

RESOLUTION NO. 79-1

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI APPROVING THE PLANNING COMMISSION'S RECOMMENDATION TO ADOPT REVISED GUIDELINES FOR THE IMPLEMENTATION OF CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970 (i. e., CEQA).

WHEREAS, the Resources Agency of the State of California has revised the Guidelines for the Implementation of the California Environmental Quality Act of 1970 (i. e., CEQA) to encompass court decisions and legislative acts affecting the Act; and

WHEREAS, the Lodi City Planning Commission, upon the recommendation of the City Attorney's Office and the Community Development Department, have adopted new CEQA Guidelines and recommended the same to the City Council;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi adopts Revised Guidelines for the Implementation of the California Environmental Quality Act of 1970 (i. e., CEQA) as per the document attached hereto identified as Exhibit "A" and thereby made a part hereof.

Dated: January 3, 1979

I hereby certify that Resolution No. 79-1 was passed and adopted by the City Council of the City of Lodi in a regular meeting thereof held Wednesday, January 3, 1979 by the following vote:

Ayes: Councilmen - Hughes, Katzakian, and
McCarty

Noes: Councilmen - None

Absent: Councilmen - Katnich and Pinkerton


JAMES B. SCHROEDER
DEPUTY CITY CLERK

REVISED
ENVIRONMENTAL GUIDELINES

CITY OF LODI

1978

(DRAFT)

Exhibit "A"

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ARTICLE 1 AUTHORITY

These guidelines establish the objectives, criteria and procedures to be followed by the City of Lodi in the evaluation of projects and the preparation of environmental impact reports pursuant to authority granted in Public Resources Code Section 21083 for the implementation of the California Environmental Quality Act of 1970. The objectives, criteria and procedures contained therein shall be consistent with the provisions of the Environmental Quality Act and with the State Guidelines adopted by the Secretary of the Resources Agency, pursuant to Section 21083. (15000)

ARTICLE 2 POLICY

SECTION 2.1 LEGISLATIVE DECLARATION

The State Legislature has declared that:

- (A) It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man.
- (B) There is a need to understand the relationship between the maintenance of high-quality ecological systems and the general welfare of the people of the State, including their enjoyment of the natural resources of the State.
- (C) The capacity of the environment is limited.
- (D) Every citizen has a responsibility to contribute to the preservation and enhancement of the environment. (15010)

SECTION 2.2 STATE POLICY

- (A) The Legislature has declared that it is the policy of the State to:
 - (a) Develop and maintain a high-quality environment now and in the future, and take all action necessary to protect, rehabilitate, and enhance the environmental quality of the State.
 - (2) Take all action necessary to provide the people of this State with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise.
 - (3) Prevent the elimination of fish or wildlife species due to man's activities, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California history.

*Numbers in parenthesis indicates section numbers of CEQA Guidelines in Title 14 of the California Administrative Codes.

(4) Ensure that the long-term protection of the environment shall be guiding criterion in public decisions.

(5) Create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations. (15011)

(B) The courts of the State have found the following policies implicit in CEQA.

(1) The EIR requirement is the heart of CEQA.
(County of Inyo v. Yorty, 32 Cal. App. 3d 795.)

(2) The EIR serves not only to protect the environment but also to demonstrate to the public that the environment is being protected.
(DO)

(3) The EIR is to inform other governmental agencies and the public generally of the environmental impact of a proposed project.
(No Oil v. LA, 13 C. 3d 68).

(4) The EIR is to demonstrate to an apprehensive citizenry that the agency has in fact analyzed and considered ecological implications of its actions.
(People v. Bosio, 47 Cal App. 3d 495)

(5) The EIR process will enable the public to determine the environmental and economic values of their elected officials thus allowing for appropriate action come election day should a majority of voters disagree.
(People v. Kern, 39 Cal. App. 3d 830)

(6) CEQA was intended to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. (15011.5)
(Friends of Mammoth v. Board of Sup. 8C. 3d 247)

(C) The Legislature has declared that the following policies shall apply to the use of environmental impact reports:

(1) The purpose of an Environmental Impact Report is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which such significant effects can be mitigated or avoided.

(2) Each public agency shall mitigate or avoid the significant effects on the environment of projects it approves or carries out whenever it approves or carries out whenever it is feasible to do so.

(3) In the event that economic, social, technical, or other conditions make it infeasible to mitigate one or more significant effects of a project on the environment, such project may nonetheless be approved or carried out at the discretion of a public agency, provided that the project is otherwise permissible under applicable laws and regulations.

(4) Environmental Impact Reports should omit unnecessary descriptions of projects and emphasize feasible mitigation measures and alternatives to projects.

(5) Information developed in individual Environmental Impact Reports should be incorporated into a data base which can be used to reduce delay and duplication in preparation of later Environmental Impact Reports.

(6) The EIR process is intended to enable public agencies in evaluating projects to determine whether a project may have a significant effect on the environment, to examine and institute methods of reducing adverse impacts, and to consider alternatives to a project as proposed. These steps of analysis and evaluation to a project as proposed. These steps of analysis and evaluation must be completed prior to approval of the project. (15011.6)

SECTION 2.3 CITY POLICY

(A) The City Council of the City of Lodi hereby affirms the policies of the State.

(B) In accordance with the California Environmental Quality Act of 1970, as amended, all public and private projects which may have a substantial effect on the environment and which are subject to regulation by the City of governing control by the City Council shall not be granted entitlements, permits or other approvals unless the provisions of these guidelines have been duly followed. This applies to all departments, agencies, boards, commissions, and districts acting under the purview of the City.

(C) Public and public-purpose projects under the purview of the City Council shall comply with the project and environmental review procedures and requirements established by the State and City, including these policies and procedures.

(D) Private projects subject to City reviews and approvals shall comply with environmental review procedures and requirements established by the State and the City.

(E) All policies and texts of the City General Plan shall be fully considered in the preparation and review of Environmental Impact Reports.

(F) The City Council hereby delegates the authority to prepare, or cause to be prepared, Environmental Impact Reports to its Environmental Review Officer pursuant to his functions under City ordinance or procedure.

(G) The Environmental Review Officer shall be responsible for proposing to the City Council any changes to these guidelines which would serve to simplify the environmental review process and/or further compliance with the intent and provisions of the State Guidelines and the California Environmental Quality Act, as amended.

(H) Environmental Impact Reports for public and private projects shall be prepared and reviewed as early in the project's formulation as feasible and their coverage shall be for whole projects whenever possible.

(I) Environmental Impact Reports related to planning agency functions shall be considered by the decision-making body, following a public hearing.

(J) Environmental Impact Reports not within the jurisdiction of the planning agency shall be considered by the City Council following a public hearing.

(K) The Environmental Impact Report is an environmental document containing information which must be considered, in relation to other factors, by the decision-making body prior to determination of project approval.

(L) City departments are authorized to prepare office procedures, to assign staff and to expend budgeted monies to accomplish the intent of the Environmental Quality Act of 1970 and these guidelines.

(M) Public and quasi-public agencies subject to City project or environmental reviews shall provide the information, texts, and studies necessary to the adequate reviews of their proposals.

(N) Persons submitting private projects that are subject to City environmental impact reviews shall provide at their expense the information, texts, and studies deemed by the City to be necessary to the adequate review of their projects.

(O) The City Council recognizes that the administration of these Guidelines will require additional time for environmental review beyond that previously required for project consideration.

SECTION 2.4 INFORMATIONAL DOCUMENT

(A) An Environmental Impact Report is an informational document which, when fully prepared in accordance with the CEQA and these Guidelines, will inform public decision-makers and the general public of the environmental effects of projects they proposed to carry out or approve. The information in an EIR constitutes evidence that a public agency shall consider along with any other information which may be presented to the agency. While CEQA requires that major consideration be given to preventing environmental damage, it is recognized that public agencies have obligations to balance other public objectives, including economic and social factors in determining whether and how a project should be approved.

(B) Economic information may be included in an EIR or may be presented in whatever form the agency desires. (15012)

SECTION 2.5 TERMINOLOGY

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

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

(B) "Should" identifies guidance provided by the Secretary for Resources based on policy considerations contained in CEQA, in the legislative history of the statute, or in federal court decisions which California Courts can be expected to follow.

(C) "May" identifies a permissive element which is left fully to the discretion of the City. (15015)

SECTION 2.6 TIME OF PREPARATION

(A) Environmental documents are useful planning tools which enable environmental constraints and opportunities to be considered before project plans are finalized.

(B) Environmental documents should be prepared as early as feasible in the planning process to enable environmental consideration to influence project program and design.

(C) For public and private projects, the Lead Agency shall encourage, project proponents or sponsors to incorporate environmental considerations into project conceptualization, design and planning at earliest feasible time.

(D) The City shall complete all environmental documents within the time limit prescribed in these Guidelines. (15013)

ARTICLE 3 DEFINITIONS

SECTION 3.1 GENERAL

Whenever the following words are used in these Guidelines, unless otherwise defined, they shall have the meaning ascribed to them in this article. These definitions are intended to clarify but not to replace or negate the definitions used in CEQA and the State Guidelines. (15020)

SECTION 3.2 APPLICANT

Applicant means a person who proposes to carry out a project which needs a lease, permit, license, certificate, or other entitlement to use or financial assistance from one or more public agencies when that person applies for the governmental approval of assistance. (15020.5)

SECTION 3.3 APPROVAL

Approval means the decision by the City which commits the City to a definite course of action in regard to a project intended to be carried out by any person. The exact date of approval of any project is a matter determined by the rules, regulations, and ordinances pertaining to the project. Legislative action in regard to a project may constitute approval. (15021)

In connection with private activities, approval occurs upon the earliest commitment to issue or the issuance by the City of a discretionary contract, grant, subsidy, loan or other form of financial assistance, lease, permit, license, certificate, or other entitlement for use of the project. (15021)

SECTION 3.4 CEQA. CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970

CEQA means California Public Resources Code Section 21000 et. seq., as amended. (15022)

SECTION 3.5 CATEGORICAL EXEMPTION

Categorical Exemption means an exception from the requirements for the preparation of an Environmental Impact Report for a class of projects based on a finding by the Secretary for Resources that the class of projects does not have a significant effect on the environment. (15023)

SECTION 3.6 CITY

The City of Lodi.

SECTION 3.7 CUMULATIVE IMPACTS

Cumulative impacts refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The individual effects may be changed resulting from a single project or a number of separate projects. (15023.5)

SECTION 3.8 DECISION-MAKING BODY

The decision-making body is the City Council, the Planning Commission or that official which has been empowered by the City Council to approve or disapprove a project or class of projects. The decision-making body may be the Environmental Review Officer, Planning Commission or the City Council. Some projects may require action by more than one decision-making body as specified by ordinance. (15023.7)

SECTION 3.9 DISCRETIONARY PROJECT

Discretionary project means an activity defined as a project which requires the exercise of judgment, deliberation, or decision on the part of the City in the process of approving or determining to carry out a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances or regulations. (15024)

SECTION 3.10 EMERGENCY

Emergency means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage. (15025)

SECTION 3.11 ENVIRONMENTAL REVIEW OFFICER

The Environmental Review Officer shall be the Community Development Director of the City of Lodi.

SECTION 3.12 ENVIRONMENT

Environment means the physical conditions which exist in the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, object of historic or aesthetic significance. (15026)

SECTION 3.13 ENVIRONMENTAL DOCUMENTS

Environmental documents means Draft and Final Environmental Impact Reports, Master Environmental Assessments, Initial Studies, Negative Declaration, Notices of Completion, Notices of Determination, Notices of Exemption and Notices of Preparation. Examples of Environmental documents are included in Appendix . (15026.5)

SECTION 3.14 ENVIRONMENTAL IMPACT REPORT (EIR)

Environmental Impact Report (EIR) means a detailed statement setting forth the environmental effects and considerations pertaining to a project as specified in Section 21100 of the California Environmental Quality Act, and may mean either a Draft or a Final EIR.

(A) Draft EIR means an EIR containing the information specified in Article 10 of these Guidelines. When a Lead Agency consults with Responsible Agencies in the preparation of a Draft EIR, the Draft EIR shall also contain the information specified in Section 10.5.

(B) Final EIR means an EIR containing the information contained in the Draft EIR, comments either verbatim or in summary received in the review process, and the response of the Lead Agency to the comments received. (15027)

SECTION 3.15 ENVIRONMENTAL IMPACT STATEMENT

Environmental Impact Statement (EIS) means an environmental impact document prepared pursuant to the National Environmental Policy Act (NEPA). The Federal Government uses the term EIS in place of the term EIR, which is used in CEQA. (15028)

SECTION 3.16 FEASIBLE

Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors. (15029)

SECTION 3.17 INITIAL STUDY

Initial Study means a preliminary analysis (as described in Section 6.1 of these Guidelines), based upon the Preliminary Environmental Assessment and other information, conducted by the Lead Agency to determine whether an EIR or a Negative Declaration must be prepared. (15029.5)

SECTION 3.18 JURISDICTION BY LAW

Jurisdiction by law means the authority of any public agency to grant a permit or other entitlement for use, or to provide funding for the project in question. Where an agency having jurisdiction by law must exercise discretionary authority over a period in order for the project to proceed, it is also a Responsible Agency, see Section 3.32 or the Lead Agency, see Section 3.19. (14029.6)

SECTION 3.19 LEAD AGENCY

Lead Agency means the public agency which has the principal responsibility for carrying out or approving a project. The Lead Agency will prepare the environmental documents for the project either directly or by contract. Criteria for determining which agency will be the Lead Agency for a project are contained in Section 5.5 (15030)

SECTION 3.20 LOCAL AGENCY

Local Agency means any public agency other than a state agency, board or commission. Local Agency includes but is not limited to cities, counties, charter cities and counties, special districts, redevelopment agencies, local agency formation commissions and any board, commission, or other organization subdivision of a local agency when so designated by order of resolution of the governing legislative body of the local agency. (15031)

SECTION 3.21 MINISTERIAL PROJECTS

Ministerial projects are projects undertaken or approved by a governmental decision which a public officer or public agency makes upon a given state of facts in a prescribed manner in obedience to the mandate or legal authority. With these projects, the officer or agency must act upon the given facts without regard to his own judgment or opinion concerning the propriety or wisdom of the act although the statute, ordinance, or regulation may require, in some degree, a construction of its language by the officer or agency. In summary, a ministerial decision involves only the use of fixed standards or objectives measurements without personal judgment. (15032)

SECTION 3.22 NEGATIVE DECLARATION

Negative Declaration means a written statement as described in Section 7.1 of these Guidelines prepared by the Lead Agency briefly describing the reasons that a proposed project, although not otherwise exempt, will not have a significant effect on the environment and therefore does not require the preparation of an EIR. (15033)

SECTION 3.23 NOTICE OF COMPLETION

Notice of Completion means a brief notice filed with the Secretary for Resources by a Lead Agency as soon as it has completed a Draft EIR and is prepared to send out copies for review. The contents of this notice are explained in Section 8.5. A copy of the City's Notice of Completion are contained in Appendix .(15034)

SECTION 3.24 NOTICE OF DETERMINATION

Notice of Determination means a brief notice to be filed with the County Clerk by the Lead Agency after it approved or determines to carry out a project which is subject to the requirements of CEQA. A copy of the City's Notice of Determination is included in Appendix (15035) The contents of this notice are explained in Section 7.6.

SECTION 3.25 NOTICE OF EXEMPTION

Notice of Exemption means a brief notice which may be filed by the City Lead Agency when it has approved or determined to carry out a project, and it has determined that it is a ministerial, categorically exempt or an emergency project. Such a notice may also be filed by an applicant where such a determination has been made by the City. The contents of this notice are explained in Section 5.20. A copy of the City's Notice of Exemption is included in Appendix . (15035.5)

SECTION 3.26 NOTICE OF PREPARATION

Notice of Preparation means a brief notice sent by a Lead Agency by certified mail to notify the Responsible Agencies that the Lead Agency plans to prepare an EIR for the project. The purpose of the notice is to solicit guidance from the Responsible Agencies as to the scope and content of the environmental information to be included in the EIR. The contents of this notice are explained in Section 5.9. A copy of a Notice of Preparation is included in Appendix . (15035.7)

SECTION 3.27 PERSON

Person includes any person, firm, association, organization, partnership, business, trust, corporation, company, district, county, city and county, city, town, the State, and any of the agencies' political subdivisions of such entities. (15036)

SECTION 3.28 PRELIMINARY ENVIRONMENTAL ASSESSMENT

Preliminary Environmental Assessment (P.E.A.) means information and analysis used in the Initial Study to determine whether the preparation of an EIR is necessary. The P.E.A. form is prepared by the applicant of a project and provides basic information concerning the proposal and its possible impact upon environment. The P.E.A. may be submitted in the form of a Draft EIR.

SECTION 3.29 PROJECT

(A) Project means the whole of an action, which has a potential for physical impact or resulting in a physical change in the environment, directly or ultimately, that is any of the following:

(1) An activity directly undertaken by a public agency including but not limited to public works construction and related activities clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances and enactment and amendment of local General Plans or elements thereof.

(2) An activity undertaken by a person which is supported in whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.

(3) An activity involving the issuance to a person of a lease, permit, license, certificate or other entitlement for use by one or more public agencies.

(B) The term "Project" refers to the underlying activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term "project" does not mean each separate governmental approval.

(C) Project does not include:

(1) Anything specifically exempted by State law.

(2) Proposals for legislation to be enacted by the State Legislature other than requests by State agencies for authorization or funding for projects independently from the Budget Act.

(3) Continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, emergency repairs to public service facilities, general policy and procedure making (except as they are applied to specific instances covered above), feasibility or planning studies.

(4) The submittal of proposals to a vote of the people of the State or of a particular community.

(6) Certification that the decision-making body has reviewed and considered an EIR or Negative Declaration.

(7) Preparation and filing of notices. (15055)

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

(1) Making of finding as required under Section 8.14.

(2) Review and consideration of a final EIR or Negative Declaration prior to approving a project. (15055)

(C) Where the Planning Commission is required to make a recommendation on a project to the decision-making body, this advisory body shall also review and consider all pertinent Environmental Documents.

SECTION 4.3 LEAD AGENCY CEQA TIME LIMIT

(A) When the public agency is acting as a Lead Agency for a project for which the agency will grant a lease, license, permit, certificate, or other entitlement for use, the agency shall complete and certify an EIR in not more than one year or complete and adopt a Negative Declaration in not more than 105 days.

(1) Different time limits may be established for different types of projects subject to the 105 day and 1 year maximum time limits.

(2) The time limits shall be measured from the date on which an application requesting approval for the project is received and accepted as complete by the agency.

(a) Until such time as the Environmental Review Officer has determined that the application meets all requirements of the local ordinance, state law and these guidelines, the application shall not be considered complete.

(3) A reasonable extension of the time periods established under this subsection may be extended in the event that in the opinion of the Environmental Review Officer compelling circumstances justify additional time and the project applicant consents to the extension.

(4) The Lead Agency may waive the one year time period or the 105 day period if all the following conditions occur:

(a) The project will require both an EIR or Negative Declaration under CEQA and an EIS or a Negative Declaration under the National Environmental Policy Act;

(b) Additional time will be required to prepare a combined EIR-EIS, or a combined Negative Declaration under both laws;

(D) The term "private project" refers to a project initiated by a person other than a governmental agency.

(E) The term "public project" refers to a project initiated by a public agency. (15037)

SECTION 3.30 PUBLIC AGENCY

Public Agency includes any State agency, board of commission and any regional or local agency, as defined in these Guidelines. This term does not include the Courts of the State, nor does it include agencies of the Federal Government. (15038)

SECTION 3.31 RESPONSIBLE AGENCY

Responsible Agency means a public agency which proposes to carry out or approve a project, for which a Lead Agency has prepared the environmental documents. For the purposes of CEQA, the term "responsible agency" includes all public agencies other than the lead agency which have discretionary approval power over the project. (15039)

SECTION 3.32 SIGNIFICANT EFFECT

Significant effect on the environment means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the activity including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. (15040)

ARTICLE 4 GENERAL RESPONSIBILITIES

SECTION 4.1 CITY IMPLEMENTATION

The City is responsible for environmental assessments and preparation of EIR's as required by CEQA on a project it proposes to undertake or approve. The City Council, as the governing legislative body of the City designates its E.R.O. to serve as the local, Lead Agency, pursuant to his functions under City ordinance or procedure. (15050)

SECTION 4.2 DELEGATION OF RESPONSIBILITIES

(A) The City hereby assigns the following functions to its E.R.O. to assist in administering CEQA:

- (1) Determination of whether a project is exempt.
- (2) Conduct of an Initial Study.
- (3) Preparation of a Negative Declaration or EIR.
- (4) Preparation of recommended responses to public comments.
- (5) Recommendation as to adequacy of an EIR.

(c) The time required to prepare such a combined document would be less than the time required to prepare each document separately; and,

(d) The applicant has requested or consented to the waiver.

(5) If the Lead Agency waives the time periods as provided in subsection (4), the Lead Agency must approve or disapprove the project within 60 days after the combined document under CEQA and NEPA has been completed. (Government Code Section 65951).

(B) Within 45 days after accepting an application as complete for a project involving issuance of a lease, permit, license, certificate, or other entitlement for use, a Lead Agency shall make an initial determination of whether the project will need an EIR or a Negative Declaration.

(C) A Lead Agency shall convene a meeting with one or more Responsible Agencies to discuss the scope and content of a proposed EIR as soon as possible but not later than 30 days after the meeting is requested as provided in Section 5.9. (15054.2)

SECTION 4.4 RESPONSIBLE AGENCY CEQA TIME LIMITS

As soon as possible after receiving a Notice of Preparation and in no event more than 45 days after receiving the notice, a Responsible Agency shall inform the Lead Agency of the scope and content of the environment information that the Responsible Agency would need in the EIR. (15054.3)

ARTICLE 5 APPLICATION OF THESE GUIDELINES TO PROJECTS

SECTION 5.1 GENERAL RULE

The requirements set forth in these Guidelines apply to projects which may have a significant effect on the environment and which involve discretionary governmental action. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and the activity is not covered by the requirements set forth in CEQA, then these Guidelines concerning the evaluation of projects and the preparation and review of environmental documents do not apply. (15060)

SECTION 5.2 PUBLIC PROJECTS

(A) When the City plans to carry out or approve a project which is subject to CEQA, the EIR or Negative Declaration for the project shall be prepared directly by, or under contract to, the City.

(B) Where a project which is subject to CEQA is to be carried out by a non-governmental person subject to approval, financial support, or some other involvement by a public agency, the EIR or Negative Declaration shall be prepared directly by, or under contract to, the Lead Agency. However, the Lead Agency may require the person to supply data and information, both to determine whether the project may have a significant effect on the environment, and to assist in the preparation of an EIR or Negative Declaration by

the Lead Agency. This information may be submitted in the form of a Draft EIR if the Lead Agency desires. If information is provided in the form of a Draft EIR or Negative Declaration, the Lead Agency may not use the document as its own Declaration which is sent out for public review must reflect the independent judgment of the Lead Agency. The Lead Agency should require an applicant to specify to the best of his knowledge which other public agencies will have jurisdiction by law over the project.

(C) When the project is to be undertaken by the City, but required State approval or financial assistance, the City shall prepare the EIR or Negative Declaration in accordance with these Guidelines and shall submit the EIR or Negative Declaration with the request for approval of the proposed project to the State Agency. This must also be done where Federal funds are involved, but only if a State agency has discretionary authority over the use of those funds.

(D) The EIR may be prepared as a separate document, or as part of a project report. If prepared as a part of the project report, it must still contain, in one separate and distinguishable section, the elements required of an EIR, including the seven (7) elements specified in Article 10 of these Guidelines.

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

(F) All of the above is subject to modification according to the regulations governing the Lead Agency principle, that not more than one EIR shall be prepared in connection with the same underlying activity and that the EIR shall be prepared by the Lead Agency.

(G) Any person may submit information to the Lead Agency to assist in the preparation of an EIR or Negative Declaration. Such information may be submitted in any format and may be included in whole or in part in any such EIR or Negative Declaration if the Lead Agency subjects the information to its own independent evaluation and analysis. (15061)

SECTION 5.3 PRIVATE PROJECTS

The person initiating and undertaking a private project shall be required to provide the Lead Agency with data and information necessary for it to adequately evaluate the project and prepare all environmental documents. Fees will be charged for the preparation of environmental documents on private projects. Fees will be established by resolution of the City Council.

SECTION 5.4 FEDERAL PROJECTS

(A) When a project requires both an EIR as required by CEQA and an EIS as required by the requirements of the National Environmental Policy Act of 1969, all or any part of the EIS may be used as all or any part of the EIR if the EIS or part used complies with these Guidelines. In cases where a federal EIS is used, discussion of mitigation measures, growth inducing impact, and energy conservation will have to be added or supplemented if the EIS does not include an adequate discussion of these elements.

(B) When a project requires both an EIR and an EIS, the Lead Agency shall, whenever possible, use the EIS as the EIR as provided in subsection (A).

(C) If a Lead Agency finds that an EIS for a project would not be prepared by the Federal Agency by the time when the Lead Agency will need to consider an EIR, the Lead Agency should try to prepare a combined EIR-EIS. To avoid the need for the federal agency to prepare a separate document for the same project, the Lead Agency must involve the federal agency in the preparation of the EIR-EIS. This involvement is necessary because federal law generally prohibits a federal agency from using an EIR prepared by a state or local agency unless the federal agency was involved in the preparation of the document.

(D) When it plans to use an EIS or prepare a joint EIR-EIS, the Lead Agency shall consult as soon as possible with the agency that would prepare the EIS.

(E) Where a project will be subject to both CEQA and the National Environmental Policy Act, the one year time limit and the 105 day time limit may be waived pursuant to Section 4.3

(F) Where the federal agency circulated the EIS for public review as broadly as state or local law may require and gave notice meeting the standards in Section 8.7 the Lead Agency under CEQA need not recirculate the EIS for public review. One review and comment period is enough. The Lead Agency shall give notice that it will use the EIS in the place of an EIR and that it believes that the EIS meets the requirements of CEQA. (15063)

SECTION 5.5 LEAD AGENCY PRINCIPLE

(A) Where a project is to be carried out or approved by more than one public agency, one public agency shall be responsible for preparation of environmental documents, and it will be the Lead Agency. Such environmental documents will be prepared by the Lead Agency in consultation with all responsible agencies.

(B) The Lead Agency's environmental documents shall be the environmental documentation for all responsible agencies. Except as provided in Section 5.14, such responsible agencies shall consider the Lead Agency's EIR or Negative Declaration prior to acting upon or approving the projects, and they shall certify that their decision-making bodies have reviewed and considered the information contained in them.

(C) The determination of the Lead Agency of whether to prepare an Environmental Impact Report or a Negative Declaration shall be final and conclusive on all persons, including Responsible Agencies, as provided by Section 21080.1 of the Public Resources Code, unless:

(1) The decision is challenged as provided in Section 21167 of the Public Resources Code, or

(2) Circumstances change as provided in Section 5.10.

(D) Where a decision making body has power to make a final decision on a project subject to appeal to another body, the decision making body shall review and consider the EIR. The appeal body shall also review and consider the EIR before deciding an appeal from a decision on the project. (15064)

SECTION 5.6 LEAD AGENCY CRITERIA

(A) When two or more public agencies are involved with a project, which agency shall be the Lead Agency shall be determined by following the criteria set forth in Section 15065 of the CEQA Guidelines

SECTION 5.7 SHIFT IN LEAD AGENCY RESPONSIBILITIES

(A) Where a Responsible Agency is called on to grant an approval for a project subject to CEQA for which another public agency was the appropriate Lead Agency, the Responsible Agency shall begin to act as the Lead Agency when any of the conditions set forth in Section 15065.3 of the State CEQA Guidelines occur.

SECTION 5.8 DESIGNATION OF LEAD AGENCY BY OFFICE OF PLANNING AND RESEARCH

(A) In the event that the designation of a Lead Agency is in dispute, the matter shall be resolved as set forth by Section 15065.5 of the CEQA Guidelines.

SECTION 5.9 CONSULTATION

(A) When more than one public agency will be involved in undertaking or approving a project, the Lead Agency shall consult with all Responsible Agencies (i.e., all the other public agencies involved in carrying out or approving the project) before completing a draft EIR or adopting a Negative Declaration. Consultation is designed to insure that the EIR or Negative Declaration will reflect the concerns of all Responsible Agencies which will issue approvals for the project.

(B) Prior to determining whether a Negative Declaration or Environmental Impact Report is required for a project, the Lead Agency shall consult with all Responsible Agencies. This first step of consultation may be done quickly and informally.

(C) Immediately after deciding that an Environmental Impact Report is required for a project, the Lead Agency shall send to each Responsible Agency by certified mail a Notice of Preparation stating that an Environmental Impact Report will be prepared. This notice shall also be sent to every federal agency involved in approving or funding the project.

(1) The Notice of Preparation shall provide the Responsible Agencies with sufficient information describing the project and the environmental effects to enable the Responsible Agencies to make a meaningful response. At a minimum, the information should include:

- (a) Description of the project,
- (b) Location of the project, and
- (c) Probable environmental effects of the project.

(2) A sample format for a Notice of Preparation is shown in Appendix .

(3) The Lead Agency may begin work on the draft EIR immediately without awaiting responses to the Notice of Preparation. The draft EIR in preparation may need to be revised or expanded to conform to responses to the Notice of Preparation.

(D) After receiving the Notice of Preparation under subparagraph (c), each Responsible Agency shall provide the Lead Agency with specific detail about the scope and content of the environmental information related to the Responsible Agency's area of statutory responsibility which must be included in the Environmental Impact Report.

(E) In order to expedite the consultation, the Lead Agency, a Responsible Agency, or a project applicant may request one or more meetings between representatives of the agencies involved to assist the Lead Agency in determining the scope and content of the environmental information which the Responsible Agency may require. Such meetings shall be convened by the Lead Agency as soon as possible, but no later than 30 days, after the meetings were requested.

(F) After completing the draft EIR or Negative Declaration, the Lead Agency shall also consult with and seek to obtain comments from each Responsible Agency and other public agencies having jurisdiction by law and should consult with persons having special expertise.

(G) When one or more state agencies will be a Responsible Agency, the Lead Agency shall send a Notice of Preparation by certified mail to each state Responsible Agency with a copy to the State Clearinghouse in the Office of Planning and Research. The State Clearinghouse will ensure that the State Responsible Agencies reply to the Lead Agency within the require time. (15066)

SECTION 5.10 SUBSEQUENT EIR

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

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

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

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

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

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

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

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

(3) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, or

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

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

(C) If the project was approved prior to the occurrence of the conditions described in Subsection (a), the subsequent EIR shall be prepared by the public agency which grants the next discretionary approval for the project. In this situation no other Responsible Agency shall grant an approval for the project until the subsequent EIR has been completed. (15067)

SECTION 5.11 USE OF SINGLE EIR

A Lead Agency may employ a single EIR to describe more than one project, if such projects are essentially the same in terms of environmental impact. Further, a Lead Agency may use an earlier EIR prepared in connection with an earlier project to apply to a later project, if the circumstances of the projects are essentially the same. Agencies may elect to write EIR's in advance for entire programs or regulations, in order to be prepared for project applications to come. Whenever an agency chooses to utilize any of these alternatives, however, it must find that the environmental effects of the projects are similar enough to warrant the same treatment in an EIR and that the EIR will adequately cover the impacts of any single project. If these tests are not met, an agency should supplement the EIR it prepares for a program to apply it to an individual project. (15068)

SECTION 5.12 USE OF GENERAL PLAN EIR WITH SUBSEQUENT PROJECTS

The EIR on a general plan may be used as the foundation document for EIR's subsequently prepared for specific projects within the geographic area covered by the general plan. The subsequent EIR's may reference and summarize material in the EIR on the general plan for the description of the general environmental setting and as much of the description of the environmental impacts as applies to the specific project. Detailed information in the EIR on the specific project may be limited to a description of the project, the specific environmental setting and those impacts which are not adequately described for the specific project in the EIR on the general plan. When a subsequent EIR refers to an EIR on the general plan for part of its description of the environment and the environmental impacts, copies of the EIR on the general plan shall be made available to the public in a number of locations in the community and to any clearinghouse which will assist in public review of the EIR. The purpose of this section is not to restrict analysis of environmental issues but is to avoid the necessity for repeating detail from a General Plan EIR. (15068.5)

SECTION 5.13 MULTIPLE AND PHASED PROJECTS

Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the Lead Agency must prepare a single EIR for the ultimate project. Where an individual project is a necessary precedent for action on a larger project, or commits the Lead Agency to a larger project, with significant environmental effect, an EIR must address itself to the scope of the larger project. Where one project is one of several similar projects of a public agency, but is not deemed a part of a larger undertaking or a larger project, the agency may prepare one EIR for all projects or one for each project, but shall in either case comment upon the cumulative effect. (15069)

SECTION 5.14 STAGED EIR

(A) Where a large capital project will require a number of discretionary approvals from governmental agencies and one of the approvals will occur more than 2 years before construction will begin, a staged EIR may be prepared covering the entire project in a general form. The staged EIR should evaluate the proposal in light of current and contemplated plans and produce an informed estimate of the environmental consequences of the entire project. The aspect of the project before the public agency for approval shall be discussed with a greater degree of specificity.

(B) When a staged EIR has been prepared, a supplement to the EIR shall be prepared when a later approval is required for the project, and the information available at the time of the later approval would permit consideration of additional environmental impacts, mitigation measures, or reasonable alternatives to the project.

(C) Where a statute such as the Warren-Alquist Energy Resources Conservation and Development Act provides that a specific agency shall be the Lead Agency for a project and requires the Lead Agency to prepare an EIR, a Responsible Agency which must grant an approval for the project before the Lead Agency has completed the EIR may prepare and consider a staged EIR. (15069.5)

SECTION 5.15 MASTER ENVIRONMENTAL ASSESSMENT

(A) GENERAL. The City may prepare a master environmental assessment, inventory, or data base for all, or a portion of, the territory within its jurisdiction in order to provide data and other information which may be used or referenced in EIR's or Negative Declarations. A master environmental assessment is intended to identify and organize environmental information for a region or area of the City.

(B) CONTENTS. A Master Environmental Assessment should contain an inventory of the physical and biological characteristics for which it is prepared and may contain such additional data and information as the local agency determines is useful or necessary to describe environmental characteristics of the area. It may include identification of existing levels of quality and supply of air and water, capacities and levels of use of existing services and facilities, and generalized incremental effects of different categories of development projects by type, scale and location.

(C) PREPARATION

(1) A Master Environmental Assessment may be prepared as a special comprehensive study of the area involved, as part of the EIR on a general plan, or as a data base accumulated by indexing EIR's prepared for individual projects or programs in the area involved.

(2) The information contained in a master environmental assessment should be reviewed periodically and revised as needed so that it is accurate and current.

(3) When advantageous to do so, master environmental assessments may be prepared through a joint exercise of powers agreement with neighboring local agencies or with the assistance of the appropriate Council of Governments.

(4) A master environmental assessment shall be adopted and certified as adequate by resolution of the legislative body of the local agency, following the provisions for public notice and opportunities for review and comment as set forth in these Guidelines for EIR's and Negative Declarations.

(D) USES.

(1) A master environmental assessment can identify the environmental characteristics and constraints of an area. This information can be used to influence the design and locations of individual projects.

(2) A master environmental assessment may provide information agencies can use in Initial Studies to decide whether certain environmental effects are likely to occur and whether certain effects will be significant.

(3) A master environmental assessment can provide a central source of current information for use in preparing individual EIR's and Negative Declarations.

(4) Relevant portions of a master environmental assessment can be referenced and summarized in EIR's and Negative Declarations.

(5) A master environmental assessment shall assist in identifying long range, area wide, and cumulative impacts of individual projects proposed in the area covered by the assessment.

(6) A master environmental assessment can assist a city or county in formulating a general plan or any element of such a plan by identifying environmental characteristics and constraints that need to be addressed in the general plan.

(7) A master environmental assessment can serve as a reference document to assist public agencies which review other environmental documents dealing with activities in the area covered by the assessment. The public agency preparing the assessment should forward a completed copy to each agency which will review projects in the area. (15069.6)

SECTION 5.16 ONGOING PROJECT

(A) A project as defined in Section 3.29 A-1 of these Guidelines, approved prior to November 23, 1970, shall require an Environmental Impact Report or a Negative Declaration if the project may have a significant effect on the environment, and either of the following conditions exist:

(1) A substantial portion of public funds allocated for the project have not been spent and it is still feasible to modify the project to mitigate potentially adverse environmental effects, or to choose feasible alternatives to the project, including the alternative of "no project" or halting the project; provided that Section (1) shall not apply to projects which come under the jurisdiction of the National Environmental Policy Act (NEPA) and which, through regulations promulgated under NEPA, were held to be too far advanced at the time of NEPA's effective date to require an EIS in compliance with those regulations.

(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 project as defined in Section 3.29 A-3 or in Section 3.29 A-2 as it relates to contracts, where the permit or other entitlement was issued, or the contract approved, prior to April 5, 1973, shall not require an EIR or Negative Declaration, subject to the following provisions:

(1) CEQA expressly 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.

(2) Where the issuance or approval occurred prior to December 5, 1972, and prior to said 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 project involving the issuance of a lease, permit, license, certificate or other entitlement to use 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 require an EIR or Negative Declaration 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.

(C) Any Draft EIR which has been completed or sent out for public review on or before January 1, 1977, in compliance with procedures of a public agency consistent with CEQA and these Guidelines as amended in February 1975, shall be deemed to be in compliance with these Guidelines. No further EIR shall be required except as provided in Subsections (A) and (B) of this Section.

(D) Any project approved before February 7, 1975, by a Local Agency Formation Commission without complying with CEQA is declared legally effective unless:

(1) The legality of the project was contested in a legal proceeding in which a violation of CEQA was alleged prior to February 7, 1975, and the case was pending and undecided by February 7, 1975, or

(2) The project was determined to be illegal, void, or ineffective because of noncompliance with CEQA in any judicial proceeding decided before July 6, 1975.

(E) Any draft or Negative Declaration which has been completed and sent out for public review before January 1, 1978, in compliance with procedures of a public agency consistent with CEQA and these Guidelines as amended in December 1976, shall be deemed to be in compliance with these Guidelines. No further EIR shall be required except as provided in Subsections (A), (B) or (C) in Section 5.10. (15070)

SECTION 5.17 EMERGENCY PROJECTS

The following emergency projects are exempt from the requirement for an Environmental Impact Report:

(A) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1, Title 2 of the Government Code.

(B) Emergency repairs to public service facilities necessary to maintain service. Public service facilities include, but are not limited to, gas, electric, water and sewer.

(C) Specific actions necessary to prevent or mitigate an emergency. (15071)

SECTION 5.18 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 Environmental Impact Report but does require consideration of environmental factors as required by Section 21102 of CEQA. (15072)

SECTION 5.19 MINISTERIAL PROJECTS

(A) PRC 21080(b) states that ministerial projects are exempt from the requirements of CEQA, and no environmental documents are required. The following actions are 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.
- (5) Approval of Development Plans.
- (6) Zoning enforcement.

Other actions may be determined to be ministerial on a case-be-case basis by the Lead Agency.

(B) 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.

(D) An Initial Study may be prepared to determine if a project is ministerial. (15073)

SECTION 5.20 NOTICE OF EXEMPTION.

(A) If the City determines that a project is exempt from the requirements of CEQA because it is an emergency project, a ministerial project or categorically

exempt, and the public agency approves or determines to carry out the project, the City may file a notice of exemption. Such a notice shall include (1) a brief description of the project, (2) a finding that the project is exempt, including a citation to the State Guidelines section under which it is found to be exempt, and (3) a brief statement of reasons to support the findings.

(B) If the City approves an applicant's project, the City or the applicant may file a notice of exemption. The notice of exemption filed by an applicant shall contain the information required in subdivision (A) above, together with a certified document issued by the City stating that it has found the project to be exempt. This may be a certified copy of an existing document or record of the City.

(C) If the City files this notice, the notice of exemption will be filed with the county clerk. Copies of all such notices will be available for public inspection. (15074)

SECTION 5.21 PROJECTS WHICH ARE DISAPPROVED

(A) CEQA does not apply to projects which a public agency rejects or disapproves. (P.R.C. Section 21080(b) (5))

(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. (15075)

ARTICLE 6 EVALUATING PROJECTS

SECTION 6.1 INITIAL STUDY

(A) If a project is subject to the requirements of CEQA and not exempted by these Guidelines the Lead Agency shall conduct an Initial Study to determine if the project may have a significant effect on the environment, unless the Lead Agency determines that the project will clearly have a significant effect. If any aspects of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial, then an EIR must be prepared. All phases of project planning, implementation, and operation shall be considered in the Initial Study of the project.

(B) PURPOSES. The purposes of an Initial Study are to:

(1) Identify environmental impacts.

(2) Enable an applicant or Lead Agency to modify a project, mitigating adverse impacts before an EIR is written.

(3) Focus an EIR, if one is required, on potentially significant environmental effects.

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

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

(6) Eliminate unnecessary EIRs.

(C) CONTENTS. The format of the Initial Study shall contain in brief form:

(1) A description of the project.

(2) An identification of the environmental setting.

(3) An identification of environmental effects.

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

(5) An examination of whether the project is compatible with existing zoning and plans.

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

(D) USES.

(1) The Initial Study shall be used to provide a written determination of whether a Negative Declaration or an EIR shall be prepared for a project.

(2) Where a project is revised in response to an Initial Study so that potential adverse effects are mitigated to a point where no significant environmental effects would occur, a Negative Declaration shall be prepared instead of an EIR. If the project would still result in one or more measures are added to the project, an EIR shall be prepared.

(3) The EIR shall emphasize study of the impacts determined to be significant and can omit further examination of those impacts found to be clearly insignificant in the Initial Study.

(E) SUBMISSION OF DATA. If the project is to be carried out by a private person or private organization, the Lead Agency may require such person or organization to submit data and information which will enable the Lead Agency to prepare the Initial Study. The information shall include a PEA completed by the applicant.

(F) CONSULTATION. As soon as a Lead Agency has determined that a project is not exempt and that an Initial Study will be required to determine whether a Negative Declaration or an EIR is required, the Lead Agency shall consult with all Responsible Agencies as required by Section 5.9. (15080)

SECTION 6.2 ENVIRONMENTAL REVIEW

(A) PREPARATION OF INITIAL STUDIES.

(1) After the Environmental Review Officer has accepted an application for a project, he shall determine within 30 calendar days whether such application is complete as defined in Section 4.3 and 6.1 E. The applicant shall be notified in writing whether his application is complete or what additional information is required.

(2) The applicant shall within 30 calendar days submit the specified information or the application shall be considered withdrawn. This 30 day period may be extended by the Environmental Review Officer at his discretion.

(3) After the Environmental Review Officer has accepted a completed application subject to environmental review, he shall cause an initial study to be prepared.

(4) The Environmental Review Officer shall provide other applicable local agencies with the Initial Study for review prior to the posting of a Negative Declaration or EIR. (15080)

SECTION 6.3 ENVIRONMENTAL DETERMINATION

(A) BASIS FOR DETERMINATION OF SIGNIFICANT EFFECTS. Determination of whether a project will have a significant effect shall be based on the following:

(1) The preliminary findings of the Initial Study.

(2) Comments received from State, and local agencies and other interested parties during the review of the Initial Study.

(3) Some examples of consequences which may be deemed to be a significant effect on the environment are contained in Appendix

(B) DETERMINATION OF SIGNIFICANT EFFECTS. Determination of significant effects for most projects shall be made by the Environmental Review Officer. The Planning Commission shall determine significant effect for other projects at the request of the Environmental Review Officer. (15081)

(C) DECISION TO PREPARE A NEGATIVE DECLARATION. If it is determined that a project will not have a significant effect on the environment a Negative Declaration shall be prepared. If it is determined that the project may have

a significant effect but the applicant has proposed mitigation measures sufficient to reduce the environmental effects to an insignificant level as a condition of approval a Negative Declaration shall be prepared.

(D) MITIGATION MEASURES TO REDUCE SIGNIFICANT EFFECT. If it is determined that the project will have a significant effect on the environment but that added mitigation measures could reduce the impact to an insignificant level, the applicant shall be notified of the results of the environmental determination. Within 30 days of the notification the application shall either:

- (1) Modify the project to include the proposed mitigation measures.
- (2) Submit the fees and information required to prepare an Environmental Impact Report, or
- (3) Appeal the requirement of an Environmental Impact Report.

If within 30 days no adequate response is made by the applicant, the application shall be considered withdrawn.

(E) EIR DETERMINATION. If it is determined that the project will have a significant effect on the environment despite any mitigation measures the applicant will receive appropriate notification. Within 30 days of the notification the applicant shall either:

- (1) Submit the fees and information required for an EIR.
- (2) Appeal the requirement of an EIR.

If no appeal of the decision or submission of fees and information required for an EIR is made by the applicant within 30 days, the application shall be considered withdrawn.

(F) ENVIRONMENTAL REVIEW OF PROJECTS BY DECISION-MAKING BODIES. The decision-making body shall consider all relevant environmental documents pr-or to acting on a project. Environmental consideration is based on the policies established in Section 2.1, 2.2 and 2.3 of these Guidelines. Prior to approval of any project the decision-making body shall ratify the adequacy of all environmental documents prepared for the project.

Pursuant to these duties, the decision-making body shall have the following authority:

- (1) To identify significant effects and mitigation measures.
- (2) To revise, add or eliminate the mitigation measures contained in the Initial Study and to require the applicant to modify his project to include appropriate mitigation measures.

- (3) To hear appeals of Negative Declarations or EIR requirements.
- (4) To require an EIR for a project where a significant environmental effect is possible.
- (5) To consider the adequacy of an EIR.
- (6) To deny projects which have a significant effect on the environment.
- (7) To prepare a Statement or Overriding Considerations pursuant to Section 8.14 for projects where an EIR has identified significant effects and the project is approved.

SECTION 6.⁴₃ MANDATORY FINDINGS OF SIGNIFICANCE

A project shall be found to have a significant effect on the environment if:

- (A) The project has the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.
- (B) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.
- (C) The project has possible environmental effects which are individually limited but cumulatively considerable. As used in the subsection, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.
- (D) The environmental effects of a project will cause substantial adverse effects of human beings, either directly or indirectly. (15082)

ARTICLE 7 NEGATIVE DECLARATION PROCESS

A Negative Declaration shall be prepared for a project which the Lead Agency finds on the basis of an Initial Study will not have a significant effect on the environment. Before completing a Negative Declaration, the Lead Agency shall consult with all Responsible Agencies.

(A) CONSULTATION. Before completing a Negative Declaration, the Lead Agency shall consult with all Responsible Agencies pursuant to Section 5.9. This consultation may take place during the public review period required by Section 7.2 (C).

SECTION 7.1 CONTENTS. A Negative Declaration shall include:

- (1) A brief description of the project; including a commonly used name for the project if any.

- (2) The location of the project and name of the project proponent.
- (3) A finding that the project will not have a significant effect on the environment.
- (4) An attached copy of the Initial Study documenting reasons to support the finding.
- (5) Mitigation measures, if any, included in the project to avoid potentially significant effects. (15083(C))

SECTION 7.2. PUBLIC NOTICE

(A) Notice that a Negative Declaration has been prepared shall be provided to the public within a reasonable period of time prior to final adoption by the public agency of the Negative Declaration. Notice shall be given to all organizations and individuals who have previously requested such notice and shall also be given by at least one of the following procedures:

- (1) Publication, once by the public agency in a newspaper of general circulation in the area affected by the proposed project.
- (2) Posting of notice by the public agency on and off site in the area where the project is to be located.
- (3) Direct mailing to owners of property contiguous to the project.

(B) The City may provide additional public notice by any means, providing that public notice prescribed by subsection A of this section is provided.

(C) PUBLIC REVIEW. The Negative Declaration shall be made available to the public with sufficient time before the project is approved to provide an opportunity for members of the public to respond to the finding. Special requirements for review of Negative Declarations are contained in Section 15161.5, 15162 and 15164 of the CEQA Guidelines.

SECTION 7.3 FILING

The Negative Declaration shall be filed with the County Clerk.

SECTION 7.4 APPEALS OF NEGATIVE DECLARATIONS

Any person may appeal a Negative Declaration prior to the expiration of the appeal period for the project itself. The appeal shall be made in writing to the Environmental Review Officer and a fee set by the City Council to defray the expense of the public hearing shall be paid by the appellant.

The decision-making body which will normally consider the project will hear an appeal of a Negative Declaration issued by the Environmental Review Officer. The environmental determination of the City Council is final.

Appeal of a Negative Declaration shall be considered at a public hearing. Consideration of an appeal may immediately precede consideration of the project. At an appeal hearing the decision-making body shall make the determination of significant effects pursuant to Section 6.3 of these Guidelines.

SECTION 7.5 ACTION ON THE PROJECT

No project shall be approved or denied until an Environmental Determination has been made and all required environmental documents are complete.

SECTION 7.6 NOTICE OF DETERMINATION

(A) After making a decision to carry out or approve a project for which a Negative Declaration has been prepared, the Lead Agency shall file a Notice of Determination.

(B) The Notice of Determination shall include:

(1) The decision of the agency to approve the project.

(2) The determination of the agency whether the project will have a significant effect on the environment.

(3) A statement that no EIR has been prepared pursuant to the provisions of CEQA.

(4) The address where a copy of the Negative Declaration may be examined.

(D) The Notice of Determination shall be filed with the County Clerk. If the project required a discretionary approval from any State Agency, the Notice of Determination also shall be filed with the Secretary for Resources.

(E) The filing of the Notice of Determination with the Secretary for Resources and/or the County Clerk starts a 30-day statute of limitations on court challenges to the approval under CEQA. (P.R.C. Sec. 21167(b)). (15083(f))

ARTICLE 8 EIR PROCESS

SECTION 8.1 DECISION TO PREPARE EIR

(A) If the Lead Agency finds after an Initial Study that the project may have a significant effect on the environment, the Lead Agency must prepare or cause to be prepared an Environmental Impact Report.

(B) An EIR should be prepared whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant effect on the environment.

(C) An EIR should be prepared when there is serious public controversy concerning the environmental effect of a project. Controversy not related to an environmental issue does not require the preparation of an EIR

(D) After determining that an EIR will be required for a project, the Lead Agency shall send a Notice of Preparation to each Responsible Agency and consult with the Responsible Agencies as required by Section 5.9. In addition, if it has not already done so, the Lead Agency should also consult directly with any person or organization it believes will be concerned with the environmental effects of the project.

(E) For projects where Federal involvement might require preparation of a Federal EIS, the Lead Agency under CEQA should consult with the appropriate Federal agency on the need for an EIS. If both an EIR and EIS are needed, the documents should be prepared jointly where Federal regulations or procedures allow, or the EIR should be prepared pursuant to Section 5.4. Preparation of a separate EIR and EIS for the same project should be avoided, if possible. (15035)

SECTION 8.2 EIR NOTIFICATION AND APPEAL

(A) When it is determined that an EIR is required for a public project a Notice of Preparation will be posted by the County Clerk. When it is determined that an EIR is required for a private project the applicant will be notified by the Environmental Review Officer.

(B) RESPONSE TO NOTICE OF PREPARATION. The applicant shall respond to Notification of an EIR Determination by the Environmental Review Officer within 30 calendar days. The applicant shall respond to Notification of an EIR Determination by a decision-making body within 10 working days. Failure to respond to the notification shall cause the application to be considered withdrawn.

Response to the notification shall consist of one of the following:

(1) Submission of fees and information required for the Lead Agency to prepare the EIR.

(2) An appeal of the EIR requirement if all appeals have not been exhausted.

(C) APPEALS. Only the applicant or property owner may appeal an EIR Determination. EIR appeals shall be made in writing to the Environmental Review Officer. A fee set by the Board of Supervisors shall be paid by the appellant to defray the cost of the appeal hearing.

The decision-making body which would normally consider the approval of the project will hear the appeal of a Notice of Preparation.

(D) APPEAL HEARING. The decision-making body shall hold a public hearing to consider the appeal. At the appeal hearing the decision-making body shall consider the Initial Study and other evidence concerning the environmental effect of the project.

(1) If it is determined that the project cannot have a significant effect on the environment or that the mitigation measures proposed will reduce all significant effects to an insignificant level, a Negative Declaration shall be prepared.

(2) If it is determined that the project would have a significant effect on the environment which could be mitigated to an insignificant level by added mitigation measures, the applicant shall be notified of these measures pursuant to Section 6.3 (D). If within 10 working days no adequate response is made by the applicant, the application shall be considered withdrawn.

(3) If it is determined that the project will have a significant effect on the environment despite any mitigation measures, the applicant shall be notified that an EIR is required. Within 10 working days of notification, the applicant shall submit the fees and information required for an EIR or the application shall be considered withdrawn.

SECTION 8.3 PREPARATION OF THE DRAFT EIR

When an EIR is to be prepared and all fees and information have been received, a Notice of Preparation will be posted. In order to prepare the Draft EIR, the Lead Agency shall consult with all Responsible Agencies pursuant to Section 5.9. At this time the Lead Agency may find it necessary to consult with other agencies. This consultation may occur at established meetings, by formal referral procedures, or by informal inquiries as to anticipated impacts of the project. The Lead Agency should be able to provide a full description of the project and its environmental setting in order to receive adequate evaluations from the other agencies.

In the case of a private project, the local agency shall require the person who will carry out the project to submit data and information necessary to prepare the EIR. The agency may require the information in the form of a Draft EIR, but the Lead Agency must examine this draft and the information contained within it to assure itself of its accuracy and objectivity and amend the draft if necessary. The EIR in its final draft form must reflect the independent judgment of the Lead Agency. (15085(b))

SECTION 8.4 CONTENT OF A DRAFT EIR

The content of an EIR is described in Article 10.

SECTION 8.5 NOTICE OF COMPLETION

As soon as the Draft EIR is completed, an official notice stating that the Draft EIR has been completed must be filed with the Secretary for Resources. This notice shall be referred to as a Notice of Completion of the Draft EIR. It shall include a brief description of the project, its proposed location and an address where copies of the Draft EIR are available, and the period during which comments will be received. Where the EIR will be reviewed by a State Agency it will be processed through the State Clearinghouse. The cover form required by the State Clearinghouse will serve as the Notice of Completion. (15085(c))

SECTION 8.6 DISTRIBUTION OF THE DRAFT EIR

After completing the Draft EIR, the Lead Agency must consult with, and obtain the comments of, any public agency which has jurisdiction by law with respect to the project. Any agency or department within the local agency which must approve any portion of the project must be consulted. In addition, the following should be consulted:

- (A) Any city, county or regional clearinghouse within three (3) miles of the proposed project.
- (B) Any special district which will be directly or indirectly affected by the project.
- (C) Any persons having special expertise with respect to any environmental impact involved.

SECTION 8.7 PUBLIC NOTICE

(A) After completing a Draft EIR, the Lead Agency shall consult with and obtain comments from public agencies having jurisdiction by law with respect to the project and should consult with persons having special expertise with respect to any environmental impact involved. The Lead Agency shall provide the general public with an opportunity to comment on the EIR.

(B) The Lead Agency shall provide public notice of the completion of a Draft EIR at the same time as it sends a Notice of Completion to the Resources Agency. Notice shall be given to all organizations and individuals who have previously requested such notice and shall also be given by at least one of the following procedures:

- (1) Publication, once by the public agency in a newspaper of general circulation in the area affected by the proposed project.
- (2) Posting of notice by the public agency on and off the site in the area where the project is to be located.
- (3) Direct mailing to owners of property contiguous to the project.

(C) The alternatives for providing notice specified in subsection (B) shall not preclude a public agency from providing additional notice by other means if such agency so desires.

(D) The City will use the State Clearinghouse to distribute EIR's and other environmental documents to State agencies for review and should use areawide clearinghouse to distribute the documents to regional and local agencies.

(E) Public hearings may be conducted on the environmental documents, either in separate proceedings or in conjunction with other proceedings of the public agency. (14085(d))

SECTION 8.8. COMMENTS ON THE DRAFT EIR

The Lead Agency will receive and evaluate all comments requested and all offered on the Draft EIR. A summary of comments shall be included in the Final EIR. (15085(e))

SECTION 8.9 PREPARATION OF THE FINAL EIR

The Final EIR shall be prepared by the Lead Agency. (15085(f))

SECTION 8.10 CONTENTS OF THE FINAL EIR

The contents of a Final EIR are specified in Article 10. (15146)

SECTION 8.11 CERTIFICATION OF THE FINAL EIR

The Final EIR shall be presented to the decision-making body of the Lead Agency. The Lead Agency shall certify that the Final EIR has been completed in compliance with CEQA and the State Guidelines and that the decision-making body or administrative official having final approval authority over the project has reviewed and considered the information contained in the EIR prior to the approval of the project. (15085(g))

SECTION 8.12 NOTICE OF DETERMINATION

(A) After approving a project for which an EIR has been prepared, the Lead Agency shall file a Notice of Determination with the City Clerk. Such notice shall include:

- (1) An identification of the project by its common name where possible;
- (2) The decision of the Lead Agency to approve or carry out the project;
- (3) The determination of the Lead Agency whether the project in its approved form will have a significant effect on the environment;
- (4) A brief statement of the mitigation measures which were adopted by the Lead Agency to reduce the impacts of the approved project; and
- (5) A statement that an EIR was prepared pursuant to the provisions of CEQA and was certified as required by Section 8.11.

(B) If the project requires discretionary approval from a State Agency, the notice shall be filed with the Secretary for Resources.

(C) The filing of the Notice of Determination starts a 30-day statute of limitations on court challenges to the approval under CEQA (P.R.C. 21167(c). (14085(h))

SECTION 8.13 EIR COMBINED WITH EXISTING PLANNING AND REVIEW PROCESS

(A) PUBLIC PROJECT: The Local agency shall include the EIR as a part of the regular project report where such a report is used in the existing review and budgetary process. When review of the project is required by Section 65402(A) of the Government Code, the EIR shall be submitted as part of this review process.

(B) PRIVATE PROJECTS: The EIR process should be combined with the existing project approval process being used by the Lead Agency.

(C) USE OF FINAL EIR BY RESPONSIBLE AGENCY: Each Responsible Agency shall consider the Lead Agency's Final EIR before acting upon or approving the project pursuant to Section 5.5. (15086)

SECTION 8.14 FINDINGS

(A) No public agency or decision maker shall approve or carry out a project for which an Environmental Impact Report has been completed which identifies one or more significant effects of the project unless the public agency makes one or more of the following written findings for each of those significant effects accompanied by a statement of facts supporting each finding.

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

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

(3) Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the Final EIR.

(B) The findings required by subsection (A) shall be supported by substantial evidence in the record.

(C) The finding in subsection (A) (2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. (15083)

SECTION 8.15 STATEMENT OF OVERRIDING CONSIDERATIONS

(A) CEQA requires the decision maker to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. Where agencies have taken action resulting in environmental damage without explaining the reasons which supported the decision, courts have invalidated the action.

(B) Where the decision of the public agency allows the occurrence of significant effects identified in the final EIR without mitigation, the agency must state in writing the reasons to support its action based on the final EIR and other information in the record. This statement may be necessary if the agency also makes a finding under Section 15088(b) or (c).

(C) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the Notice of Determination.

ARTICLE 9 CATEGORICAL EXEMPTIONS

In response to the mandate of Section 21084 of the California Environmental Quality Act, the Secretary for Resources has found that the following classes of projects do not have a significant effect on the environment and they are declared to be categorically exempt from the requirement for the preparation of documents. The Environmental Review Officer may require a PEA and make an initial study to determine if a project is categorically exempt. (15100)

SECTION 9.1 CLASS 1: EXISTING FACILITIES

Class 1. Consists of the operation, repair, maintenance or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to:

(A) Interior and exterior alterations to existing structures involving such things as interior partitions, plumbing, electrical conveyances, mechanical conveyances and upgrading measures such as stuccoing, painting and rewiring.

(B) Replacement and repair of existing facilities of both investor and publicly owned utilities used to convey or distribute electrical power, natural gas, storm drainage, domestic water, irrigation water or sewage.

(C) Reconstruction of existing highways, streets, sidewalks, curbs, gutters, bicycle trails and pedestrian trails and similar facilities.

- (1) Reconstruction of existing highways.
- (2) Resurfacing of existing highways.
- (3) Seal coating of existing highways.
- (4) Regrading of shoulders on existing highways.
- (5) Cleaning of existing drainage and borrow ditches.
- (6) Placement of minor drainage pipes to solve a local drainage problem.
- (7) Minor relocation of utility lines within existing rights-of-way.
- (8) Minor relocation of pumps, pipelines, pressure and irrigation systems from land acquired for roadway purposes.
- (9) Placement of curb, gutters and sidewalks to complete an existing development.

(10) Weed control along established rights-of-way.

(D) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety including the following:

- (1) Relocation of existing storm, water or sanitary mains to conform with new health and safety requirements.
- (2) Repair and/or reconditioning of existing domestic and irrigation wells to meet with current health standards and quantity and quality demands.
- (3) Replacement and/or minor relocation of pumps, motors, electrical equipment on existing storm, water or sanitary facilities and irrigation pumps.
- (4) Cleaning of existing drainage and borrow ditches.
- (5) Placement of minor drainage pipes to solve a local drainage problem.
- (6) Repair and maintenance of park structures and facilities.
- (7) Repair damage caused by vandalism and storms.
- (8) Replacement of traffic delineation to meet changing traffic demands.
- (9) Trimming of trees and trimming or removal of brush to eliminate traffic hazards.

Provided that it is not 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 50 percent of the floor area of the structure before the addition or alteration, 2,500 sq. ft., whichever is less.

(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) where these devices do not have or result in an adverse environmental impact including the following:

- (1) Placement of traffic signals where State warrants are met by changing traffic demands.
- (2) Maintenance of traffic regulatory and advisory signs.
- (3) Construction and maintenance of chemical toilets for temporary usage.

- (4) Installation of traffic regulatory signs after State Vehicle code requirements have been met.
 - (5) Replacement of traffic regulatory and advisory signs to meet new standards.
 - (6) Placement and maintenance of regulatory signs on City waterways as provided for in the State Boating Act.
 - (7) Placement of advisory signs adjacent to existing ferry crossings.
 - (8) Placement and maintenance of advisory and regulatory pavement markings as provided for in the State Vehicle Code.
 - (9) Increasing turning radii at intersections to provide space for school bus and truck turns, including minor additions of rights-of-way when necessary.
 - (10) Increasing roadway land width to provide safe passage for existing volume of traffic.
 - (11) Increasing shoulder width to provide for vehicle refuge area.
 - (12) Replacement of irrigation or drainage structures to provide for added traffic safety or roadway maintenance.
 - (13) Modification of railroad or bridge approach grades to provide safe sight distance.
 - (14) Increase in railroad crossing pavement width to provide for safety zones for vehicles that must make a mandatory stop.
 - (15) Widening of existing bridges to provide safer widths for traffic.
 - (16) Repair or replacement of existing vehicular ferry ramps and docking facilities.
 - (17) Repair and/or modification of existing highway bridges to meet current standards of safety.
 - (18) Construction of turn-around paved areas on deadend streets for use by school buses, or fire fighting apparatus.
 - (19) Rebuild and/or resurface airport runways, taxiways, and runway shoulders.
- (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 economic poisons, as defined in Division 7, Chapter 2, California Agricultural Code) including the following:

- (1) mowing
- (2) watering
- (3) edging
- (4) fertilizing
- (5) pruning
- (6) leaf raking
- (7) litter pickup
- (8) weeding
- (9) weed spraying
- (10) aerifying
- (11) sprinkler maintenance
- (12) park site cleanup

(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 rental units into condominiums.

(L) Demolition and removal of individual small structures listed in this subsection except where the structures are of historical, archaeological or architectural significance:

(1) Single-family residences not in conjunction with the demolition of two or more units.

(2) Motels, apartments, and duplexes designed for not more than four dwelling units if not in conjunction with the demolition of two or more such structures.

(3) Stores, offices and restaurants if designed for an occupant load of 20 persons or less, if not in conjunction with the demolition of two or more such structures.

(4) Accessory (appurtenant) structures to existing dams and appurtenant structures under the supervision of the Department of Water Resources. (15101)

SECTION 9.2 CLASS 2: 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%.

(B) Replacement of a commercial structure with a new structure of substantially the same size and purpose. (15102)

(C) Replacement of existing highway bridges in substantially the same location.

(D) Replacement or reconstruction of utility facilities.

SECTION 9.3 CLASS 3: NEW CONSTRUCTION OF SMALL STRUCTURES

Class 3 consists of construction and location of single, new facilities or structures listed in this notice and installation of new equipment and facilities including but not limited to:

(A) Single family residences not in conjunction with the building of two or more such units.

(B) Motels, apartments, and duplexes designed for not more than four dwelling units if not in conjunction with the building of two or more such structures.

(C) Stores, offices, and restaurants if designed for an occupant load of 20 persons or less, if not in conjunction with the building of two or more such structures.

(D) Water main, sewage, electrical, gas and other utility extensions of reasonable length of serve such construction.

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

(F) Single mobilehomes if in conformity with City ordinance.

SECTION 9.4 CLASS 4: 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 mature scenic trees except for forestry and agricultural purposes as determined by the Environmental Review Officer. Examples include but are not limited to:

(A) Grading on land with a slope of less than ten (10) percent, except where it is to be located in a waterway, in any wetland, in an officially designed (by Federal, State or local governmental action) scenic area, or in officially mapped areas of severe geologic hazard.

(B) New gardening or landscaping but not included the removal of mature scenic trees.

(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 of fish production facilities which result in improvement of habitat for fish and wildlife resources or greater fish production.

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

(F) Maintenance dredging where the spoil is deposited in a spoil area authorized by all applicable State and Federal regulatory agencies.

(G) Minor trenching and backfilling where the surface is restored. (15104)

(H) Normal maintenance of flood control channels including the following:

(1) Clear brush and wild growth other than sod from the levee crown and slopes within the water course.

(2) Burn weeds, grass and debris on the levee and within the water course during the appropriate season where not dangerous or impracticable.

(3) Mow grass and weeds on the levee where removal by burning is dangerous or impracticable.

(4) Spray grass and weeds with herbicides where mowing and/or burning is impracticable.

(5) Exterminate burrowing animals as required by Federal Regulations to preserve the integrity of the levee and channel system.

(6) Repair caves, sloughs, burrows, holes, slips or other damaged portions of the levee.

(7) Grading and dredging of existing flood control channels to maintain adequate capacity.

(8) Repair drains and appurtenant control works and other structures through the levee.

(9) Install, replace or repair revetment work or riprap.

(10) Maintain the road on the levee and shape the crown so as to provide uniform drainage.

(11) Remove or rectify obstacles to travel by authorized vehicles.

(12) Prevent the erection of structures on, additions to, or alterations of, the levee unless authorized by permit.

(13) Stock materials and procure equipment for general maintenance and for repairs during emergencies.

- (14) Patrol the levee continuously during time of floods to prevent seepage and boils on the landward slopes and on the landside of the levee.

SECTION 9.5 CLASS 5: ALTERATIONS IN LAND USE LIMITATIONS

Class 5 consists of minor alterations in land use limitations, except zoning, including but not limited to:

(A) Minor lot line adjustments, side yard and setback variances not resulting in the creation of any new parcel nor in any change in land use or density.

(B) Issuance of minor encroachment permits. Permits include those for items such as driveways, longitudinal and traverse utility encroachments, etc.. (15105)

SECTION 9.6 CLASS 6: 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 for strictly information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted or funded. (15106)

SECTION 9.7 CLASS 7: REGULATORY ACTIONS 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. (15107)

SECTION 9.8 CLASS 8: REGULATORY ACTIONS FOR THE PROTECTION OF THE ENVIRONMENT

Class 8 consists of actions taken by regulatory agencies, as authorized by State law 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 are not included in this exemption. (15108)

SECTION 9.9 CLASS 9: INSPECTIONS

Class 9 consists of activities limited entirely to inspection, to check for performance of an operation, or quality, health or safety of a project, including related activities such as inspection for possible misleading, misrepresentation or adulteration of products. (15109)

SECTION 9.10 CLASS 10: LOANS

Class 10 consists of loans made by the Department of Veterans' Affairs under the Veterans Farm and Home Purchase Act of 1943. (15110)

SECTION 9.11 CLASS 11: 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. (15111)

SECTION 9.12 CLASS 12: SURPLUS GOVERNMENT PROPERTY SALES

Class 12 consists of sales of surplus government property except for parcels of land located in an area of statewide interest or potential area of critical concern as identified in the Governor's Environmental Goals and Policy Report prepared pursuant to Government Code Sections 65401 et seq. However, if the surplus property to be sold is located in those areas identified in the Governor's Environmental Goals and Policy Report, 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 or shape 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 Article 8 of the Guidelines, or
 - (3) The use of the property and adjacent property has not changed since the time of purchase by the public agency. (15112)

SECTION 9.13 CLASS 13: ACQUISITION OF LANDS FOR WILDLIFE CONSERVATION PURPOSES

Class 13 consists of the acquisition of lands for fish and wildlife conservation purposes, including preservation of fish and wildlife habitat, establishing ecological reserves and preserving access to public lands and water where the purpose of the acquisition is to preserve the land in its natural condition. (15113)

SECTION 9.14 CLASS 14: 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 five classrooms, whichever is less. The addition of portable classrooms is included in this exception.

9.15 CLASS 15: TRANSFER OF OWNERSHIP OF LAND IN ORDER TO CREATE PARKS

Class 15 consists of the acquisition or sale of land in order to establish a park where the land is in a natural condition or contains historic sites or archaeological sites 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 site. CEQA will apply when a management plan is proposed that will change the area from its natural condition or significantly change the historic or archaeological site. (15116)

SECTION 9.16 CLASS 16: OPEN SPACE CONTRACTS OR EASEMENTS

Class 16 consists of the establishment of agricultural preserves, 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. (15117)

SECTION 9.17 CLASS 17: DESIGNATION OF WILDERNESS AREAS

Class 17 consists of the designation of wilderness areas under the California Wilderness System. (15118)

SECTION 9.18 CLASS 18: ANNEXATION OF EXISTING FACILITIES AND LOTS FOR EXEMPT FACILITIES.

Class 18 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 which ever 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 15103, New Construction of Small Structures.

SECTION 9.19 CLASS 19: ENFORCEMENT ACTIONS BY REGULATORY AGENCIES

Class 19 consists of 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 law, general rule, standard, or objective, administered or adopted by the regulatory agency. Such actions include, but are not limited to, the following:

(A) 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.

(B) 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.

(C) Construction activities undertaken by the public agency taking the enforcement or revocation action are not included in this exemption. (15121)

SECTION 9.20 CLASS 20: NORMAL OPERATIONS OF FACILITIES FOR PUBLIC GATHERINGS

Class 20 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 kind of purpose. Facilities included within this exemption include, but are not limited to racetracks, stadiums, convention centers, auditoriums, amphitheatres, planetariums, swimming pools and amusement parks. (15123)

SECTION 9.21 CLASS 21: REGULATION OF WORKING CONDITIONS

Class 21 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. (15124)

SECTION 9.22 RELATION TO MINISTERIAL PROJECTS

These categorical exemptions apply only where the project in question is found to be discretionary. If the project is ministerial, the provisions of CEQA and these Guidelines do not apply. The inclusion of a particular project in the class or examples of categorical exemptions does not imply that the project is either ministerial or discretionary. The matter of what is or is not a ministerial project is to be determined by each Lead Agency, based on an examination of the applicable laws and ordinances. (15100.1)

SECTION 9.22 EXCEPTION BY LOCATION

Classes 3,4,5 and 11 and specific categorical exemptions as noted are qualified by considerations 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, or hazard of critical concern as may be hereafter designated, precisely mapped, and officially adopted pursuant to law. Moreover, 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--for example, annual additions to an existing building under Class 1. (15100.2)

ARTICLE 10 CONTENTS OF ENVIRONMENTAL IMPACT REPORTS

SECTION 10.1 GENERAL

(A) Environmental Impact Reports shall contain the information outlined in this article. Each element must be covered, and when these elements are not separated into distinct sections, the document shall state where in the document each element is discussed.

(B) Each report shall contain a brief summary of the proposed action and its consequences in language sufficiently simple that the issues can be understood by the average member of the lay public. The EIR shall also contain a table of contents of an Index.

(C) The information contained in an EIR shall include summarized technical data, maps, plot plans, diagrams and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public. Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR. Appendices to the EIR may be prepared in volumes separate from the basic EIR document, but shall be available for public examination and shall be submitted to all clearing-houses which assist in public review.

(D) The EIR should be prepared using a systematic, interdisciplinary approach. The interdisciplinary analysis shall be conducted by competent individuals, but no single discipline shall be designated or required to undertake this evaluation. Preparation of EIRs is dependent upon information from many sources, including the engineering project report and many scientific documents relating to environmental features. The EIR shall reference all documents used in its preparation including where possible, a citation to the page and section number of any technical reports which were used as the basis for any statements in the EIR.

(E) The EIR should discuss environmental effect in proportion to their severity and probability of occurrence. Effects dismissed in an Initial Study as clearly insignificant and unlikely to occur need not be discussed further in the EIR unless the Lead Agency subsequently receives information inconsistent with the finding in the Initial Study. A copy of the Initial Study shall be attached to the EIR to provide the basis for limiting the impacts discussed.

(F) An EIR shall contain a statement briefly indicating the reasons for determining that various effects of a project that could possibly be considered significant were not found to be significant and consequently were not discussed in detail in the EIR.

(G) Drafting an EIR necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.

(H) If, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact. (15140)

SECTION 10.2 DESCRIPTION OF THE PROJECT

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

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

(B) A statement of the objectives sought by the proposed project.

(C) A general description of the project's technical, economic, and environmental characteristics, considering the principle engineering proposals and supporting public service facilities. (15141)

SECTION 10.3 DESCRIPTION OF ENVIRONMENTAL SETTING

An EIR must include a description of the environment in the vicinity of the project, as it exists before commencement of the project, from both a local and regional perspective. Knowledge of the regional setting is critical to the assessment of environmental impacts.

Special emphasis should be placed on environmental resources that are rare or unique to that region. Specific references to related projects, both public and private, both existent and planned, in the region should also be included, for purposes of examining the possible cumulative impact of such projects. (15142)

SECTION 10.4 ENVIRONMENTAL IMPACT

All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development and operation. The following subjects shall be discussed preferably in separate sections or paragraphs. If they are not discussed separately, the EIR must include a table showing where each of the subjects is discussed. (15143)

(A) THE SIGNIFICANT ENVIRONMENTAL EFFECTS. Describe the direct and indirect significant effects of the project on the environment, giving due consideration to both the short-term and long-term effects. It should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development) and other aspects of the resource base such as water, scenic quality and public services. Cumulative effects shall also be discussed when found to be significant.

(B) ANY SIGNIFICANT ENVIRONMENTAL EFFECTS WHICH CANNOT BE AVOIDED IF THE PROPOSAL IS IMPLEMENTED. Describe any significant impacts, including those which can be reduced to an insignificant level but not eliminated. Where there are impacts that cannot be alleviated without imposing an alternative design, their implications and the reasons why the project is being proposed, notwithstanding their effect, should be described. Describe significant impacts on any aesthetically valuable surroundings, or on human health.

(C) MITIGATION MEASURES PROPOSED TO MINIMIZE THE SIGNIFICANT EFFECTS. Describe significant, avoidable, adverse impacts, including inefficient and unnecessary consumption of energy and water, and measures to minimize these impacts. The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures that are not included but could reasonably be expected to reduce adverse impacts. This discussion shall include an identification of the acceptable levels to which such impacts will be reduced, and the basis upon which such levels were identified. Where several measures are available to mitigate impact, each should be discussed and the basis for selecting a particular measure should be identified. Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix E.

(D) ALTERNATIVES TO THE PROPOSED ACTION. Describe all reasonable alternatives to the project, or to the location of the project, which could feasibly attain the basic objectives of the project, and why they were rejected in favor of the ultimate choice. The specific alternative of "no project" must also always be evaluated, along with the impact. The discussion of alternative shall include alternatives capable of substantially reducing or culminating any significant environmental effects, even if these alternative substantially impede the attainment of the project objectives and are more costly.

(E) THE RELATIONSHIP BETWEEN LOCAL SHORT-TERM USES OF MAN'S ENVIRONMENT AND THE MAINTENANCE AND ENHANCEMENT OF LONG-TERM PRODUCTIVITY. Describe the cumulative and long-term effects of the proposed project which adversely affect the state of the environment. Special attention should be given to impacts which narrow the range of beneficial uses of the environment or pose long-term risks to health or safety. In addition, the reasons why the proposed project is believed by the sponsor to be justified now, rather than reserving an option for further alternatives, should be explained.

(F) ANY SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES WHICH WOULD BE INVOLVED IN THE PROPOSED ACTION SHOULD IT BE IMPLEMENTED. Uses of nonrenewable resources during the initial and continued phases of the project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary impacts and, particularly, secondary impacts (such as a highway improvement which provides access to a nonaccessible area) generally commit future generations to similar uses. Also irreversible damage can result from environmental accidents associated with the project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified.

(B) THE GROWTH-INDUCING IMPACT OF THE PROPOSED ACTION. Discuss the ways in which the proposed project could foster economic or population growth, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth (a major expansion of a waste water treatment plant might, for example, allow for more construction in service areas). Increases in the population may further tax existing community service facilities so consideration must be given to this impact. Also discuss the characteristics of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment. (15143)

(H) LIMITATIONS ON DISCUSSION OF ENVIRONMENTAL IMPACT. The information required by subsections (E) and (F) of this section need be included only in EIRs prepared in connection with the following activities:

(1) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency.

(2) The adoption by a local agency formation commission of a resolution making determinations.

(3) A project which will be subject to the requirement for preparing an Environmental Impact Statement pursuant to the requirements of the National Environmental Policy Act of 1969. (15143.1)

(I) EFFECTS FOUND NOT BE BE SIGNIFICANT. An EIR shall contain a statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and were therefore not discussed in detail in the EIR. Such a statement may be contained in an attached copy of an Initial Study. (15143.5)

SECTION 10.5 ORGANIZATIONS AND PERSONS CONSULTED

The identity of all Federal, State, regional or local agencies, other organizations and private individuals consulted in preparing the EIR, and the identity of the persons, firm or agency preparing the EIR by contract or other authorization must be given. (15144)

SECTION 10.6 WATER QUALITY ASPECTS

Describe in the environmental setting section, and other sections where applicable, water quality aspects of the proposed project which have been previously certified by the appropriate State or interstate organization as being in substantial compliance with applicable water quality standards.

(15145)

SECTION 10.7 CONTENTS OF FINAL ENVIRONMENTAL IMPACT REPORT

(A) The Final EIR shall consist of the Draft EIR containing the elements described above, a section containing the comments and responses. (15146)

SECTION 10.8 DEGREE OF SPECIFICITY

The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.

(A) An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy.

(B) An EIR on projects such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow. (15147)

(C) The requirements for an EIR on a local general plan, element or amendment therefore will be satisfied by the General Plan or element document, and no separate EIR will be required, if:

(1) The General Plan addressed all the points required to be in a EIR by Article 10 of these Guidelines.

(2) The document contains a special section or a cover sheet identifying where the general plan document addresses each of the points required.

(3) Where an EIR has been prepared for a general plan, element, or amendment thereto, the EIR shall be forwarded to the State Clearinghouse for review. (15148)

SECTION 10.9 INCORPORATION BY REFERENCE

(A) An EIR may incorporate by reference all or portions of another document which is a matter of public record or is generally available to the public. Where all or part of another document is incorporated to be set forth in full as part of the text of the EIR.

(B) Where part of another document is incorporated by reference, such other document shall be made available to the public for inspection at a public place or public building. The EIR shall state where the incorporated documents will be available for inspection. At a minimum, the incorporated document shall be made available to the public in an office of the Lead Agency in the City where the project would be carried out or in one or more public buildings such as City offices or public libraries if the Lead Agency does not have an office in the City.

(C) Where an EIR uses incorporation by reference, the incorporated part of the referenced document shall be briefly summarized where possible or briefly described if the data or information cannot be summarized. The relationship between the incorporated part of the referenced document and the EIR shall be described. (15149)

SECTION 10.10 STANDARDS FOR ADEQUACY OF AN EIR

An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure. (15150)

The legally required preparation, review and comment procedures for environmental documents provide the opportunity for citizens, all professional disciplines and public agencies to evaluate critically the environmental document and the manner in which technical data are used. (15160.5)

ARTICLE 11 EVALUATION OF ENVIRONMENTAL IMPACT REPORTS

SECTION 11.1 ADEQUATE TIME FOR REVIEW AND COMMENT

In order to provide sufficient time for public review, review periods for Draft EIRs should not be less than 30 days, nor longer than 90 days from the date of completion of the Draft EIR except in unusual situations. (15160(c))

SECTION 11.2 PURPOSE OF REVIEW

The legally required preparation, review and comment procedures for environmental documents provides the opportunity for citizens, all professional disciplines, and public agencies to evaluate critically the environmental document and the manner in which technical data are used. (15160.5)

SECTION 11.3 REVIEW OF EIRs

(A) Reviewers should focus on the sufficiency of the EIR in discussing possible impacts upon the environment, ways in which adverse effects might be minimized, and alternatives to the project, in light of the intent of the Act to provide decision-makers with useful information about such factors. Public agencies

reviewing projects should explain the basis for their comments, and whenever possible, should submit data or reference in support of such comments.

(B) Upon completion of reviewing an EIR, it is suggested that reviewing agencies supply the project sponsor with the name of a contact person who is available for later consultation should this prove necessary. (15161)

(C) EIRs and Negative Declarations to be reviewed by State agencies shall be submitted to the State Clearinghouse, 1400 Tenth Street, Sacramento, California 95814.

When an EIR is submitted to the State Clearinghouse, the review period set by the Lead Agency must be at least as long as the period provided in the State review system operated by the State Clearinghouse. In exceptional circumstances, the State Clearinghouse may set shorter review periods when requested by the Lead Agency. (15161.5)

(D) Draft EIRs and Negative Declaration prepared by a public agency where a State agency is a Responsible Agency or has jurisdiction by law (with respect to the project) shall be submitted to the State Clearinghouse for review by State agencies. (15161.5(b)(2))

SECTION 11.4 PROJECTS OF STATEWIDE, REGIONAL OR AREAWIDE SIGNIFICANCE.

(A) Projects meeting the criteria in this section shall be deemed to be of statewide, regional or areawide significance. EIRs or Negative Declarations prepared by a public agency on a project described in this section shall be submitted to the State Clearinghouse and should be submitted also to the appropriate metropolitan area council of governments for review and comment.

(B) The Lead Agency shall determine that a proposed project is of statewide, regional, or areawide significance if the project meets any of the following criteria:

(1) A proposed local general plan, element, or amendment thereof for which an EIR was prepared.

(2) A project which would interfere with the attainment or maintenance of State or national air quality standards including:

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

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

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

- (d) A proposed hotel/motel development of more than 500 rooms.
 - (e) A proposed industrial manufacturing or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or encompassing more than 650,000 square feet of floor area.
- (3) A project located in and substantially impacting on an area of critical environmental sensitivity for which an EIR was prepared including:
- (a) An area within 1/4 mile of a wild and scenic river as defined by Section 5093.5 of the Public Resources Code.
 - (b) The Sacramento-San Joaquin Delta, as defined in Water Code Section 12220.
- (4) A project which would substantially affect sensitive wildlife habitats including but not limited to riparian lands, wetlands, bays, estuaries, marshes, and habitats for rare and endangered species as defined by Fish and Game Code Section 903.
- (5) A project which would interfere with attainment of regional water quality standards as stated in the approved areawide waste water management plan. (15161.6)

SECTION 11.4⁵ FAILURE TO COMMENT

If any public agency or person who is consulted with regard to an EIR fails to comment within the time specified by the Lead Agency, it shall be assumed, absent of a request for a specific extension of time, that such agency or person has no comment to make. (15162)

SECTION 11.5⁶ AVAILABILITY OF ENVIRONMENTAL DOCUMENTS

(A) The Lead Agency, after preparing an EIR or other environmental document described in these Guidelines, is responsible for making such documents available to the public for inspection. Members of the general public requesting copies of the EIR may be charged for the actual cost of reproducing that copy.

SECTION 11.6⁷ PUBLIC PARTICIPATION

While the Environmental Quality Act of 1970 does not require formal public hearings at any state of the environmental review procedure, it is a widely accepted desirable goal of this process to encourage public participation. All public agencies adopting implementing procedures in response to these Guidelines should make provisions in their procedures for wide public involvement, formal and informal, consistent with their existing public reactions, adverse and favorable, based on environmental issues. (15164)

SECTION 11.7⁶ PUBLIC HEARINGS

(A) A public hearing on the environmental impact of a project should usually be held when the Lead Agency determines it would facilitate the purposes and goals of the CEQA and these Guidelines to do so. The hearing may be held in conjunction with and as a part of normal planning activities. To as great a degree as possible, these hearings should include comments from reviewing agencies made pursuant to these Guidelines.

(B) Notice shall be made in a newspaper ten (10) days prior to public hearing.

(C) Availability of Negative Declarations: Negative Declarations shall be on file at the Lead Agency and may be inspected by the public.

(D) Availability of EIRs: EIRs shall be available at the Lead Agency. The address of the agency will be posted in the public notice. A fee to cover the cost of reproduction may be charged for a copy of the EIR.

(E) Comments on Draft EIR: Public comments on the Draft EIR are encouraged and may be submitted in writing to the Lead Agency during the specified period of review.

(F) Public Hearings: An advertised public hearing shall be held prior to certification of the Final EIR. When possible, this hearing will be a part of the public hearing normally held on the project. (15165)

SECTION 11.8⁹ RETENTION AND AVAILABILITY OF COMMENTS

Comments received through the consultation process shall be kept on file for a reasonable period and available for public inspection at an address given in the Final EIR. Comments which may be received independently on the review of the Draft EIR shall also be considered and kept on file. (15166)

SECTION 11.9¹⁰ COMMENTS ON INITIATIVE OF PUBLIC AGENCIES

Every public agency may comment on environmental documents dealing with projects which affect resources with which the agency has special expertise regardless of whether its comments were solicited. (15167)

ARTICLE 12 LITIGATION

SECTION 12.1 STATUTORY REFERENCE

Litigation under CEQA must be handled under the time limits and criteria described in Sections 21167 et. seq. of the Public Resources Code. (15201)

SECTION 12.2 ADEQUACY OF AN EIR OR NEGATIVE DECLARATION FOR USE BY RESPONSIBLE AGENCIES

A final EIR prepared by a Lead Agency or a Negative Declaration adopted by a Lead Agency shall be conclusively presumed to comply with CEQA for purposes of use by Responsible Agencies which were consulted pursuant to Section 5.9 unless one of the following conditions occurs:

(A) A legal action or proceeding is filed challenging the EIR within the period provided in Section 21167 (c), or

(B) A subsequent EIR is made necessary by Section 5.10 of these Guidelines. (15202)

SECTION 12.3 CONDITIONAL PERMITS

(A) If a lawsuit is filed challenging an EIR or Negative Declaration for noncompliance with CEQA, Responsible Agencies shall act as if the EIR or Negative Declaration complies with CEQA and continue to process the application for the project according to the time limits for Responsible Agency action contained in Government Code Section 65952. In this situation, the Responsible Agency shall have authority only to grant a conditional approval or disapproval of the project. A conditional approval shall constitute permission to proceed with a project only when the court action results in a final determination that the EIR or Negative Declaration does comply with the provisions of CEQA. (P.R.C. Sec. 21167.3)

(B) This section shall not require a Responsible Agency to process an application for a project where that Responsible Agency has filed a lawsuit challenging the legal adequacy of the environmental documents prepared by or for the Lead Agency. (15203)