilities in connection with existing dams, canals, and pipelines where:

(a) The capacity of the generating facilities is 5 megawatts or less,

(b) Operation of the generating facilities will not change the flow regime in the affected stream, canal, or pipeline including but not limited to:

(1) Rate and volume of flow,

(2) Temperature,

(3) Amounts of dissolved oxygen to a degree that could adversely affect aquatic life, and

(4) Timing of release.

(c) New power lines to connect the generating facilities to existing power lines will not exceed one mile in length if located on a new right of way and will not be located adjacent to a wild or scenic river.

(d) Repair or reconstruction of the diversion structure will not raise the normal maximum surface elevation of the impoundment.

(e) There will be no significant upstream or downstream passage of fish.
affected by the project.

(f) The discharge from the power house will not be located more than 300 feet from the toe of the diversion structure.

(g) The project will not cause violations of applicable state or federal water quality standards.

(h) The project will not entail any construction on or alteration of a site included in or eligible for inclusion in the National Register of Historic Places, and

(i) Construction will not occur in the vicinity of any endangered, rare, or threatened species.

§ 15329. Cogeneration Projects at Existing Facilities.

Class 29 consists of the installation of cogeneration equipment with a capacity of 50 megawatts or less at existing facilities meeting the conditions described in this section.

(a) At existing industrial facilities, the installation of cogeneration facilities will be exempt where it will:

(1) Result in no net increases in air emissions from the industrial facility, or will produce emissions lower than the amount that would require review under the new source review rules applicable in the county, and

(2) Comply with all applicable state, federal, and local air quality laws.

(b) At commercial and industrial facilities, the installation of cogeneration facilities will be exempt if the installation will:

(1) Meet all the criteria described in subdivision (a),

(2) Result in no noticeable increase in noise to nearby residential structures,

(3) Be contiguous to other commercial or institutional structures.

§ 15330. Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances.

Class 30 consists of any minor cleanup actions taken to prevent, minimize,
stabilize, mitigate, or eliminate the release or threat of release of a hazardous waste or substance which are small or medium removal actions costing $1 million or less.

(a) No cleanup action shall be subject to this Class 30 exemption if the action requires the onsite use of a hazardous waste incinerator or thermal treatment unit or the relocation of residences or businesses, or the action involves the potential release into the air of volatile organic compounds as defined in Health and Safety Code Section 25123.6, except for small scale in situ soil vapor extraction and treatment systems which have been permitted by the local Air Pollution Control District or Air Quality Management District. All actions must be consistent with applicable state and local environmental permitting requirements including, but not limited to, off-site disposal, air quality rules such as those governing volatile organic compounds and water quality standards, and approved by the regulatory body with jurisdiction over the site.

(b) Examples of such minor cleanup actions include but are not limited to:

(1) Removal of sealed, non-leaking drums or barrels of hazardous waste or substances that have been stabilized, containerized and are designated for a lawfully permitted destination;

(2) Maintenance or stabilization of berms, dikes, or surface impoundments;

(3) Construction or maintenance of interim or temporary surface caps;

(4) Onsite treatment of contaminated soils or sludges provided treatment system meets Title 22 requirements and local air district requirements;

(5) Excavation and/or offsite disposal of contaminated soils or sludges in regulated units;

(6) Application of dust suppressants or dust binders to surface soils;

(7) Controls for surface water run-on and run-off that meets seismic safety standards;

(8) Pumping of leaking ponds into an enclosed container;

(9) Construction of interim or emergency ground water treatment systems;

(10) Posting of warning signs and fencing for a hazardous waste or substance site that meets legal requirements for protection of wildlife.

§ 15331. Historical Resource Restoration/Rehabilitation.
Class 31 consists of projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer.

§ 15332. In-Fill Development Projects.

Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section. (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. (c) The project site has no value, as habitat for endangered, rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services.

§ 15333. Small Habitat Restoration Projects.

Class 33 consists of projects not to exceed five acres in size to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife provided that:

(a) There would be no significant adverse impact on endangered, rare or threatened species or their habitat pursuant to section 15065,

(b) There are no hazardous materials at or around the project site that may be disturbed or removed, and

(c) The project will not result in impacts that are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(d) Examples of small restoration projects may include, but are not limited to:

(1) revegetation of disturbed areas with native plant species;

(2) wetland restoration, the primary purpose of which is to improve conditions for waterfowl or other species that rely on wetland habitat;
(3) stream or river bank revegetation, the primary purpose of which is to improve habitat for amphibians or native fish;

(4) projects to restore or enhance habitat that are carried out principally with hand labor and not mechanized equipment.

(5) stream or river bank stabilization with native vegetation or other bioengineering techniques, the primary purpose of which is to reduce or eliminate erosion and sedimentation; and

(6) culvert replacement conducted in accordance with published guidelines of the Department of Fish and Game or NOAA Fisheries, the primary purpose of which is to improve habitat or reduce sedimentation.

This database is current through 1/25/13 Register 2013, No. 4
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Tab 4:
New Streamlining for Infill Projects Documents – new CEQA Guideline Section 15183.3 and appendices
Proposed State CEQA Guideline Section 15183.3. Streamlining for Infill Projects

(a) Purpose. The purpose of this section is to streamline the environmental review process for eligible infill projects by limiting the topics subject to review at the project level where the effects of infill development have been addressed in a planning level decision or by uniformly applicable development policies.

(b) Eligibility. To be eligible for the streamlining procedures prescribed in this section, an infill project must:

(1) Be located in an urban area on a site that either has been previously developed or that adjoins existing qualified urban uses on at least seventy-five percent of the site’s perimeter. For the purpose of this subdivision “adjoin” means the infill project is immediately adjacent to qualified urban uses, or is only separated from such uses by an improved public right-of-way;

(2) Satisfy the performance standards provided in Appendix M; and

(3) Be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, except as provided in subdivisions (b)(3)(A) or (b)(3)(B) below.

(A) Only where an infill project is proposed within the boundaries of a metropolitan planning organization for which a sustainable communities strategy or an alternative planning strategy will be, but is not yet in effect, a residential infill project must have a density of at least 20 units per acre, and a retail or commercial infill project must have a floor area ratio of at least 0.75.

(B) Where an infill project is proposed outside of the boundaries of a metropolitan planning organization, the infill project must meet the definition of a small walkable community project in subdivision (e)(6), below.

(c) Streamlined Review. CEQA does not apply to the effects of an eligible infill project under two circumstances. First, if an effect was addressed as a significant effect in a prior EIR for a planning level decision, then, with some exceptions, that effect need not be analyzed again for an individual infill project even when that effect was not reduced to a less than significant level in the prior EIR. Second, an effect need not be analyzed, even if it was not analyzed in a prior EIR or is more significant than previously analyzed, if uniformly applicable development policies or standards, adopted by the lead agency or a city or county, apply to the infill project and would substantially mitigate that effect. Depending on the effects addressed in the prior EIR and the availability of uniformly applicable development policies or standards that apply to the eligible infill project, streamlining under this section will range from a complete exemption to an obligation to prepare a narrowed, project-specific environmental document. A prior EIR will be most helpful in dealing with later infill projects if it deals with the effects of infill development as
specifically and comprehensively as possible. With a good and detailed analysis of such development, the effects of many infill projects could be found to have been addressed in the prior EIR, and no further environmental documents would be required.

(d) Procedure. Following preliminary review of an infill project pursuant to Section 15060, the lead agency must examine an eligible infill project in light of the prior EIR to determine whether the infill project will cause any effects that require additional review under CEQA. Determinations pursuant to this section are questions of fact to be resolved by the lead agency. Such determinations must be supported with enough relevant information and reasonable inferences from this information to support a conclusion, even though other conclusions might also be reached. (See Section 15384.)

(1) Evaluation of the Infill Project. A lead agency should prepare a written checklist or similar device to document the infill project's eligibility for streamlining and to assist in making the determinations required by this section. The sample written checklist provided in Appendix N may be used for this purpose. A written checklist prepared pursuant to this section should do all of the following:

(A) Document whether the infill project satisfies the applicable performance standards in Appendix M.

(B) Explain whether the effects of the infill project were analyzed in a prior EIR. The written checklist should cite the specific portions of the prior EIR, including page and section references, containing the analysis of the infill project's significant effects. The written checklist should also indicate whether the infill project incorporates all applicable mitigation measures from the prior EIR.

(C) Explain whether the infill project will cause new specific effects. For the purposes of this section, a new specific effect is an effect that was not addressed in the prior EIR and that is specific to the infill project or the infill project site. A new specific effect may result if, for example, the prior EIR stated that sufficient site-specific information was not available to analyze the significance of that effect. Substantial changes in circumstances following certification of a prior EIR may also result in a new specific effect.

(D) Explain whether substantial new information shows that the adverse environmental effects of the infill project are more significant than described in the prior EIR. For the purpose of this section, "more significant" means an effect will be substantially more severe than described in the prior EIR. More significant effects include those that result from changes in circumstances or changes in the development assumptions underlying the prior EIR's analysis. An effect is also more significant if substantial new information shows that: (1) mitigation measures that were previously rejected as infeasible are in fact feasible, and such measures are not included in the project; (2) feasible mitigation measures considerably different than those previously analyzed could substantially reduce a significant effect described in the prior EIR, but such measures are not included in the project; or (3) an applicable mitigation measure was adopted in connection with a planning level decision, but the lead agency determines that it is not feasible for the infill project to implement that measure.
(E) If the infill project will cause new specific effects or more significant effects, the written checklist should indicate whether uniformly applicable development policies or standards will substantially mitigate those effects. For the purpose of this section, "substantially mitigate" means that the policy or standard will substantially lessen the effect, but not necessarily below the level of significance. The written checklist should specifically identify the uniformly applicable development policy or standard and explain how it will substantially mitigate the effects of the infill project. The explanation in the written checklist may be used to support the finding required in subdivision (d)(2)(D) below.

(2) Environmental Document. After examining the effects of the infill project in light of the analysis in any prior EIR and uniformly applicable development policies or standards, the lead agency shall determine what type of environmental document shall be prepared for the infill project.

(A) No Further Review. No additional environmental review is required if the infill project would not cause any new specific effects or more significant effects, or if uniformly applicable development policies or standards would substantially mitigate such effects. Where the lead agency determines that no additional environmental review of the effects of the infill project is required, the lead agency shall file a Notice of Determination as provided in Section 15094. Where the lead agency finds that uniformly applicable development policies substantially mitigate a significant effect of an infill project, the lead agency shall make the finding described in subdivision (d)(2)(D).

(B) Negative Declaration, Mitigated Negative Declaration or Sustainable Communities Environmental Assessment. If the infill project would result in new specific effects or more significant effects, and uniformly applicable development policies or standards would not substantially mitigate such effects, those effects shall be subject to CEQA. If a new specific effect is less than significant, the lead agency may prepare a negative declaration. If new specific effects or more significant effects can be mitigated to a less than significant level through project changes agreed to prior to circulation of the written checklist, the lead agency may prepare a mitigated negative declaration. In these circumstances, the lead agency shall follow the procedure set forth in Sections 15072 to 15075. Alternatively, if the infill project is a transit priority project, the lead agency may follow the procedures in Section 21155.2 of the Public Resources Code. In either instance, the written checklist should clearly state which effects are new or more significant, and are subject to CEQA, and which effects have been previously analyzed and are not subject to further environmental review. Where the lead agency finds that uniformly applicable development policies or standards substantially mitigate a significant effect of an infill project, the lead agency shall make the finding described in subdivision (d)(2)(D).

(C) Infill EIR. If the infill project would result in new specific effects or more significant effects, and uniformly applicable development policies or standards would not substantially mitigate such effects, those effects are subject to CEQA. With respect to those effects that are subject to CEQA, the lead agency shall prepare an infill EIR if the written checklist shows that the effects of the infill project would be potentially significant. In this circumstance, the lead agency
shall prepare an infill EIR as provided in subdivision (e) and, except as otherwise provided in this section, shall follow the procedures in Article 7. Where the lead agency finds that uniformly applicable development policies or standards substantially mitigate a significant effect of an infill project, the lead agency shall make the finding described in subdivision (d)(2)(D).

(D) Findings. Any findings or statement of overriding considerations required by Sections 15091 or 15093 shall be limited to those effects analyzed in an infill EIR. Findings for such effects should incorporate by reference any such findings made in connection with a planning level decision. Where uniformly applicable development policies or standards substantially mitigate the significant effects of an infill project, the lead agency shall also make a written finding, supported with substantial evidence, providing a brief explanation of the rationale for the finding.

(e) Infill EIR Contents. An infill EIR shall analyze only those significant effects that uniformly applicable development policies or standards do not substantially mitigate, and that are either new specific effects or are more significant than a prior EIR analyzed. All other effects of the infill project should be described in the written checklist as provided in subdivision (d)(1), and that written checklist should be circulated for public review along with the infill EIR. The written checklist should clearly set forth those effects that are new specific effects, and are subject to CEQA, and those effects which have been previously analyzed and are not subject to further environmental review. The analysis of alternatives in an infill EIR need not address alternative locations, densities, or building intensities. An infill EIR need not analyze growth inducing impacts. Except as provided in this subdivision, an infill EIR shall contain all elements described in Article 9.

(f) Terminology. The following definitions apply to this section:

(1) "Infill project" includes the whole of an action consisting of residential, commercial, retail, transit station, school, or public office building uses, or any combination of such uses that meet the eligibility requirements set forth in subdivision (b). For retail and commercial projects, no more than one half of the project area may be used for parking. "Transit station" means a rail or light-rail station, ferry terminal, bus hub, bus transfer station, or bus stop, and includes all streetscape improvements constructed in the public right-of-way within one-quarter mile of such facility to improve multi-modal access to the facility, such as pedestrian and bicycle safety improvements and traffic-calming design changes that support pedestrian and bicycle access.

(2) "Planning level decision" means the enactment or amendment of a general plan or any general plan element, community plan, specific plan, or zoning code.

(3) "Previously developed" means that a substantial portion of the site has been mechanically altered for purposes authorized in a local zoning code. Parcels that are, or recently have been mechanically altered solely for the purpose of creating developed open space or for agricultural production shall not be considered to be previously developed for the purposes of this section."
(4) "Prior EIR" means the environmental impact report certified for a planning level decision, as supplemented by any subsequent or supplemental environmental impact reports, negative declarations, or addenda to those documents.

(5) "Qualified urban use" is defined in Public Resources Code Section 21072.

(6) "Small walkable community project" means a project that is all of the following:

(A) In an incorporated city that is not within the boundary of a metropolitan planning organization;

(B) Within an area of approximately one-quarter mile diameter of contiguous land that includes a residential area adjacent to a retail downtown area and that is designated by the city for infill development consisting of residential and commercial uses. A city may designate such an area within its general plan, zoning code, or by any legislative act creating such a designation, and may make such designation concurrently with project approval; and

(C) Either a residential project that has a density of at least eight units to the acre or a commercial project with a floor area ratio of at least 0.5, or both.

(7) The terms "sustainable communities strategy" and "alternative planning strategy" refer to a strategy for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve its greenhouse gas emission reduction targets.

(8) "Uniformly applicable development policies or standards" are policies or standards adopted or enacted by a city or county, or by a lead agency, that reduce one or more adverse environmental effects. Examples of uniformly applicable development policies or standards include, but are not limited to:

(A) Regulations governing construction activities, including noise regulations, dust control, provisions for discovery of archeological and paleontological resources, stormwater runoff treatment and containment, protection against the release of hazardous materials, recycling of construction and demolition waste, temporary street closure and traffic rerouting, and similar regulations.

(B) Requirements in locally adopted building, grading and stormwater codes.

(C) Design guidelines.

(D) Requirements for protecting residents from sources of air pollution including high volume roadways and stationary sources.

(E) Impact fee programs to provide public improvements, police, fire, parks and other open space, libraries and other public services and infrastructure, including transit, bicycle and pedestrian infrastructure and traffic calming devices.
(F) Traffic impact fees.

(G) Requirements for reducing greenhouse gas emissions, as set forth in adopted land use plans, policies, or regulations.

(H) Ordinances addressing protection of urban trees and historic resources.

(9) "Urban area" is defined in Public Resources Code Section 21094.5(e)(5).
Proposed Appendix M: Performance Standards for Infill Projects Eligible for Streamlined Review

I. Introduction

Section 15183.3 provides a streamlined review process for infill projects that satisfy specified performance standards. This appendix contains those performance standards. The lead agency's determination that the project satisfies the performance standards shall be supported with substantial evidence, which should be documented on the Infill Checklist in Appendix N. Section II defines terms used in this Appendix. Performance standards that apply to all project types are set forth in Section III. Section IV contains performance standards that apply to particular project types (i.e., residential, commercial/retail, office building, transit stations, and schools).

II. Definitions

The following definitions apply to the terms used in this Appendix.

"High-quality transit corridor" means an existing corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. For the purposes of this Appendix, an "existing stop along a high-quality transit corridor" may include a planned and funded stop that is included in an adopted regional transportation improvement program.

Unless more specifically defined by an air district, city or county, "high-volume roadway" means freeways, highways, urban roads with 100,000 vehicles per day, or rural roads with 50,000 vehicles per day.

"Low vehicle travel area" means a traffic analysis zone that exhibits a below average existing level of travel as determined using a regional travel demand model. For residential projects, travel refers to either home-based or household vehicle miles traveled per capita. For commercial and retail projects, travel refers to non-work attraction trip length; however, where such data are not available, commercial projects reference either home-based or household vehicle miles traveled per capita. For office projects, travel refers to commute attraction vehicle miles traveled per employee; however, where such data are not available, office projects reference either home-based or household vehicle miles traveled per capita.

"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 frequencies of service intervals of 15 minutes or less during the morning and afternoon peak commute periods. For the purposes of this Appendix, an "existing major transit stop" may
include a planned and funded stop that is included in an adopted regional transportation improvement program.

"Office building" generally refers to centers for governmental or professional services; however, the lead agency shall have discretion in determining whether a project is "commercial" or "office building" for the purposes of this Appendix based on local zoning codes.

"Significant sources of air pollution" include airports, marine ports, rail yards and distribution centers that receive more than 100 heavy-duty truck visits per day, as well as stationary sources that are designated major by the Clean Air Act.

A "Traffic Analysis Zone" is an analytical unit used by a travel demand model to estimate vehicle travel within a region.

III. Performance Standards Related to Project Design

To be eligible for streamlining pursuant to Section 15183.3, a project must implement all of the following:

**Renewable Energy.** All non-residential projects shall include on-site renewable power generation, such as solar photovoltaic, solar thermal and wind power generation, or clean back-up power supplies, where feasible. Residential projects are also encouraged to include such on-site renewable power generation.

**Soil and Water Remediation.** If the project site is included on any list compiled pursuant to Section 65962.5 of the Government Code, the project shall document how it has remediated the site, if remediation is completed. Alternatively, the project shall implement the recommendations provided in a preliminary endangerment assessment or comparable document that identifies remediation appropriate for the site.

**Residential Units Near High-Volume Roadways and Stationary Sources.** If a project includes residential units located within 500 feet, or other distance determined to be appropriate by the local agency or air district based on local conditions, of a high volume roadway or other significant sources of air pollution, the project shall comply with any policies and standards identified in the local general plan, specific plan, zoning code or community risk reduction plan for the protection of public health from such sources of air pollution. If the local government has not adopted such plans or policies, the project shall include measures, such as enhanced air filtration and project design, that the lead agency finds, based on substantial evidence, will promote the protection of public health from sources of air pollution. Those measures may include, among others, the recommendations of the California Air Resources Board, air districts, and the California Air Pollution Control Officers Association.
IV. Additional Performance Standards by Project Type

In addition to the project features described above in Section III, specific eligibility requirements are provided below by project type.

Several of the performance standards below refer to "low vehicle travel areas". Such areas can be illustrated on maps based on data developed by the regional Metropolitan Planning Organization (MPO) using its regional travel demand model.

Several of the performance standards below refer to distance to transit. Distance should be calculated so that at least 75 percent of the surface area of the project site is within the specified distance.

A. Residential

To be eligible for streamlining pursuant to Section 15183.3, a project must satisfy one of the following:

Projects achieving below average regional per capita vehicle miles traveled (VMT). A residential project is eligible if it is located in a "low vehicle travel area" within the region.

Projects located within ½ mile of an Existing Major Transit Stop or High Quality Transit Corridor. A residential project is eligible if it is located within ½ mile of an existing major transit stop or an existing stop along a high quality transit corridor.

Low-Income Housing. A residential or mixed-use project consisting of 300 or fewer residential units all of which are affordable to low income households is eligible if the developer of the development project provides sufficient legal commitments to the lead agency to ensure the continued availability and use of the housing units for lower income households, as defined in Section 50079.5 of the Health and Safety Code, for a period of at least 30 years, at monthly housing costs, as determined pursuant to Section 50053 of the Health and Safety Code.

B. Commercial/Retail

To be eligible for streamlining pursuant to Section 15183.3, a project must satisfy one of the following:

Regional Location. A commercial project with no single-building floor-plate greater than 50,000 square feet is eligible if it locates in a "low vehicle travel area."

Proximity to Households. A project with no single-building floor-plate greater than 50,000 square feet located within one-half mile of 1800 households is eligible.
C. Office Building

To be eligible for streamlining pursuant to Section 15183.3, a project must satisfy one of the following:

Regional Location. Office buildings, both commercial and public, are eligible if they locate in a low vehicle travel area.

Proximity to a Major Transit Stop. Office buildings, both commercial and public, within $\frac{1}{2}$ mile of an existing major transit stop, or $\frac{1}{4}$ mile of an existing stop along a high quality transit corridor, are eligible.

D. Transit

Transit stations, as defined in Section 15183.3(e)(1), are eligible.

E. Schools

Elementary schools within one mile of fifty percent of the projected student population are eligible. Middle schools and high schools within two miles of fifty percent of the projected student population are eligible. Alternatively, any school within $\frac{1}{2}$ mile of an existing major transit stop or an existing stop along a high quality transit corridor is eligible.

Additionally, in order to be eligible, all schools shall provide parking and storage for bicycles and scooters and shall comply with the requirements in Sections 17213, 17213.1 and 17213.2 of the California Education Code.

F. Small Walkable Community Projects

Small walkable community projects, as defined in Section 15183.3, subdivision (e)(6), that implement the project features described in Section III above are eligible.

G. Mixed-Use Projects

Where a project includes some combination of residential, commercial and retail, office building, transit station, and/or schools, the performance standards in this Section that apply to the predominant use shall govern the entire project.
NOTE: This sample form is intended to assist lead agencies in assessing Infill projects according to the procedures provided in Section 21094.5 of the Public Resources Code. Lead agencies may customize this form as appropriate, provided that the content satisfies the requirements in Section 15183.3 of the CEQA Guidelines.

1. Project title: _______________________________

2. Lead agency name and address: _______________________________

3. Contact person and phone number: _______________________________

4. Project location: _______________________________

5. Project sponsor's name and address: _______________________________


8. Prior Environmental Document(s) Analyzing the Effects of the Infill Project (including State Clearinghouse Number if assigned): _______________________________

9. Location of Prior Environmental Document(s) Analyzing the Effects of the Infill Project: _______________________________

10. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.) _______________________________

11. Surrounding land uses and setting: Briefly describe the project's surroundings, including any prior uses of the project site, or, if vacant, describe the urban uses that exist on at least 75% of the project's perimeter: _______________________________

12. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.) _______________________________

SATISFACTION OF APPENDIX M PERFORMANCE STANDARDS

Provide the information demonstrating that the infill project satisfies the performance standards in Appendix M below. For mixed-use projects, the predominant use will determine which performance standards apply to the entire project.

1. Does the non-residential infill project include a renewable energy feature? If so, describe below. If not, explain below why it is not feasible to do so. _______________________________
2. If the project site is included on any list compiled pursuant to Section 65962.5 of the Government Code, either provide documentation of remediation or describe the recommendations provided in a preliminary endangerment assessment or comparable document that will be implemented as part of the project.

3. If the infill project includes residential units located within 500 feet, or such distance that the local agency or local air district has determined is appropriate based on local conditions, a high volume roadway or other significant source of air pollution, as defined in Appendix M, describe the measures that the project will implement to protect public health. Such measures may include policies and standards identified in the local general plan, specific plans, zoning code or community risk reduction plan, or measures recommended in a health risk assessment, to promote the protection of public health. Identify the policies or standards, or refer to the site specific analysis, below. (Attach additional sheets if necessary.)

4. For residential projects, the project satisfies which of the following?
   - Located within a low vehicle travel area, as defined in Appendix M. (Attach VMT map.)
   - Located within ¼ mile of an existing major transit stop or an existing stop along a high quality transit corridor. (Attach map illustrating proximity to transit.)
   - Consists of 100 or fewer units that are each affordable to low income households. (Attach evidence of legal commitment to ensure the continued availability and use of the housing units for lower income households, as defined in Section 50079.5 of the Health and Safety Code, for a period of at least 30 years, at monthly housing costs, as determined pursuant to Section 50053 of the Health and Safety Code.)

5. For commercial projects with a single building floor-plate below 50,000 square feet, the project satisfies which of the following?
   - Located within a low vehicle travel area, as defined in Appendix M. (Attach VMT map.)
   - The project is within one-half mile of 1800 dwelling units. (Attach map illustrating proximity to households.)

6. For office building projects, the project satisfies which of the following?
   - Located within a low vehicle travel area, as defined in Appendix M. (Attach VMT map.)
   - Located within ¼ mile of an existing major transit stop. (Attach map illustrating proximity to transit.)

7. For school projects, the project does all of the following:
   - The project complies with the requirements in Sections 17213, 17213.1 and 17213.2 of the California Education Code.
   - The project is an elementary school and is within one mile of 50% of the student population, or is a middle school or high school and is within two miles of 50% of the student population. Alternatively, the school is within ¼ mile of an existing major transit stop or an existing stop along a high quality transit corridor. (Attach map and methodology.)
   - The project provides parking and storage for bicycles and scooters.

8. For small walkable community projects, the project must be a residential project that has a density of at least eight units to the acre or a commercial project with a floor area ratio of at least 0.5, or both.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:
The infill project could potentially result in one or more of the following environmental effects.
If the infill project would cause a significant adverse effect that either are specific to the project or project site and was not analyzed in a prior EIR,

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) For the purposes of this checklist, "prior EIR" means the environmental impact report certified for a planning level decision, as supplemented by any subsequent or supplemental environmental impact reports, negative declarations, or addenda to those documents. "Planning level decision" means the enactment or amendment of a general plan, community plan, specific plan, or zoning code. (Section 15183.3(e).)

4) Once the lead agency has determined that a particular physical impact may occur as a result of an infill project, then the checklist answers must indicate whether that impact has already been analyzed in a prior EIR. If the effect of the infill project is not more significant than what has already been analyzed, that effect of the infill project is not subject to CEQA. The brief explanation accompanying this determination should include page and section references to the portions of the prior EIR containing the analysis of that effect. The brief explanation shall also indicate whether the prior EIR included any mitigation measures to substantially lessen that effect and whether those measures have been incorporated into the infill project.

5) If the infill project would cause a significant adverse effect that either is specific to the project or project site and was not analyzed in a prior EIR, or is more significant than what was analyzed in a prior EIR, the lead agency must determine whether uniformly applicable development policies or standards that have been adopted by the lead agency, or city or county, would substantially mitigate that effect. If so, the checklist shall explain how the infill project's implementation of the uniformly applicable development policies will substantially mitigate that effect. That effect of the infill
A project is not subject to CEQA if the lead agency makes a finding, based upon substantial evidence, that the development policies or standards will substantially mitigate that effect.

6) If all effects of an infill project were either analyzed in a prior EIR or are substantially mitigated by uniformly applicable development policies or standards, CEQA does not apply to the project, and the lead agency shall file a Notice of Determination.

7) Effects of an infill project that either have not been analyzed in a prior EIR, or that uniformly applicable development policies or standards do not substantially mitigate, are subject to CEQA. With respect to those effects of the infill project that are subject to CEQA, the checklist shall indicate whether those effects are significant, less than significant with mitigation, or less than significant. If there are one or more "Significant Impact" entries when the determination is made, an infill EIR is required. The infill EIR should be limited to analysis of those effects determined to be significant. (Sections 15128, 15183.3(d).)

8) "Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures will reduce an effect of an infill project that is subject to CEQA from "Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how those measures reduce the effect to a less than significant level. If the effects of an infill project that are subject to CEQA are less than significant with mitigation incorporated, the lead agency may prepare a Mitigated Negative Declaration. If all of the effects of the infill project that are subject to CEQA are less than significant, the lead agency may prepare a Negative Declaration.

9) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to an infill project’s environmental effects in whatever format is selected.

10) The explanation of each issue should identify:
   a) the significance criteria or threshold, if any, used to evaluate each question; and
   b) the mitigation measure identified, if any, to reduce the impact to less than significance.

**SAMPLE QUESTIONS**

**Issues:**

<table>
<thead>
<tr>
<th>AESTHETICS</th>
<th>Would the project:</th>
<th>Less Than Significant or Less than Significant with Mitigation Incorporated</th>
<th>No Impact</th>
<th>Analyzed in the Prior EIR</th>
<th>Substantially Mitigated by Uniformly Applicable Development Policies</th>
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<td></td>
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<td>Significant Impact</td>
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<td>a) Have a substantial adverse effect on a scenic vista?</td>
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<td>b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?</td>
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<td>c) Substantially degrade the existing visual character or quality of the site and its surroundings?</td>
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<td>d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?</td>
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**II. AGRICULTURE AND FORESTRY RESOURCES.** In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1987) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the
state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:  

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<th>Less Than Significant or Less than Significant with Mitigation</th>
<th>Substantially Mitigated by Uniformly Applicable Development Policies</th>
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<td>Significant Impact</td>
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<td>Incorporated</td>
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<td>No Impact</td>
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<td>Substantially Less Than Significant or Less than Significant</td>
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<td><strong>Significant Impact</strong></td>
<td><strong>Mitigation Incorporated</strong></td>
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<td><strong>a)</strong> Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?</td>
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<td><strong>b)</strong> Conflict with existing zoning for agricultural use, or a Williamson Act contract?</td>
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<td><strong>c)</strong> Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4528), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?</td>
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<td><strong>d)</strong> Result in the loss of forest land or conversion of forest land to non-forest use?</td>
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<td><strong>e)</strong> Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?</td>
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<tr>
<td><strong>III. AIR QUALITY.</strong> Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:</td>
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<tr>
<td><strong>a)</strong> Conflict with or obstruct implementation of the applicable air quality plan?</td>
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<td><strong>b)</strong> Violate any air quality standard or contribute substantially to an existing or projected air quality violation?</td>
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<td><strong>c)</strong> Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?</td>
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<td><strong>d)</strong> Expose sensitive receptors to substantial pollutant concentrations?</td>
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<td><strong>e)</strong> Create objectionable odors affecting a substantial number of people?</td>
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<td><strong>IV. BIOLOGICAL RESOURCES:</strong> Would the project:</td>
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<td><strong>a)</strong> Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or</td>
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<td>special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
<td>b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?</td>
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<tr>
<td>c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?</td>
<td>d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?</td>
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<td>e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</td>
<td>f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?</td>
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V. CULTURAL RESOURCES. Would the project:

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<th>Less Than Significant or Less than Significant with Mitigation</th>
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VI. GEOLOGY AND SOILS. Would the project:

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<td><strong>d)</strong> Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?</td>
<td>□</td>
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<td><strong>e)</strong> Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?</td>
<td>□</td>
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<td><strong>VII. GREENHOUSE GAS EMISSIONS. Would the project:</strong></td>
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<tr>
<td><strong>a)</strong> Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td><strong>b)</strong> Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td><strong>VIII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:</strong></td>
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<td></td>
</tr>
<tr>
<td><strong>a)</strong> Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td><strong>b)</strong> Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td><strong>c)</strong> Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td><strong>d)</strong> Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?</td>
<td>□</td>
<td>□</td>
<td>□</td>
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</tr>
</tbody>
</table>
### IX. HYDROLOGY AND WATER QUALITY:

Would the project:

<table>
<thead>
<tr>
<th>Question</th>
<th>Significant Impact</th>
<th>Less Than Significant or Less than Significant with Mitigation Incorporated</th>
<th>No Impact</th>
<th>Analyzed in the Prior EIR</th>
<th>Substantially Mitigated by Uniformly Applicable Development Policies</th>
</tr>
</thead>
<tbody>
<tr>
<td>e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?</td>
<td>□</td>
<td>□</td>
<td>□</td>
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<td>□</td>
</tr>
<tr>
<td>f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
</tbody>
</table>

a) Violate any water quality standards or waste discharge requirements?   | □                   | □                                                                           | □         | □                         | □                                                                   |

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | □                   | □                                                                           | □         | □                         | □                                                                   |

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? | □                   | □                                                                           | □         | □                         | □                                                                   |
### Less Than Significant or Less than Significant with Mitigation Incorporated

<table>
<thead>
<tr>
<th>Impact</th>
<th>Significant</th>
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</tr>
</thead>
<tbody>
<tr>
<td>d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>f) Otherwise substantially degrade water quality?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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<td>☐</td>
</tr>
<tr>
<td>i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>j) Inundation by seiche, tsunami, or mudflow?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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<td>☐</td>
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### LAND USE AND PLANNING: Would the project:

<table>
<thead>
<tr>
<th>Impact</th>
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</thead>
<tbody>
<tr>
<td>a) Physically divide an established community?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?</td>
<td>☐</td>
<td>☐</td>
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</tbody>
</table>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

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<tr>
<th></th>
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<tbody>
<tr>
<td>XI. MINERAL RESOURCES. Would the project:</td>
<td></td>
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</tr>
<tr>
<td>a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</table>

XII. NOISE – Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?
### XIII. POPULATION AND HOUSING

Would the project:

<table>
<thead>
<tr>
<th>Event</th>
<th>Significant Impact</th>
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</thead>
<tbody>
<tr>
<td>a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?</td>
<td></td>
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<tr>
<td>b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?</td>
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<tr>
<td>c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?</td>
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</table>

### XIV. PUBLIC SERVICES

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

- Fire protection?  
- Police protection?  
- Schools?  
- Parks?  
- Other public facilities?  

### XV. RECREATION

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

XVI. TRANSPORTATION/TRAFFIC. Would the project:

| a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? | ☐ | ☐ | ☑ | ☐ | ☐ |
| b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? | ☐ | ☑ | ☐ | ☑ | ☐ |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | ☐ | ☑ | ☐ | ☑ | ☐ |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | ☐ | ☑ | ☐ | ☑ | ☐ |
| e) Result in inadequate emergency access? | ☐ | ☑ | ☐ | ☑ | ☐ |
| f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? | ☐ | ☑ | ☐ | ☑ | ☐ |
### XVII. UTILITIES AND SERVICE SYSTEMS.

Would the project:

<table>
<thead>
<tr>
<th>Impact</th>
<th>Mitigation</th>
<th>Prior EIR</th>
<th>Applicable Policies</th>
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<tbody>
<tr>
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<td>No Impact</td>
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</table>

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

g) Comply with federal, state, and local statutes and regulations related to solid waste?

### XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number of or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

b) Does the project have impacts that are individually limited, but cumulatively considerable? (*Cumulatively considerable* means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

c) Does the project have environmental effects which will cause substantial adverse effects on...
<table>
<thead>
<tr>
<th>Impact Level</th>
<th>Incorporation</th>
<th>Prior EIR Analysis</th>
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<tbody>
<tr>
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</tr>
<tr>
<td>Significant Impact</td>
<td>Incorporation</td>
<td></td>
</tr>
</tbody>
</table>

human beings, either directly or indirectly?