

California Public Resources Codes

Unable to Access Code 9410

The directors may operate and maintain, independently or in cooperation with the United States or this state or any state agency or political subdivision ...

California Public Resources Code Section 5019.65

State reserves consist of areas embracing outstanding natural or scenic characteristics or areas containing outstanding cultural resources of statewide significance. State reserve units may be established in the terrestrial or nonmarine aquatic (lake or stream) environments of the state and shall be further classified as one of the following types:

(a) State natural reserves, consisting of areas selected and managed for the purpose of preserving their native ecological associations, unique faunal or floral characteristics, geological features, and scenic qualities in a condition of undisturbed integrity. Resource manipulation shall be restricted to the minimum required to negate the deleterious influence of man.

Improvements undertaken shall be for the purpose of making the areas available, on a day use basis, for public enjoyment and education in a manner consistent with the preservation of their natural features. Living and nonliving resources contained within state natural reserves shall not be disturbed or removed for other than scientific or management purposes.

(b) State cultural reserves, consisting of areas selected and managed for the purpose of preserving and protecting the integrity of places that contain historic or prehistoric structures, villages, or settlements, archaeological features, ruins, artifacts, inscriptions made by humans, burial grounds, landscapes, hunting or gathering sites, or similar evidence of past human lives or cultures. These areas may also be places of spiritual significance to California Native Americans. Within state cultural reserves, the highest level of resource protection shall be sought.

Improvements may be undertaken for the purpose of providing public access, enjoyment, and education, and for cultural resource protection. Improvements made for the purpose of cultural resource protection shall take into account the possible need for access to the site for ceremonial or spiritual purposes. Living and nonliving resources contained within state cultural reserves may be used for ceremonial or spiritual purposes, consistent with other laws, and if the use is not harmful to threatened or endangered species or to the cultural resources intended for protection by this designation. Management actions shall be consistent with the preservation of cultural resources and with federal and state laws.

California Public Resources Code Section 5079

The Legislature hereby finds and declares all of the following:

(a) The preservation of California's historical resources is a responsibility of all citizens, and deserving of continued support through private contributions and efforts and through the use of public funds.

(b) Peoples of many cultures, backgrounds, and abilities have contributed to the economic and social diversity of the state.

(c) Increasing pressures for development, increasing public use, and deterioration through age and exposure continue to place California's historical resources at risk.

(d) Preservation of historical resources stimulates the economy, promotes energy conservation, contributes to the tourism industry, and enhances the quality of life in California.

(e) The stewardship of historical resources will further educational goals, deepen cultural and historical awareness, and advance the public's understanding of the existing human environment and institutions.

(f) Therefore, it is the policy of the state to encourage the stewardship and preservation of California's historical resources.

Code 5079.42

A public agency may enter into an agreement with a nonprofit organization for the purpose of carrying out a historical resource preservation project funded by a grant made pursuant to this article.

Code 5079.44

The office shall consult as needed with the appropriate city or county in order to assess the historical significance of historical resources in connection with an historical resource preservation project proposed pursuant to this article by a nonprofit organization.

Code 5079.51

After the approval of a proposed historical resource management project, the office may expend funds to prepare a plan for the protection and enhancement of the historical resource.

Code 5094.3

Upon specific authorization of state participation by the Legislature:

(a) The Department of Parks and Recreation and the Department of Fish and Game may cooperate and participate with the federal government pursuant to Public Law 89-72 in the development of recreation and fish and wildlife enhancement at federal water projects. Where both the recreation and fish and wildlife enhancement functions are involved in a project the department having the principal interest as designated by the Administrator of the Resources Agency shall be the contracting agency with the federal government. In such case the contract shall be subject to approval of the other department.

(b) The departments may (1) administer unit land and water areas for recreation or fish and wildlife enhancement, or both, (2) contract with the federal government for the operation, maintenance, and replacement of unit facilities, (3) assume all costs of such operation, maintenance, and replacement, and (4) accept transfer of unit lands or facilities by lease or exchange upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation or fish and wildlife enhancement purposes, or both.

(c) The departments may enter into a contract or contracts with the federal government to pay or repay one-half of the separable capital costs involved in the development of the recreation or fish and wildlife enhancement features, or both, at the project pursuant to the provisions of Public Law 89-72, consistent with the reports provided for in Section 5094.2. The agreement for the payment or repayment of the separable capital costs shall be limited to those recreation or fish and wildlife enhancement facilities, or both, specified in the contract. Such payments or repayments may be made by any or all of the following methods: by legislative appropriation; by provision of lands, interests therein, or facilities for the project; or by a contract or contracts for repayment, with interest, within 50 years of first use of project recreation or fish and wildlife enhancement facilities specified in the contract or contracts. The source of repayment may be limited to entrance and user fees or charges collected at the project by the contracting department if such fees or charges dedicated to repayment are established on a basis calculated to achieve

repayment and are made subject to review and renegotiation at intervals of not more than five years. If the source of repayment is so limited, revenues derived from such fees or charges shall be deposited in a special account in the Special Deposit Fund in the State Treasury and used for the purpose of such repayment. If not so limited, the source of repayment shall be such appropriations of funds as may from time to time be made for such purpose by the Legislature. Code 5096.72

The Legislature of the State of California hereby finds and declares that:

(a) It is the responsibility of this state to provide and to encourage the provision of outdoor recreation opportunities for the citizens of California;

(b) When there is proper planning and development, open-space lands contribute not only to a healthy physical and moral environment, but also contribute to the economic betterment of the state, and, therefore, it is in the public interest for the state to acquire areas for recreation, conservation, and preservation and to aid local governments of the state in acquiring and developing such areas as will contribute to the realization of the policy declared in this chapter. Code 5096.143

Code 5096.143

The Legislature further finds and declares that:

(a) The demand for parks, beaches, recreation areas and recreational facilities, and historical resources preservation projects in California is far greater than what is presently available, with the number of people who cannot be accommodated at the area of their choice or any comparable area increasing rapidly. Further, the development of parks, beaches, recreation areas and recreational facilities, and historical resources preservation projects has not proceeded rapidly enough to provide for their full utilization by the public.

(b) The demand for parks, beaches, recreation areas and recreational facilities, and historical resources preservation projects in the urban areas of our state is even greater since over 90 percent of the present population of California reside in urban areas; there continues to be a serious deficiency in open space and recreation areas in the metropolitan areas of the state; less urban land is available, costs are escalating, and competition for land is increasing.

(c) There is a high concentration of urban social problems in California's major metropolitan areas which can be partially alleviated by increased recreational opportunities.

(d) California's coast provides a great variety of recreational opportunities not found at inland sites; it is heavily used because the state's major urban areas lie, and 85 percent of the state's population lives, within 30 miles of the Pacific Ocean; a shortage of facilities for almost every popular coastal recreational activity exists; and there will be a continuing high demand for popular coastal activities such as fishing, swimming, sightseeing, general beach use, camping, and day use. Funding for the acquisition of a number of key coastal sites is critical at this time, particularly in metropolitan areas where both the demand for and the deficiency of recreational facilities is greatest. Development pressures in urbanized areas threaten to preclude public acquisition of these key remaining undeveloped coastal parcels unless these sites are acquired in the near future.

(e) Increasing and often conflicting pressures on limited coastal land and water areas, escalating costs for coastal land, and growing coastal recreational demand require, as soon as possible, funding for, and the acquisition of, land and water areas needed to meet demands for coastal recreational opportunities, to implement recommendations for acquisitions of the Coastal Plan prepared and adopted in accordance with the requirements of the California Coastal Zone Conservation Act of 1972, and to implement local coastal programs required pursuant to the California Coastal Act of 1976.

(f) There is a pressing need to provide funding for a coordinated state program designed to provide expanded public access to the coast, to preserve prime coastal agricultural lands, and to restore and enhance natural and manmade coastal environments pursuant to activities of the State Coastal Conservancy undertaken pursuant to Division 21 (commencing with Section 31000).

(g) Cities, counties, and districts must exercise constant vigilance to see that the parks, beaches, recreation areas and recreational facilities, and historical resources they now have are not lost to other uses; they should acquire additional lands as such lands become available; they should take steps to improve the facilities they now have.

(h) Past and current funding programs have not and cannot meet present deficiencies. This condition has become more acute as a result of restrictions on local governmental revenues.

(i) In view of the foregoing, the Legislature declares that an aggressive, coordinated, funded program for meeting existing and projected recreational demands must be implemented without delay.

Code 6103.2

(a) The State Lands Commission and the Division of State Lands are hereby transferred from the Department of Conservation to the Resources Agency, and, as agencies in the Resources Agency, are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in them as agencies of the Department of Conservation.

(b) Any reference in any law to the State Lands Commission or to the Division of State Lands in the Department of Finance or the Department of Conservation shall be considered a reference to the State Lands Commission or to the Division of State Lands, as the case may be, in the Resources Agency unless the context otherwise requires.

Code 6210

The commission shall represent the State in all contests between it and the United States in relation to public lands.

Code 6110

The State Lands Commission may, by resolution, designate an officer or employee of the commission to conduct the public hearings which the commission is required to hold under Sections 126 and 11425 of the Government Code, or any other state law.

The designated officer or employee shall act in the commission's place and stead and the hearings shall be conducted to all intents and purposes as though the commission were actually present. The designated officer or employee shall have no power to adopt, amend, or repeal any rule or regulation of the commission or to make any final determination in the name of the commission. The designated officer or employee shall make a written report to the commission of all relevant matters presented at such hearings and shall transmit to the commission any statements, arguments, or contentions in writing which may be presented.

The commission shall not make any finding or declaration nor adopt, amend, or repeal any regulation which has been considered at a public hearing conducted by a designated officer or employee of the commission until the commission has considered at a public meeting the written report of the officer or employee and any statements, arguments, or contentions in writing which may have been presented at the hearing conducted by such officer or employee, together with any statements, arguments, or contentions which may be presented at the public meeting of the commission.

Code 6201

The commission may from time-to-time classify any or all state land for its different possible uses, and, when it is deemed advisable, may require the Department of Parks and Recreation, the Department of Conservation, the Director of Agriculture, or any other officer, organization, agency or institution of the state government to make such classification. It is the duty of any such officer, organization, agency, or institution to make such classification and to submit a report thereon upon the application of the commission.

Code 6222

No county, city, district, political subdivision, agency or officer of the State shall request or make application to have any lands owned or controlled by the United States withdrawn or reserved from settlement, location, sale, entry or other forms of disposal under federal law until 30 days after written notice of such proposed application or request has been filed with the State Lands Commission.

Code 6373

Before any disposition of state lands to a private party or other governmental agency, the intended recipient of such lands shall submit to the commission and to the Legislature a general plan, as specified by the commission, for the use of the subject lands to be transferred, together with the review and comments of other interested state agencies.

Code 6445

No lands shall be accepted in exchange under this article without the approval of the commission. All lands so acquired shall be subject to the laws governing State lands of the class from which the exchange was made.

Code 6443

The commission may cooperate with the Secretary of the Interior, may select the lands of this State to be exchanged with the United States under Section 8 of an act of Congress entitled "An act to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement and development, to stabilize the livestock industry dependent upon the public range, and for other purposes," approved June 28, 1934, and may arrange with the proper officials of the United States for such exchange.

Code 6462

Service of summons in any such suit shall be upon the Chairman of the State Lands Commission and Attorney General and it shall be the duty of the Attorney General to represent the State in such suit.

Code 6465

The complaint in any action pursuant to this chapter shall, on request, contain a plat of the property to which the action relates which shows the location of the property in relation to a monument in a survey of record.

Code 7401

As used in this article, "permanent reservation" applies only to a National reservation established by proclamation of the President of the United States.

"Temporary reservation" applies to any withdrawal of public lands from entry, for any purpose, and lands within the exterior boundaries of any such withdrawal, where the withdrawal has not become a permanent reservation by proclamation of the President of the United States.

Code 7402

All sixteenth and thirty-sixth sections, both surveyed and unsurveyed, which are now or hereafter included within the exterior boundaries of a military, Indian, forest, or other National reservation, or of a reserve, or of a National forest, National park, or National monument, or

within the exterior boundaries of lands withdrawn from public entry, may be used as bases for indemnity selections except as otherwise provided in this chapter.

Code 7405

Whenever the State has the right to select lands from the United States, for any of the causes or reasons for which it may be entitled to make indemnity selections, the commission shall ascertain from time to time the number of acres of land to which the State is entitled as indemnity and shall keep on file a statement showing of what such bases consist.

Code 9003

The Legislature hereby finds and declares that resource conservation districts are legal subdivisions of the state and, as such, are not-for-profit entities. For the purpose of contracting with state agencies only, resource conservation districts shall be considered agencies of the state.

Code 9407

The directors may sue and be sued in the name of the district and may appear in person or by counsel.

Code 9408

a) The directors may cooperate and enter into contracts or agreements with the state, the United States, any county, any city, any other resource conservation or other public district in this state, any person, or the commission, in furtherance of the provisions of this division, and to that end may use any funds available to the district as provided in this chapter, and may accept and use contributions of labor, money, supplies, materials, or equipment useful for accomplishing the purposes of the district.

(b) Districts may cooperate with counties and cities on resource issues of local concern. It is the intent of the Legislature to encourage districts to facilitate cooperation among agencies of government to address resource issues of local concern.

(c) Districts may cooperate with federal, state, and local agencies and owners of private lands under the agreement between the California Association of Resource Conservation Districts and various public and private entities known as the coordinated resource management and planning memorandum of understanding.

Code 9409

The directors may make improvements or conduct operations on public lands, with the cooperation of the agency administering and having jurisdiction thereof, and on private lands, with the consent of the owners thereof, in furtherance of the prevention or control of soil erosion, water conservation and distribution, agricultural enhancement, wildlife enhancement, and erosion stabilization, including, but not limited to, terraces, ditches, levees, and dams or other structures, and the planting of trees, shrubs, grasses, or other vegetation.

Code 9414

Directors may accept, by purchase, lease, or gift, and administer any soil conservation, water conservation, water distribution, erosion control, or erosion prevention project located within the district undertaken by the United States or any of its agencies, or by this state or any of its agencies.

Code 9415

The directors may manage, as agents of the United States or any of its agencies, or of this state or any of its agencies, any soil conservation, water conservation, water distribution, flood control, erosion control, erosion prevention, or erosion stabilization project, within or adjacent to the district; and may act as agent for the United States, or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of

any soil conservation, water conservation, water distribution, flood control, erosion control, erosion prevention, or erosion stabilization project within or adjacent to the district.

Code 9417

a) The directors of any district may cooperate with the directors of any other district in respect to matters of common interest or benefit to the districts. An association of resource conservation districts may be organized to facilitate that cooperation, to provide for the loan of equipment and tools by one district to another, and for the making of investigations and studies and the carrying out of projects of joint interest to the districts participating therein.

(b) It is the intent of the Legislature to encourage districts to organize in countywide or regional associations for the purposes of (1) providing coordinated representation of districts before federal, state, and local governmental agencies and (2) coordinating program planning, funding, and delivery of services.

Code 9418

The directors of any district may call upon the district attorney of the principal county for legal advice and assistance in all matters concerning the district, except that if the principal county has a county counsel, then the directors shall call upon him for such legal advice and assistance. The district attorney or county counsel, as may be appropriate, shall, upon the request being made, give such advice and assistance.

Code 9452

The directors are hereby authorized and empowered to hold, use, acquire, manage, occupy and possess property of any kind, and may lease or sell it as provided in this article.

Code 9417.5

It is the intent of the Legislature that concerned state agencies, in cooperation with resource conservation districts and other appropriate local entities, work with the agencies of the United States Department of Agriculture and the Department of the Interior, the Environmental Protection Agency, and other federal agencies, to maximize cooperative opportunities for federal, state, and private funding for competitive grants and contracts for watershed protection, restoration, and enhancement programs of resource conservation districts.

Code 10330

The Wildlife Conservation Board is hereby designated as the lead agency of the state for carrying out the program of rangeland, grazing land, and grassland protection pursuant to this division.

Code 21000

The Legislature finds and declares as follows:

(a) The maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.

(b) It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man.

(c) 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.

(d) The capacity of the environment is limited, and it is the intent of the Legislature that the government of the state take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached.

(e) Every citizen has a responsibility to contribute to the preservation and enhancement of the environment.

(f) The interrelationship of policies and practices in the management of natural resources and waste disposal requires systematic and concerted efforts by public and private interests to enhance environmental quality and to control environmental pollution.

(g) It is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.

Code 21001

The Legislature further finds and declares 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.

(b) 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.

(c) 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.

(d) Ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions.

(e) 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.

(f) Require governmental agencies at all levels to develop standards and procedures necessary to protect environmental quality.

(g) Require governmental agencies at all levels to consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-term benefits and costs and to consider alternatives to proposed actions affecting the environment.

Code 21001.1

The Legislature further finds and declares that it is the policy of the state that projects to be carried out by public agencies be subject to the same level of review and consideration under this division as that of private projects required to be approved by public agencies.

Code 21002

The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects, and that the procedures required by this division are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects. The Legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.

Code 21002.1

In order to achieve the objectives set forth in Section 21002, the Legislature hereby finds and declares that the following policy shall apply to the use of environmental impact reports prepared pursuant to this division:

(a) The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided.

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

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

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

(e) To provide more meaningful public disclosure, reduce the time and cost required to prepare an environmental impact report, and focus on potentially significant effects on the environment of a proposed project, lead agencies shall, in accordance with Section 21100, focus the discussion in the environmental impact report on those potential effects on the environment of a proposed project which the lead agency has determined are or may be significant. Lead agencies may limit discussion on other effects to a brief explanation as to why those effects are not potentially significant.

Code 21003

The Legislature further finds and declares that it is the policy of the state that:

(a) Local agencies integrate the requirements of this division with planning and environmental review procedures otherwise required by law or by local practice so that all those procedures, to the maximum feasible extent, run concurrently, rather than consecutively.

(b) Documents prepared pursuant to this division be organized and written in a manner that will be meaningful and useful to decisionmakers and to the public.

(c) Environmental impact reports omit unnecessary descriptions of projects and emphasize feasible mitigation measures and feasible alternatives to projects.

(d) Information developed in individual environmental impact reports be incorporated into a data base which can be used to reduce delay and duplication in preparation of subsequent environmental impact reports.

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

(f) All persons and public agencies involved in the environmental review process be responsible for carrying out the process in the most efficient, expeditious manner in order to conserve the available financial, governmental, physical, and social resources with the objective that those

resources may be better applied toward the mitigation of actual significant effects on the environment.

Code 21003.1

The Legislature further finds and declares it is the policy of the state that:

(a) Comments from the public and public agencies on the environmental effects of a project shall be made to lead agencies as soon as possible in the review of environmental documents, including, but not limited to, draft environmental impact reports and negative declarations, in order to allow the lead agencies to identify, at the earliest possible time in the environmental review process, potential significant effects of a project, alternatives, and mitigation measures which would substantially reduce the effects.

(b) Information relevant to the significant effects of a project, alternatives, and mitigation measures which substantially reduce the effects shall be made available as soon as possible by lead agencies, other public agencies, and interested persons and organizations.

(c) Nothing in subdivisions (a) or (b) reduces or otherwise limits public review or comment periods currently prescribed either by statute or in guidelines prepared and adopted pursuant to Section 21083 for environmental documents, including, but not limited to, draft environmental impact reports and negative declarations.

Code 21004

In mitigating or avoiding a significant effect of a project on the environment, a public agency may exercise only those express or implied powers provided by law other than this division. However, a public agency may use discretionary powers provided by such other law for the purpose of mitigating or avoiding a significant effect on the environment subject to the express or implied constraints or limitations that may be provided by law.

Code 21005

(a) The Legislature finds and declares that it is the policy of the state that noncompliance with the information disclosure provisions of this division which precludes relevant information from being presented to the public agency, or noncompliance with substantive requirements of this division, may constitute a prejudicial abuse of discretion within the meaning of Sections 21168 and 21168.5, regardless of whether a different outcome would have resulted if the public agency had complied with those provisions.

(b) It is the intent of the Legislature that, in undertaking judicial review pursuant to Sections 21168 and 21168.5, courts shall continue to follow the established principle that there is no presumption that error is prejudicial.

(c) It is further the intent of the Legislature that any court, which finds, or, in the process of reviewing a previous court finding, finds, that a public agency has taken an action without compliance with this division, shall specifically address each of the alleged grounds for noncompliance.

Code 21050

This division shall be known and may be cited as the California Environmental Quality Act.

Code 21060.5

"Environment" means the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance.

Code 21061.1

"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.

Code 21021.2

"Land evaluation and site assessment" means a decisionmaking methodology for assessing the potential environmental impact of state and local projects on agricultural land.

Code 21063

"Public agency" includes any state agency, board, or commission, any county, city and county, city, regional agency, public district, redevelopment agency, or other political subdivision.

Code 21068

"Significant effect on the environment" means a substantial, or potentially substantial, adverse change in the environment.

Code 21080

(a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division.

(b) This division does not apply to any of the following activities:

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

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

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

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

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

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report, negative declaration, or other document, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located if the environmental impact report, negative declaration, or document includes the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of (A) meeting operating expenses, including employee wage rates and fringe benefits, (B) purchasing or leasing supplies, equipment, or materials, (C) meeting financial reserve needs and requirements, (D) obtaining funds for capital projects necessary to maintain service within existing service areas, or (E) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record

of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) All classes of projects designated pursuant to Section 21084.

(10) A project for the institution or increase of passenger or commuter services on rail or highway rights-of-way already in use, including modernization of existing stations and parking facilities.

(11) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

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

(13) A project for the development of a regional transportation improvement program, the state transportation improvement program, or a congestion management program prepared pursuant to Section 65089 of the Government Code.

(14) Any project or portion thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in this state are subject to this division.

(15) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect on the environment in the plan or other written documentation required by Section 21080.5 is subject to this division.

(c) If a lead agency determines that a proposed project, not otherwise exempt from this division, would not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment.

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

(d) If there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment, an environmental impact report shall be prepared.

(e) (1) For the purposes of this section and this division, substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.

(2) Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

(f) As a result of the public review process for a mitigated negative declaration, including administrative decisions and public hearings, the lead agency may conclude that certain mitigation measures identified pursuant to paragraph (2) of subdivision (c) are infeasible or

otherwise undesirable. In those circumstances, the lead agency, prior to approving the project, may delete those mitigation measures and substitute for them other mitigation measures that the lead agency finds, after holding a public hearing on the matter, are equivalent or more effective in mitigating significant effects on the environment to a less than significant level and that do not cause any potentially significant effect on the environment. If those new mitigation measures are made conditions of project approval or are otherwise made part of the project approval, the deletion of the former measures and the substitution of the new mitigation measures shall not constitute an action or circumstance requiring recirculation of the mitigated negative declaration.

(g) Nothing in this section shall preclude a project applicant or any other person from challenging, in an administrative or judicial proceeding, the legality of a condition of project approval imposed by the lead agency. If, however, any condition of project approval set aside by either an administrative body or court was necessary to avoid or lessen the likelihood of the occurrence of a significant effect on the environment, the lead agency's approval of the negative declaration and project shall be invalid and a new environmental review process shall be conducted before the project can be reapproved, unless the lead agency substitutes a new condition that the lead agency finds, after holding a public hearing on the matter, is equivalent to, or more effective in, lessening or avoiding significant effects on the environment and that does not cause any potentially significant effect on the environment.

Code 21080.1

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

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

Code 21080.5

(a) Except as provided in Section 21158.1, when the regulatory program of a state agency requires a plan or other written documentation containing environmental information and complying with paragraph (3) of subdivision (d) to be submitted in support of an activity listed in subdivision (b), the plan or other written documentation may be submitted in lieu of the environmental impact report required by this division if the Secretary of the Resources Agency has certified the regulatory program pursuant to this section.

(b) This section applies only to regulatory programs or portions thereof that involve either of the following:

(1) The issuance to a person of a lease, permit, license, certificate, or other entitlement for use.

(2) The adoption or approval of standards, rules, regulations, or plans for use in the regulatory program.

(c) A regulatory program certified pursuant to this section is exempt from Chapter 3 (commencing with Section 21100), Chapter 4 (commencing with Section 21150), and Section 21167, except as provided in Article 2 (commencing with Section 21157) of Chapter 4.5.

(d) To qualify for certification pursuant to this section, a regulatory program shall require the utilization of an interdisciplinary approach that will ensure the integrated use of the natural and social sciences in decisionmaking and that shall meet all of the following criteria:

(1) The enabling legislation of the regulatory program does both of the following:

- (A) Includes protection of the environment among its principal purposes.
- (B) Contains authority for the administering agency to adopt rules and regulations for the protection of the environment, guided by standards set forth in the enabling legislation.
- (2) The rules and regulations adopted by the administering agency for the regulatory program do all of the following:
 - (A) Require that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen a significant adverse effect that the activity may have on the environment.
 - (B) Include guidelines for the orderly evaluation of proposed activities and the preparation of the plan or other written documentation in a manner consistent with the environmental protection purposes of the regulatory program.
 - (C) Require the administering agency to consult with all public agencies that have jurisdiction, by law, with respect to the proposed activity.
 - (D) Require that final action on the proposed activity include the written responses of the issuing authority to significant environmental points raised during the evaluation process.
 - (E) Require the filing of a notice of the decision by the administering agency on the proposed activity with the Secretary of the Resources Agency. Those notices shall be available for public inspection, and a list of the notices shall be posted on a weekly basis in the Office of the Resources Agency. Each list shall remain posted for a period of 30 days.
 - (F) Require notice of the filing of the plan or other written documentation to be made to the public and to a person who requests, in writing, notification. The notification shall be made in a manner that will provide the public or a person requesting notification with sufficient time to review and comment on the filing.
- (3) The plan or other written documentation required by the regulatory program does both of the following:
 - (A) Includes a description of the proposed activity with alternatives to the activity, and mitigation measures to minimize any significant adverse effect on the environment of the activity.
 - (B) Is available for a reasonable time for review and comment by other public agencies and the general public.
- (e) (1) The Secretary of the Resources Agency shall certify a regulatory program that the secretary determines meets all the qualifications for certification set forth in this section, and withdraw certification on determination that the regulatory program has been altered so that it no longer meets those qualifications. Certification and withdrawal of certification shall occur only after compliance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- (2) In determining whether or not a regulatory program meets the qualifications for certification set forth in this section, the inquiry of the secretary shall extend only to the question of whether the regulatory program meets the generic requirements of subdivision (d). The inquiry may not extend to individual decisions to be reached under the regulatory program, including the nature of specific alternatives or mitigation measures that might be proposed to lessen any significant adverse effect on the environment of the activity.
- (3) If the secretary determines that the regulatory program submitted for certification does not meet the qualifications for certification set forth in this section, the secretary shall adopt findings setting forth the reasons for the determination.

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

(g) An action or proceeding to attack, review, set aside, void, or annul a determination or decision of a state agency approving or adopting a proposed activity under a regulatory program that has been certified pursuant to this section on the basis that the plan or other written documentation prepared pursuant to paragraph (3) of subdivision (d) does not comply with this section shall be commenced not later than 30 days from the date of the filing of notice of the approval or adoption of the activity.

(h) (1) An action or proceeding to attack, review, set aside, void, or annul a determination of the Secretary of the Resources Agency to certify a regulatory program pursuant to this section on the basis that the regulatory program does not comply with this section shall be commenced within 30 days from the date of certification by the secretary.

(2) In an action brought pursuant to paragraph (1), the inquiry shall extend only to whether there was a prejudicial abuse of discretion by the secretary. Abuse of discretion is established if the secretary has not proceeded in a manner required by law or if the determination is not supported by substantial evidence.

(i) For purposes of this section, a county agricultural commissioner is a state agency.

(j) For purposes of this section, an air quality management district or air pollution control district is a state agency, except that the approval, if any, by a district of a nonattainment area plan is subject to this section only if, and to the extent that, the approval adopts or amends rules or regulations.

(k) (1) The secretary, by July 1, 2004, shall develop a protocol for reviewing the prospective application of certified regulatory programs to evaluate the consistency of those programs with the requirements of this division. Following the completion of the development of the protocol, the secretary shall provide a report to the Senate Committee on Environmental Quality and the Assembly Committee on Natural Resources regarding the need for a grant of additional statutory authority authorizing the secretary to undertake a review of the certified regulatory programs.

(2) The secretary shall provide a significant opportunity for public participation in developing the protocol described in paragraph (1) including, but not limited to, at least two public meetings with interested parties. A notice of each meeting shall be provided at least 10 days prior to the meeting to a person who files a written request for a notice with the agency.

Code 21081.6

(a) When making the findings required by paragraph (1) of subdivision (a) of Section 21081 or when adopting a mitigated negative declaration pursuant to paragraph (2) of subdivision (c) of Section 21080, the following requirements shall apply:

(1) The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects

on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead agency or a responsible agency, prepare and submit a proposed reporting or monitoring program.

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

(b) A public agency shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures or, in the case of the adoption of a plan, policy, regulation, or other public project, by incorporating the mitigation measures into the plan, policy, regulation, or project design.

(c) Prior to the close of the public review period for a draft environmental impact report or mitigated negative declaration, a responsible agency, or a public agency having jurisdiction over natural resources affected by the project, shall either submit to the lead agency complete and detailed performance objectives for mitigation measures which would address the significant effects on the environment identified by the responsible agency or agency having jurisdiction over natural resources affected by the project, or refer the lead agency to appropriate, readily available guidelines or reference documents. Any mitigation measures submitted to a lead agency by a responsible agency or an agency having jurisdiction over natural resources affected by the project shall be limited to measures which mitigate impacts to resources which are subject to the statutory authority of, and definitions applicable to, that agency. Compliance or noncompliance by a responsible agency or agency having jurisdiction over natural resources affected by a project with that requirement shall not limit the authority of the responsible agency or agency having jurisdiction over natural resources affected by a project, or the authority of the lead agency, to approve, condition, or deny projects as provided by this division or any other provision of law.

Code 21082.1

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

(b) This section is not intended to prohibit, and shall not be construed as prohibiting, any person from submitting information or other comments to the public agency responsible for preparing an environmental impact report, draft environmental impact report, negative declaration, or mitigated negative declaration. The information or other comments may be submitted in any format, shall be considered by the public agency, and may be included, in whole or in part, in any report or declaration.

(c) The lead agency shall do all of the following:

(1) Independently review and analyze any report or declaration required by this division.

(2) Circulate draft documents that reflect its independent judgment.

(3) As part of the adoption of a negative declaration or a mitigated negative declaration, or certification of an environmental impact report, find that the report or declaration reflects the independent judgment of the lead agency.

(4) Submit a sufficient number of copies of the draft environmental impact report, proposed negative declaration, or proposed mitigated negative declaration, and a copy of the report or declaration in an electronic form as required by the guidelines adopted pursuant to Section 21083, to the State Clearinghouse for review and comment by state agencies, if any of the following apply:

(A) A state agency is any of the following:

(i) The lead agency.

(ii) A responsible agency.

(iii) A trustee agency.

(B) A state agency otherwise has jurisdiction by law with respect to the project.

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

Code 21082.2

(a) The lead agency shall determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record.

(b) The existence of public controversy over the environmental effects of a project shall not require preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment.

(c) Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

(d) If there is substantial evidence, in light of the whole record before the lead agency, that a project may have a significant effect on the environment, an environmental impact report shall be prepared.

(e) Statements in an environmental impact report and comments with respect to an environmental impact report shall not be deemed determinative of whether the project may have a significant effect on the environment.

Code 21083

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

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

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

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

individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

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

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

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

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

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

Code 21084.1

A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. For purposes of this section, an historical resource is a resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources. Historical resources included in a local register of historical resources, as defined in subdivision (k) of Section 5020.1, or deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1, are presumed to be historically or culturally significant for purposes of this section, unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant. The fact that a resource is not listed in, or determined to be eligible for listing in, the California Register of Historical Resources, not included in a local register of historical resources, or not deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1 shall not preclude a lead agency from determining whether the resource may be an historical resource for purposes of this section.

Code 21101

In regard to any proposed federal project in this state which may have a significant effect on the environment and on which the state officially comments, the state officials responsible for such comments shall include in their report a detailed statement setting forth the matters specified in Section 21100 prior to transmitting the comments of the state to the federal government. No

report shall be transmitted to the federal government unless it includes such a detailed statement as to the matters specified in Section 21100.

Code 21151

(a) All local agencies shall prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on any project that they intend to carry out or approve which may have a significant effect on the environment. When a report is required by Section 65402 of the Government Code, the environmental impact report may be submitted as a part of that report.

(b) For purposes of this section, any significant effect on the environment shall be limited to substantial, or potentially substantial, adverse changes in physical conditions which exist within the area as defined in Section 21060.5.

(c) If a nonelected decisionmaking body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decisionmaking body, if any.

Code 21157

(a) A master environmental impact report may be prepared for any one of the following projects:

(1) A general plan, element, general plan amendment, or specific plan.

(2) A project that consists of smaller individual projects that will be carried out in phases.

(3) A rule or regulation that will be implemented by subsequent projects.

(4) A project that will be carried out or approved pursuant to a development agreement.

(5) A public or private project that will be carried out or approved pursuant to, or in furtherance of, a redevelopment plan.

(6) A state highway project or mass transit project that will be subject to multiple stages of review or approval.

(7) A regional transportation plan or congestion management plan.

(8) A plan proposed by a local agency for the reuse of a federal military base or reservation that has been closed or that is proposed for closure.

(9) Regulations adopted by the Fish and Game Commission for the regulation of hunting and fishing.

(10) A plan for district projects to be undertaken by a school district, that also complies with applicable school facilities requirements, including, but not limited to, the requirements of Chapter 12.5 (commencing with Section 17070.10) of Part 10 of, and Article 1 (commencing with Section 17210) of Chapter 1 of Part 10.5 of, Division 1 of Title 1 of the Education Code.

(b) When a lead agency prepares a master environmental impact report, the document shall include all of the following:

(1) A detailed statement as required by Section 21100.

(2) A description of anticipated subsequent projects that would be within the scope of the master environmental impact report, that contains sufficient information with regard to the kind, size, intensity, and location of the subsequent projects, including, but not limited to, all of the following:

(A) The specific type of project anticipated to be undertaken.

(B) The maximum and minimum intensity of any anticipated subsequent project, such as the number of residences in a residential development, and, with regard to a public works facility, its anticipated capacity and service area.

(C) The anticipated location and alternative locations for any development projects.

(D) A capital outlay or capital improvement program, or other scheduling or implementing device that governs the submission and approval of subsequent projects.

(3) A description of potential impacts of anticipated subsequent projects for which there is not sufficient information reasonably available to support a full assessment of potential impacts in the master environmental impact report. This description shall not be construed as a limitation on the impacts which may be considered in a focused environmental impact report.

(c) Lead agencies may develop and implement a fee program in accordance with applicable provisions of law to generate the revenue necessary to prepare a master environmental impact report.

Code 21157.5

(a) A proposed mitigated negative declaration shall be prepared for any proposed subsequent project if both of the following occur:

(1) An initial study has identified potentially new or additional significant effects on the environment that were not analyzed in the master environmental impact report.

(2) Feasible mitigation measures or alternatives will be incorporated to revise the proposed subsequent project, before the negative declaration is released for public review, in order to avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment will occur.

(b) If there is substantial evidence in light of the whole record before the lead agency that the proposed subsequent project may have a significant effect on the environment and a mitigated negative declaration is not prepared, the lead agency shall prepare an environmental impact report or a focused environmental impact report pursuant to Section 21158.

Code 21157.6

(a) The master environmental impact report shall not be used for the purposes of this chapter if either of the following has occurred:

(1) The certification of the master environmental impact report occurred more than five years prior to the filing of an application for the subsequent project.

(2) The filing of an application for the subsequent project occurs following the certification of the master environmental impact report, and the approval of a project that was not described in the master environmental impact report, may affect the adequacy of the environmental review in the master environmental impact report for any subsequent project.

(b) A master environmental impact report that was certified more than five years prior to the filing of an application for the subsequent project may be used for purposes of this chapter to review a subsequent project that was described in the master environmental impact report if the lead agency reviews the adequacy of the master environmental impact report and does either of the following:

(1) Finds that no substantial changes have occurred with respect to the circumstances under which the master environmental impact report was certified or that no new information, which was not known and could not have been known at the time that the master environmental impact report was certified as complete, has become available.

(2) Prepares an initial study and, pursuant to the findings of the initial study, does either of the following:

(A) Certifies a subsequent or supplemental environmental impact report that has been either incorporated into the previously certified master environmental impact report or references any deletions, additions, or any other modifications to the previously certified master environmental impact report.

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

Code 21158

(a) A focused environmental impact report is an environmental impact report on a subsequent project identified in a master environmental impact report. A focused environmental impact report may be utilized only if the lead agency finds that the analysis in the master environmental impact report of cumulative impacts, growth inducing impacts, and irreversible significant effects on the environment is adequate for the subsequent project. The focused environmental impact report shall incorporate, by reference, the master environmental impact report and analyze only the subsequent project's additional significant effects on the environment, as defined in subdivision (d), and any new or additional mitigation measures or alternatives that were not identified and analyzed by the master environmental impact report.

(b) The focused environmental impact report need not examine those effects which the lead agency finds were one of the following:

(1) Mitigated or avoided pursuant to paragraph (1) of subdivision (a) of Section 21081 as a result of mitigation measures identified in the master environmental impact report which will be required as part of the approval of the subsequent project.

(2) Examined at a sufficient level of detail in the master environmental impact report to enable those significant environmental effects to be mitigated or avoided by specific revisions to the project, the imposition of conditions, or by other means in connection with the approval of the subsequent project.

(3) Subject to a finding pursuant to paragraph (2) of subdivision (a) of Section 21081.

(c) A focused environmental impact report on any subsequent project shall analyze any significant effects on the environment where substantial new or additional information shows that the adverse environmental impact may be more significant than was described in the master environmental impact report. The substantial new or additional information may also show that mitigation measures or alternatives identified in the master environmental impact report, which were previously determined to be infeasible, are feasible and will avoid or reduce the significant effects on the environment of the subsequent project to a level of insignificance.

(d) For purposes of this chapter, "additional significant effects on the environment" are those project specific effects on the environment which were not addressed as significant effects on the environment in the master environmental impact report.

(e) Nothing in this chapter is intended to limit or abridge the ability of a lead agency to focus upon the issues that are ripe for decision at each level of environmental review, or to exclude duplicative analysis of environmental effects examined in previous environmental impact reports pursuant to Section 21093.

Code 21165

(a) When a project is to be carried out or approved by two or more public agencies, the determination of whether the project may have a significant effect on the environment shall be made by the lead agency, and that agency shall prepare, or cause to be prepared by contract, the environmental impact report for the project, if a report is required by this division. In the event that a dispute arises as to which is the lead agency, any of the disputing public agencies, or in the case of a project described in subdivision (c) of Section 21065 the applicant for such project, may submit the question to the Office of Planning and Research, and the Office of Planning and

Research shall designate, within 21 days of receiving the request, the lead agency, giving due consideration to the capacity of that agency to adequately fulfill the requirements of this division.

(b) For the purposes of this section, a "dispute" means a contested, active difference of opinion between two or more public agencies as to which of those agencies shall prepare any necessary environmental document. A dispute exists where each of those agencies claims that it either has or does not have the obligation to prepare that environmental document. The Office of Planning and Research shall not designate a lead agency in the absence of such a dispute.

Code 21166.1

The decision of a lead agency to prepare an environmental impact report with respect to environmental impacts within a geographic area or for a group of projects shall not be a basis for determining that an environmental document prepared for an individual project within that area or group is inadequate.

Code 21167

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

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

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

(c) An action or proceeding alleging that an environmental impact report does not comply with this division shall be commenced within 30 days from the date of the filing of the notice required by subdivision (a) of Section 21108 or subdivision (a) of Section 21152 by the lead agency.

(d) An action or proceeding alleging that a public agency has improperly determined that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or Section 21172 shall be commenced within 35 days from the date of the filing by the public agency, or person specified in subdivision (b) or (c) of Section 21065, of the notice authorized by subdivision (b) of Section 21108 or subdivision (b) of Section 21152. If the notice has not been filed, the action or proceeding shall be commenced within 180 days from the date of the public agency's decision to carry out or approve the project, or, if a project is undertaken without a formal decision by the public agency, within 180 days from the date of commencement of the project.

(e) An action or proceeding alleging that another act or omission of a public agency does not comply with this division shall be commenced within 30 days from the date of the filing of the notice required by subdivision (a) of Section 21108 or subdivision (a) of Section 21152.

(f) If a person has made a written request to the public agency for a copy of the notice specified in Section 21108 or 21152 prior to the date on which the agency approves or determines to carry out the project, then not later than five days from the date of the agency's action, the public agency shall deposit a written copy of the notice addressed to that person in the United States

mail, first class postage prepaid. The date upon which this notice is mailed shall not affect the time periods specified in subdivisions (b), (c), (d), and (e).

Code 21167.8

(a) Not later than 20 days from the date of service upon a public agency of a petition or complaint brought pursuant to Section 21167, the public agency shall file with the court a notice setting forth the time and place at which all parties shall meet and attempt to settle the litigation. The meeting shall be scheduled and held not later than 45 days from the date of service of the petition or complaint upon the public agency. The notice of the settlement meeting shall be served by mail upon the counsel for each party. If the public agency does not know the identity of counsel for any party, the notice shall be served by mail upon the party for whom counsel is not known.

(b) At the time and place specified in the notice filed with the court, the parties shall meet and confer regarding anticipated issues to be raised in the litigation and shall attempt in good faith to settle the litigation and the dispute which forms the basis of the litigation. The settlement meeting discussions shall be comprehensive in nature and shall focus on the legal issues raised by the parties concerning the project that is the subject of the litigation.

(c) The settlement meeting may be continued from time to time without postponing or otherwise delaying other applicable time limits in the litigation. The settlement meeting is intended to be conducted concurrently with any judicial proceedings.

(d) If the litigation is not settled, the court, in its discretion, may, or at the request of any party, shall, schedule a further settlement conference before a judge of the superior court. If the petition or complaint is later heard on its merits, the judge hearing the matter shall not be the same judge conducting the settlement conference, except in counties that have only one judge of the superior court.

(e) The failure of any party, who was notified pursuant to subdivision (a), to participate in the litigation settlement process, without good cause, may result in an imposition of sanctions by the court.

(f) Not later than 30 days from the date that notice of certification of the record of proceedings was filed and served in accordance with Section 21167.6, the petitioner or plaintiff shall file and serve on all other parties a statement of issues which the petitioner or plaintiff intends to raise in any brief or at any hearing or trial. Not later than 10 days from the date on which the respondent or real party in interest has been served with the statement of issues from the petitioner or plaintiff, each respondent and real party in interest shall file and serve on all other parties a statement of issues which that party intends to raise in any brief or at any hearing or trial.

Code 21167.4

(a) In any action or proceeding alleging noncompliance with this division, the petitioner shall request a hearing within 90 days from the date of filing the petition or shall be subject to dismissal on the court's own motion or on the motion of any party interested in the action or proceeding.

(b) The petitioner shall serve a notice of the request for a hearing on all parties at the time that the petitioner files the request for a hearing.

(c) Upon the filing of a request by the petitioner for a hearing and upon application by any party, the court shall establish a briefing schedule and a hearing date. In the absence of good cause, briefing shall be completed within 90 days from the date that the request for a hearing is filed, and the hearing, to the extent feasible, shall be held within 30 days thereafter. Good cause may include, but shall not be limited to, the conduct of discovery, determination of the completeness

of the record of proceedings, the complexity of the issues, and the length of the record of proceedings and the timeliness of its production. The parties may stipulate to a briefing schedule or hearing date that differs from the schedule set forth in this subdivision if the stipulation is approved by the court.

Code 21168

Any action or proceeding to attack, review, set aside, void or annul a determination, finding, or decision of a public agency, made as a result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken and discretion in the determination of facts is vested in a public agency, on the grounds of noncompliance with the provisions of this division shall be in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure.

In any such action, the court shall not exercise its independent judgment on the evidence but shall only determine whether the act or decision is supported by substantial evidence in the light of the whole record.

Code 21168.5

In any action or proceeding, other than an action or proceeding under Section 21168, to attack, review, set aside, void or annul a determination, finding, or decision of a public agency on the grounds of noncompliance with this division, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.

Code 21168.9

(a) If a court finds, as a result of a trial, hearing, or remand from an appellate court, that any determination, finding, or decision of a public agency has been made without compliance with this division, the court shall enter an order that includes one or more of the following:

- (1) A mandate that the determination, finding, or decision be voided by the public agency, in whole or in part.
- (2) If the court finds that a specific project activity or activities will prejudice the consideration or implementation of particular mitigation measures or alternatives to the project, a mandate that the public agency and any real parties in interest suspend any or all specific project activity or activities, pursuant to the determination, finding, or decision, that could result in an adverse change or alteration to the physical environment, until the public agency has taken any actions that may be necessary to bring the determination, finding, or decision into compliance with this division.
- (3) A mandate that the public agency take specific action as may be necessary to bring the determination, finding, or decision into compliance with this division.

(b) Any order pursuant to subdivision (a) shall include only those mandates which are necessary to achieve compliance with this division and only those specific project activities in noncompliance with this division. The order shall be made by the issuance of a peremptory writ of mandate specifying what action by the public agency is necessary to comply with this division. However, the order shall be limited to that portion of a determination, finding, or decision or the specific project activity or activities found to be in noncompliance only if a court finds that (1) the portion or specific project activity or activities are severable, (2) severance will not prejudice complete and full compliance with this division, and (3) the court has not found the remainder of the project to be in noncompliance with this division. The trial court shall retain

jurisdiction over the public agency's proceedings by way of a return to the peremptory writ until the court has determined that the public agency has complied with this division.

(c) Nothing in this section authorizes a court to direct any public agency to exercise its discretion in any particular way. Except as expressly provided in this section, nothing in this section is intended to limit the equitable powers of the court.

Code 21174

No provision of this division is a limitation or restriction on the power or authority of any public agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer, including, but not limited to, the powers and authority granted to the California Coastal Commission pursuant to Division 20 (commencing with Section 30000). To the extent of any inconsistency or conflict between the provisions of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)) and the provisions of this division, the provisions of Division 20 (commencing with Section 30000) shall control.

Code 21177

(a) No action or proceeding may be brought pursuant to Section 21167 unless the alleged grounds for noncompliance with this division were presented to the public agency orally or in writing by any person during the public comment period provided by this division or prior to the close of the public hearing on the project before the issuance of the notice of determination.

(b) No person shall maintain an action or proceeding unless that person objected to the approval of the project orally or in writing during the public comment period provided by this division or prior to the close of the public hearing on the project before the issuance of the notice of determination.

(c) This section does not preclude any organization formed after the approval of a project from maintaining an action pursuant to Section 21167 if a member of that organization has complied with subdivision (b).

(d) This section does not apply to the Attorney General.

(e) This section does not apply to any alleged grounds for noncompliance with this division for which there was no public hearing or other opportunity for members of the public to raise those objections orally or in writing prior to the approval of the project, or if the public agency failed to give the notice required by law.