



The California Environmental Quality Act

Title 14. California Code of Regulations **Chapter 3. Guidelines for Implementation of the California Environmental Quality Act**

Article 9. Contents of Environmental Impact Reports

Sections 15120 to 15132

15120. General

(a) Environmental Impact Reports shall contain the information outlined in this article, but the format of the document may be varied. 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) The EIR may be prepared as a separate document, as part of a general plan, or as part of a project report. If prepared as a part of the project report, it must still contain one separate and distinguishable section providing either analysis of all the subjects required in an EIR or, as a minimum, a table showing where each of the subjects is discussed. When the Lead Agency is a state agency, the EIR shall be included as part of the regular project report if such a report is used in the agency's existing review and budgetary process.

(c) Draft EIRs shall contain the information required by Sections 15122 through 15131. Final EIRs shall contain the same information and the subjects described in Section 15132.

(d) No document prepared pursuant to this article that is available for public examination shall include a "trade secret" as defined in Section 6254.7 of the Government Code, information about the location of archaeological sites and sacred lands, or any other information that is subject to the disclosure restrictions of Section 6254 of the Government Code.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21100, 21105 and 21160, Public Resources Code.

Discussion: This section provides general information on the EIR document. The document may be prepared in a wide variety of formats so long as the essential elements of information are included. In order to promote public understanding of the document, the Guidelines require that when the required elements are not separated into distinct sections, the document must include a statement as to where each element is discussed.

Subsection (b) is also designed to allow Lead Agencies flexibility in preparing the document. This section provides that the EIR may be a separate document by itself, or the EIR may be included within another document. Where the EIR is included within another document, the EIR must be a distinguishable section of that larger document.

The flexibility allowed by this section enables Lead Agencies to achieve efficiencies in different situations. For example, where a Local Agency Formation Commission has prepared a large document analyzing the effects of a proposed annexation, the LAFCO may reduce its cost by including the EIR within the larger document. The decision in *Russian Hill Improvement Association v. Board of Permit Appeals*, (1974) 44 Cal. App. 3d 158 ruled that the EIR must be a separate, distinguishable document rather than merely a collection of reports prepared for some other purpose. This section allows agencies to combine the EIR with other documents so long as the EIR is a separate identifiable entity that would meet the standards of the Russian Hill decision.

Subsection (c) highlights the differences in contents for draft EIRs and final EIRs. The Guidelines refer so often to draft or final EIRs that the contents should be identified in the introductory section in the article on EIR contents.

Subsection (d) clarifies that limitations on the disclosure of trade secrets and archaeological sites established by state law outside of CEQA also apply to environmental documents. Limiting disclosure of archaeological sites and sacred lands is particularly important in order to reduce the chances that they might be damaged or destroyed by collectors.

15121. Informational Document

(a) An EIR is an informational document which will inform public agency decision-makers and the public generally of the significant environmental effect of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The public agency shall consider the information in the EIR along with other information which may be presented to the agency.

(b) While the information in the EIR does not control the agency's ultimate discretion on the project, the agency must respond to each significant effect identified in the EIR by making findings under Section 15091 and if necessary by making a statement of overriding consideration under Section 15093.

(c) The information in an EIR may constitute substantial evidence in the record to support the agency's action on the project if its decision is later challenged in court.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21061, Public Resources Code; *Carmel Valley View, Ltd. v. Board of Supervisors*, (1976) 58 Cal. App. 3d 817.

Discussion: This section describes the fundamental role played by the EIR in CEQA. This section makes the point that the EIR provides information to assist the agency in making decisions on the project but does not control the agency's exercise of discretion.

15122. Table of Contents or Index

An EIR shall contain at least a table of contents or an index to assist readers in finding the analysis of different subjects and issues.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21061, Public Resources Code.

Discussion: This section identifies the statutory requirement for an EIR to contain either a table of contents or an index. The requirement is included here in the article on EIR contents in the interest of clarity.

15123. Summary

(a) An EIR shall contain a brief summary of the proposed actions and its consequences. The language of the summary should be as clear and simple as reasonably practical.

(b) The summary shall identify:

(1) Each significant effect with proposed mitigation measures and alternatives that would reduce or avoid that effect;

(2) Areas of controversy known to the Lead Agency including issues raised by agencies and the public; and

(3) Issues to be resolved including the choice among alternatives and whether or how to mitigate the

significant effects.

(c) The summary should normally not exceed 15 pages.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21061, Public Resources Code.

Discussion: This section identifies the statutory requirement for an EIR to contain a summary. The section then provides additional regulatory requirements for the summary. This section requires the summary to focus on the major areas of importance to decision-makers and to use clear, simple language to promote understanding. The section suggests a 15-page limit to the summary.

15124. Project Description

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 objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project..

(c) A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.

(d) A statement briefly describing the intended uses of the EIR.

(1) This statement shall include, to the extent that the information is known to the Lead Agency,

(A) A list of the agencies that are expected to use the EIR in their decision-making, and

(B) A list of permits and other approvals required to implement the project.

(C) A list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements.

(2) If a public agency must make more than one decision on a project, all its decisions subject to CEQA should be listed, preferably in the order in which they will occur. On request, the Office of Planning and Research will provide assistance in identifying state permits for a project.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.3, 21080.4, 21165, 21166, and 21167.2, Public Resources Code; *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185.

Discussion: This section requires the EIR to describe the proposed project in a way that will be meaningful to the public, to the other reviewing agencies, and to the decision-makers. Although the statute contains no express requirement for an EIR to contain a project description, the statutory points of analysis need to be supplemented with a project description for the analysis to make sense. This section is a codification of the ruling in *County of Inyo v. City of Los Angeles*, cited in the note. There the court noted that an accurate description of the project has been required by case law interpreting the National Environmental Policy Act. The state court of appeal declared that an accurate, stable, finite project description is an essential element of an informative and legally sufficient EIR under CEQA.

Subsection (b) emphasizes the importance of a clearly written statement of objectives. Compatibility with project objectives is one of the criteria for selecting a reasonable range of project alternatives.

Clear project objectives simplify the selection process by providing a standard against which to measure possible alternatives.

Subsection (d) calls for a brief statement of how the Lead Agency and any Responsible Agencies will use the EIR in their approval or permitting processes. This is necessary to make the EIR fit the Lead Agency concept which requires all permitting agencies to use the same EIR. In addition, it encourages the lead agency to consult with other agencies and to integrate CEQA review with other related environmental reviews. This advances Public Resources Code section 21003 which provides that, to the extent possible, CEQA is to be applied concurrently with other review processes.

15125. Environmental Setting

(a) An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives.

(b) When preparing an EIR for a plan for the reuse of a military base, lead agencies should refer to the special application of the principle of baseline conditions for determining significant impacts contained in Section 15229.

(c) 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 and would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context.

(d) The EIR shall discuss any inconsistencies between the proposed project and applicable general plans and regional plans. Such regional plans include, but are not limited to, the applicable air quality attainment or maintenance plan or State Implementation Plan, area-wide waste treatment and water quality control plans, regional transportation plans, regional housing allocation plans, habitat conservation plans, natural community conservation plans and regional land use plans for the protection of the Coastal Zone, Lake Tahoe Basin, San Francisco Bay, and Santa Monica Mountains.

(e) Where a proposed project is compared with an adopted plan, the analysis shall examine the existing physical conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced as well as the potential future conditions discussed in the plan.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061 and 21100, Public Resources Code; *E.P.I.C. v. County of El Dorado* (1982) 131 Cal.App.3d 350; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713; *Bloom v. McGurk* (1994) 26 Cal.App.4th 1307.

Discussion: Because the concept of a significant effect on the environment focuses on changes in the environment, this section requires an EIR to describe the environmental setting of the project so that the changes can be seen in context. The description of the pre-existing environment also helps reviewers to check the Lead Agency's identification of significant effects. A number of agencies have been required to spend large amounts of public funds to develop regional plans as a way of dealing with large-scale environmental problems involving air and water pollution, solid waste, and transportation. Where individual projects would run counter to the efforts identified as desirable or approved by agencies in the regional plans, the Lead Agency should address the inconsistency between the project plans and the regional plans. As a result of this analysis, Lead Agencies may be able to find ways to modify the project to reduce the inconsistency.

Subsection (a) clarifies that the environmental setting is intended to mean the environmental conditions as they exist at the time the Notice of Preparation is filed. This gives the lead agency

greater certainty regarding the setting which must be described. The subsection goes on to provide that normally the environmental setting describes the baseline conditions against which the significance of any physical change in the environment that may occur as a result of the project will be measured.

Regarding subsection (c), in *Antioch v. Pittsburg* (1986) 187 Cal. App. 3d 1325, the court underscored that mere conformity with a general plan (in and of itself) will not justify a finding that the project has no significant environmental effects. In the instant case, a developer sought a site development permit from the City of Pittsburg and the initiation of an assessment district for the construction of major infrastructure for three parcels of land. Although consistent with the general plan, the court found the project level environmental review to be inadequate and ordered an EIR prepared. Subsection (c) further emphasizes the importance of examining the project in its regional context. This is intended to ensure that the environmental setting is comprehensively described.

Subsection (d) reflects the decision in *Environmental Information and Planning Council v. County of El Dorado* (1982) 131 Cal. App. 3d 350, which held that in comparing an old general plan with a new county general plan that would allow less growth than the old plan, the EIR had to address the existing level of actual physical development in the county as the base line for the comparison. The two plans could not be compared with each other without showing how they would relate to the existing level of development.

15126. Consideration and Discussion of Environmental Impacts

All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation. The subjects listed below shall be discussed as directed in Sections 15126.2, 15126.4 and 15126.6, preferably in separate sections or paragraphs of the EIR. If they are not discussed separately, the EIR shall include a table showing where each of the subjects is discussed.

- (a) Significant Environmental Effects of the Proposed Project.
- (b) Significant Environmental Effects Which Cannot be Avoided if the Proposed Project is Implemented.
- (c) Significant Irreversible Environmental Changes Which Would be Involved in the Proposed Project Should it be Implemented.
- (d) Growth-Inducing Impact of the Proposed Project.
- (e) The Mitigation Measures Proposed to Minimize the Significant Effects.
- (f) Alternatives to the Proposed Project.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21003, 21100, and 21081.6, Public Resources Code; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; and *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112.

Discussion: This section specifies that an EIR must discuss, preferably separately, a project's significant environmental effects, mitigation measures, and a range of alternatives. The 1998 amendments to the Guidelines moved the comprehensive discussion of each of these EIR components, which once resided in section 15126, into sections 15126.2, 15126.4, and 15126.6, respectively.

15126.2 Consideration and Discussion of Significant Environmental Impacts.

- (a) The Significant Environmental Effects of the Proposed Project. An EIR shall identify and focus on the significant environmental effects of the proposed project. In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the

existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced. Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion 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), health and safety problems caused by the physical changes, and other aspects of the resource base such as water, historical resources, scenic quality, and public services. The EIR shall also analyze any significant environmental effects the project might cause by bringing development and people into the area affected. For example, an EIR on a subdivision astride an active fault line should identify as a significant effect the seismic hazard to future occupants of the subdivision. The subdivision would have the effect of attracting people to the location and exposing them to the hazards found there.

(b) Significant Environmental Effects Which Cannot be Avoided if the Proposed Project is Implemented. Describe any significant impacts, including those which can be mitigated but not reduced to a level of insignificance. 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.

(c) Significant Irreversible Environmental Changes Which Would be Caused by the Proposed Project 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 highway improvement which provides access to a previously inaccessible 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.

(d) Growth-Inducing Impact of the Proposed Project. Discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, 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 tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects. Also discuss the characteristic 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.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21002, 21003, and 21100, Public Resources Code; *Citizens of Goleta Valley v. Board of Supervisors*, (1990) 52 Cal.3d 553; *Laurel Heights Improvement Association v. Regents of the University of California*, (1988) 47 Cal.3d 376; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; and *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112; *Goleta Union School Dist. v. Regents of the Univ. Of Calif* (1995) 37 Cal. App.4th 1025.

Discussion: This section describes how an EIR must identify and focus on the significant environmental effects, unavoidable significant environmental effects, significant irreversible environmental changes, and growth-inducing impacts which may result from a project. Subsection (a) reiterates the baseline discussion contained in section 15125. Subsection (d), discussing growth-inducing impacts, clarifies that the construction of new facilities may be important because that construction itself may have significant effects.

15126.4 Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects.

(a) Mitigation Measures in General.

(1) An EIR shall describe feasible measures which could minimize significant adverse impacts,

including where relevant, inefficient and unnecessary consumption of energy.

(A) 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 proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

(B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.

(C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix F.

(D) If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (*Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986.)

(2) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.

(3) Mitigation measures are not required for effects which are not found to be significant.

(4) Mitigation measures must be consistent with all applicable constitutional requirements, including the following:

(A) There must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); and

(B) The mitigation measure must be "roughly proportional" to the impacts of the project. *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Where the mitigation measure is an *ad hoc* exaction, it must be "roughly proportional" to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854.

(5) If the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency's determination.

(b) Mitigation Measures Related to Impacts on Historical Resources.

(1) Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of the historical resource will be conducted in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer, the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus is not significant.

(2) In some circumstances, documentation of an historical resource, by way of historic narrative, photographs or architectural drawings, as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur.

(3) Public agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors shall be considered and discussed in an EIR for a project involving such an archaeological site:

(A) Preservation in place is the preferred manner of mitigating impacts to archaeological sites.

Preservation in place maintains the relationship between artifacts and the archaeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.

(B) Preservation in place may be accomplished by, but is not limited to, the following:

1. Planning construction to avoid archaeological sites;
2. Incorporation of sites within parks, greenspace, or other open space;
3. Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site.
4. Deeding the site into a permanent conservation easement.

(C) When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code. If an artifact must be removed during project excavation or testing, curation may be an appropriate mitigation.

(D) Data recovery shall not be required for an historical resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center.

Authority: Section 21083, Public Resources Code. Reference: Sections 5020.5, 21002, 21003, 21100 and 21084.1, Public Resources Code; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112; and *Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011.

15126.6 Consideration and Discussion of Alternatives to the Proposed Project.

(a) Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553 and *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376).

(b) Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

(c) Selection of a range of reasonable alternatives. The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly

describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination. Additional information explaining the choice of alternatives may be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.

(d) Evaluation of alternatives. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed. (*County of Inyo v. City of Los Angeles* (1981) 124 Cal.App.3d 1).

(e) "No project" alternative.

(1) The specific alternative of "no project" shall also be evaluated along with its impact. The purpose of describing and analyzing a no project alternative is to allow decisionmakers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. The no project alternative analysis is not the baseline for determining whether the proposed project's environmental impacts may be significant, unless it is identical to the existing environmental setting analysis which does establish that baseline (see Section 15125).

(2) The "no project" analysis shall discuss the existing conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. If the environmentally superior alternative is the "no project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.

(3) A discussion of the "no project" alternative will usually proceed along one of two lines:

(A) When the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the "no project" alternative will be the continuation of the existing plan, policy or operation into the future. Typically this is a situation where other projects initiated under the existing plan will continue while the new plan is developed. Thus, the projected impacts of the proposed plan or alternative plans would be compared to the impacts that would occur under the existing plan.

(B) If the project is other than a land use or regulatory plan, for example a development project on identifiable property, the "no project" alternative is the circumstance under which the project does not proceed. Here the discussion would compare the environmental effects of the property remaining in its existing state against environmental effects which would occur if the project is approved. If disapproval of the project under consideration would result in predictable actions by others, such as the proposal of some other project, this "no project" consequence should be discussed. In certain instances, the no project alternative means "no build" wherein the existing environmental setting is maintained. However, where failure to proceed with the project will not result in preservation of existing environmental conditions, the analysis should identify the practical result of the project's non-approval and not create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment.

(C) After defining the no project alternative using one of these approaches, the lead agency should proceed to analyze the impacts of the no project alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.

(f) Rule of reason. The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. The range of

feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making.

(1) Feasibility. Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent). No one of these factors establishes a fixed limit on the scope of reasonable alternatives. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; see *Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal.App.4th 1745, 1753, fn. 1).

(2) Alternative locations.

(A) Key question. The key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.

(B) None feasible. If the lead agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion, and should include the reasons in the EIR. For example, in some cases there may be no feasible alternative locations for a geothermal plant or mining project which must be in close proximity to natural resources at a given location.

(C) Limited new analysis required. Where a previous document has sufficiently analyzed a range of reasonable alternative locations and environmental impacts for projects with the same basic purpose, the lead agency should review the previous document. The EIR may rely on the previous document to help it assess the feasibility of potential project alternatives to the extent the circumstances remain substantially the same as they relate to the alternative. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 573).

(3) An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative. (*Residents Ad Hoc Stadium Committee v. Board of Trustees* (1979) 89 Cal. App.3d 274).

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21002, 21002.1, 21003, and 21100, Public Resources Code; *Citizens of Goleta Valley v. Board of Supervisors*, (1990) 52 Cal.3d 553; *Laurel Heights Improvement Association v. Regents of the University of California*, (1988) 47 Cal.3d 376; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; and *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112.

Discussion: This section examines the required discussion of project alternatives. Subsection (b) states that the discussion shall focus on alternatives to the project or its location which can avoid or substantially lessen any of the significant impacts of the project and shall evaluate their comparative merits. Subsection (c) includes guidance on the selection of a reasonable range of feasible alternatives, including the need to document the process of selecting alternatives. Subsection (e) describes the ino project alternative, including its relationship to the baseline conditions under which the project is evaluated for potential significance and the analysis of the potential impacts if the project is not undertaken. Subsection (f) discusses the rule of reason in detail, including such factors as feasibility, location, and speculation, which help agencies select a reasonable range of alternatives.

15127. Limitations on Discussion of Environmental Impact

The information required by Section 15126.2(c) concerning irreversible changes, need be included only in EIRs prepared in connection with any of the following activities:

- (a) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency;
- (b) The adoption by a Local Agency Formation Commission of a resolution making determinations; or

(c) 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, 42 U.S.C. 4321-4347.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21100.1, Public Resources Code.

Discussion: The reference in this section to previous subsection (c) of Section 15126 has been deleted. The statutory requirement for a discussion of the relationship between short-term uses and long-term productivity was repealed by Chapter 1230 of the Statutes of 1994.

15128. Effects Not Found to 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.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21100, Public Resources Code.

Discussion: This section repeats the statutory requirement from Section 21100 for an EIR to contain a brief statement explaining why various effects of the project were found not to be significant. The section then adds the administrative interpretation that this statement may be provided by an attached copy of the Initial Study. Using the Initial Study would help the Lead Agency avoid duplication in writing and would provide a relatively simple way of meeting this requirement.

15129. Organizations and Persons Consulted

The EIR shall identify all federal, state, or local agencies, other organizations, and private individuals consulted in preparing the draft EIR, and the persons, firm, or agency preparing the draft EIR, by contract or other authorization.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21104 and 21153, Public Resources Code.

Discussion: This section requires the Lead Agency to disclose the agencies, organizations, and individuals whom it consulted pursuant to Sections 21104 or 21153.

15130. Discussion of Cumulative Impacts

(a) An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in section 15065(a)(3). Where a lead agency is examining a project with an incremental effect that is not "cumulatively considerable," a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

(1) As defined in Section 15355, a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR should not discuss impacts which do not result in part from the project evaluated in the EIR.

(2) When the combined cumulative impact associated with the project's incremental effect and the effects of other projects is not significant, the EIR shall briefly indicate why the cumulative impact is not significant and is not discussed in further detail in the EIR. A lead agency shall identify facts and analysis supporting the lead agency's conclusion that the cumulative impact is less than significant.

(3) An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project's contribution is less

than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. The lead agency shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable.

(b) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact. The following elements are necessary to an adequate discussion of significant cumulative impacts:

(1) Either:

(A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or

(B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or areawide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.

(2) When utilizing a list, as suggested in paragraph (1) of subdivision (b), factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.

(3) Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.

(4) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available; and

(5) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.

(c) With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.

(d) Previously approved land use documents such as general plans, specific plans, and local coastal plans may be used in cumulative impact analysis. A pertinent discussion of cumulative impacts contained in one or more previously certified EIRs may be incorporated by reference pursuant to the provisions for tiering and program EIRs. No further cumulative impacts analysis is required when a project is consistent with a general, specific, master or comparable programmatic plan where the lead agency determines that the regional or areawide cumulative impacts of the proposed project have already been adequately addressed, as defined in section 15152(f), in a certified EIR for that plan.

(e) If a cumulative impact was adequately addressed in a prior EIR for a community plan, zoning action, or general plan, and the project is consistent with that plan or action, then an EIR for such a project should not further analyze that cumulative impact, as provided in Section 15183(j).

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21083(b), 21093, 21094 and 21100, Public Resources Code; *Whitman v. Board of Supervisors*, (1979) 88 Cal. App. 3d 397; *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692; *Laurel Heights Homeowners Association v. Regents of the University of California* (1988) 47 Cal.3d 376; *Sierra Club v. Gilroy* (1990) 220 Cal.App.3d 30; *Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal.App.3d 421; *Concerned Citizens of South Cent. Los Angeles v. Los Angeles Unified Sch. Dist.* (1994) 24 Cal.App.4th 826; *Las Virgenes Homeowners Fed'n v. County of Los Angeles*

(1986) 177 Cal.App.3d 300; *San Joaquin Raptor/Wildlife Rescue Ctr v. County of Stanislaus* (1994) 27 Cal.App.4th 713; *Fort Mojave Indian Tribe v. Cal. Dept. Of Health Services* (1995) 38 Cal.App.4th 1574; and *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98.

Discussion: This section is necessary to explain how to discuss cumulative impacts in an EIR. The section limits the discussion to situations where the cumulative effects are found to be significant. Further, the section codifies the requirements for analysis of cumulative effects as spelled out in *Whitman v. Board of Supervisors*, cited in the note, but the section allows the alternative approach of summarizing projections from a planning document. The options allow the Lead Agency to choose the method of analysis that may be best suited to the situation at hand. Essential guidance is also provided on approaches to mitigating cumulative effects, since cumulative effects can rarely be mitigated in the same way as the primary effects of an individual project.

When analyzing the cumulative impacts of a project under 15130 (b)(1)(A), the Lead Agency is required to discuss not only approved projects under construction and approved related projects not yet under construction, but also unapproved projects currently under environmental review with related impacts or which result in significant cumulative impacts. This analysis should include a discussion of projects under review by the Lead Agency and projects under review by other relevant public agencies, using reasonable efforts to discover, disclose, and discuss the other related projects. The cumulative impact analysis requires a discussion of projects with related cumulative impacts which required EIRs, Negative Declarations, or were exempt from CEQA. (See: *San Franciscans for Reasonable Growth v. City and County of San Francisco*, (1984) 151 Cal. App. 3d 61.) The court in SFFRG took note of the problem of where to draw the line on projects undergoing environmental review since application of new projects are constantly being submitted. A reasonable point might be after the preparation of the draft EIR. Additional project information could be included in the final EIR if cumulative impacts were originally analyzed in the draft EIR and if the new project information doesn't warrant the preparation of a subsequent or supplemental EIR as required by Section 15162 of the Guidelines.

Subsection (b)(1)(B) authorizes a lead agency to limit its analysis of probable future projects to those which are planned or which have had an application made at the time the NOP is released for review. This describes a reasonable point in time at which to begin the cumulative impact analysis. Without this guideline, the cumulative impact analysis may suffer frequent revision as new, incremental projects are identified. If additional projects are identified later, they may be addressed during completion of the final EIR.

Cumulative impacts analysis must include reasonably anticipated future activities of a project or associated with the project. Whether these activities are addressed in the cumulative impact analysis section or in the impacts associated with the project, as defined, if there is substantial evidence indicating reasonable foreseeable future projects or activities, an EIR must analyze the impacts of those future activities. The Court in *Laurel Heights* set forth the following two pronged test to determine whether an EIR must include an analysis of the environmental effects of future activities: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects. Absent these two circumstances, potential future expansion need not be considered. *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal. 3d 376.

Consistent with the holding in *Antioch v. Pittsburg* (see discussion with Section 15126), a cumulative impact analysis should address the most probable development patterns.

This section describes the analysis necessary where a project will make a considerable contribution to a cumulative effect (see also section 15064). Based on the holding in *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1996) 42 Cal.App.4th 608, subdivision (a) provides that when the lead agency determines that a project makes only a de minimus contribution to a cumulative effect no analysis of the cumulative effect is needed. This subsection also provides that an EIR may determine that a project's contribution, originally thought to be considerable, is less than considerable with mitigation. Any such conclusion must be documented in the EIR.

Subsection (b) discusses the elements necessary for an adequate discussion of significant cumulative impacts. It recommends that the discussion focus on the particular cumulative impact to which other projects contribute rather than on the non-contributing aspects of those projects. This subsection offers

further guidance on focusing the discussion on impacts rather than on other projects per se.

Subsection (d) links cumulative impact analysis to tiering and other similar approaches which seek to limit redundant analyses. Where cumulative impacts have been adequately addressed in the EIR certified for a general plan or other programmatic plan, and the project is consistent with that plan, the discussion contained in the prior EIR may be incorporated by reference. No further cumulative impact analysis would be necessary.

15131. Economic and Social Effects

Economic or social information may be included in an EIR or may be presented in whatever form the agency desires.

(a) Economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes.

(b) Economic or social effects of a project may be used to determine the significance of physical changes caused by the project. For example, if the construction of a new freeway or rail line divides an existing community, the construction would be the physical change, but the social effect on the community would be the basis for determining that the effect would be significant. As an additional example, if the construction of a road and the resulting increase in noise in an area disturbed existing religious practices in the area, the disturbance of the religious practices could be used to determine that the construction and use of the road and the resulting noise would be significant effects on the environment. The religious practices would need to be analyzed only to the extent to show that the increase in traffic and noise would conflict with the religious practices. Where an EIR uses economic or social effects to determine that a physical change is significant, the EIR shall explain the reason for determining that the effect is significant.

(c) Economic, social, and particularly housing factors shall be considered by public agencies together with technological and environmental factors in deciding whether changes in a project are feasible to reduce or avoid the significant effects on the environment identified in the EIR. If information on these factors is not contained in the EIR, the information must be added to the record in some other manner to allow the agency to consider the factors in reaching a decision on the project.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21001(e) and (g), 21002, 21002.1, 21060.5, 21080.1, 21083(c), and 21100, Public Resources Code.

Discussion: This section is necessary because there has been confusion over the authority of a Lead Agency to include economic and social information in an EIR. This section resolves the controversy by providing the authority with the rationale for including the information.

The term "significant effect on the environment" is defined in Section 21068 of CEQA as meaning "a substantial or potentially substantial adverse change in the environment." This focus on physical changes is further reinforced by Sections 21100 and 21151.

Despite the implication of these sections, CEQA does not focus exclusively on physical changes, and it is not exclusively physical in concern. For example, in Section 21083(c), CEQA requires an agency to determine that a project may have a significant effect on the environment if it will cause substantial adverse effects on human beings, either directly or indirectly. This section was added to CEQA by the same bill in 1972 (AB 889, Chapter 1154 of the Statutes of 1972) that added the definition of the term "environment" and the term "project".

The interpretation provided in Section 15131 starts with the analysis as used in the *Friends of Mammoth* decision, (1972) 8 Cal. 3d 247. The analysis begins with the question of whether the governmental action involved will culminate in a physical change. There must be a physical change

resulting from the project directly or indirectly before CEQA will apply. Direct physical changes are easy to identify. Indirect examples could include the increased traffic, fuel consumption, and air pollution as the potential results of a bus system fare increase in *Shaw v. Golden Gate Bridge etc. District*, (1976) 60 Cal. App. 3d 699.

Once a physical change or a potential physical change has been identified, the Lead Agency must determine whether substantial evidence exists indicating that the physical change will be significant and thereby require preparation of an EIR. Public Resources Code section 21082.2, subdivision (c), states that 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" that would show those impacts to be significant.

Under the interpretation provided in this section, effects on facilities or services are not automatically regarded as significant effects of a project. The changes must be related to or caused by physical changes. If the project causes a direct physical change in a facility by pumping ground water and causing ground settling under the facility, the resulting deterioration can be easily regarded as a significant effect. If the project causes physical changes that affect the use of the facility, the effects on use may be considered a significant effect in the same way as increases in traffic are often treated as significant effects.

In *Citizens Association for Sensible Development of Bishop Area v. Inyo* (1985) 172 Cal. App. 3d 151, the court held that "economic or social change may be used to determine that a physical change shall be regarded as a significant effect of the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment." In this case, the Court held that an EIR for a proposed shopping center located away from the downtown shopping area must discuss the potential economic and social consequences of the project, if the proposed center would take business away from the downtown and thereby cause business closures and eventual physical deterioration of the downtown.

15132. Contents of Final Environmental Impact Report

The Final EIR shall consist of:

- (a) The draft EIR or a revision of the draft.
- (b) Comments and recommendations received on the draft EIR either verbatim or in summary.
- (c) A list of persons, organizations, and public agencies commenting on the draft EIR.
- (d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process.
- (e) Any other information added by the Lead Agency.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21100, Public Resources Code.

Discussion: This section is necessary in order to explain the difference between a draft EIR and the final EIR which is ultimately considered by the decision-makers in each agency prior to granting an approval for the project. The final EIR is a necessary document because it brings together a number of subjects such as comments and responses to comments which would not be available in the draft EIR that is sent out for public review. The list of contents is also necessary in order to show that the findings on the feasibility of avoiding or reducing significant effects and the statement of overriding considerations are not part of the final EIR. The findings and the statement of overriding considerations are made after the decision-makers have considered the final EIR. The findings and statement are included in the public record but not in the final EIR.