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PUBLIC RESOURCES CODE - PRC

DIVISION 13. ENVIRONMENTAL QUALITY [21000 - 21189.70.10]

(Division 13 added by Stats. 1970, Ch. 1433.)

CHAPTER 1. Policy [21000 - 21006]

(Chapter 1 added by Stats. 1970, Ch. 1433.)

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.
(Amended by Stats. 1979, Ch. 947.)

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-prepetuating 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.
(Amended by Stats. 1979, Ch. 947.)

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.
(Added by Stats. 1984, Ch. 1514, Sec. 1.)

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.
(Amended by Stats. 1980, Ch. 676, Sec. 277.)

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.
(Amended by Stats. 1994, Ch. 1230, Sec. 1. Effective September 30, 1994.)

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.
(Amended by Stats. 1993, Ch. 1130, Sec. 2. Effective January 1, 1994.)

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.
(Added by Stats. 1985, Ch. 85, Sec. 1.)

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.
(Added by Stats. 1982, Ch. 1438, Sec. 3.)

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.
(Amended by Stats. 1994, Ch. 1230, Sec. 2. Effective September 30, 1994.)

21006.

The Legislature finds and declares that this division is an integral part of any public agency's decisionmaking process, including, but not limited to, the issuance of permits, licenses, certificates, or other entitlements required for activities undertaken pursuant to federal statutes containing specific waivers of sovereign immunity.
(Added by Stats. 1998, Ch. 272, Sec. 2. Effective January 1, 1999.)

CHAPTER 2. Short Title [21050- 21050.]

(Chapter 2 added by Stats. 1970, Ch. 1433.)

21050.

This division shall be known and may be cited as the California Environmental Quality Act.
(Amended by Stats. 1976, Ch. 1312.)

CHAPTER 2.5. Definitions [21060 - 21074]

(Chapter 2.5 added by Stats. 1972, Ch. 1154.)

21060.

Unless the context otherwise requires, the definitions in this chapter govern the construction of this division.
(Added by Stats. 1972, Ch. 1154.)

21060.1.

(a) "Agricultural land" means prime farmland, farmland of statewide importance, or unique farmland, as defined by the United States Department of Agriculture land inventory and monitoring criteria, as modified for California.
(b) In those areas of the state where lands have not been surveyed for the classifications specified in subdivision (a), "agricultural land" means land that meets the requirements of "prime agricultural land" as defined in paragraph (1), (2), (3), or (4) of subdivision (c) of Section 51201 of the Government Code.
(Added by Stats. 1993, Ch. 812, Sec. 2. Effective January 1, 1994.)

21060.2.

(a) "Bus rapid transit" means a public mass transit service provided by a public agency or by a public-private partnership that includes all of the following features:

(1) Full-time dedicated bus lanes or operation in a separate right-of-way dedicated for public transportation with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

(2) Transit signal priority.

(3) All-door boarding.

(4) Fare collection system that promotes efficiency.

(5) Defined stations.

(b) "Bus rapid transit station" means a clearly defined bus station served by a bus rapid transit.
(Added by Stats. 2019, Ch. 631, Sec. 1. (AB 1560) Effective January 1, 2020.)

21060.3.

"Emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. "Emergency" includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage.
(Added by Stats. 1976, Ch. 1312.)

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.
(Added by Stats. 1972, Ch. 1154.)

21061.

"Environmental impact report" means a detailed statement setting forth the matters specified in Sections 21100 and 21100.1; provided that information or data which is relevant to such a statement and is a matter of public record or is generally available to the public need not be repeated in its entirety in such statement, but may be specifically cited as the source for conclusions stated therein; and provided further that such information or data shall be briefly described, that its relationship to the environmental impact report shall be indicated, and that the source thereof shall be reasonably available for inspection at a public place or public building. An environmental impact report also includes any comments which are obtained

pursuant to Section 21104 or 21153, or which are required to be obtained pursuant to this division.
An environmental impact report is an informational document which, when its preparation is required by this division, shall be considered by every public agency prior to its approval or disapproval of a project. The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.
In order to facilitate the use of environmental impact reports, public agencies shall require that such reports contain an index or table of contents and a summary. Failure to include such index, table of contents, or summary shall not constitute a cause of action pursuant to Section 21167.
(Amended by Stats. 1976, Ch. 1312.)

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.
(Added by Stats. 1976, Ch. 1312.)

21061.2.

"Land evaluation and site assessment" means a decisionmaking methodology for assessing the potential environmental impact of state and local projects on agricultural land.
(Added by Stats. 1993, Ch. 812, Sec. 3. Effective January 1, 1994.)

21061.3.

"Infill site" means a site in an urbanized area that meets either of the following criteria:
(a) The site has not been previously developed for urban uses and both of the following apply:

(1) The site is immediately adjacent to parcels that are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses, and the remaining 25 percent of the site adjoins parcels that have previously been developed for qualified urban uses.

(2) No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency.

(b) The site has been previously developed for qualified urban uses.
(Amended by Stats. 2008, Ch. 728, Sec. 13. Effective January 1, 2009.)

21062.

"Local agency" means any public agency other than a state agency, board, or commission. For purposes of this division a redevelopment agency and a local agency formation commission are local agencies, and neither is a state agency, board, or commission.
(Amended by Stats. 1975, Ch. 222.)

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.
(Added by Stats. 1972, Ch. 1154.)

21064.

"Negative declaration" means a written statement briefly describing the reasons that a proposed project will not have a significant effect on the environment and does not require the preparation of an environmental impact report.
(Added by Stats. 1976, Ch. 1312.)

21064.3.

"Major transit stop" means a site containing any of the following:
(a) An existing rail or bus rapid transit station.
(b) A ferry terminal served by either a bus or rail transit service.
(c) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
(Amended by Stats. 2019, Ch. 631, Sec. 2. (AB 1560) Effective January 1, 2020.)

21064.5.

"Mitigated negative declaration" means a negative declaration prepared for a project when the initial study has identified potentially significant effects on the environment, but (1) 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 (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.
(Amended by Stats. 1994, Ch. 1230, Sec. 3. Effective September 30, 1994.)

21065.

"Project" means an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:
(a) An activity directly undertaken by any public agency.
(b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
(c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.
(Amended by Stats. 1994, Ch. 1230, Sec. 4. Effective September 30, 1994.)

21065.3.

"Project-specific effect" means all the direct or indirect environmental effects of a project other than cumulative effects and growth-inducing effects.
(Added by Stats. 2002, Ch. 1039, Sec. 4. Effective January 1, 2003.)

21065.5.

"Geothermal exploratory project" means a project as defined in Section 21065 composed of not more than six wells and associated drilling and testing equipment, whose chief and original purpose is to evaluate the presence and characteristics of geothermal resources prior to commencement of a geothermal field development project as defined in Section 65928.5 of the Government Code. Wells included within a geothermal exploratory project must be located at least one-half mile from geothermal development wells which are capable of producing geothermal resources in commercial quantities.
(Added by Stats. 1978, Ch. 1271.)

21066.

"Person" includes any person, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, county, city and county, city, town, the state, and any of the agencies and political subdivisions of those entities, and, to the extent permitted by federal law, the United States, or any of its agencies or political subdivisions.
(Amended by Stats. 1998, Ch. 272, Sec. 3. Effective January 1, 1999.)

21067.

"Lead agency" means the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment.
(Added by Stats. 1972, Ch. 1154.)

21068.

"Significant effect on the environment" means a substantial, or potentially substantial, adverse change in the environment.
(Added by Stats. 1976, Ch. 1312.)

21068.5.

"Tiering" or "tier" means the coverage of general matters and environmental effects in an environmental impact report prepared for a policy, plan, program or ordinance followed by narrower or site-specific environmental impact reports which incorporate by reference the discussion in any prior environmental impact report and which concentrate on the environmental effects which (a) are capable of being mitigated, or (b) were not analyzed as significant effects on the environment in the prior environmental impact report.
(Added by Stats. 1983, Ch. 967, Sec. 1.)

21069.

"Responsible agency" means a public agency, other than the lead agency, which has responsibility for carrying out or approving a project.
(Added by Stats. 1976, Ch. 1312.)

21070.

"Trustee agency" means a state agency that has jurisdiction by law over natural resources affected by a project, that are held in trust for the people of the State of California.
(Added by Stats. 2004, Ch. 744, Sec. 1. Effective January 1, 2005.)

21071.

"Urbanized area" means either of the following:
(a) An incorporated city that meets either of the following criteria:
(1) Has a population of at least 100,000 persons.

(2) Has a population of less than 100,000 persons if the population of that city and not more than two contiguous incorporated cities combined equals at least 100,000 persons.

(b) An unincorporated area that satisfies the criteria in both paragraph (1) and (2) of the following criteria:
(1) Is either of the following:

(A) Completely surrounded by one or more incorporated cities, and both of the following criteria are met:

(i) The population of the unincorporated area and the population of the surrounding incorporated city or cities equals not less than 100,000 persons.

(ii) The population density of the unincorporated area at least equals the population density of the surrounding city or cities.

(B) Located within an urban growth boundary and has an existing residential population of at least 5,000 persons per square mile. For purposes of this subparagraph, an "urban growth boundary" means a provision of a locally adopted general plan that allows urban uses on one side of the boundary and prohibits urban uses on the other side.

(2) The board of supervisors with jurisdiction over the unincorporated area has previously taken both of the following actions:

(A) Issued a finding that the general plan, zoning ordinance, and related policies and programs applicable to the unincorporated area are consistent with principles that encourage compact development in a manner that does both of the following:

(i) Promotes efficient transportation systems, economic growth, affordable housing, energy efficiency, and an appropriate balance of jobs and housing.

(ii) Protects the environment, open space, and agricultural areas.

(B) Submitted a draft finding to the Office of Planning and Research at least 30 days prior to issuing a final finding, and allowed the office 30 days to submit comments on the draft findings to the board of supervisors.

(Added by Stats. 2002, Ch. 1039, Sec. 5. Effective January 1, 2003.)

21072.

"Qualified urban use" means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.
(Added by Stats. 2002, Ch. 1039, Sec. 6. Effective January 1, 2003.)

21073.

"California Native American tribe" means a Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004.
(Added by Stats. 2014, Ch. 532, Sec. 3. (AB 52) Effective January 1, 2015.)

21074.

(a) “Tribal cultural resources” are either of the following:

(1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:

(A) Included or determined to be eligible for inclusion in the California Register of Historical Resources.

(B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.

(2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

(b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

(c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a “nonunique archaeological resource” as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

(Added by Stats. 2014, Ch. 532, Sec. 4. (AB 52) Effective January 1, 2015.)

CHAPTER 2.6. General [21080 - 21098]

(Chapter 2.6 added by Stats. 1972, Ch. 1154.)

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. For purposes of this paragraph, “highway” shall have the same meaning as defined in Section 360 of the Vehicle Code.

(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.
(Amended by Stats. 2013, Ch. 523, Sec. 1. (SB 788) Effective January 1, 2014.)

21080.01.

This division shall not apply to any activity or approval necessary for the reopening and operation of the California Men's Colony West Facility in San Luis Obispo County.
(Added by Stats. 1983, Ch. 958, Sec. 6.5. Effective September 20, 1983.)

21080.02.

This division shall not apply to any activity or approval necessary for or incidental to planning, design, site acquisition, construction, operation, or maintenance of the new prison facility at or in the vicinity of Corcoran in Kings County as authorized by the act that enacted this section.
(Added by Stats. 1985, Ch. 931, Sec. 3. Effective September 25, 1985.)

21080.03.

This division shall not apply to any activity or approval necessary for or incidental to the location, development, construction, operation, or maintenance of the prison in

the County of Kings, authorized by Section 9 of Chapter 958 of the Statutes of 1983, as amended, and of the prison in the County of Amador (Ione), authorized by Chapter 957 of the Statutes of 1983, as amended.
(Added by Stats. 1985, Ch. 931, Sec. 4. Effective September 25, 1985.)

21080.04.

(a) Notwithstanding paragraph (10) of subdivision (b) of Section 21080, this division applies to a project for the institution of passenger rail service on a line paralleling State Highway 29 and running from Rocktram to Krug in the Napa Valley. With respect to that project, and for the purposes of this division, the Public Utilities Commission is the lead agency.
(b) It is the intent of the Legislature in enacting this section to abrogate the decision of the California Supreme Court "that Section 21080, subdivision (b)(11), exempts Wine Train's institution of passenger service on the Rocktram-Krug line from the requirements of CEQA" in Napa Valley Wine Train, Inc. v. Public Utilities Com., 50 Cal. 3d 370.
(c) Nothing in this section is intended to affect or apply to, or to confer jurisdiction upon the Public Utilities Commission with respect to, any other project involving rail service.
(Amended by Stats. 1995, Ch. 91, Sec. 142. Effective January 1, 1996.)

21080.05.

This division does not apply to a project by a public agency to lease or purchase the rail right-of-way used for the San Francisco Peninsula commute service between San Francisco and San Jose, together with all branch and spur lines, including the Dumbarton and Vasona lines.
(Added by Stats. 1989, Ch. 1283, Sec. 2.)

21080.07.

This division shall not apply to any activity or approval necessary for or incidental to planning, design, site acquisition, construction, operation, or maintenance of the new prison facilities located in any of the following places:
(a) The County of Riverside.
(b) The County of Del Norte.
(Added by Stats. 1985, Ch. 933, Sec. 2.6. Effective September 25, 1985.)

21080.09.

(a) For purposes of this section, the following definitions apply:
(1) "Public higher education" has the same meaning as specified in Section 66010 of the Education Code.

(2) "Long-range development plan" means a physical development and land use plan to meet the academic and institutional objectives for a particular campus or medical center of public higher education.

(b) The selection of a location for a particular campus and the approval of a long-range development plan are subject to this division and require the preparation of an environmental impact report.
(c) The approval of a project on a particular campus or medical center of public higher education is subject to this division and may be addressed, subject to the other provisions of this division, in a tiered environmental analysis based upon a long-range development plan environmental impact report.
(d) Compliance with this section satisfies the obligations of public higher education pursuant to this division to consider the environmental impact of academic and campus population plans as they affect campuses or medical centers, provided that any such plans shall become effective for a campus or medical center only after the environmental effects of those plans have been analyzed as required by this division in a long-range development plan environmental impact report or tiered analysis based upon that environmental impact report for that campus or medical center, and addressed as required by this division. Enrollment or changes in enrollment, by themselves, do not constitute a project as defined in Section 21065.
(e) (1) If a court determines that increases in campus population exceed the projections adopted in the most recent long-range development plan and analyzed in the supporting environmental impact report, and those increases result in significant environmental impacts, the court may order the campus or medical center to prepare a new, supplemental, or subsequent environmental impact report. Only if a new, supplemental, or subsequent environmental impact report has not been certified within 18 months of that order, the court may, pursuant to Sections 525 and 526 of the Code of Civil Procedure, enjoin increases in campus population that exceed the projections adopted in the most recent long-range development plan and analyzed in the supporting environmental impact report.

(2) Notwithstanding any other provision of this division, any injunction or judgment in effect as of the effective date of this subdivision suspending or otherwise affecting enrollment shall be unenforceable.

(3) The amendments made to this section by Senate Bill 118 of the 2021–22 Regular Session shall apply retroactively to any decision related to enrollment or changes in enrollment made before the effective date of that bill.

(Amended by Stats. 2022, Ch. 10, Sec. 1. (SB 118) Effective March 14, 2022.)

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.
(Amended by Stats. 1994, Ch. 1230, Sec. 6. Effective September 30, 1994.)

21080.2.

In the case of a project described in subdivision (c) of Section 21065, the determination required by Section 21080.1 shall be made within 30 days from the date on which an application for a project has been received and accepted as complete by the lead agency. This period may be extended 15 days upon the consent of the lead agency and the project applicant.
(Amended by Stats. 1984, Ch. 586, Sec. 1.)

21080.3.

(a) Prior to determining whether a negative declaration or environmental impact report is required for a project, the lead agency shall consult with all responsible agencies and trustee agencies. Prior to that required consultation, the lead agency may informally contact any of those agencies.
(b) In order to expedite the requirements of subdivision (a), the Office of Planning and Research, upon request of a lead agency, shall assist the lead agency in determining the various responsible agencies and trustee agencies, for a proposed project. In the case of a project described in subdivision (c) of Section 21065, the request may also be made by the project applicant.
(Amended by Stats. 2004, Ch. 744, Sec. 2. Effective January 1, 2005.)

21080.3.1.

(a) The Legislature finds and declares that California Native American tribes traditionally and culturally affiliated with a geographic area may have expertise concerning their tribal cultural resources.
(b) Prior to the release of a negative declaration, mitigated negative declaration, or environmental impact report for a project, the lead agency shall begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if: (1) the California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and (2) the California Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation. When responding to the lead agency, the California Native American tribe shall designate a lead contact person. If the California Native American tribe does not designate a lead contact person, or designates multiple lead contact people, the lead agency shall defer to the

individual listed on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004. For purposes of this section and Section 21080.3.2, "consultation" shall have the same meaning as provided in Section 65352.4 of the Government Code.
(c) To expedite the requirements of this section, the Native American Heritage Commission shall assist the lead agency in identifying the California Native American tribes that are traditionally and culturally affiliated with the project area.
(d) Within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, the lead agency shall provide formal notification to the designated contact of, or a tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, which shall be accomplished by means of at least one written notification that includes a brief description of the proposed project and its location, the lead agency contact information, and a notification that the California Native American tribe has 30 days to request consultation pursuant to this section.
(e) The lead agency shall begin the consultation process within 30 days of receiving a California Native American tribe's request for consultation.
(Added by Stats. 2014, Ch. 532, Sec. 5. (AB 52) Effective January 1, 2015.)

21080.3.2.

(a) As a part of the consultation pursuant to Section 21080.3.1, the parties may propose mitigation measures, including, but not limited to, those recommended in Section 21084.3, capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource. If the California Native American tribe requests consultation regarding alternatives to the project, recommended mitigation measures, or significant effects, the consultation shall include those topics. The consultation may include discussion concerning the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project's impacts on the tribal cultural resources, and, if necessary, project alternatives or the appropriate measures for preservation or mitigation that the California Native American tribe may recommended to the lead agency.
(b) The consultation shall be considered concluded when either of the following occurs:

(1) The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource.

(2) A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.

(c) (1) This section does not limit the ability of a California Native American tribe or the public to submit information to the lead agency regarding the significance of the tribal cultural resources, the significance of the project's impact on tribal cultural resources, or any appropriate measures to mitigate the impact.

(2) This section does not limit the ability of the lead agency or project proponent to incorporate changes and additions to the project as a result of the consultation, even if not legally required.

(d) If the project proponent or its consultants participate in the consultation, those parties shall respect the principles set forth in this section.
(Added by Stats. 2014, Ch. 532, Sec. 6. (AB 52) Effective January 1, 2015.)

21080.4.

(a) If a lead agency determines that an environmental impact report is required for a project, the lead agency shall immediately send notice of that determination by certified mail, email, or an equivalent procedure to each responsible agency, the Office of Planning and Research, and those public agencies having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State of California. Upon receipt of the notice, each responsible agency, the office, and each public agency having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State of California shall specify to the lead agency the scope and content of the environmental information that is germane to the statutory responsibilities of that responsible agency, the office, or the public agency in connection with the proposed project and which, pursuant to the requirements of this division, shall be included in the environmental impact report. The information shall be specified in writing and shall be communicated to the lead agency by certified mail, email, or an equivalent procedure not later than 30 days after the date of receipt of the notice of the lead agency's determination. The lead agency shall request similar guidance from appropriate federal agencies.
(b) To expedite the requirements of subdivision (a), the lead agency, any responsible agency, the Office of Planning and Research, or a public agency having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State of California, may request one or more meetings between representatives of those agencies and the office for the purpose of assisting the lead agency to determine the scope and content of the environmental information that any of those responsible agencies, the office, or the public agencies may require. In the case of a project described in subdivision (c) of Section 21065, the request may also be made by the project applicant. The meetings shall be convened by the lead agency as soon as possible, but not later than 30 days after the date that the meeting was requested.
(c) To expedite the requirements of subdivision (a), the Office of Planning and Research, upon request of a lead agency, shall assist the lead agency in determining the various responsible agencies, public agencies having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State of California, and any federal agencies that have responsibility for carrying out or approving a proposed project. In the case of a project described in subdivision (c) of Section 21065, that request may also be made by the project applicant.
(d) With respect to the Department of Transportation, and with respect to any state agency that is a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State of California, subject to the requirements of subdivision (a), the Office of Planning and Research shall ensure that the information required by subdivision

(a) is transmitted to the lead agency, and that affected agencies are notified regarding meetings to be held upon request pursuant to subdivision (b), within the required time period.
(Amended by Stats. 2021, Ch. 97, Sec. 1. (AB 819) Effective January 1, 2022.)

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 may update the protocol, and may update the report provided to the legislative committees pursuant to paragraph (1) and provide, in compliance with Section 9795 of the Government Code, the updated report to those committees if additional statutory authority is needed.

(3) The secretary shall provide a significant opportunity for public participation in developing or updating the protocol described in paragraph (1) or (2), 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 and to the Senate Committee on Environmental Quality and the Assembly Committee on Natural Resources.

(Amended by Stats. 2013, Ch. 76, Sec. 174. (AB 383) Effective January 1, 2014.)

21080.8.

This division does not apply to the conversion of an existing rental mobilehome park to a resident initiated subdivision, cooperative, or condominium for mobilehomes if the conversion will not result in an expansion of or change in existing use of the property.
(Added by Stats. 1990, Ch. 272, Sec. 1. Effective July 17, 1990.)

21080.9.

This division shall not apply to activities and approvals by any local government, as defined in Section 30109, or any state university or college, as defined in Section 30119, as necessary for the preparation and adoption of a local coastal program or long-range land use development plan pursuant to Division 20 (commencing with Section 30000); provided, however, that certification of a local coastal program or long-range land use development plan by the California Coastal Commission pursuant to Chapter 6 (commencing with Section 30500) of Division 20 shall be subject to the requirements of this division. For the purpose of Section 21080.5, a certified local coastal program or long-range land use development plan constitutes a plan for use in the California Coastal Commission's regulatory program.
(Amended by Stats. 1979, Ch. 961.)

21080.10.

This division does not apply to any of the following:
(a) An extension of time, granted pursuant to Section 65361 of the Government Code, for the preparation and adoption of one or more elements of a city or county general plan.

(b) Actions taken by the Department of Housing and Community Development or the California Housing Finance Agency to provide financial assistance or insurance for the development and construction of residential housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, if the project that is the subject of the application for financial assistance or insurance will be reviewed pursuant to this division by another public agency.
(Amended by Stats. 2002, Ch. 1039, Sec. 8. Effective January 1, 2003.)

21080.11.

This division shall not apply to settlements of title and boundary problems by the State Lands Commission and to exchanges or leases in connection with those settlements.
(Added by Stats. 1982, Ch. 1463, Sec. 6.)

21080.13.

(a) This division shall not apply to any railroad grade separation project that eliminates an existing grade crossing or that reconstructs an existing grade separation.
(b) (1) Whenever a state agency determines that a project is not subject to this division pursuant to this section, and it approves or determines to carry out the project, the state agency shall file a notice with the Office of Planning and Research in the manner specified in subdivisions (b) and (c) of Section 21108.
(2) Whenever a local agency determines that a project is not subject to this division pursuant to this section, and it approves or determines to carry out the project, the local agency shall file a notice with the Office of Planning and Research and with the county clerk in each county in which the project will be located in the manner specified in subdivisions (b) and (c) of Section 21152.

(Amended by Stats. 2015, Ch. 143, Sec. 1. (SB 348) Effective January 1, 2016.)

21080.14.

(a) This division does not apply to the closure of a railroad grade crossing by order of the Public Utilities Commission pursuant to Chapter 6 (commencing with Section 1201) of Part 1 of Division 1 of the Public Utilities Code, if the Public Utilities Commission finds the crossing to present a threat to public safety.
(b) This section does not apply to any crossing for high-speed rail, as defined in Section 185012 of the Public Utilities Code, or any crossing for a project carried out by the High-Speed Rail Authority, as described in Section 185020 of the Public Utilities Code, or a successor agency.
(c) (1) Whenever a state agency determines that a project is not subject to this division pursuant to this section, and it approves or determines to carry out the project, the state agency shall file a notice with the Office of Planning and Research in the manner specified in subdivisions (b) and (c) of Section 21108.

(2) Whenever a local agency determines that a project is not subject to this division pursuant to this section, and it approves or determines to carry out the project, the local agency shall file a notice with the Office of Planning and Research and with the county clerk in each county in which the project will be located in the manner specified in subdivisions (b) and (c) of Section 21152.

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.
(Added by Stats. 2019, Ch. 466, Sec. 3. (AB 1824) Effective January 1, 2020. Repealed as of January 1, 2025, by its own provisions.)

21080.17.

This division does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.1 or Section 65852.2 of the Government Code.
(Added by Stats. 1983, Ch. 1013, Sec. 10. Effective September 22, 1983.)

21080.18.

This division does not apply to the closing of any public school in which kindergarten or any of grades 1 through 12 is maintained or the transfer of students from that public school to another school if the only physical changes involved are categorically exempt under Chapter 3 (commencing with Section 15000) of Division 6 of Title 14 of the California Administrative Code.
(Amended by Stats. 1986, Ch. 1316, Sec. 1.)

21080.19.

This division does not apply to a project for restriping of streets or highways to relieve traffic congestion.
(Added by Stats. 1984, Ch. 750, Sec. 1.)

21080.20.

(a) This division does not apply to a bicycle transportation plan for an urbanized area for the restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway intersection operations, and the related signage for bicycles, pedestrians, and vehicles.
(b) Before determining that a project is exempt pursuant to this section, the lead agency shall hold noticed public hearings in areas affected by the bicycle transportation plan to hear and respond to public comments. Publication of the notice shall be no fewer times than required by Section 6061 of the Government Code by the public agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area will be affected, the notice shall be

published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.
(c) If a local agency determines that a project is not subject to this division pursuant to this section and it determines to approve or carry out that project, the notice shall be filed with the Office of Planning and Research and the county clerk in the county in which the project is located in the manner specified in subdivisions (b) and (c) of Section 21152.
(d) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.
(Amended by Stats. 2020, Ch. 200, Sec. 2. (SB 288) Effective January 1, 2021. Repealed as of January 1, 2030, by its own provisions.)

21080.21.

This division does not apply to any project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline. For purposes of this section, "pipeline" includes subsurface facilities but does not include any surface facility related to the operation of the underground facility.
(Amended by Stats. 2019, Ch. 466, Sec. 4. (AB 1824) Effective January 1, 2020.)

21080.22.

(a) This division does not apply to activities and approvals by a local government necessary for the preparation of general plan amendments pursuant to Section 29763, except that the approval of general plan amendments by the Delta Protection Commission is subject to the requirements of this division.
(b) For purposes of Section 21080.5, a general plan amendment is a plan required by the regulatory program of the Delta Protection Commission.
(Added by Stats. 1992, Ch. 898, Sec. 1. Effective January 1, 1993.)

21080.23.

(a) This division does not apply to any project which consists of the inspection, maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of an existing pipeline, as defined in subdivision (a) of Section 51010.5 of the Government Code, or any valve, flange, meter, or other piece of equipment that is directly attached to the pipeline, if the project meets all of the following conditions:

(1) (A) The project is less than eight miles in length.

(B) Notwithstanding subparagraph (A), actual construction and excavation activities undertaken to achieve the maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of an existing pipeline are not undertaken over a length of more than one-half mile at any one time.

(2) The project consists of a section of pipeline that is not less than eight miles from any section of pipeline that has been subject to an exemption pursuant to this section in the past 12 months.

(3) The project is not solely for the purpose of excavating soil that is contaminated by hazardous materials, and, to the extent not otherwise expressly required by law, the party undertaking the project immediately informs the lead agency of the discovery of contaminated soil.

(4) To the extent not otherwise expressly required by law, the person undertaking the project has, in advance of undertaking the project, prepared a plan that will result in notification of the appropriate agencies so that they may take action, if determined to be necessary, to provide for the emergency evacuation of members of the public who may be located in close proximity to the project.

(5) Project activities are undertaken within an existing right-of-way and the right-of-way is restored to its condition prior to the project.

(6) The project applicant agrees to comply with all conditions otherwise authorized by law, imposed by the city or county planning department as part of any local agency permit process, that are required to mitigate potential impacts of the proposed project, and to otherwise comply with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7 (commencing with Section 5810) of Division 5), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and other applicable state laws, and with all applicable federal laws.

(b) If a project meets all of the requirements of subdivision (a), the person undertaking the project shall do all of the following:

(1) Notify, in writing, any affected public agency, including, but not limited to, any public agency having permit, land use, environmental, public health protection, or emergency response authority of the exemption of the project from this division by subdivision (a).

(2) Provide notice to the public in the affected area in a manner consistent with paragraph (3) of subdivision (b) of Section 21092.

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

(4) Comply with all conditions otherwise authorized by law, imposed by the city or county planning department as part of any local agency permit process, that are required to mitigate potential impacts of the proposed project, and otherwise comply with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7 (commencing with Section 5810) of Division 5), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and other applicable state laws, and with all applicable federal laws.

(c) This section does not apply to either of the following:
(1) A project in which the diameter of the pipeline is increased.

(2) A project undertaken within the boundaries of an oil refinery.

(Amended by Stats. 2012, Ch. 548, Sec. 3. (AB 2669) Effective January 1, 2013.)

21080.24.

This division does not apply to the issuance, modification, amendment, or renewal of a permit by an air pollution control district or air quality management district pursuant to Title V, as defined in Section 39053.3 of the Health and Safety Code, or pursuant to a district Title V program established pursuant to Sections 42301.10, 42301.11, and 42301.12 of the Health and Safety Code, unless the issuance, modification, amendment, or renewal authorizes a physical or operational change to a source or facility.
(Amended by Stats. 2012, Ch. 548, Sec. 4. (AB 2669) Effective January 1, 2013.)

21080.25.

(a) For purposes of this section, the following definitions apply:
(1) "Affordable housing" means any of the following:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents or sales prices to levels affordable, as defined in Section 50052.5 or 50053 of the Health and Safety Code, to persons and families of moderate, lower, or very low income, as defined in Section 50079.5, 50093, or 50105 of the Health and Safety Code, respectively.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that had been occupied by tenants within five years from the date of approval of the development agreement by a primary tenant who was low income and did not leave voluntarily.

(2) "Highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. "Highway" includes a street.

(3) "New automobile capacity" means any new lane mileage of any kind other than sidewalks or bike lanes.

(4) "Project labor agreement" has the same meaning as defined in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(5) "Skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(6) "Transit lanes" means street design elements that delineate space within the roadbed as exclusive to transit use, either full or part time.

(7) "Transit prioritization projects" means any of the following transit project types on highways:

(A) Signal coordination.

(B) Signal timing modifications.

(C) Signal phasing modifications.

(D) The installation of wayside technology and onboard technology.

(E) The installation of ramp meters.

(F) The installation of dedicated transit or very high occupancy vehicle lanes, and shared turning lanes.

(8) "Very high occupancy vehicle" means a vehicle with six or more occupants.

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

(1) Pedestrian and bicycle facilities, including new facilities. For purposes of this paragraph, "bicycle facilities" include, but are not limited to, bicycle parking, bicycle sharing facilities, and bikeways as defined in Section 890.4 of the Streets and Highways Code.

(2) Projects that improve customer information and wayfinding for transit riders, bicyclists, or pedestrians.

(3) Transit prioritization projects.

(4) On highways with existing public transit service or that will be implementing public transit service within six months of the conversion, a project for the designation and conversion of general purpose lanes or highway shoulders to bus-only lanes, for use either during peak congestion hours or all day.

(5) A project for the institution or increase of new bus rapid transit, bus, or light rail service, including the construction of stations, on existing public rights-of-way or existing highway rights-of-way, whether or not the right-of-way is in use for public mass transit.

(6) A project to construct or maintain infrastructure to charge or refuel zero-emission transit buses, provided the project is carried out by a public transit agency that is subject to, and in compliance with, the State Air Resources Board's Innovative Clean Transit regulations (Article 4.3 (commencing with Section 2023)

of Chapter 1 of Division 3 of Title 13 of the California Code of Regulations) and the project is located on property owned by the transit agency or within an existing public right-of-way.

(7) The maintenance, repair, relocation, replacement, or removal of any utility infrastructure associated with a project identified in paragraphs (1) to (6), inclusive.

(8) A project that consists exclusively of a combination of any of the components of a project identified in paragraphs (1) to (7), inclusive.

(9) A project carried out by a city or county to reduce minimum parking requirements.

(c) Except as provided in subdivision (e), a project exempt from this division under this section shall meet all of the following criteria:

(1) A public agency is carrying out the project and is the lead agency for the project.

(2) The project is located in an urbanized area.

(3) The project is located on or within an existing public right-of-way.

(4) The project shall not add physical infrastructure that increases new automobile capacity on existing rights-of-way except for minor modifications needed for the efficient and safe movement of transit vehicles, such as extended merging lanes. The project shall not include the addition of any auxiliary lanes.

(5) The construction of the project shall not require the demolition of affordable housing units.

(6) For a project exceeding one hundred million dollars ($100,000,000) in 2020 United States dollars, a project exempt from this division under this section shall also meet all of the following:

(A) The project is incorporated in a regional transportation plan, sustainable communities strategy, general plan, or other plan that has undergone a programmatic-level environmental review pursuant to this division within 10 years of the approval of the project.

(B) The project’s construction impacts are fully mitigated consistent with applicable law.

(C) (i) The lead agency shall complete and consider the results of a project business case and a racial equity analysis. The Office of Planning and Research may set standards for the project business case and the racial equity analysis or delegate that authority to metropolitan planning organizations.

(ii) The project business case required under this subparagraph shall set forth the rationale for why the project should be implemented to solve a problem or address an opportunity, outline strategic goals and objectives of the project, evaluate other options to achieve the project's objectives, describe the economic costs and benefits of the project, describe the financial implications of the project, and establish what is required to deliver and operate the project.

(iii) The racial equity analysis required under this subparagraph shall identify the racial equity impacts of the project, identify who will benefit from and be burdened by the project, and, where significant or disproportionate impacts exist, suggest strategies, designs, or actions to mitigate those impacts.

(D) The lead agency shall hold noticed public meetings as follows:

(i) Before determining that a project is exempt pursuant to this section, the lead agency shall hold at least three noticed public meetings in the project area to hear and respond to public comments.

(ii) At least one of the three public meetings shall review the project business case and the racial equity analysis. The review of these documents does not inhibit or preclude application of this section.

(iii) The lead agency shall conduct at least two noticed public meetings annually during project construction for the public to provide comments.

(iv) The public meetings held pursuant to clauses (i) to (iii), inclusive, shall be in the form of either a public community planning meeting held in the project area or in the form of a regularly scheduled meeting of the governing body of the lead agency.

(E) The lead agency shall give public notice of the meetings in subparagraph (D) to the last known name and address of all the organizations and individuals that have previously requested notice and shall also give the general public notice using at least one of the following procedures:

(i) Publication of the notice in a newspaper of general circulation in the area affected by the project. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

(ii) Posting of the notice onsite and offsite in the area where the project is located.

(iii) Posting of the notice on the lead agency's internet website and social media accounts.

(d) (1) Except as provided in subdivision (e), in addition to the requirements of subdivision (c), before granting an exemption under this section, the lead agency shall certify that the project will be completed by a skilled and trained workforce.

(2) (A) Except as provided in subparagraph (B), for a project that is exempted under this section, the lead agency shall not enter into a construction contract with any entity unless the entity provides to the lead agency an enforceable commitment that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or a contract that falls within an apprenticeship occupation in the building and construction trades in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(B) Subparagraph (A) does not apply if any of the following requirements are met:

(i) The lead agency has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or the lead agency has contracted to use a skilled and trained workforce and the entity has agreed to be bound by that project labor agreement.

(ii) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the lead agency before January 1, 2021.

(iii) The lead agency has entered into a project labor agreement that will bind the lead agency and all its subcontractors at every tier performing the project or the lead agency has contracted to use a skilled and trained workforce.

(e) Subdivisions (c) and (d) do not apply to a project described in paragraph (9) of subdivision (b).

(f) If the lead agency determines that a project is not subject to this division pursuant to this section, and the lead agency determines to carry out that project, the lead agency shall file a notice of exemption with the Office of Planning and Research and the county clerk of the county in which the project is located in the manner specified in subdivisions (b) and (c) of Section 21152.

(g) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

(Added by Stats. 2020, Ch. 200, Sec. 3. (SB 288) Effective January 1, 2021. Repealed as of January 1, 2023, by its own provisions.)

21080.26.

This division does not apply to minor alterations to utilities made for the purposes of complying with Sections 116410 and 116415 of the Health and Safety Code or regulations adopted thereunder.

(Amended by Stats. 2017, Ch. 327, Sec. 32. (AB 1438) Effective January 1, 2018.)

21080.27.

(a) For purposes of this section, the following definitions apply:

(1) "Eligible public agency" means any of the following:

(A) The County of Los Angeles.

(B) The Los Angeles Unified School District.

(C) The Los Angeles County Metropolitan Transportation Authority.

(D) The Housing Authority of the City of Los Angeles.

(E) The Los Angeles Homeless Services Authority.

(F) The Los Angeles Community College District.

(G) The successor agency for the former Community Redevelopment Agency of the City of Los Angeles.

(H) The Department of Transportation.

(I) The Department of Parks and Recreation.

(2) "Emergency shelters" mean shelters, during a declaration of a shelter crisis described in Section 8698.2 of the Government Code, that meet the definition of low barrier navigation center set forth in Section 65660 of the Government Code and meet the requirements of Section 65662 of the Government Code, that is located in either a mixed-use or nonresidential zone permitting multifamily uses or infill site, and that is funded, in whole or in part, by any of the following:

(A) The Homeless Emergency Aid program established pursuant to Section 50211 of the Health and Safety Code.

(B) The Homeless Housing, Assistance, and Prevention program established pursuant to Section 50217 of the Health and Safety Code.

(C) Measure H sales tax proceeds approved by the voters at the March 7, 2017, special election in the County of Los Angeles.

(D) General obligation bonds issued pursuant to Proposition HHH, approved by the voters of the City of Los Angeles at the November 8, 2016, statewide general election.

(3) "Supportive housing" means supportive housing, as defined in Section 50675.14 of the Health and Safety Code, that meets the eligibility requirements of Article 11 (commencing with Section 65650) of Chapter 3 of Division 1 of Title 7 of the Government Code or the eligibility requirements for qualified supportive housing or qualified permanent supportive housing set forth in Ordinance No.

185,489 or 185,492, and that is funded, in whole or in part, by any of the following:

(A) The No Place Like Home Program (Part 3.9 (commencing with Section 5849.1) of Division 5 of the Welfare and Institutions Code).

(B) The Building Homes and Jobs Trust Fund established pursuant to Section 50470 of the Health and Safety Code.

(C) Measure H sales tax proceeds approved by the voters at the March 7, 2017, special election in the County of Los Angeles.

(D) General obligation bonds issued pursuant to Proposition HHH, approved by the voters of the City of Los Angeles at the November 8, 2016, statewide general election.

(E) The City of Los Angeles Housing Impact Trust Fund.

(b) (1) This division does not apply to any activity approved by or carried out by the City of Los Angeles in furtherance of providing emergency shelters or supportive housing in the City of Los Angeles.

(2) This division does not apply to any action taken by an eligible public agency to lease, convey, or encumber land owned by that agency, or to any action taken by an eligible public agency to facilitate the lease, conveyance, or encumbrance of land owned by that agency, or to any action taken by an eligible public agency in providing financial assistance, in furtherance of providing emergency shelters or supportive housing in the City of Los Angeles.

(3) This division does not apply to the adoption of Ordinance Nos. 185,489 and 185,492 by the City of Los Angeles in 2018.

(c) If a lead agency determines that an activity is not subject to this division pursuant to paragraph (1) or (2) of subdivision (b) and determines to approve or carry out the activity, the lead agency shall file a notice of exemption with the Office of Planning and Research and the county clerk in the manner specified in subdivisions (b) and (c) of Section 21108 or subdivisions (b) and (c) of Section 21152.

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(Amended by Stats. 2020, Ch. 370, Sec. 239. (SB 1371) Effective January 1, 2021. Repealed as of January 1, 2025, by its own provisions.)

21080.28.

(a) This division does not apply to either of the following:

(1) The acquisition, sale, or other transfer of interest in land by a public agency for any of the following purposes:

(A) Preservation of natural conditions existing at the time of transfer, including plant and animal habitats.

(B) Restoration of natural conditions, including plant and animal habitats.

(C) Continuing agricultural use of the land.

(D) Prevention of encroachment of development into flood plains.

(E) Preservation of historical resources.

(F) Preservation of open space or lands for park purposes.

(2) The granting or acceptance of funding by a public agency for purposes of paragraph (1).

(b) Subdivision (a) applies even if physical changes to the environment or changes in the use of the land are a reasonably foreseeable consequence of the acquisition, sale, or other transfer of the interests in land, or of the granting or acceptance of funding, provided that environmental review otherwise required by this division occurs before any project approval that would authorize physical changes being made to that land.
(c) If the lead agency determines that an activity is not subject to this division pursuant to this section and the lead agency determines to approve or carry out the activity, the lead agency shall file a notice with the Office of Planning and Research and with the county clerk in the county in which the land is located in the manner specified in subdivisions (b) and (c) of Section 21152.
(Added by Stats. 2019, Ch. 181, Sec. 2. (AB 782) Effective January 1, 2020.)

21080.29.

(a) A project located in Los Angeles County that is approved by a public agency before the effective date of the act adding this section is not in violation of any requirement of this division by reason of the failure to construct a roadway across the property transferred to the state pursuant to subdivision (c) and to construct a bridge over the adjacent Ballona Channel in Los Angeles County, otherwise required as a mitigation measure pursuant to this division, if all of the following conditions apply:

(1) The improvements specified in this subdivision are not constructed, due in whole or in part, to the project owner's or developer's relinquishment of easement rights to construct those improvements.

(2) The easement rights in paragraph (1) are relinquished in connection with the State of California, acting by and through the Wildlife Conservation Board of the Department of Fish and Game, acquiring a wetlands project that is a minimum of 400 acres in size and located within the coastal zone.

(b) Where those easement rights have been relinquished, any municipal ordinance or regulation adopted by a charter city or a general law city shall be inapplicable to the extent that the ordinance or regulation requires construction of the transportation improvements specified in subdivision (a), or would otherwise require reprocessing or resubmittal of a permit or approval, including, but not limited to, a final recorded map, a vesting tentative map, or a tentative map, as a result of the transportation improvements specified in subdivision (a) not being constructed.
(c) (1) If the Wildlife Conservation Board of the Department of Fish and Game acquires property within the coastal zone that is a minimum of 400 acres in size pursuant to a purchase and sale agreement with Playa Capital Company, LLC, the Controller shall direct the trustee under the Amendment to Declaration of Trust entered into on or about December 11, 1984, by First Nationwide Savings, as trustee, Summa Corporation, as trustor, and the Controller, as beneficiary, known as the HRH Inheritance Tax Security Trust, to convey title to the trust estate of the trust, including real property commonly known as Playa Vista Area C, to the State of California acting by and through the Wildlife Conservation Board of the Department of Fish and Game for conservation, restoration, or recreation purposes only, with the right to transfer the property for those uses to any other agency of the State of California.

(2) This subdivision shall constitute the enabling legislation required by the Amendment to Declaration of Trust to empower the Controller to direct the trustee to convey title to the trust estate under the HRH Inheritance Tax Security Trust to the State of California or an agency thereof.

(3) The conveyance of the trust estate to the Wildlife Conservation Board pursuant to this subdivision shall supersede any duty or obligation imposed upon the Controller under the Probate Code or the Revenue and Taxation Code with respect to the disposition or application of the net proceeds of the trust estate.

(Added by Stats. 2003, Ch. 739, Sec. 2. Effective January 1, 2004.)

21080.30.

(a) For purposes of this section, "real estate transaction" means the acquisition or disposition of any interest in real property.
(b) This division does not apply to any action, approval, or authorization provided by the State Public Works Board or the Department of Finance regarding any bond issuance, capital outlay project, or real estate transaction.
(Added by Stats. 2017, Ch. 21, Sec. 11. (AB 119) Effective June 27, 2017.)

21080.32.

(a) This section shall only apply to publicly owned transit agencies, but shall not apply to any publicly owned transit agency created pursuant to Section 130050.2 of the Public Utilities Code.

(b) Except as provided in subdivision (c), and in accordance with subdivision (d), this division does not apply to actions taken on or after July 1, 1995, by a publicly owned transit agency to implement budget reductions caused by the failure of agency revenues to adequately fund agency programs and facilities.
(c) This section does not apply to any action to reduce or eliminate a transit service, facility, program, or activity that was approved or adopted as a mitigation measure in any environmental document authorized by this division or the National Environmental Policy Act (42 U.S.C. Sec. 4321 et seq.) or to any state or federal requirement that is imposed for the protection of the environment.
(d) (1) This section applies only to actions taken after the publicly owned transit agency has made a finding that there is a fiscal emergency caused by the failure of agency revenues to adequately fund agency programs and facilities, and after the publicly owned transit agency has held a public hearing to consider those actions. A publicly owned transit agency that has held such a hearing shall respond within 30 days at a regular public meeting to suggestions made by the public at the initial public hearing. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; or reduce or eliminate the availability of an existing publicly owned transit service, facility, program, or activity.

(2) For purposes of this subdivision, "fiscal emergency," when applied to a publicly owned transit agency, means that the agency is projected to have negative working capital within one year from the date that the agency makes the finding that there is a fiscal emergency pursuant to this section. Working capital shall be determined by adding together all unrestricted cash, unrestricted short-term investments, and unrestricted short-term accounts receivable and then subtracting unrestricted accounts payable. Employee retirement funds, including Internal Revenue Code Section 457 deferred compensation plans and Section 401(k) plans, health insurance reserves, bond payment reserves, workers' compensation reserves, and insurance reserves, shall not be factored into the formula for working capital.

(Added by Stats. 1996, Ch. 500, Sec. 1. Effective January 1, 1997.)

21080.33.

This division does not apply to any emergency project undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. This section does not exempt from this division any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.
(Added by Stats. 1996, Ch. 825, Sec. 6. Effective January 1, 1997.)

21080.34.

For the purposes of Section 21069, the phrase "carrying out or approving a project" shall include the carrying out or approval of a plan for a project that expands or enlarges an existing publicly owned airport by any political subdivision, as described in Section 21661.6 of the Public Utilities Code.

(Added by renumbering Section 21080.35 (as added by Stats. 2001, Ch. 534, Sec. 1) by Stats. 2015, Ch. 303, Sec. 432. (AB 731) Effective January 1, 2016.)

21080.35.

(a) Except as provided in subdivision (d), this division does not apply to the installation of a solar energy system on the roof of an existing building or at an existing parking lot.

(b) For the purposes of this section, the following terms mean the following:

(1) "Existing parking lot" means an area designated and used for parking of vehicles as of the time of the application for the solar energy system and for at least the previous two years.

(2) "Solar energy system" includes all associated equipment. Associated equipment consists of parts and materials that enable the generation and use of solar electricity or solar-heated water, including any monitoring and control, safety, conversion, and emergency responder equipment necessary to connect to the customer's electrical service or plumbing and any equipment, as well as any equipment necessary to connect the energy generated to the electrical grid, whether that connection is onsite or on an adjacent parcel of the building and separated only by an improved right-of-way. "Associated equipment" does not include a substation.

(c) (1) Associated equipment shall be located on the same parcel of the building, except that associated equipment necessary to connect the energy generated to the electrical grid may be located immediately adjacent to the parcel of the building or immediately adjacent to the parcel of the building and separated only by an improved right-of-way.

(2) Associated equipment shall not occupy more than 500 square feet of ground surface and the site of the associated equipment shall not contain plants protected by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(d) This section does not apply if the associated equipment would otherwise require one of the following:

(1) An individual federal permit pursuant to Section 401 or 404 of the federal Clean Water Act (33 U.S.C. Sec. 1341 or 1344) or waste discharge requirements pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code).

(2) An individual take permit for species protected under the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or the California Endangered

Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code).

(3) A streambed alteration permit pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code.

(e) This section does not apply if the installation of a solar energy system at an existing parking lot involves either of the following:

(1) The removal of a tree required to be planted, maintained, or protected pursuant to local, state, or federal requirements, unless the tree dies and there is no requirement to replace the tree.

(2) The removal of a native tree over 25 years old.

(f) This section does not apply to any transmission or distribution facility or connection.

(Added by Stats. 2011, Ch. 469, Sec. 3. (SB 226) Effective January 1, 2012.)

21080.42.

(a) The following transportation projects are exempt from this division:

(1) U.S. Highway 101 interchange modification, adding southbound auxiliary lane and southbound mixed flow lane, from Interstate 280 to Yerba Buena Road, in Santa Clara County.

(2) Construct north and southbound high-occupancy vehicle lanes on I-805 from I-5 to Carroll Canyon Road, including construction of north-facing direct access ramps in San Diego County.

(3) State Route 99, Los Molinas rehabilitation and traffic calming, from Orange Street to Tehama Vine Road, in Tehama County.

(4) State Route 99, Island Park widening project, adding one mixed flow lane in each direction, from Ashlan Avenue to Grantlund Avenue, in Fresno County.

(5) State Route 99 median widening, adding one mixed flow lane in each direction, from State Route 120 west to 0.4 miles north of Arch Road, in Manteca in San Joaquin County.

(6) State Route 12 pavement rehabilitation and shoulder widening in San Joaquin County on Bouldin Island.

(7) State Route 91 widening, adding one mixed flow lane in each direction, from State Route 55 to Weir Canyon Road in Orange County.

(8) U.S. Highway 101 pavement rehabilitation and shoulder widening in San Luis Obispo County.

(b) An exemption provided pursuant to subdivision (a) shall not apply to a transportation project if, on or after February 1, 2009, a lead agency changes the scope of that project from the manner in which the project is described in subdivision (a).
(Added by Stats. 2009, 2nd Ex. Sess., Ch. 6, Sec. 4. Effective May 21, 2009.)

21080.46.

(a) Without limiting any other statutory exemption or categorical exemption, this division does not apply to the adoption of an ordinance by a city, county, or city and county to limit or prohibit the drilling of new or deeper groundwater wells, or to limit or prohibit increased extractions from existing groundwater wells, through stricter conditions on the issuance of well permits or changes in the intensity of land use that would increase demand on groundwater.
(b) (1) This section shall remain operative until July 1, 2017, or so long as the state of emergency due to drought conditions declared by the Governor in the proclamation of a state of emergency issued on January 17, 2014, remains in effect, whichever is later.
(2) This section is repealed on January 1 of the year following the date on which this section becomes inoperative.

(c) Notwithstanding subdivision (a) or (b), this section does not apply to either of the following:
(1) The issuance of any permit for a new or deeper groundwater well by a city, county, or city and county.

(2) The adoption of any ordinance affecting or relating to new residential, commercial, institutional, or industrial projects or any mix of these uses, or any change in the intensity or use of land for these purposes, if that project or change in use requires approval by a city, county, or city and county. Nor does this section apply to the adoption of any ordinance that would limit or prohibit new or deeper groundwater wells, or increased extraction from existing groundwater wells, that may be needed to serve these projects.

(Added by Stats. 2015, Ch. 27, Sec. 8. (SB 88) Effective June 24, 2015. Inoperative on July 1, 2017, or later date, as prescribed in subd. (b). Repealed, by its own provisions, on January 1 following inoperative date.)

21080.47.

(a) For purposes of this section, the following definitions apply:
(1) "Community water system" means a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents within the area served by the public water system.

(2) "Disadvantaged community" means a community with an annual median household income that is less than 80 percent of the statewide annual median household income.

(3) “Nontransient noncommunity water system” means a public water system that is not a community water system and that regularly serves at least 25 of the same persons more than six months per year.

(4) (A) ”Project” means a project that consists solely of the installation, repair, or reconstruction of one or more of the following:

(i) Drinking water groundwater wells with a maximum flow rate of up to 250 gallons per minute.

(ii) Drinking water treatment facilities with a footprint of less than 2,500 square feet that are not located in an environmentally sensitive area.

(iii) Drinking water storage tanks with a capacity of up to 250,000 gallons.

(iv) Booster pumps and hydropneumatic tanks.

(v) Pipelines of less than one mile in length in a road right-of-way or up to seven miles in length in a road right-of-way when the project is required to address threatened or current drinking water violations.

(vi) Water service lines.

(vii) Minor drinking water system appurtenances, including, but not limited to, system and service meters, fire hydrants, water quality sampling stations, valves, air releases and vacuum break valves, emergency generators, backflow prevention devices, and appurtenance enclosures.

(B) “Project” does not include either of the following categories of projects:

(i) Facilities that are constructed primarily to serve irrigation or future growth.

(ii) Facilities that are used to dam, divert, or convey surface water.

(5) “Project labor agreement” has the same meaning as in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(6) “Public water system” means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year, and shall include, but not be limited to, any of the following:

(A) Any collection, treatment, storage, and distribution facilities under the control of, and used primarily in connection with, the public water system.

(B) Any collection or pretreatment storage facilities not under the control of the operator of the public water system, but that are used primarily in connection with the public water system.

(C) Any system for the provision of water for human consumption through pipes or other constructed conveyances that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

(7) "Skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(8) "Small community water system" means a community water system that serves no more than 3,300 service connections or a yearlong population of no more than 10,000 persons.

(9) "Small disadvantaged community water system" means either a small community water system that serves one or more disadvantaged communities or a nontransient noncommunity water system that primarily serves one or more schools that serve one or more disadvantaged communities.

(10) "State small water system" means a system for the provision of piped water to a disadvantaged community for human consumption that serves at least 5, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year.

(b) (1) This division does not apply to a project that meets the requirements of subdivision (c) and subdivision (d) or (e), as appropriate, and that primarily benefits a small disadvantaged community water system or a state small water system in any of the following ways:

(A) Improving the small disadvantaged community water system's or state small water system's water quality, water supply, or water supply reliability.

(B) Encouraging water conservation.

(C) Providing drinking water service to existing residences within a disadvantaged community, a small disadvantaged community water system, or a state small water system where there is evidence that the water exceeds maximum contaminant levels for primary or secondary drinking water standards or where the drinking water well is no longer able to produce an adequate supply of safe drinking water.

(2) Before determining a project is exempt under this section, the lead agency shall contact the State Water Resources Control Board to determine whether claiming the exemption under this section will affect the ability of the small disadvantaged community water system or the state small water system to receive federal financial assistance or federally capitalized financial assistance.

(c) The project meets all of the following:

(1) Does not affect wetlands or sensitive habitats.

(2) Unusual circumstances do not exist that would cause a significant effect on the environment.

(3) Is not located on a hazardous waste site that is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(4) Does not have the potential to cause a substantial adverse change in the significance of a historical resource.

(5) The construction impacts are fully mitigated consistent with applicable law.

(6) The cumulative impact of successive reasonably anticipated projects of the same type as the project, in the same place, over time, is not significant.

(d) (1) For a project undertaken by a public agency that is exempt from this division pursuant to this section, except as provided in paragraph (2), an entity shall not be prequalified or shortlisted or awarded a contract by the public agency to perform any portion of the project unless the entity provides an enforceable commitment to the public agency that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades.

(2) Paragraph (1) does not apply if any of the following requirements are met:

(A) The public agency has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.

(B) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the public agency before January 1, 2021.

(C) The entity has entered into a project labor agreement that will bind the entity and all of its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.

(e) For a project undertaken by a private entity that is exempt from this division pursuant to this section, the project applicant shall do both of the following:

(1) Certify to the lead agency that either of the following is true:

(A) The entirety of the project is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(B) If the project is not in its entirety a public work, all construction workers employed in the execution of the project will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs

approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the project is subject to this subparagraph, then, for those portions of the project that are not a public work, all of the following shall apply:

(i) The project applicant shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(ii) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(iii) (I) Except as provided in subclause (III), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided by that section.

(II) Except as provided in subclause (III), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the project, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(III) Subclauses (I) and (II) do not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the project and provides for enforcement of that obligation through an arbitration procedure.

(iv) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(2) Certify to the lead agency that a skilled and trained workforce will be used to perform all construction work on the project. All of the following requirements shall apply to the project:

(A) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the project.

(B) Every contractor and subcontractor shall use a skilled and trained workforce to complete the project.

(C) (i) Except as provided in clause (ii), the applicant shall provide to the lead agency, on a monthly basis while the project or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the lead agency pursuant to this clause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the project using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(ii) Clause (i) does not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure.

(f) If the lead agency determines that a project is not subject to this division pursuant to this section, and the lead agency determines to approve or carry out that project, the lead agency shall file a notice of exemption with the Office of Planning and Research and the county clerk of the county in which the project is located in the manner specified in subdivisions (b) and (c) of Section 21152.
(g) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.
(Added by Stats. 2020, Ch. 234, Sec. 2. (SB 974) Effective January 1, 2021. Repealed as of January 1, 2028, by its own provisions.)

21080.50.

(a) For purposes of this section, the following definitions apply:

(1) "Interim motel housing project" or "project" means the conversion of a structure with a certificate of occupancy as a motel, hotel, residential hotel, or hostel to supportive or transitional housing, and the conversion meets one or both of the following conditions:

(A) It does not result in the expansion of more than 10 percent of the floor area of any individual living unit in the structure.

(B) It does not result in any significant effects relating to traffic, noise, air quality, or water quality.

(2) "Residential hotel" has the same meaning as defined in Section 50519 of the Health and Safety Code.

(3) "Supportive housing" means housing linked to onsite or offsite supportive services and with no limit on length of stay for persons with low incomes who have one or more disabilities and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

(4) "Supportive services" means services that are provided on a voluntary basis to residents of supportive or transitional housing, including, but not limited to, a combination of subsidized and permanent housing services, intensive case management, medical and mental health care, substance abuse treatment, employment services, benefits advocacy, and other services or service referrals necessary to obtain and maintain housing.

(5) "Transitional housing" means temporary housing linked to supportive services that is offered, usually for a period of up to 24 months, to facilitate movement to permanent housing for persons with low incomes who may have one or more disabilities, and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

(b) This division does not apply to an interim motel housing project.

(c) A lead agency that determines an interim motel housing project is exempt pursuant to this section shall file a notice of exemption in accordance with subdivision (b) of Section 21152 with the Office of Planning and Research.

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(Added by Stats. 2019, Ch. 344, Sec. 2. (SB 450) Effective January 1, 2020. Repealed as of January 1, 2025, by its own provisions.)

21080.51.

(a) This division does not apply to a project funded by Item 7502-062-8506 of the Budget Act of 2021 or any entity, including a public entity or private or nonprofit corporation, that consists of linear broadband deployment in a right-of-way if the project meets all of the following conditions:

(1) The project is located in an area identified by the Public Utilities Commission as a component of the statewide open-access middle-mile broadband network pursuant to Section 11549.54 of the Government Code.

(2) The project is constructed along, or within 30-feet of, the right-of-way of any public road or highway.

(3) The project is either deployed underground where the surface area is restored to a condition existing before the project or placed aerially along an existing utility pole right-of-way.

(4) The project incorporates, as a condition of project approval, measures developed by the Public Utilities Commission or the Department of Transportation to address potential environmental impacts. At minimum, the project shall be required to include monitors during construction activities and measures to avoid or address impacts to cultural and biological resources.

(5) The project applicant agrees to comply with all conditions otherwise authorized by law, imposed by the planning department of a city or county as part of a local agency permit process, that are required to mitigate potential impacts of the proposed project, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7 (commencing with Section 5810) of Division 5), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), as applicable, other applicable state laws, and all applicable federal laws.

(b) If a project meets all of the requirements of subdivision (a), the person undertaking the project shall do all of the following:

(1) Notify, in writing, any affected public agency, including, but not limited to, any public agency having permit, land use, environmental, public health protection, or emergency response authority, of the exemption of the project pursuant to this section.

(2) Provide notice to the public in the area affected by the project in a manner consistent with subdivision (b) of Section 21108.

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

(4) Comply with all conditions authorized by law imposed by the planning department of a city or county as part of any local agency permit process, that are required to mitigate potential impacts of the proposed project, and otherwise comply with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7

(commencing with Section 5810) of Division 5), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), as applicable, other applicable state laws, and all applicable federal laws.

(Added by Stats. 2021, Ch. 112, Sec. 6. (SB 156) Effective July 20, 2021.)

21080.56.

(a) This division does not apply to a project that is exclusively one of the following:
(1) A project to conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend.

(2) A project to restore or provide habitat for California native fish and wildlife.

(b) An eligible project may have incidental public benefits, such as public access and recreation.
(c) This section does not apply to a project unless the project does both of the following:
(1) Results in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery.

(2) Includes procedures and ongoing management for the protection of the environment.

(d) This section does not apply to a project that includes construction activities, except for construction activities solely related to habitat restoration.
(e) The lead agency shall obtain the concurrence of the Director of Fish and Wildlife for the determinations required pursuant to subdivisions (a) to (d), inclusive. The director shall document the director's concurrence using substantial evidence and best available science.
(f) The project shall remain subject to all other applicable federal, state, and local laws and regulations, and shall not weaken or violate any applicable environmental or public health standards.
(g) Within 48 hours of making a determination that a project is exempt pursuant to this section, a lead agency shall file a notice described in subdivision (b) of Section 21108 or subdivision (b) of Section 21152 with the Office of Planning and Research, and the Department of Fish and Wildlife shall post the concurrence of the Director of Fish and Wildlife on the department's internet website.
(h) The Natural Resources Agency shall, in accordance with Section 9795 of the Government Code, report annually to the Legislature all determinations pursuant to this section.
(i) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.
(Added by Stats. 2021, Ch. 258, Sec. 23. (SB 155) Effective September 23, 2021. Repealed as of January 1, 2025, by its own provisions.)

21081.

Pursuant to the policy stated in Sections 21002 and 21002.1, no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

(a) The public agency makes one or more of the following findings with respect to each significant effect:

(1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

(b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

(Amended by Stats. 1994, Ch. 1294, Sec. 2. Effective October 1, 1994. Note: October 1, 1994, is the date that Ch. 1294 became law without the Governor's signature.)

21081.2.

(a) Except as provided in subdivision (c), if a residential project, not exceeding 100 units, with a minimum residential density of 20 units per acre and within one-half mile of a transit stop, on an infill site in an urbanized area is in compliance with the traffic, circulation, and transportation policies of the general plan, applicable community plan, applicable specific plan, and applicable ordinances of the city or county with jurisdiction over the area where the project is located, and the city or county requires that the mitigation measures approved in a previously certified project area environmental impact report applicable to the project be incorporated into the project, the city or county is not required to comply with subdivision (a) of Section 21081 with respect to the making of any findings regarding the impacts of the project on traffic at intersections, or on streets, highways, or freeways.

(b) Nothing in subdivision (a) restricts the authority of a city or county to adopt feasible mitigation measures with respect to the impacts of a project on pedestrian and bicycle safety.

(c) Subdivision (a) does not apply in any of the following circumstances:

(1) The application for a proposed project is made more than five years after certification of the project area environmental impact report applicable to the project.

(2) A major change has occurred within the project area after certification of the project area environmental impact report applicable to the project.

(3) The project area environmental impact report applicable to the project was certified with overriding considerations pursuant to subdivision (b) of Section 21081 to the significant impacts on the environment with respect to traffic or transportation.

(4) The proposed project covers more than four acres.

(d) A project shall not be divided into smaller projects in order to qualify pursuant to this section.

(e) Nothing in this section relieves a city or county from the requirement to analyze the project's effects on traffic at intersections, or on streets, highways, or freeways, or from making a determination that the project may have a significant effect on traffic.

(f) For the purposes of this section, "project area environmental impact report" means an environmental impact report certified on any of the following:

(1) A general plan.

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

(3) An applicable community plan.

(4) An applicable specific plan.

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

(6) A zoning ordinance.

(Added by Stats. 2006, Ch. 715, Sec. 1. Effective January 1, 2007.)

21081.3.

(a) Except as specified in subdivision (b), a lead agency is not required to evaluate the aesthetic effects of a project and aesthetic effects shall not be considered significant effects on the environment if the project involves the refurbishment, conversion, repurposing, or replacement of an existing building that meets all of the following requirements:

(1) The building is abandoned, dilapidated, or has been vacant for more than one year.

(2) The building site is immediately adjacent to parcels that are developed with qualified urban uses or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25

percent of the site adjoins parcels that previously have been developed for qualified urban uses.

(3) The project includes the construction of housing.

(4) Any new structure does not substantially exceed the height of the existing structure.

(5) The project does not create a new source of substantial light or glare.

(b) Subdivision (a) shall not apply to either of the following:
(1) A project with potentially significant aesthetic effects on an official state scenic highway established pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(2) A project with potentially significant aesthetic effects on historical or cultural resources.

(c) This section does not alter, affect, or otherwise change the authority of a lead agency to consider aesthetic issues and to require the mitigation or avoidance of adverse aesthetic effect pursuant to other laws.
(d) For purposes of this section, "dilapidated" means decayed, deteriorated, or fallen into such disrepair through neglect or misuse so as to require substantial repair for safe and proper use.
(e) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.
(Added by Stats. 2018, Ch. 298, Sec. 1. (AB 2341) Effective January 1, 2019. Repealed as of January 1, 2024, by its own provisions.)

21081.5.

In making the findings required by paragraph (3) of subdivision (a) of Section 21081, the public agency shall base its findings on substantial evidence in the record.
(Amended by Stats. 1994, Ch. 1294, Sec. 3. Effective October 1, 1994. Note: October 1, 1994, is the date that Ch. 1294 became law without the Governor's signature.)

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.
(Amended by Stats. 1994, Ch. 1294, Sec. 4.5. Effective October 1, 1994. Note: October 1, 1994, is the date that Ch. 1294 became law without the Governor's signature.)

21081.7.

Transportation information resulting from the reporting or monitoring program required to be adopted by a public agency pursuant to Section 21081.6 shall be submitted to the transportation planning agency in the region where the project is located and to the Department of Transportation for a project of statewide, regional, or areawide significance according to criteria developed pursuant to Section 21083. The transportation planning agency and the Department of Transportation shall adopt guidelines for the submittal of those reporting or monitoring programs.
(Amended by Stats. 2001, Ch. 867, Sec. 1. Effective January 1, 2002.)

21082.

All public agencies shall adopt by ordinance, resolution, rule, or regulation, objectives, criteria, and procedures for the evaluation of projects and the preparation of environmental impact reports and negative declarations pursuant to this division. A school district, or any other district, whose boundaries are coterminous with a city, county, or city and county, may utilize the objectives, criteria, and procedures of the city, county, or city and county, as may be applicable, in which case, the school district or other district need not adopt objectives, criteria, and procedures of its own. The objectives, criteria, and procedures shall be consistent with the provisions of this division and with the guidelines adopted by the Secretary of the Resources Agency pursuant to Section 21083. Such objectives, criteria, and procedures shall be adopted by each public agency no later than 60 days after the Secretary of the Resources Agency has adopted guidelines pursuant to Section 21083.
(Amended by Stats. 1976, Ch. 1312.)

21082.1.

(a) A 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 does not prohibit, and shall not be construed as prohibiting, a 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, in an electronic form as required by the Office of Planning and Research, the draft environmental impact report, proposed negative declaration, or proposed mitigated negative declaration to the State Clearinghouse.

(d) The lead agency shall post all environmental review documents described in subdivision (a) on its internet website, if any.
(Amended by Stats. 2021, Ch. 97, Sec. 2. (AB 819) Effective January 1, 2022.)

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.
(Amended by Stats. 1993, Ch. 1131, Sec. 7. Effective January 1, 1994.)

21082.3.

(a) Any mitigation measures agreed upon in the consultation conducted pursuant to Section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to paragraph (2) of subdivision (b), and shall be fully enforceable.
(b) If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

(1) Whether the proposed project has a significant impact on an identified tribal cultural resource.

(2) Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.

(c) (1) Any information, including, but not limited to, the location, description, and use of the tribal cultural resources, that is submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with subdivision (r) of Section 6254 of, and Section 6254.10 of, the Government Code, and subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations, without the prior consent of the tribe that provided the information. If the lead agency publishes any information submitted by a California Native American tribe during the consultation or environmental review process, that information shall be published in a confidential appendix to the environmental document unless the tribe that provided the

information consents, in writing, to the disclosure of some or all of the information to the public. This subdivision does not prohibit the confidential exchange of the submitted information between public agencies that have lawful jurisdiction over the preparation of the environmental document.

(2) (A) This subdivision does not prohibit the confidential exchange of information regarding tribal cultural resources submitted by a California Native American tribe during the consultation or environmental review process among the lead agency, the California Native American tribe, the project applicant, or the project applicant's agent. Except as provided in subparagraph (B) or unless the California Native American tribe providing the information consents, in writing, to public disclosure, the project applicant or the project applicant's legal advisers, using a reasonable degree of care, shall maintain the confidentiality of the information exchanged for the purposes of preventing looting, vandalism, or damage to tribal cultural resources and shall not disclose to a third party confidential information regarding tribal cultural resources.

(B) This paragraph does not apply to data or information that are or become publicly available, are already in the lawful possession of the project applicant before the provision of the information by the California Native American tribe, are independently developed by the project applicant or the project applicant's agents, or are lawfully obtained by the project applicant from a third party that is not the lead agency, a California Native American tribe, or another public agency.

(3) This subdivision does not affect or alter the application of subdivision (r) of Section 6254 of the Government Code, Section 6254.10 of the Government Code, or subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations.

(4) This subdivision does not prevent a lead agency or other public agency from describing the information in general terms in the environmental document so as to inform the public of the basis of the lead agency's or other public agency's decision without breaching the confidentiality required by this subdivision.

(d) In addition to other provisions of this division, the lead agency may certify an environmental impact report or adopt a mitigated negative declaration for a project with a significant impact on an identified tribal cultural resource only if one of the following occurs:

(1) The consultation process between the California Native American tribe and the lead agency has occurred as provided in Sections 21080.3.1 and 21080.3.2 and concluded pursuant to subdivision (b) of Section 21080.3.2.

(2) The California Native American tribe has requested consultation pursuant to Section 21080.3.1 and has failed to provide comments to the lead agency, or otherwise failed to engage, in the consultation process.

(3) The lead agency has complied with subdivision (d) of Section 21080.3.1 and the California Native American tribe has failed to request consultation within 30 days.

(e) If the mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of the consultation or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to subdivision (b) of Section 21084.3.
(f) Consistent with subdivision (c), the lead agency shall publish confidential information obtained from a California Native American tribe during the consultation process in a confidential appendix to the environmental document and shall include a general description of the information, as provided in paragraph (4) of subdivision (c) in the environmental document for public review during the public comment period provided pursuant to this division.
(g) This section is not intended, and may not be construed, to limit consultation between the state and tribal governments, existing confidentiality provisions, or the protection of religious exercise to the fullest extent permitted under state and federal law.
(Amended by Stats. 2015, Ch. 303, Sec. 433. (AB 731) Effective January 1, 2016. Superseded on January 1, 2023; see amendment by Stats. 2021, Ch. 615.)

21082.3.

(a) Any mitigation measures agreed upon in the consultation conducted pursuant to Section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to paragraph (2) of subdivision (b), and shall be fully enforceable.
(b) If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

(1) Whether the proposed project has a significant impact on an identified tribal cultural resource.

(2) Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.

(c) (1) Any information, including, but not limited to, the location, description, and use of the tribal cultural resources, that is submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Sections 7927.000 and 7927.005 of the Government Code, and subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations, without the prior consent of the tribe that provided the information. If the lead agency publishes any information submitted by a California Native American tribe during the consultation or environmental review process, that information shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. This subdivision does not

prohibit the confidential exchange of the submitted information between public agencies that have lawful jurisdiction over the preparation of the environmental document.

(2) (A) This subdivision does not prohibit the confidential exchange of information regarding tribal cultural resources submitted by a California Native American tribe during the consultation or environmental review process among the lead agency, the California Native American tribe, the project applicant, or the project applicant's agent. Except as provided in subparagraph (B) or unless the California Native American tribe providing the information consents, in writing, to public disclosure, the project applicant or the project applicant's legal advisers, using a reasonable degree of care, shall maintain the confidentiality of the information exchanged for the purposes of preventing looting, vandalism, or damage to tribal cultural resources and shall not disclose to a third party confidential information regarding tribal cultural resources.

(B) This paragraph does not apply to data or information that are or become publicly available, are already in the lawful possession of the project applicant before the provision of the information by the California Native American tribe, are independently developed by the project applicant or the project applicant's agents, or are lawfully obtained by the project applicant from a third party that is not the lead agency, a California Native American tribe, or another public agency.

(3) This subdivision does not affect or alter the application of Section 7927.000 or 7927.005 of the Government Code, or subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations.

(4) This subdivision does not prevent a lead agency or other public agency from describing the information in general terms in the environmental document so as to inform the public of the basis of the lead agency's or other public agency's decision without breaching the confidentiality required by this subdivision.

(d) In addition to other provisions of this division, the lead agency may certify an environmental impact report or adopt a mitigated negative declaration for a project with a significant impact on an identified tribal cultural resource only if one of the following occurs:

(1) The consultation process between the California Native American tribe and the lead agency has occurred as provided in Sections 21080.3.1 and 21080.3.2 and concluded pursuant to subdivision (b) of Section 21080.3.2.

(2) The California Native American tribe has requested consultation pursuant to Section 21080.3.1 and has failed to provide comments to the lead agency, or otherwise failed to engage, in the consultation process.

(3) The lead agency has complied with subdivision (d) of Section 21080.3.1 and the California Native American tribe has failed to request consultation within 30 days.

(e) If the mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of the consultation or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to subdivision (b) of Section 21084.3.
(f) Consistent with subdivision (c), the lead agency shall publish confidential information obtained from a California Native American tribe during the consultation process in a confidential appendix to the environmental document and shall include a general description of the information, as provided in paragraph (4) of subdivision (c) in the environmental document for public review during the public comment period provided pursuant to this division.
(g) This section is not intended, and may not be construed, to limit consultation between the state and tribal governments, existing confidentiality provisions, or the protection of religious exercise to the fullest extent permitted under state and federal law.
(Amended by Stats. 2021, Ch. 615, Sec. 378. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

21082.4.

In describing and evaluating a project in an environmental review document prepared pursuant to this division, the lead agency may consider specific economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of a proposed project and the negative impacts of denying the project. Any benefits or negative impacts considered pursuant to this section shall be based on substantial evidence in light of the whole record.
(Added by Stats. 2018, Ch. 193, Sec. 1. (AB 2782) Effective January 1, 2019.)

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.
(Amended by Stats. 2004, Ch. 689, Sec. 1. Effective January 1, 2005.)

21083.01.

(a) On or after January 1, 2013, at the time of the next review of the guidelines prepared and developed to implement this division pursuant to subdivision (f) of Section 21083, the Office of Planning and Research, in cooperation with the Department of Forestry and Fire Protection, shall prepare, develop, and transmit to the Secretary of the Natural Resources Agency recommended proposed changes or amendments to the initial study checklist of the guidelines implementing this division for the inclusion of questions related to fire hazard impacts for projects located on lands classified as state responsibility areas, as defined in Section 4102, and on lands classified as very high fire hazard severity zones, as defined in subdivision (i) of Section 51177 of the Government Code.

(b) Upon receipt and review, the Secretary of the Natural Resources Agency shall certify and adopt the recommended proposed changes or amendments prepared and developed by the Office of Planning and Research pursuant to subdivision (a).
(Added by Stats. 2012, Ch. 311, Sec. 5. (SB 1241) Effective January 1, 2013.)

21083.05.

The Office of Planning and Research and the Natural Resources Agency shall periodically update the guidelines for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions as required by this division, including, but not limited to, effects associated with transportation or energy consumption, to incorporate new information or criteria established by the State Air Resources Board pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code.
(Amended by Stats. 2012, Ch. 548, Sec. 5. (AB 2669) Effective January 1, 2013.)

21083.09.

On or before July 1, 2016, the Office of Planning and Research shall prepare and develop, and the Secretary of the Natural Resources Agency shall certify and adopt, revisions to the guidelines that update Appendix G of Chapter 3 (commencing with Section 15000) of Division 6 of Title 4 of the California Code of Regulations to do both of the following:
(a) Separate the consideration of paleontological resources from tribal cultural resources and update the relevant sample questions.
(b) Add consideration of tribal cultural resources with relevant sample questions.
(Added by Stats. 2014, Ch. 532, Sec. 8. (AB 52) Effective January 1, 2015.)

21083.1.

It is the intent of the Legislature that courts, consistent with generally accepted rules of statutory interpretation, shall not interpret this division or the state guidelines adopted pursuant to Section 21083 in a manner which imposes procedural or substantive requirements beyond those explicitly stated in this division or in the state guidelines.
(Added by Stats. 1993, Ch. 1070, Sec. 2. Effective January 1, 1994.)

21083.2.

(a) As part of the determination made pursuant to Section 21080.1, the lead agency shall determine whether the project may have a significant effect on archaeological resources. If the lead agency determines that the project may have a significant effect on unique archaeological resources, the environmental impact report shall address the issue of those resources. An environmental impact report, if otherwise necessary, shall not address the issue of nonunique archaeological

resources. A negative declaration shall be issued with respect to a project if, but for the issue of nonunique archaeological resources, the negative declaration would be otherwise issued.

(b) If it can be demonstrated that a project will cause damage to a unique archaeological resource, the lead agency may require reasonable efforts to be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. Examples of that treatment, in no order of preference, may include, but are not limited to, any of the following:

(1) Planning construction to avoid archaeological sites.

(2) Deeding archaeological sites into permanent conservation easements.

(3) Capping or covering archaeological sites with a layer of soil before building on the sites.

(4) Planning parks, greenspace, or other open space to incorporate archaeological sites.

(c) To the extent that unique archaeological resources are not preserved in place or not left in an undisturbed state, mitigation measures shall be required as provided in this subdivision. The project applicant shall provide a guarantee to the lead agency to pay one-half the estimated cost of mitigating the significant effects of the project on unique archaeological resources. In determining payment, the lead agency shall give due consideration to the in-kind value of project design or expenditures that are intended to permit any or all archaeological resources or California Native American culturally significant sites to be preserved in place or left in an undisturbed state. When a final decision is made to carry out or approve the project, the lead agency shall, if necessary, reduce the specified mitigation measures to those which can be funded with the money guaranteed by the project applicant plus the money voluntarily guaranteed by any other person or persons for those mitigation purposes. In order to allow time for interested persons to provide the funding guarantee referred to in this subdivision, a final decision to carry out or approve a project shall not occur sooner than 60 days after completion of the recommended special environmental impact report required by this section.

(d) Excavation as mitigation shall be restricted to those parts of the unique archaeological resource that would be damaged or destroyed by the project. Excavation as mitigation shall not be required for a unique archaeological resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the resource, if this determination is documented in the environmental impact report.

(e) In no event shall the amount paid by a project applicant for mitigation measures required pursuant to subdivision (c) exceed the following amounts:

(1) An amount equal to one-half of 1 percent of the projected cost of the project for mitigation measures undertaken within the site boundaries of a commercial or industrial project.

(2) An amount equal to three-fourths of 1 percent of the projected cost of the project for mitigation measures undertaken within the site boundaries of a housing project consisting of a single unit.

(3) If a housing project consists of more than a single unit, an amount equal to three-fourths of 1 percent of the projected cost of the project for mitigation measures undertaken within the site boundaries of the project for the first unit plus the sum of the following:

(A) Two hundred dollars ($200) per unit for any of the next 99 units.

(B) One hundred fifty dollars ($150) per unit for any of the next 400 units.

(C) One hundred dollars ($100) per unit in excess of 500 units.

(f) Unless special or unusual circumstances warrant an exception, the field excavation phase of an approved mitigation plan shall be completed within 90 days after final approval necessary to implement the physical development of the project or, if a phased project, in connection with the phased portion to which the specific mitigation measures are applicable. However, the project applicant may extend that period if he or she so elects. Nothing in this section shall nullify protections for Indian cemeteries under any other provision of law.

(g) As used in this section, "unique archaeological resource" means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

(1) Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.

(2) Has a special and particular quality such as being the oldest of its type or the best available example of its type.

(3) Is directly associated with a scientifically recognized important prehistoric or historic event or person.

(h) As used in this section, "nonunique archaeological resource" means an archaeological artifact, object, or site which does not meet the criteria in subdivision (g). A nonunique archaeological resource need be given no further consideration, other than the simple recording of its existence by the lead agency if it so elects.

(i) As part of the objectives, criteria, and procedures required by Section 21082 or as part of conditions imposed for mitigation, a lead agency may make provisions for archaeological sites accidentally discovered during construction. These provisions may include an immediate evaluation of the find. If the find is determined to be a unique archaeological resource, contingency funding and a time allotment sufficient to allow recovering an archaeological sample or to employ one of the avoidance measures may be required under the provisions set forth in this section. Construction work may continue on other parts of the building site while archaeological mitigation takes place.

(j) This section does not apply to any project described in subdivision (a) or (b) of Section 21065 if the lead agency elects to comply with all other applicable provisions of this division. This section does not apply to any project described in subdivision (c) of Section 21065 if the applicant and the lead agency jointly elect to comply with all other applicable provisions of this division.
(k) Any additional costs to any local agency as a result of complying with this section with respect to a project of other than a public agency shall be borne by the project applicant.
(l) Nothing in this section is intended to affect or modify the requirements of Section 21084 or 21084.1.
(Amended by Stats. 1993, Ch. 375, Sec. 1. Effective January 1, 1994.)

21083.3.

(a) If a parcel has been zoned to accommodate a particular density of development or has been designated in a community plan to accommodate a particular density of development and an environmental impact report was certified for that zoning or planning action, the application of this division to the approval of any subdivision map or other project that is consistent with the zoning or community plan shall be limited to effects upon the environment which are peculiar to the parcel or to the project and which were not addressed as significant effects in the prior environmental impact report, or which substantial new information shows will be more significant than described in the prior environmental impact report.
(b) If a development project is consistent with the general plan of a local agency and an environmental impact report was certified with respect to that general plan, the application of this division to the approval of that development project shall be limited to effects on the environment which are peculiar to the parcel or to the project and which were not addressed as significant effects in the prior environmental impact report, or which substantial new information shows will be more significant than described in the prior environmental impact report.
(c) Nothing in this section affects any requirement to analyze potentially significant offsite impacts and cumulative impacts of the project not discussed in the prior environmental impact report with respect to the general plan. However, all public agencies with authority to mitigate the significant effects shall undertake or require the undertaking of any feasible mitigation measures specified in the prior environmental impact report relevant to a significant effect which the project will have on the environment or, if not, then the provisions of this section shall have no application to that effect. The lead agency shall make a finding, at a public hearing, as to whether those mitigation measures will be undertaken.
(d) An effect of a project upon the environment shall not be considered peculiar to the parcel or to the project, for purposes of this section, if uniformly applied development policies or standards have been previously adopted by the city or county, with a finding based upon substantial evidence, which need not include an environmental impact report, that the development policies or standards will substantially mitigate that environmental effect when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect.

(e) Where a community plan is the basis for application of this section, any rezoning action consistent with the community plan shall be a project subject to exemption from this division in accordance with this section. As used in this section, "community plan" means a part of the general plan of a city or county which (1) applies to a defined geographic portion of the total area included in the general plan, (2) complies with Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code by including or referencing each of the mandatory elements specified in Section 65302 of the Government Code, and (3) contains specific development policies adopted for the area included in the community plan and identifies measures to implement those policies, so that the policies which will apply to each parcel can be determined.
(f) No person shall have standing to bring an action or proceeding to attack, review, set aside, void, or annul a finding of a public agency made at a public hearing pursuant to subdivision (a) with respect to the conformity of the project to the mitigation measures identified in the prior environmental impact report for the zoning or planning action, unless he or she has participated in that public hearing. However, this subdivision shall not be applicable if the local agency failed to give public notice of the hearing as required by law. For purposes of this subdivision, a person has participated in the public hearing if he or she has either submitted oral or written testimony regarding the proposed determination, finding, or decision prior to the close of the hearing.
(g) Any community plan adopted prior to January 1, 1982, which does not comply with the definitional criteria specified in subdivision (e) may be amended to comply with that criteria, in which case the plan shall be deemed a "community plan" within the meaning of subdivision (e) if (1) an environmental impact report was certified for adoption of the plan, and (2) at the time of the conforming amendment, the environmental impact report has not been held inadequate by a court of this state and is not the subject of pending litigation challenging its adequacy.
(Amended by Stats. 1992, Ch. 1102, Sec. 1. Effective January 1, 1993.)

21083.4.

(a) For purposes of this section, "oak" means a native tree species in the genus Quercus, not designated as Group A or Group B commercial species pursuant to regulations adopted by the State Board of Forestry and Fire Protection pursuant to Section 4526, and that is 5 inches or more in diameter at breast height.
(b) As part of the determination made pursuant to Section 21080.1, a county shall determine whether a project within its jurisdiction may result in a conversion of oak woodlands that will have a significant effect on the environment. If a county determines that there may be a significant effect to oak woodlands, the county shall require one or more of the following oak woodlands mitigation alternatives to mitigate the significant effect of the conversion of oak woodlands:

(1) Conserve oak woodlands, through the use of conservation easements.

(2) (A) Plant an appropriate number of trees, including maintaining plantings and replacing dead or diseased trees.

(B) The requirement to maintain trees pursuant to this paragraph terminates seven years after the trees are planted.

(C) Mitigation pursuant to this paragraph shall not fulfill more than one-half of the mitigation requirement for the project.

(D) The requirements imposed pursuant to this paragraph also may be used to restore former oak woodlands.

(3) Contribute funds to the Oak Woodlands Conservation Fund, as established under subdivision (a) of Section 1363 of the Fish and Game Code, for the purpose of purchasing oak woodlands conservation easements, as specified under paragraph (1) of subdivision (d) of that section and the guidelines and criteria of the Wildlife Conservation Board. A project applicant that contributes funds under this paragraph shall not receive a grant from the Oak Woodlands Conservation Fund as part of the mitigation for the project.

(4)Other mitigation measures developed by the county.

(c) Notwithstanding subdivision (d) of Section 1363 of the Fish and Game Code, a county may use a grant awarded pursuant to the Oak Woodlands Conservation Act (Article 3.5 (commencing with Section 1360) of Chapter 4 of Division 2 of the Fish and Game Code) to prepare an oak conservation element for a general plan, an oak protection ordinance, or an oak woodlands management plan, or amendments thereto, that meets the requirements of this section.

(d) The following are exempt from this section:

(1) Projects undertaken pursuant to an approved Natural Community Conservation Plan or approved subarea plan within an approved Natural Community Conservation Plan that includes oaks as a covered species or that conserves oak habitat through natural community conservation preserve designation and implementation and mitigation measures that are consistent with this section.

(2) Affordable housing projects for lower income households, as defined pursuant to Section 50079.5 of the Health and Safety Code, that are located within an urbanized area, or within a sphere of influence as defined pursuant to Section 56076 of the Government Code.

(3) Conversion of oak woodlands on agricultural land that includes land that is used to produce or process plant and animal products for commercial purposes.

(4) Projects undertaken pursuant to Section 21080.5 of the Public Resources Code.

(e) (1) A lead agency that adopts, and a project that incorporates, one or more of the measures specified in this section to mitigate the significant effects to oaks and oak woodlands shall be deemed to be in compliance with this division only as it applies to effects on oaks and oak woodlands.

(2) The Legislature does not intend this section to modify requirements of this division, other than with regard to effects on oaks and oak woodlands.

(f) This section does not preclude the application of Section 21081 to a project.
(g) This section, and the regulations adopted pursuant to this section, shall not be construed as a limitation on the power of a public agency to comply with this division or any other provision of law.
(Added by Stats. 2004, Ch. 732, Sec. 1. Effective January 1, 2005.)

21083.5.

(a) The guidelines prepared and adopted pursuant to Section 21083 shall provide that, when an environmental impact statement has been, or will be, prepared for the same project pursuant to the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) and implementing regulations, or an environmental impact report has been, or will be, prepared for the same project pursuant to the requirements of the Tahoe Regional Planning Compact (Section 66801 of the Government Code) and implementing regulations, all or any part of that statement or report may be submitted in lieu of all or any part of an environmental impact report required by this division, if that statement or report, or the part which is used, complies with the requirements of this division and the guidelines adopted pursuant thereto.
(b) Notwithstanding subdivision (a), compliance with this division may be achieved for the adoption in a city or county general plan, without any additions or change, of all or any part of the regional plan prepared pursuant to the Tahoe Regional Planning Compact and implementing regulations by reviewing environmental documents prepared by the Tahoe Regional Planning Agency addressing the plan, providing an analysis pursuant to this division of any significant effect on the environment not addressed in the environmental documents, and proceeding in accordance with Section 21081. This subdivision does not exempt a city or county from complying with the public review and notice requirements of this division.
(Amended by Stats. 1988, Ch. 493, Sec. 1.)

21083.6.

In the event that a project requires both an environmental impact report prepared pursuant to the requirements of this division and an environmental impact statement prepared pursuant to the requirements of the National Environmental Policy Act of 1969, an applicant may request and the lead agency may waive the time limits established pursuant to Section 21100.2 or 21151.5 if it finds that additional time is required to prepare a combined environmental impact report-environmental impact statement and that the time required to prepare such a combined document would be shorter than that required to prepare each document separately.
(Added by Stats. 1977, Ch. 1200.)

21083.7.

(a) In the event that a project requires both an environmental impact report prepared pursuant to the requirements of this division and an environmental impact statement prepared pursuant to the requirements of the National Environmental Policy Act of 1969, the lead agency shall, whenever possible, use the environmental impact statement as such environmental impact report as provided in Section 21083.5.

(b) In order to implement this section, each lead agency to which this section is applicable shall do both of the following, as soon as possible:

(1) Consult with the federal agency required to prepare such environmental impact statement.

(2) Notify the federal agency required to prepare the environmental impact statement regarding any scoping meeting for the proposed project.

(Amended by Stats. 2000, Ch. 387, Sec. 1. Effective September 11, 2000.)

21083.8.1.

(a) (1) For purposes of this section, "reuse plan" for a military base means an initial plan for the reuse of a military base adopted by a local government or a redevelopment agency in the form of a general plan, general plan amendment, specific plan, redevelopment plan, or other planning document, except that the reuse plan shall also consist of a statement of development policies, include a diagram or diagrams illustrating its provisions, and make the designation required in paragraph (2). "Military base" or "base" means a military base or reservation either closed or realigned by, or scheduled for closure or realignment by, the federal government.

(2) The reuse plan shall designate the proposed general distribution and general location of development intensity for housing, business, industry, open space, recreation, natural resources, public buildings and grounds, roads and other transportation facilities, infrastructure, and other categories of public and private uses of land.

(b) (1) When preparing and certifying an environmental impact report for a reuse plan, including when utilizing an environmental impact statement pursuant to Section 21083.5, the determination of whether the reuse plan may have a significant effect on the environment may be made in the context of the physical conditions that were present at the time that the federal decision became final for the closure or realignment of the base. The no project alternative analyzed in the environmental impact report shall discuss the existing conditions on the base, as they exist at the time that the environmental impact report is prepared, as well as what could be reasonably expected to occur in the foreseeable future if the reuse plan were not approved, based on current plans and consistent with available infrastructure and services.

(2) For purposes of this division, all public and private activities taken pursuant to, or in furtherance of, a reuse plan shall be deemed to be a single project.

However, further environmental review of any such public or private activity shall be conducted if any of the events specified in Section 21166 have occurred.

(c) Prior to preparing an environmental impact report for which a lead agency chooses to utilize the provisions of this section, the lead agency shall do all of the following:

(A) Hold a public hearing at which is discussed the federal environmental impact statement prepared for, or in the process of being prepared for, the closure of the military base. The discussion shall include the significant effects on the environment examined in the environmental impact statement, potential methods of mitigating those effects, including feasible alternatives, and the mitigative effects of federal, state, and local laws applicable to future nonmilitary activities. Prior to the close of the hearing, the lead agency may specify the baseline conditions for the reuse plan environmental impact report prepared, or in the process of being prepared, for the closure of the base. The lead agency may specify particular physical conditions that it will examine in greater detail than were examined in the environmental impact statement. Notice of the hearing shall be given as provided in Section 21092. The hearing may be continued from time to time.

(B) Identify pertinent responsible agencies and trustee agencies and consult with those agencies prior to the public hearing as to the application of their regulatory policies and permitting standards to the proposed baseline for environmental analysis, as well as to the reuse plan and planned future nonmilitary land uses of the base. The affected agencies shall have not less than 30 days prior to the public hearing to review the proposed reuse plan and to submit their comments to the lead agency.

(C) At the close of the hearing, the lead agency shall state in writing how the lead agency intends to integrate the baseline for analysis with the reuse planning and environmental review process, taking into account the adopted environmental standards of the community, including, but not limited to, the applicable general plan, specific plan, and redevelopment plan, and including other applicable provisions of adopted congestion management plans, habitat conservation or natural communities conservation plans, integrated waste management plans, and county hazardous waste management plans.

(D) At the close of the hearing, the lead agency shall state, in writing, the specific economic or social reasons, including, but not limited to, new job creation, opportunities for employment of skilled workers, availability of low- and moderate-income housing, and economic continuity, which support the selection of the baseline.

(d) (1) Nothing in this section shall in any way limit the scope of a review or determination of significance of the presence of hazardous or toxic wastes, substances, or materials including, but not limited to, contaminated soils and groundwater, nor shall the regulation of hazardous or toxic wastes, substances, or

materials be constrained by prior levels of activity that existed at the time that the federal agency decision to close the military base became final.

(2) This section does not apply to any project undertaken pursuant to Chapter 6.5 (commencing with Section 25100) of, or Chapter 6.8 (commencing with Section 25300) of, Division 20 of the Health and Safety Code, or pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code).

(3) This section may apply to any reuse plan environmental impact report for which a notice of preparation pursuant to subdivision (a) of Section 21092 is issued within one year from the date that the federal record of decision was rendered for the military base closure or realignment and reuse, or prior to January 1, 1997, whichever is later, if the environmental impact report is completed and certified within five years from the date that the federal record of decision was rendered.

(e) All subsequent development at the military base shall be subject to all applicable federal, state, or local laws, including, but not limited to, those relating to air quality, water quality, traffic, threatened and endangered species, noise, and hazardous or toxic wastes, substances, or materials.

(Amended by Stats. 2004, Ch. 525, Sec. 1. Effective January 1, 2005.)

21083.9.

(a) Notwithstanding Section 21080.4, 21104, or 21153, a lead agency shall call at least one scoping meeting for either of the following:

(1) A proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation if the meeting is requested by the department. The lead agency shall call the scoping meeting as soon as possible, but not later than 30 days after receiving the request from the Department of Transportation.

(2) A project of statewide, regional, or areawide significance.

(b) The lead agency shall provide notice of at least one scoping meeting held pursuant to paragraph (2) of subdivision (a) to all of the following:

(1) A county or city that borders on a county or city within which the project is located, unless otherwise designated annually by agreement between the lead agency and the county or city.

(2) A responsible agency.

(3) A public agency that has jurisdiction by law with respect to the project.

(4) A transportation planning agency or public agency required to be consulted pursuant to Section 21092.4.

(5) A public agency, organization, or individual who has filed a written request for the notice.

(c) For a public agency, organization, or individual that is required to be provided notice of a lead agency public meeting, the requirement for notice of a scoping meeting pursuant to subdivision (b) may be met by including the notice of a scoping meeting in the public meeting notice.
(d) A scoping meeting that is held in the city or county within which the project is located pursuant to the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) and the regulations adopted pursuant to that act shall be deemed to satisfy the requirement that a scoping meeting be held for a project subject to paragraph (2) of subdivision (a) if the lead agency meets the notice requirements of subdivision (b) or subdivision (c).
(e) The referral of a proposed action to adopt or substantially amend a general plan to a city or county pursuant to paragraph (1) of subdivision (a) of Section 65352 of the Government Code may be conducted concurrently with the scoping meeting required pursuant to this section, and the city or county may submit its comments as provided pursuant to subdivision (b) of that section at the scoping meeting.
(Amended by Stats. 2012, Ch. 218, Sec. 1. (SB 972) Effective January 1, 2013.)

21084.

(a) The guidelines prepared and adopted pursuant to Section 21083 shall include a list of classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from this division. In adopting the guidelines, the Secretary of the Natural Resources Agency shall make a finding that the listed classes of projects referred to in this section do not have a significant effect on the environment.
(b) A project's greenhouse gas emissions shall not, in and of themselves, be deemed to cause an exemption adopted pursuant to subdivision (a) to be inapplicable if the project complies with all applicable regulations or requirements adopted to implement statewide, regional, or local plans consistent with Section 15183.5 of Title 14 of the California Code of Regulations.
(c) A project that may result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway designated as an official state scenic highway, pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, shall not be exempted from this division pursuant to subdivision (a). This subdivision does not apply to improvements as mitigation for a project for which a negative declaration has been approved or an environmental impact report has been certified.
(d) A project located on a site that is included on any list compiled pursuant to Section 65962.5 of the Government Code shall not be exempted from this division pursuant to subdivision (a).
(e) A project that may cause a substantial adverse change in the significance of a historical resource, as specified in Section 21084.1, shall not be exempted from this division pursuant to subdivision (a).
(Amended by Stats. 2013, Ch. 76, Sec. 175. (AB 383) Effective January 1, 2014.)

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.

(Added by Stats. 1992, Ch. 1075, Sec. 8. Effective January 1, 1993.)

21084.2.

A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment.

(Added by Stats. 2014, Ch. 532, Sec. 9. (AB 52) Effective January 1, 2015.)

21084.3.

(a) Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.

(b) If the lead agency determines that a project may cause a substantial adverse change to a tribal cultural resource, and measures are not otherwise identified in the consultation process provided in Section 21080.3.2, the following are examples of mitigation measures that, if feasible, may be considered to avoid or minimize the significant adverse impacts:

(1) Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.

(2) Treating the resource with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:

(A) Protecting the cultural character and integrity of the resource.

(B) Protecting the traditional use of the resource.

(C) Protecting the confidentiality of the resource.

(3) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.

(4) Protecting the resource.

(Added by Stats. 2014, Ch. 532, Sec. 10. (AB 52) Effective January 1, 2015.)

21086.

(a) A public agency may, at any time, request the addition or deletion of a class of projects, to the list designated pursuant to Section 21084. That request shall be made in writing to the Office of Planning and Research and shall include information supporting the public agency's position that the class of projects does, or does not, have a significant effect on the environment.
(b) The Office of Planning and Research shall review each request and, as soon as possible, shall submit its recommendation to the Secretary of the Resources Agency. Following the receipt of that recommendation, the Secretary of the Resources Agency may add or delete the class of projects to the list of classes of projects designated pursuant to Section 21084 that are exempt from the requirements of this division.
(c) The addition or deletion of a class of projects, as provided in this section, to the list specified in Section 21084 shall constitute an amendment to the guidelines adopted pursuant to Section 21083 and shall be adopted in the manner prescribed in Sections 21083 and 21084.
(Amended by Stats. 2004, Ch. 689, Sec. 2. Effective January 1, 2005.)

21088.

The Secretary of the Resources Agency shall provide for the timely distribution to all public agencies of the guidelines and any amendments or changes thereto. In addition, the Secretary of the Resources Agency may provide for publication of a bulletin to provide public notice of the guidelines, or any amendments or changes thereto, and of the completion of environmental impact reports prepared in compliance with this division.
(Added by Stats. 1972, Ch. 1154.)

21089.

(a) A lead agency may charge and collect a reasonable fee from a person proposing a project subject to this division in order to recover the estimated costs incurred by the lead agency in preparing a negative declaration or an environmental impact

report for the project and for procedures necessary to comply with this division on the project. Litigation expenses, costs, and fees incurred in actions alleging noncompliance with this division under Section 21167 are not recoverable under this section.
(b) The Department of Fish and Game may charge and collect filing fees, as provided in Section 711.4 of the Fish and Game Code. Notwithstanding Section 21080.1, a finding required under Section 21081, or a project approved under a certified regulatory program authorized pursuant to Section 21080.5 is not operative, vested, or final until the filing fees required pursuant to Section 711.4 of the Fish and Game Code are paid.
(c) (1) A public agency may charge and collect a reasonable fee from members of the public for a copy of an environmental document not to exceed the cost of reproducing the environmental document. A public agency may provide the environmental document in an electronic format as provided pursuant to Section 6253.9 of the Government Code.

(2) For purposes of this subdivision, "environmental document" means an initial study, negative declaration, mitigated negative declaration, draft and final environmental impact report, a document prepared as a substitute for an environmental impact report, negative declaration, or mitigated negative declaration under a program certified pursuant to Section 21080.5, and a document prepared under the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) and used by a state or local agency in the place of the initial study, negative declaration, mitigated negative declaration, or an environmental impact report.

(Amended by Stats. 2010, Ch. 210, Sec. 1. (AB 2565) Effective January 1, 2011. Superseded on January 1, 2023; see amendment by Stats. 2021, Ch. 615.)

21089.

(a) A lead agency may charge and collect a reasonable fee from a person proposing a project subject to this division in order to recover the estimated costs incurred by the lead agency in preparing a negative declaration or an environmental impact report for the project and for procedures necessary to comply with this division on the project. Litigation expenses, costs, and fees incurred in actions alleging noncompliance with this division under Section 21167 are not recoverable under this section.
(b) The Department of Fish and Game may charge and collect filing fees, as provided in Section 711.4 of the Fish and Game Code. Notwithstanding Section 21080.1, a finding required under Section 21081, or a project approved under a certified regulatory program authorized pursuant to Section 21080.5 is not operative, vested, or final until the filing fees required pursuant to Section 711.4 of the Fish and Game Code are paid.
(c) (1) A public agency may charge and collect a reasonable fee from members of the public for a copy of an environmental document not to exceed the cost of reproducing the environmental document. A public agency may provide the environmental document in an electronic format as provided pursuant to Sections 7922.570 to 7922.580, inclusive, of the Government Code.

(2) For purposes of this subdivision, "environmental document" means an initial study, negative declaration, mitigated negative declaration, draft and final environmental impact report, a document prepared as a substitute for an environmental impact report, negative declaration, or mitigated negative declaration under a program certified pursuant to Section 21080.5, and a document prepared under the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) and used by a state or local agency in the place of the initial study, negative declaration, mitigated negative declaration, or an environmental impact report.

(Amended by Stats. 2021, Ch. 615, Sec. 379. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

21090.

(a) An environmental impact report for a redevelopment plan may be a master environmental impact report, program environmental impact report, or a project environmental impact report. Any environmental impact report for a redevelopment plan shall specify the type of environmental impact report that is prepared for the redevelopment plan.
(b) If the environmental impact report for a redevelopment plan is a project environmental impact report, all public and private activities or undertakings pursuant to, or in furtherance of, a redevelopment plan shall be deemed to be a single project. However, further environmental review of any public or private activity or undertaking pursuant to, or in furtherance of, a redevelopment plan for which a project environmental impact report has been certified shall be conducted if any of the events specified in Section 21166 have occurred.
(Amended by Stats. 2002, Ch. 625, Sec. 3. Effective September 17, 2002.)

21090.1.

For all purposes of this division, a geothermal exploratory project shall be deemed to be separate and distinct from any subsequent geothermal field development project as defined in Section 65928.5 of the Government Code.
(Added by Stats. 1978, Ch. 1271.)

21091.

(a) The public review period for a draft environmental impact report shall not be less than 30 days. If the draft environmental impact report is for a proposed project where a state agency is the lead agency, a responsible agency, or a trustee agency; a state agency otherwise has jurisdiction by law with respect to the project; or the proposed project is of sufficient statewide, regional, or areawide significance as determined pursuant to the guidelines certified and adopted pursuant to Section 21083, the review period shall be at least 45 days, and the lead agency shall provide the document, in an electronic form as required by the Office of Planning

and Research, to the State Clearinghouse for review and comment by state agencies.
(b) The public review period for a proposed negative declaration or proposed mitigated negative declaration shall not be less than 20 days. If the proposed negative declaration or proposed mitigated negative declaration is for a proposed project where a state agency is the lead agency, a responsible agency, or a trustee agency; a state agency otherwise has jurisdiction by law with respect to the project; or the proposed project is of sufficient statewide, regional, or areawide significance as determined pursuant to the guidelines certified and adopted pursuant to Section 21083, the review period shall be at least 30 days, and the lead agency shall provide the document, in an electronic form as required by the Office of Planning and Research, to the State Clearinghouse for review and comment by state agencies.
(c) (1) Notwithstanding subdivisions (a) and (b), if a draft environmental impact report, proposed negative declaration, or proposed mitigated negative declaration is submitted to the State Clearinghouse for review and the period of review by the State Clearinghouse is longer than the public review period established pursuant to subdivision (a) or (b), whichever is applicable, the public review period shall be at least as long as the period of review and comment by state agencies as established by the State Clearinghouse.

(2) The public review period and the state agency review period may, but are not required to, begin and end at the same time. Day one of the state agency review period shall be the date that the State Clearinghouse distributes the CEQA document to state agencies.

(3) If the submittal of a CEQA document is determined by the State Clearinghouse to be complete, the State Clearinghouse shall distribute the document within three working days from the date of receipt. The State Clearinghouse shall specify the information that will be required in order to determine the completeness of the submittal of a CEQA document.

(d) (1) The lead agency shall consider comments it receives on a draft environmental impact report, proposed negative declaration, or proposed mitigated negative declaration if those comments are received within the public review period.

(2) (A) With respect to the consideration of comments received on a draft environmental impact report, the lead agency shall evaluate comments on environmental issues that are received from persons who have reviewed the draft and shall prepare a written response pursuant to subparagraph (B). The lead agency may also respond to comments that are received after the close of the public review period.

(B) The written response shall describe the disposition of each significant environmental issue that is raised by commenters. The responses shall be prepared consistent with Section 15088 of Title 14 of the California Code of Regulations.

(3) (A) With respect to the consideration of comments received on a draft environmental impact report, proposed negative declaration, proposed mitigated negative declaration, or notice pursuant to Section 21080.4, the lead agency shall accept comments via email and shall treat email comments as equivalent to written comments.

(B) Any law or regulation relating to written comments received on a draft environmental impact report, proposed negative declaration, proposed mitigated negative declaration, or notice received pursuant to Section 21080.4 shall also apply to email comments received for those reasons.

(e) (1) Criteria for shorter review periods by the State Clearinghouse for documents that must be submitted to the State Clearinghouse shall be set forth in the written guidelines issued by the Office of Planning and Research and made available to the public.

(2) Those shortened review periods may not be less than 30 days for a draft environmental impact report and 20 days for a negative declaration.

(3) A request for a shortened review period shall only be made in writing by the decisionmaking body of the lead agency to the Office of Planning and Research. The decisionmaking body may designate by resolution or ordinance a person authorized to request a shortened review period. A designated person shall notify the decisionmaking body of this request.

(4) A request approved by the State Clearinghouse shall be consistent with the criteria set forth in the written guidelines of the Office of Planning and Research.

(5) A shortened review period may not be approved by the Office of Planning and Research for a proposed project of statewide, regional, or areawide environmental significance as determined pursuant to Section 21083.

(6) An approval of a shortened review period shall be given prior to, and reflected in, the public notice required pursuant to Section 21092.

(f) Before carrying out or approving a project for which a negative declaration has been adopted, the lead agency shall consider the negative declaration together with comments that were received and considered pursuant to paragraph (1) of subdivision (d).

(Amended by Stats. 2021, Ch. 97, Sec. 3. (AB 819) Effective January 1, 2022.)

21091.5.

Notwithstanding subdivision (a) of Section 21091, or any other provision of this division, the public review period for a draft environmental impact report prepared for a proposed project involving the expansion or enlargement of a publicly owned airport requiring the acquisition of any tide and submerged lands or other lands subject to the public trust for commerce, navigation, or fisheries, or any interest therein, shall be not less than 120 days.

(Added by Stats. 2001, Ch. 534, Sec. 2. Effective January 1, 2002.)

21092.

(a) A lead agency that is preparing an environmental impact report or a negative declaration or making a determination pursuant to subdivision (c) of Section 21157.1 shall provide public notice of that fact within a reasonable period of time prior to certification of the environmental impact report, adoption of the negative declaration, or making the determination pursuant to subdivision (c) of Section 21157.1.

(b) (1) The notice shall specify the period during which comments will be received on the draft environmental impact report or negative declaration, and shall include the date, time, and place of any public meetings or hearings on the proposed project, a brief description of the proposed project and its location, the significant effects on the environment, if any, anticipated as a result of the project, the address where copies of the draft environmental impact report or negative declaration, and all documents referenced in the draft environmental impact report or negative declaration, are available for review, and a description of how the draft environmental impact report or negative declaration can be provided in an electronic format.

(2) This section shall not be construed in any manner that results in the invalidation of an action because of the alleged inadequacy of the notice content if there has been substantial compliance with the notice content requirements of this section.

(3) The notice required by this section shall be given to the last known name and address of all organizations and individuals who have previously requested notice, and shall also be given by posting the notice on the internet website of the lead agency and by at least one of the following procedures:

(A) Publication, no fewer times than required by Section 6061 of the Government Code, by the public agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

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

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

(c) For a project involving the burning of municipal wastes, hazardous waste, or refuse-derived fuel, including, but not limited to, tires, meeting the qualifications of subdivision (d), notice shall be given to all organizations and individuals who have previously requested notice and shall also be given by at least the procedures specified in subparagraphs (A), (B), and (C) of paragraph (3) of subdivision (b). In addition, notification shall be given by direct mailing to the owners and occupants

of property within one-fourth of a mile of any parcel or parcels on which is located a project subject to this subdivision.
(d) The notice requirements of subdivision (c) apply to both of the following:
(1) The construction of a new facility.

(2) The expansion of an existing facility that burns hazardous waste which would increase its permitted capacity by more than 10 percent. For purposes of this paragraph, the amount of expansion of an existing facility shall be calculated by comparing the proposed facility capacity with whichever of the following is applicable:

(A) The facility capacity approved in the facility's hazardous waste facilities permit pursuant to Section 25200 of the Health and Safety Code or its grant of interim status pursuant to Section 25200.5 of the Health and Safety Code, or the facility capacity authorized in any state or local agency permit allowing the construction or operation of a facility for the burning of hazardous waste, granted before January 1, 1990.

(B) The facility capacity authorized in the facility's original hazardous waste facilities permit, grant of interim status, or any state or local agency permit allowing the construction or operation of a facility for the burning of hazardous waste, granted on or after January 1, 1990.

(e) The notice requirements specified in subdivision (b) or (c) shall not preclude a public agency from providing additional notice by other means if the agency so desires, or from providing the public notice required by this section at the same time and in the same manner as public notice otherwise required by law for the project.
(Amended by Stats. 2021, Ch. 97, Sec. 4. (AB 819) Effective January 1, 2022.)

21092.1.

When significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 and consultation has occurred pursuant to Sections 21104 and 21153, but prior to certification, the public agency shall give notice again pursuant to Section 21092, and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report.
(Added by Stats. 1984, Ch. 1514, Sec. 7.)

21092.2.

(a) The notices required pursuant to Sections 21080.4, 21083.9, 21092, 21108, 21152, and 21161 shall be mailed to every person who has filed a written request for notices with either the clerk of the governing body or, if there is no governing body, the director of the agency. If the agency offers to provide the notices by email, upon filing a written request for notices, a person may request that the notices be provided to that person by email. The request may also be filed with any

other person designated by the governing body or director to receive these requests. The agency may require requests for notices to be annually renewed. The public agency may charge a fee, except to other public agencies, that is reasonably related to the costs of providing this service.
(b) Subdivision (a) shall not be construed in any manner that results in the invalidation of an action because of the failure of a person to receive a requested notice, if there has been substantial compliance with the requirements of this section.
(c) The notices required pursuant to Sections 21080.4 and 21161 shall be provided by the State Clearinghouse to any legislator in whose district the project has an environmental impact, if the legislator requests the notice and the State Clearinghouse has received it.
(d) The lead agency shall post the notices specified in subdivision (a) on its internet website, if any.
(Amended by Stats. 2021, Ch. 97, Sec. 5. (AB 819) Effective January 1, 2022.)

21092.3.

The notices required pursuant to Sections 21080.4 and 21092 for an environmental impact report shall be posted in the office and on the internet website of the county clerk of each county in which the project will be located and shall remain posted for a period of 30 days. The notice required pursuant to Section 21092 for a negative declaration shall be so posted for a period of 20 days, unless otherwise required by law to be posted for 30 days. The county clerk shall post the notices within 24 hours of receipt.
(Amended by Stats. 2021, Ch. 97, Sec. 6. (AB 819) Effective January 1, 2022.)

21092.4.

(a) For a project of statewide, regional, or areawide significance, the lead agency shall consult with transportation planning agencies and public agencies that have transportation facilities within their jurisdictions that could be affected by the project. Consultation shall be conducted in the same manner as for responsible agencies pursuant to this division, and shall be for the purpose of the lead agency obtaining information concerning the project's effect on major local arterials, public transit, freeways, highways, overpasses, on-ramps, off-ramps, and rail transit service within the jurisdiction of a transportation planning agency or a public agency that is consulted by the lead agency. A transportation planning agency or public agency that provides information to the lead agency shall be notified of, and provided with copies of, environmental documents pertaining to the project.
(b) As used in this section, "transportation facilities" includes major local arterials and public transit within five miles of the project site and freeways, highways, overpasses, on-ramps, off-ramps, and rail transit service within 10 miles of the project site.
(Amended by Stats. 2008, Ch. 707, Sec. 2. Effective January 1, 2009.)

21092.5.

(a) At least 10 days prior to certifying an environmental impact report, the lead agency shall provide a written proposed response to a public agency on comments made by that agency which conform with the requirements of this division. Proposed responses shall conform with the legal standards established for responses to comments on draft environmental impact reports. Copies of responses or the environmental document in which they are contained, prepared in conformance with other requirements of this division and the guidelines adopted pursuant to Section 21083, may be used to meet the requirements imposed by this section.
(b) The lead agency shall notify any public agency which comments on a negative declaration, of the public hearing or hearings, if any, on the project for which the negative declaration was prepared. If notice to the commenting public agency is provided pursuant to Section 21092, the notice shall satisfy the requirement of this subdivision.
(c) Nothing in this section requires the lead agency to respond to comments not received within the comment periods specified in this division, to reopen comment periods, or to delay acting on a negative declaration or environmental impact report.
(Added by Stats. 1991, Ch. 905, Sec. 2.)

21092.6.

(a) The lead agency shall consult the lists compiled pursuant to Section 65962.5 of the Government Code to determine whether the project and any alternatives are located on a site which is included on any list. The lead agency shall indicate whether a site is on any list not already identified by the applicant. The lead agency shall specify the list and include the information in the statement required pursuant to subdivision (f) of Section 65962.5 of the Government Code, in the notice required pursuant to Section 21080.4, a negative declaration, and a draft environmental impact report. The requirement in this section to specify any list shall not be construed to limit compliance with this division.
(b) If a project or any alternatives are located on a site which is included on any of the lists compiled pursuant to Section 65962.5 of the Government Code and the lead agency did not accurately specify or did not specify any list pursuant to subdivision (a), the California Environmental Protection Agency shall notify the lead agency specifying any list with the site when it receives notice pursuant to Section 21080.4, a negative declaration, and a draft environmental impact report. The California Environmental Protection Agency shall not be liable for failure to notify the lead agency pursuant to this subdivision.
(Amended by Stats. 2012, Ch. 548, Sec. 8. (AB 2669) Effective January 1, 2013.)

21093.

(a) The Legislature finds and declares that tiering of environmental impact reports will promote construction of needed housing and other development projects by (1)

streamlining regulatory procedures, (2) avoiding repetitive discussions of the same issues in successive environmental impact reports, and (3) ensuring that environmental impact reports prepared for later projects which are consistent with a previously approved policy, plan, program, or ordinance concentrate upon environmental effects which may be mitigated or avoided in connection with the decision on each later project. The Legislature further finds and declares that tiering is appropriate when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous environmental impact reports.

(b) To achieve this purpose, environmental impact reports shall be tiered whenever feasible, as determined by the lead agency.

(Amended by Stats. 1985, Ch. 418, Sec. 1.)

21094.

(a) Where a prior environmental impact report has been prepared and certified for a program, plan, policy, or ordinance, the lead agency for a later project that meets the requirements of this section shall examine significant effects of the later project upon the environment by using a tiered environmental impact report, except that the report on the later project is not required to examine those effects that the lead agency determines were either of the following:

(1) Mitigated or avoided pursuant to paragraph (1) of subdivision (a) of Section 21081 as a result of the prior environmental impact report.

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

(b) This section applies only to a later project that the lead agency determines is all of the following:

(1) Consistent with the program, plan, policy, or ordinance for which an environmental impact report has been prepared and certified.

(2) Consistent with applicable local land use plans and zoning of the city, county, or city and county in which the later project would be located.

(3) Not subject to Section 21166.

(c) For purposes of compliance with this section, an initial study shall be prepared to assist the lead agency in making the determinations required by this section. The initial study shall analyze whether the later project may cause significant effects on the environment that were not examined in the prior environmental impact report.

(d) All public agencies that propose to carry out or approve the later project may utilize the prior environmental impact report and the environmental impact report on the later project to fulfill the requirements of Section 21081.

(e) When tiering is used pursuant to this section, an environmental impact report prepared for a later project shall refer to the prior environmental impact report and state where a copy of the prior environmental impact report may be examined.
(f) This section shall become operative on January 1, 2016.
(Repealed (in Sec. 3.5) and added by Stats. 2010, Ch. 496, Sec. 4. (SB 1456) Effective September 29, 2010. Section operative January 1, 2016, by its own provisions.)

21094.5.

(a) (1) If an environmental impact report was certified for a planning level decision of a city or county, the application of this division to the approval of an infill project shall be limited to the effects on the environment that (A) are specific to the project or to the project site and were not addressed as significant effects in the prior environmental impact report or (B) substantial new information shows the effects will be more significant than described in the prior environmental impact report. A lead agency's determination pursuant to this section shall be supported by substantial evidence.

(2) An effect of a project upon the environment shall not be considered a specific effect of the project or a significant effect that was not considered significant in a prior environmental impact report, or an effect that is more significant than was described in the prior environmental impact report if uniformly applicable development policies or standards adopted by the city, county, or the lead agency, would apply to the project and the lead agency makes a finding, based upon substantial evidence, that the development policies or standards will substantially mitigate that effect.

(b) If an infill project would result in significant effects that are specific to the project or the project site, or if the significant effects of the infill project were not addressed in the prior environmental impact report, or are more significant than the effects addressed in the prior environmental impact report, and if a mitigated negative declaration or a sustainable communities environmental assessment could not be otherwise adopted, an environmental impact report prepared for the project analyzing those effects shall be limited as follows:

(1) Alternative locations, densities, and building intensities to the project need not be considered.

(2) Growth inducing impacts of the project need not be considered.

(c) This section applies to an infill project that satisfies both of the following:

(1) The project satisfies any of the following:

(A) Is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization's determination that the sustainable

communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(B) Consists of a small walkable community project located in an area designated by a city for that purpose.

(C) Is located within the boundaries of a metropolitan planning organization that has not yet adopted a sustainable communities strategy or alternative planning strategy, and the project has a residential density of at least 20 units per acre or a floor area ratio of at least 0.75.

(2) Satisfies all applicable statewide performance standards contained in the guidelines adopted pursuant to Section 21094.5.5.

(d) This section applies after the Secretary of the Natural Resources Agency adopts and certifies the guidelines establishing statewide standards pursuant to Section 21094.5.5.

(e) For the purposes of this section, the following terms mean the following:

(1) "Infill project" means a project that meets the following conditions:

(A) Consists of any one, or combination, of the following uses:

(i) Residential.

(ii) Retail or commercial, where no more than one-half of the project area is used for parking.

(iii) A transit station.

(iv) A school.

(v) A public office building.

(B) Is located within an urban area on a site that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.

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

(3) "Prior environmental impact report" means the environmental impact report certified for a planning level decision, as supplemented by any subsequent or supplemental environmental impact reports, negative declarations, or addenda to those documents.

(4) "Small walkable community project" means a project that is in an incorporated city, which is not within the boundary of a metropolitan planning organization and that satisfies the following requirements:

(A) Has a project area of approximately one-quarter mile diameter of contiguous land completely within the existing incorporated boundaries of the city.

(B) Has a project area that includes a residential area adjacent to a retail downtown area.

(C) The project has a density of at least eight dwelling units per acre or a floor area ratio for retail or commercial use of not less than 0.50.

(5) "Urban area" includes either an incorporated city or an unincorporated area that is completely surrounded by one or more incorporated cities that meets both of the following criteria:

(A) The population of the unincorporated area and the population of the surrounding incorporated cities equal a population of 100,000 or more.

(B) The population density of the unincorporated area is equal to, or greater than, the population density of the surrounding cities.

(Added by Stats. 2011, Ch. 469, Sec. 6. (SB 226) Effective January 1, 2012.)

21094.5.5.

(a) On or before July 1, 2012, the Office of Planning and Research shall prepare, develop, and transmit to the Natural Resources Agency for certification and adoption guidelines for the implementation of Section 21094.5 and the Secretary of the Natural Resources Agency, on or before January 1, 2013, shall certify and adopt the guidelines.
(b) The guidelines prepared pursuant to this section shall include statewide standards for infill projects that may be amended from time to time and promote all of the following:

(1) The implementation of the land use and transportation policies in the Sustainable Communities and Climate Protection Act of 2008 (Chapter 728 of the Statutes of 2008).

(2) The state planning priorities specified in Section 65041.1 of the Government Code and in the most recently adopted Environmental Goals and Policy Report issued by the Office of Planning and Research supporting infill development.

(3) The reduction of greenhouse gas emissions under the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(4) The reduction in per capita water use pursuant to Section 10608.16 of the Water Code.

(5) The creation of a transit village development district consistent with Section 65460.1 of the Government Code.

(6) Substantial energy efficiency improvements, including improvements to projects related to transportation energy.

(7) Protection of public health, including the health of vulnerable populations from air or water pollution, or soil contamination.

(c) The standards for projects on infill sites shall be updated as frequently as necessary to ensure the protection of the environment.
(Added by Stats. 2011, Ch. 469, Sec. 7. (SB 226) Effective January 1, 2012.)

21095.

(a) The Resources Agency, in consultation with the Office of Planning and Research, shall develop an amendment to Appendix G of the state guidelines, for adoption pursuant to Section 21083, to provide lead agencies an optional methodology to ensure that significant effects on the environment of agricultural land conversions are quantitatively and consistently considered in the environmental review process.
(b) The Department of Conservation, in consultation with the United States Department of Agriculture pursuant to Section 658.6 of Title 7 of the Code of Federal Regulations, and in consultation with the Resources Agency and the Office of Planning and Research, shall develop a state model land evaluation and site assessment system, contingent upon the availability of funding from non-General Fund sources. The department shall seek funding for that purpose from non-General Fund sources, including, but not limited to, the United States Department of Agriculture.
(c) In lieu of developing an amendment to Appendix G of the state guidelines pursuant to subdivision (a), the Resources Agency may adopt the state model land evaluation and site assessment system developed pursuant to subdivision (b) as that amendment to Appendix G.
(Added by Stats. 1993, Ch. 812, Sec. 4. Effective January 1, 1994.)

21096.

(a) If a lead agency prepares an environmental impact report for a project situated within airport land use compatibility plan boundaries, or, if an airport land use compatibility plan has not been adopted, for a project within two nautical miles of a public airport or public use airport, the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation, in compliance with Section 21674.5 of the Public Utilities Code and other documents, shall be utilized as technical resources to assist in the preparation of the environmental impact report as the report relates to airport-related safety hazards and noise problems.
(b) A lead agency shall not adopt a negative declaration for a project described in subdivision (a) unless the lead agency considers whether the project will result in a

safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.
(Amended by Stats. 2002, Ch. 438, Sec. 8.5. Effective January 1, 2003.)

21098.

(a) For the purposes of this section, the following terms have the following meanings:

(1) "Low-level flight path" includes any flight path for any aircraft owned, maintained, or that is under the jurisdiction of the United States Department of Defense that flies lower than 1,500 feet above ground level, as indicated in the United States Department of Defense Flight Information Publication, "Area Planning Military Training Routes: North and South America (AP/1B)" published by the United States National Imagery and Mapping Agency.

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

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

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

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

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

(b) If the United States Department of Defense or a military service notifies a lead agency of the contact office and address for the military service and the specific boundaries of a low-level flight path, military impact zone, or special use airspace, the lead agency shall submit notices, as required pursuant to Sections 21080.4 and 21092, to the military service if the project is within those boundaries and any of the following apply:

(1) The project includes a general plan amendment.

(2) The project is of statewide, regional, or areawide significance.

(3) The project is required to be referred to the airport land use commission, or appropriately designated body, pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Part 1 of Division 9 of the Public Utilities Code.

(c) The requirement to submit notices imposed by this section does not apply to any of the following:

(1) Response actions taken pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(2) Response actions taken pursuant to Chapter 6.85 (commencing with Section 25396) of Division 20 of the Health and Safety Code.

(3) Sites subject to corrective action orders issued pursuant to Section 25187 of the Health and Safety Code.

(d) (1) The effect or potential effect that a project may have on military activities does not itself constitute an adverse effect on the environment for the purposes of this division.

(2) Notwithstanding paragraph (1), a project's impact on military activities may cause, or be associated with, adverse effects on the environment that are subject to the requirements of this division, including, but not limited to, Section 21081.

(Amended by Stats. 2019, Ch. 142, Sec. 4. (SB 242) Effective January 1, 2020.)

CHAPTER 2.7. Modernization of Transportation Analysis for Transit-Oriented Infill Projects [21099- 21099.]

(Chapter 2.7 added by Stats. 2013, Ch. 386, Sec. 5.)

21099.

(a) For purposes of this section, the following terms mean the following:

(1) "Employment center project" means a project located on property zoned for commercial uses with a floor area ratio of no less than 0.75 and that is located within a transit priority area.

(2) "Floor area ratio" means the ratio of gross building area of the development, excluding structured parking areas, proposed for the project divided by the net lot area.

(3) "Gross building area" means the sum of all finished areas of all floors of a building included within the outside faces of its exterior walls.

(4) "Infill site" means a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.

(5) "Lot" means all parcels utilized by the project.

(6) "Net lot area" means the area of a lot, excluding publicly dedicated land and private streets that meet local standards, and other public use areas as determined by the local land use authority.

(7) “Transit priority area” means an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program or applicable regional transportation plan.

(b) (1) The Office of Planning and Research shall prepare, develop, and transmit to the Secretary of the Natural Resources Agency for certification and adoption proposed revisions to the guidelines adopted pursuant to Section 21083 establishing criteria for determining the significance of transportation impacts of projects within transit priority areas. Those criteria shall promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses. In developing the criteria, the office shall recommend potential metrics to measure transportation impacts that may include, but are not limited to, vehicle miles traveled, vehicle miles traveled per capita, automobile trip generation rates, or automobile trips generated. The office may also establish criteria for models used to analyze transportation impacts to ensure the models are accurate, reliable, and consistent with the intent of this section.

(2) Upon certification of the guidelines by the Secretary of the Natural Resources Agency pursuant to this section, automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion, shall not be considered a significant impact on the environment pursuant to this division, except in locations specifically identified in the guidelines, if any.

(3) This subdivision does not relieve a public agency of the requirement to analyze a project’s potentially significant transportation impacts related to air quality, noise, safety, or any other impact associated with transportation. The methodology established by these guidelines shall not create a presumption that a project will not result in significant impacts related to air quality, noise, safety, or any other impact associated with transportation. Notwithstanding the foregoing, the adequacy of parking for a project shall not support a finding of significance pursuant to this section.

(4) This subdivision does not preclude the application of local general plan policies, zoning codes, conditions of approval, thresholds, or any other planning requirements pursuant to the police power or any other authority.

(5) On or before July 1, 2014, the Office of Planning and Research shall circulate a draft revision prepared pursuant to paragraph (1).

(c) (1) The Office of Planning and Research may adopt guidelines pursuant to Section 21083 establishing alternative metrics to the metrics used for traffic levels of service for transportation impacts outside transit priority areas. The alternative metrics may include the retention of traffic levels of service, where appropriate and as determined by the office.

(2) This subdivision shall not affect the standard of review that would apply to the new guidelines adopted pursuant to this section.

(d) (1) Aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment.

(2) (A) This subdivision does not affect, change, or modify the authority of a lead agency to consider aesthetic impacts pursuant to local design review ordinances or other discretionary powers provided by other laws or policies.

(B) For the purposes of this subdivision, aesthetic impacts do not include impacts on historical or cultural resources.

(e) This section does not affect the authority of a public agency to establish or adopt thresholds of significance that are more protective of the environment.
(Amended by Stats. 2019, Ch. 466, Sec. 5. (AB 1824) Effective January 1, 2020.)

CHAPTER 3. State Agencies, Boards and Commissions [21100 - 21108]

(Chapter 3 added by Stats. 1970, Ch. 1433.)

21100.

(a) All lead agencies shall prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on any project which they propose to carry out or approve that may have a significant effect on the environment. Whenever feasible, a standard format shall be used for environmental impact reports.
(b) The environmental impact report shall include a detailed statement setting forth all of the following:

(1) All significant effects on the environment of the proposed project.

(2) In a separate section:

(A) Any significant effect on the environment that cannot be avoided if the project is implemented.

(B) Any significant effect on the environment that would be irreversible if the project is implemented.

(3) Mitigation measures proposed to minimize significant effects on the environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy.

(4) Alternatives to the proposed project.

(5) The growth-inducing impact of the proposed project.

(c) The report shall also contain a statement briefly indicating the reasons for determining that various effects on the environment of a project are not significant and consequently have not been discussed in detail in the environmental impact report.

(d) 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.
(e) Previously approved land use documents, including, but not limited to, general plans, specific plans, and local coastal plans, may be used in cumulative impact analysis.
(Amended by Stats. 1994, Ch. 1230, Sec. 9. Effective September 30, 1994.)

21100.1.

The information described in subparagraph (B) of paragraph (2) of subdivision (b) of Section 21100 shall be required only in environmental impact reports prepared in connection with the following:
(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.
(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.
(Amended by Stats. 1994, Ch. 1230, Sec. 10. Effective September 30, 1994.)

21100.2.

(a) (1) For projects described in subdivision (c) of Section 21065, each state agency shall establish, by resolution or order, time limits that do not exceed the following:

(A) One year for completing and certifying environmental impact reports.

(B) One hundred eighty days for completing and adopting negative declarations.

(2) The time limits specified in paragraph (1) shall apply only to those circumstances in which the state agency is the lead agency for a project. These resolutions or orders may establish different time limits for different types or classes of projects, but all limits shall be measured from the date on which an application requesting approval of the project is received and accepted as complete by the state agency.

(3) No application for a project may be deemed incomplete for lack of a waiver of time periods prescribed in state regulations.

(4) The resolutions or orders required by this section may provide for a reasonable extension of the time period in the event that compelling circumstances justify additional time and the project applicant consents thereto.

(b) If a draft environmental impact report, environmental impact report, or focused environmental impact report is prepared under a contract to a state agency, the contract shall be executed within 45 days from the date on which the state agency sends a notice of preparation pursuant to Section 21080.4. The state agency may take longer to execute the contract if the project applicant and the state agency mutually agree to an extension of the time limit provided by this subdivision.
(c) This section shall become operative January 1, 2018.
(Repealed (in Sec. 4) and added by Stats. 2012, Ch. 487, Sec. 5. (AB 2564) Effective September 23, 2012. Section operative January 1, 2018, by its own provisions.)

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.
(Added by Stats. 1970, Ch. 1433.)

21102.

No state agency, board, or commission shall request funds, nor shall any state agency, board, or commission which authorizes expenditures of funds, other than funds appropriated in the Budget Act, authorize funds for expenditure for any project, other than a project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted or funded, which may have a significant effect on the environment unless such request or authorization is accompanied by an environmental impact report. Feasibility and planning studies exempted by this section from the preparation of an environmental impact report shall nevertheless include consideration of environmental factors.
(Amended by Stats. 1972, Ch. 1154.)

21104.

(a) Prior to completing an environmental impact report, the state lead agency shall consult with, and obtain comments from, each responsible agency, trustee agency, any public agency that has jurisdiction by law with respect to the project, and any city or county that borders on a city or county within which the project is located unless otherwise designated annually by agreement between the state lead agency and the city or county, and may consult with any person who has special expertise with respect to any environmental impact involved. In the case of a project described in subdivision (c) of Section 21065, the state lead agency shall, upon the request of the applicant, provide for early consultation to identify the range of

actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report. The state lead agency may consult with persons identified by the applicant who the applicant believes will be concerned with the environmental effects of the project and may consult with members of the public who have made a written request to be consulted on the project. A request by the applicant for early consultation shall be made not later than 30 days after the determination required by Section 21080.1 with respect to the project.
(b) The state lead agency shall consult with, and obtain comments from, the State Air Resources Board in preparing an environmental impact report on a highway or freeway project, as to the air pollution impact of the potential vehicular use of the highway or freeway.
(c) A responsible agency or other public agency shall only make substantive comments regarding those activities involved in a project that are within an area of expertise of the agency or that are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation.
(Amended by Stats. 2004, Ch. 744, Sec. 3. Effective January 1, 2005.)

21104.2.

The state lead agency shall consult with, and obtain written findings from, the Department of Fish and Game in preparing an environmental impact report on a project, as to the impact of the project on the continued existence of any endangered species or threatened species pursuant to Article 4 (commencing with Section 2090) of Chapter 1.5 of Division 3 of the Fish and Game Code.
(Added by Stats. 1984, Ch. 1240, Sec. 3.)

21105.

The state lead agency shall include the environmental impact report as a part of the regular project report used in the existing review and budgetary process. It shall be available to the Legislature. It shall also be available for inspection by any member of the general public, who may secure a copy thereof by paying for the actual cost of such a copy. It shall be filed by the state lead agency with the appropriate local planning agency of any city, county, or city and county which will be affected by the project.
(Amended by Stats. 1977, Ch. 1200.)

21106.

All state agencies, boards, and commissions shall request in their budgets the funds necessary to protect the environment in relation to problems caused by their activities.
(Added by Stats. 1970, Ch. 1433.)

21108.

(a) If a state agency approves or determines to carry out a project that is subject to this division, the state agency shall file a notice of determination with the Office of Planning and Research. The notice shall identify the person or persons in subdivision (b) or (c) of Section 21065, as reflected in the agency's record of proceedings, and indicate the determination of the state agency whether the project will, or will not, have a significant effect on the environment and shall indicate whether an environmental impact report has been prepared pursuant to this division.
(b) If a state agency determines that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or Section 21172, and the state agency approves or determines to carry out the project, the state agency or the person specified in subdivision (b) or (c) of Section 21065 may file a notice of exemption with the Office of Planning and Research. A notice filed pursuant to this subdivision shall identify the person or persons in subdivision (b) or (c) of Section 21065, as reflected in the agency's record of proceedings. A notice filed pursuant to this subdivision by a person specified in subdivision (b) or (c) of Section 21065 shall have a certificate of determination attached to it issued by the state agency responsible for making the determination that the project is not subject to this division pursuant to subdivision (b) of Section 21080 or pursuant to Section 21172. The certificate of determination may be in the form of a certified copy of an existing document or record of the state agency.
(c) A notice filed pursuant to this section shall be available for public inspection on the internet website of the Office of Planning and Research for not less than 12 months.
(d) A notice filed by a state agency pursuant to this section shall be filed electronically with the Office of Planning and Research. The state agency is not required to mail a printed copy of the notice to the Office of Planning and Research.
(Amended by Stats. 2021, Ch. 97, Sec. 7. (AB 819) Effective January 1, 2022.)

CHAPTER 4. Local Agencies [21150 - 21154]

(Chapter 4 added by Stats. 1970, Ch. 1433.)

21150.

State agencies, boards, and commissions, responsible for allocating state or federal funds on a project-by-project basis to local agencies for any project which may have a significant effect on the environment, shall require from the responsible local governmental agency a detailed statement setting forth the matters specified in Section 21100 prior to the allocation of any funds other than funds solely for projects involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded.
(Amended by Stats. 1972, Ch. 1154.)

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.
(Amended by Stats. 2002, Ch. 1121, Sec. 2. Effective January 1, 2003.)

21151.1.

(a) Notwithstanding paragraph (6) of subdivision (b) of Section 21080, or Section 21080.5 or 21084, or any other provision of law, except as provided in this section, a lead agency shall prepare or cause to be prepared by contract, and certify the completion of, an environmental impact report or, if appropriate, a modification, addendum, or supplement to an existing environmental impact report, for a project involving any of the following:

(1) The burning of municipal wastes, hazardous waste, or refuse-derived fuel, including, but not limited to, tires, if the project is either of the following:

(A) The construction of a new facility.

(B) The expansion of an existing facility that burns hazardous waste that would increase its permitted capacity by more than 10 percent.

(2) The initial issuance of a hazardous waste facilities permit to a land disposal facility, as defined in subdivision (d) of Section 25199.1 of the Health and Safety Code.

(3) The initial issuance of a hazardous waste facilities permit pursuant to Section 25200 of the Health and Safety Code to an offsite large treatment facility, as defined pursuant to subdivision (d) of Section 25205.1 of the Health and Safety Code.

(4) A base reuse plan as defined in Section 21083.8.1. The Legislature hereby finds that no reimbursement is required pursuant to Section 6 of Article XIII B of the California Constitution for an environmental impact report for a base reuse plan if an environmental impact report is otherwise required for that base reuse plan pursuant to any other provision of this division.

(b) For purposes of clause (ii) of subparagraph (A) of paragraph (1) of subdivision (a), the amount of expansion of an existing facility shall be calculated by comparing the proposed facility capacity with whichever of the following is applicable:

(1) The facility capacity authorized in the facility's hazardous waste facilities permit pursuant to Section 25200 of the Health and Safety Code or its grant of interim status pursuant to Section 25200.5 of the Health and Safety Code, or the facility capacity authorized in a state or local agency permit allowing the construction or operation of a facility for the burning of hazardous waste, granted before January 1, 1990.

(2) The facility capacity authorized in the facility's original hazardous waste facilities permit, grant of interim status, or a state or local agency permit allowing the construction or operation of a facility for the burning of hazardous waste, granted on or after January 1, 1990.

(c) For purposes of paragraphs (2) and (3) of subdivision (a), the initial issuance of a hazardous waste facilities permit does not include the issuance of a closure or postclosure permit pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

(d) Paragraph (1) of subdivision (a) does not apply to a project that does any of the following:

(1) Exclusively burns digester gas produced from manure or any other solid or semisolid animal waste.

(2) Exclusively burns methane gas produced from a disposal site, as defined in Section 40122, that is used only for the disposal of solid waste, as defined in Section 40191.

(3) Exclusively burns forest, agricultural, wood, or other biomass wastes.

(4) Exclusively burns hazardous waste in an incineration unit that is transportable and that is either at a site for not longer than three years or is part of a remedial or removal action. For purposes of this paragraph, "transportable" means any equipment that performs a "treatment" as defined in Section 66216 of Title 22 of the California Code of Regulations, and that is transported on a vehicle as defined in Section 66230 of Title 22 of the California Code of Regulations, as those sections read on June 1, 1991.

(5) Exclusively burns refinery waste in a flare on the site of generation.

(6) Exclusively burns in a flare methane gas produced at a municipal sewage treatment plant.

(7) Exclusively burns hazardous waste, or exclusively burns hazardous waste as a supplemental fuel, as part of a research, development, or demonstration project that, consistent with federal regulations implementing the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.), has been determined to be innovative and experimental by the Department of Toxic Substances Control and that is limited in type and quantity of waste to that

necessary to determine the efficacy and performance capabilities of the technology or process. However, a facility that operated as a research, development, or demonstration project and for which an application is thereafter submitted for a hazardous waste facility permit for operation other than as a research, development, or demonstration project shall be considered a new facility for the burning of hazardous waste and shall be subject to subdivision (a) of Section 21151.1.

(8) Exclusively burns soils contaminated only with petroleum fuels or the vapors from these soils.

(9) Exclusively treats less than 3,000 pounds of hazardous waste per day in a thermal processing unit operated in the absence of open flame, and submits a worst-case health risk assessment of the technology to the Department of Toxic Substances Control for review and distribution to the interested public. This assessment shall be prepared in accordance with guidelines set forth in the Air Toxics Assessment Manual of the California Air Pollution Control Officers Association.

(10) Exclusively burns less than 1,200 pounds per day of medical waste, as defined in Section 117690 of the Health and Safety Code, on hospital sites.

(11) Exclusively burns chemicals and fuels as part of firefighter training.

(12) Exclusively conducts open burns of explosives subject to the requirements of the air pollution control district or air quality management district and in compliance with OSHA and Cal-OSHA regulations.

(13) Exclusively conducts onsite burning of less than 3,000 pounds per day of fumes directly from a manufacturing or commercial process.

(14) Exclusively conducts onsite burning of hazardous waste in an industrial furnace that recovers hydrogen chloride from the flue gas if the hydrogen chloride is subsequently sold, distributed in commerce, or used in a manufacturing process at the site where the hydrogen chloride is recovered, and the burning is in compliance with the requirements of the air pollution control district or air quality management district and the Department of Toxic Substances Control.

(e) Paragraph (1) of subdivision (a) does not apply to a project for which the State Energy Resources Conservation and Development Commission has assumed jurisdiction under Chapter 6 (commencing with Section 25500) of Division 15.
(f) Paragraphs (2) and (3) of subdivision (a) do not apply if the facility only manages hazardous waste that is identified or listed pursuant to Section 25140 or 25141 of the Health and Safety Code on or after January 1, 1992, but not before that date, or only conducts activities that are regulated pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code on or after January 1, 1992, but not before that date.

(g) This section does not exempt a project from any other requirement of this division.
(h) For purposes of this section, offsite facility means a facility that serves more than one generator of hazardous waste.
(Amended by Stats. 2012, Ch. 548, Sec. 10. (AB 2669) Effective January 1, 2013.)

21151.2.

To promote the safety of pupils and comprehensive community planning the governing board of each school district before acquiring title to property for a new school site or for an addition to a present school site, shall give the planning commission having jurisdiction notice in writing of the proposed acquisition. The planning commission shall investigate the proposed site and within 30 days after receipt of the notice shall submit to the governing board a written report of the investigation and its recommendations concerning acquisition of the site.
The governing board shall not acquire title to the property until the report of the planning commission has been received. If the report does not favor the acquisition of the property for a school site, or for an addition to a present school site, the governing board of the school district shall not acquire title to the property until 30 days after the commission's report is received.
(Added by Stats. 1987, Ch. 1452, Sec. 533.)

21151.4.

(a) An environmental impact report shall not be certified or a negative declaration shall not be approved for any project involving the construction or alteration of a facility within one-fourth of a mile of a school that might reasonably be anticipated to emit hazardous air emissions, or that would handle an extremely hazardous substance or a mixture containing extremely hazardous substances in a quantity equal to or greater than the state threshold quantity specified pursuant to subdivision (m) of Section 25532 of the Health and Safety Code, that may pose a health or safety hazard to persons who would attend or would be employed at the school, unless both of the following occur:

(1) The lead agency preparing the environmental impact report or negative declaration has consulted with the school district having jurisdiction regarding the potential impact of the project on the school.

(2) The school district has been given written notification of the project not less than 30 days prior to the proposed certification of the environmental impact report or approval of the negative declaration.

(b) As used in this section, the following definitions apply:

(1) "Extremely hazardous substance" means an extremely hazardous substance as defined pursuant to paragraph (2) of subdivision (i) of Section 25532 of the Health and Safety Code.

(2) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air of a substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(Amended by Stats. 2021, Ch. 115, Sec. 69. (AB 148) Effective July 22, 2021.)

21151.5.

(a) (1) For projects described in subdivision (c) of Section 21065, each local agency shall establish, by ordinance or resolution, time limits that do not exceed the following:

(A) One year for completing and certifying environmental impact reports.

(B) One hundred eighty days for completing and adopting negative declarations.

(2) The time limits specified in paragraph (1) shall apply only to those circumstances in which the local agency is the lead agency for a project. These ordinances or resolutions may establish different time limits for different types or classes of projects and different types of environmental impact reports, but all limits shall be measured from the date on which an application requesting approval of the project is received and accepted as complete by the local agency.

(3) No application for a project may be deemed incomplete for lack of a waiver of time periods prescribed by local ordinance or resolution.

(4) The ordinances or resolutions required by this section may provide for a reasonable extension of the time period in the event that compelling circumstances justify additional time and the project applicant consents thereto.

(b) If a draft environmental impact report, environmental impact report, or focused environmental impact report is prepared under a contract to a local agency, the contract shall be executed within 45 days from the date on which the local agency sends a notice of preparation pursuant to Section 21080.4. The local agency may take longer to execute the contract if the project applicant and the local agency mutually agree to an extension of the time limit provided by this subdivision.
(Amended by Stats. 1996, Ch. 808, Sec. 3. Effective January 1, 1997.)

21151.7.

Notwithstanding any other provision of law, a lead agency shall prepare or cause to be prepared by contract, and certify the completion of, an environmental impact report for any open-pit mining operation that is subject to the permit requirements

or reclamation plan requirements of the Surface Mining and Reclamation Act of 1975 (Chapter 9 (commencing with Section 2710) of Division 2) and utilizes a cyanide heap-leaching process for the purpose of producing gold or other metallic minerals.

(Amended by Stats. 2002, Ch. 1154, Sec. 5.5. Effective January 1, 2003. Operative April 7, 2003, pursuant to Stats. 2003, Ch. 3, Secs. 2 and 3. Note: Stats. 2003, Ch. 3 (effective April 7) repealed the condition in Stats. 2002, Ch. 1154, Sec. 8, which had prevented Ch. 1154 from becoming operative.)

21151.8.

(a) An environmental impact report shall not be certified or a negative declaration shall not be approved for a project involving the purchase of a schoolsite or the construction of a new elementary or secondary school by a school district unless all of the following occur:

(1) The environmental impact report or negative declaration includes information that is needed to determine if the property proposed to be purchased, or to be constructed upon, is any of the following:

(A) The site of a current or former hazardous waste disposal site or solid waste disposal site and, if so, whether the wastes have been removed.

(B) A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the Health and Safety Code for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(C) A site that contains one or more pipelines, situated underground or aboveground, that carries hazardous substances, extremely hazardous substances, or hazardous wastes, unless the pipeline is a natural gas line that is used only to supply natural gas to that school or neighborhood, or other nearby schools.

(D) A site that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.

(2) (A) The school district, as the lead agency, in preparing the environmental impact report or negative declaration has notified in writing and consulted with the administering agency in which the proposed schoolsite is located, pursuant to Section 2735.3 of Title 19 of the California Code of Regulations, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities within that district's authority, including, but not limited to, freeways and busy traffic corridors, large agricultural operations, and railyards, within one-fourth of a mile of the proposed schoolsite, that might reasonably be anticipated to emit hazardous emissions or handle hazardous or extremely hazardous substances or waste. The notification by the school district, as the lead agency, shall include a list of the locations for which information is sought.

(B) Each administering agency, air pollution control district, or air quality management district receiving written notification from a lead agency to identify facilities pursuant to subparagraph (A) shall provide the requested information and provide a written response to the lead agency within 30 days of receiving the notification. The environmental impact report or negative declaration shall be conclusively presumed to comply with subparagraph (A) as to the area of responsibility of an agency that does not respond within 30 days.

(C) If the school district, as a lead agency, has carried out the consultation required by subparagraph (A), the environmental impact report or the negative declaration shall be conclusively presumed to comply with subparagraph (A), notwithstanding any failure of the consultation to identify an existing facility or other pollution source specified in subparagraph (A).

(3) The governing board of the school district makes one of the following written findings:

(A) Consultation identified no facilities of this type or other significant pollution sources specified in paragraph (2).

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

(i) The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school.

(ii) Corrective measures required under an existing order by another agency having jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes a finding pursuant to this clause, it shall also make a subsequent finding, prior to occupancy of the school, that the emissions have been so mitigated.

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

(C) The facilities or other pollution sources specified in paragraph (2) exist, but conditions in clause (i), (ii), or (iii) of subparagraph (B) cannot be met,

and the school district is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in subdivision (a) of Section 17213 of the Education Code. If the governing board makes this finding, the governing board shall adopt a statement of overriding considerations pursuant to Section 15093 of Title 14 of the California Code of Regulations.

(b) As used in this section, the following definitions shall apply:

(1) "Hazardous substance" means any substance defined in Section 25316 of the Health and Safety Code.

(2) "Extremely hazardous substances" means an extremely hazardous substance as defined pursuant to paragraph (2) of subdivision (i) of Section 25532 of the Health and Safety Code.

(3) "Hazardous waste" means any waste defined in Section 25117 of the Health and Safety Code.

(4) "Hazardous waste disposal site" means any site defined in Section 25114 of the Health and Safety Code.

(5) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substances identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(6) "Administering agency" means an agency authorized pursuant to Section 25502 of the Health and Safety Code to implement and enforce Chapter 6.95 (commencing with Section 25500) of Division 20 of the Health and Safety Code.

(7) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

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

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

(Amended by Stats. 2021, Ch. 115, Sec. 70. (AB 148) Effective July 22, 2021.)

21151.9.

Whenever a city or county determines that a project, as defined in Section 10912 of the Water Code, is subject to this division, it shall comply with Part 2.10 (commencing with Section 10910) of Division 6 of the Water Code.
(Amended by Stats. 2001, Ch. 643, Sec. 2. Effective January 1, 2002.)

21152.

(a) If a local agency approves or determines to carry out a project that is subject to this division, the local agency shall file a notice of determination within five working days after the approval or determination becomes final, with the county clerk of each county in which the project will be located. The notice shall identify the person or persons in subdivision (b) or (c) of Section 21065, as reflected in the agency's record of proceedings, and indicate the determination of the local agency whether the project will, or will not, have a significant effect on the environment and shall indicate whether an environmental impact report has been prepared pursuant to this division. The notice shall also include certification that the final environmental impact report, if one was prepared, together with comments and responses, is available to the general public.
(b) If a local agency determines that a project is not subject to this division pursuant to subdivision (b) of Section 21080, and the local agency approves or determines to carry out the project, the local agency or the person specified in subdivision (b) or (c) of Section 21065 may file a notice of exemption with the county clerk of each county in which the project will be located. A notice filed pursuant to this subdivision shall identify the person or persons in subdivision (b) or (c) of Section 21065, as reflected in the agency's record of proceedings. A notice filed pursuant to this subdivision by a person specified in subdivision (b) or (c) of Section 21065 shall have a certificate of determination attached to it issued by the local agency responsible for making the determination that the project is not subject to this division pursuant to subdivision (b) of Section 21080. The certificate of determination may be in the form of a certified copy of an existing document or record of the local agency.
(c) A notice filed pursuant to this section shall be available for public inspection, and shall be posted within 24 hours of receipt in the office or on the internet website of the county clerk. A notice shall remain posted for a period of 30 days. Thereafter, the clerk shall return the notice to the local agency with a notation of the period it was posted. The local agency shall retain the notice for not less than 12 months.
(d) A notice filed by a local agency pursuant to this section shall be filed electronically with the county clerk if that option is offered by the county clerk.
(Amended by Stats. 2021, Ch. 97, Sec. 8. (AB 819) Effective January 1, 2022.)

21152.1.

(a) When a local agency determines that a project is not subject to this division pursuant to Section 21159.22, 21159.23, or 21159.24, and it approves or

determines to carry out that project, the local agency or the person specified in subdivision (b) or (c) of Section 21065, shall file a notice of exemption with the Office of Planning and Research.
(b) All notices filed pursuant to this section shall be available for public inspection, and a list of these notices shall be posted on a weekly basis in the Office of Planning and Research. Each list shall remain posted for a period of 30 days.
(c) Failure to file the notice required by this section does not affect the validity of a project.
(d) Nothing in this section affects the time limitations contained in Section 21167.
(Amended by Stats. 2019, Ch. 466, Sec. 8. (AB 1824) Effective January 1, 2020.)

21153.

(a) Prior to completing an environmental impact report, every local lead agency shall consult with, and obtain comments from, each responsible agency, trustee agency, any public agency that has jurisdiction by law with respect to the project, and any city or county that borders on a city or county within which the project is located unless otherwise designated annually by agreement between the local lead agency and the city or county, and may consult with any person who has special expertise with respect to any environmental impact involved. In the case of a project described in subdivision (c) of Section 21065, the local lead agency shall, upon the request of the project applicant, provide for early consultation to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report. The local lead agency may consult with persons identified by the project applicant who the applicant believes will be concerned with the environmental effects of the project and may consult with members of the public who have made written request to be consulted on the project. A request by the project applicant for early consultation shall be made not later than 30 days after the date that the determination required by Section 21080.1 was made with respect to the project. The local lead agency may charge and collect a fee from the project applicant in an amount that does not exceed the actual costs of the consultations.
(b) In the case of a project described in subdivision (a) of Section 21065, the lead agency may provide for early consultation to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report. At the request of the lead agency, the Office of Planning and Research shall ensure that each responsible agency, and any public agency that has jurisdiction by law with respect to the project, is notified regarding any early consultation.
(c) A responsible agency or other public agency shall only make substantive comments regarding those activities involved in a project that are within an area of expertise of the agency or that are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation.
(Amended by Stats. 2004, Ch. 744, Sec. 4. Effective January 1, 2005.)

21154.

Whenever any state agency, board, or commission issues an order which requires a local agency to carry out a project which may have a significant effect on the environment, any environmental impact report which the local agency may prepare shall be limited to consideration of those factors and alternatives which will not conflict with such order.
(Added by Stats. 1972, Ch. 1154.)

CHAPTER 4.2. Implementation of the Sustainable Communities Strategy [21155 - 21155.4]

(Chapter 4.2 added by Stats. 2008, Ch. 728, Sec. 14.)

21155.

(a) This chapter applies only to a transit priority project that is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.
(b) For purposes of this chapter, a transit priority project shall (1) contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75; (2) provide a minimum net density of at least 20 dwelling units per acre; and (3) be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in Section 21064.3, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. A project shall be considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.
(Added by Stats. 2008, Ch. 728, Sec. 14. Effective January 1, 2009.)

21155.1.

If the legislative body finds, after conducting a public hearing, that a transit priority project meets all of the requirements of subdivisions (a) and (b) and one of the requirements of subdivision (c), the transit priority project is declared to be a sustainable communities project and shall be exempt from this division.
(a) The transit priority project complies with all of the following environmental criteria:

(1) The transit priority project and other projects approved prior to the approval of the transit priority project but not yet built can be adequately served by existing utilities, and the transit priority project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.

(2) (A) The site of the transit priority project does not contain wetlands or riparian areas and does not have significant value as a wildlife habitat, and the transit priority project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.

(B) For the purposes of this paragraph, "wetlands" has the same meaning as in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) For the purposes of this paragraph:

(i) "Riparian areas" means those areas transitional between terrestrial and aquatic ecosystems and that are distinguished by gradients in biophysical conditions, ecological processes, and biota. A riparian area is an area through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. A riparian area includes those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems. A riparian area is adjacent to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine shorelines.

(ii) "Wildlife habitat" means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(iii) Habitat of "significant value" includes wildlife habitat of national, statewide, regional, or local importance; habitat for species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531, et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code); habitat identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies; or habitat essential to the movement of resident or migratory wildlife.

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

(4) The site of the transit priority project is subject to a preliminary endangerment assessment prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

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

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

(5) The transit priority project does not have a significant effect on historical resources pursuant to Section 21084.1.

(6) The transit priority project site is not subject to any of the following:

(A) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(B) An unusually high risk of fire or explosion from materials stored or used on nearby properties.

(C) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(D) Seismic risk as a result of being within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.

(E) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

(7) The transit priority project site is not located on developed open space.

(A) For the purposes of this paragraph, “developed open space” means land that meets all of the following criteria:

(i) Is publicly owned, or financed in whole or in part by public funds.

(ii) Is generally open to, and available for use by, the public.

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

(B) For the purposes of this paragraph, "developed open space" includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired with public funds dedicated to the acquisition of land for housing purposes.

(8) The buildings in the transit priority project are 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations and the buildings and landscaping are designed to achieve 25 percent less water usage than the average household use in the region.

(b) The transit priority project meets all of the following land use criteria:

(1) The site of the transit priority project is not more than eight acres in total area.

(2) The transit priority project does not contain more than 200 residential units.

(3) The transit priority project does not result in any net loss in the number of affordable housing units within the project area.

(4) The transit priority project does not include any single level building that exceeds 75,000 square feet.

(5) Any applicable mitigation measures or performance standards or criteria set forth in the prior environmental impact reports, and adopted in findings, have been or will be incorporated into the transit priority project.

(6) The transit priority project is determined not to conflict with nearby operating industrial uses.

(7) The transit priority project is located within one-half mile of a rail transit station or a ferry terminal included in a regional transportation plan or within one-quarter mile of a high-quality transit corridor included in a regional transportation plan.

(c) The transit priority project meets at least one of the following three criteria:

(1) The transit priority project meets both of the following:

(A) At least 20 percent of the housing will be sold to families of moderate income, or not less than 10 percent of the housing will be rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.

(B) The transit priority project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued

availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.

(2) The transit priority project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to paragraph (1).

(3) The transit priority project provides public open space equal to or greater than five acres per 1,000 residents of the project.

(Amended by Stats. 2012, Ch. 39, Sec. 95. (SB 1018) Effective June 27, 2012.)

21155.2.

(a) A transit priority project that has incorporated all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports and adopted in findings made pursuant to Section 21081, shall be eligible for either the provisions of subdivision (b) or (c).
(b) A transit priority project that satisfies the requirements of subdivision (a) may be reviewed through a sustainable communities environmental assessment as follows:

(1) An initial study shall be prepared to identify all significant or potentially significant impacts of the transit priority project, other than those which do not need to be reviewed pursuant to Section 21159.28 based on substantial evidence in light of the whole record. The initial study shall identify any cumulative effects that have been adequately addressed and mitigated pursuant to the requirements of this division in prior applicable certified environmental impact reports. Where the lead agency determines that a cumulative effect has been adequately addressed and mitigated, that cumulative effect shall not be treated as cumulatively considerable for the purposes of this subdivision.

(2) The sustainable communities environmental assessment shall contain measures that either avoid or mitigate to a level of insignificance all potentially significant or significant effects of the project required to be identified in the initial study.

(3) A draft of the sustainable communities environmental assessment shall be circulated for public comment for a period of not less than 30 days. Notice shall be provided in the same manner as required for an environmental impact report pursuant to Section 21092.

(4) Prior to acting on the sustainable communities environmental assessment, the lead agency shall consider all comments received.

(5) A sustainable communities environmental assessment may be approved by the lead agency after conducting a public hearing, reviewing the comments received, and finding that:

(A) All potentially significant or significant effects required to be identified in the initial study have been identified and analyzed.

(B) With respect to each significant effect on the environment required to be identified in the initial study, either of the following apply:

(i) Changes or alterations have been required in or incorporated into the project that avoid or mitigate the significant effects to a level of insignificance.

(ii) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

(6) The legislative body of the lead agency shall conduct the public hearing or a planning commission may conduct the public hearing if local ordinances allow a direct appeal of approval of a document prepared pursuant to this division to the legislative body subject to a fee not to exceed five hundred dollars ($500).

(7) The lead agency's decision to review and approve a transit priority project with a sustainable communities environmental assessment shall be reviewed under the substantial evidence standard.

(c) A transit priority project that satisfies the requirements of subdivision (a) may be reviewed by an environmental impact report that complies with all of the following:

(1) An initial study shall be prepared to identify all significant or potentially significant effects of the transit priority project other than those that do not need to be reviewed pursuant to Section 21159.28 based upon substantial evidence in light of the whole record. The initial study shall identify any cumulative effects that have been adequately addressed and mitigated pursuant to the requirements of this division in prior applicable certified environmental impact reports. Where the lead agency determines that a cumulative effect has been adequately addressed and mitigated, that cumulative effect shall not be treated as cumulatively considerable for the purposes of this subdivision.

(2) An environmental impact report prepared pursuant to this subdivision need only address the significant or potentially significant effects of the transit priority project on the environment identified pursuant to paragraph (1). It is not required to analyze off-site alternatives to the transit priority project. It shall otherwise comply with the requirements of this division.

(Added by Stats. 2008, Ch. 728, Sec. 14. Effective January 1, 2009.)

21155.3.

(a) The legislative body of a local jurisdiction may adopt traffic mitigation measures that would apply to transit priority projects. These measures shall be adopted or amended after a public hearing and may include requirements for the installation of traffic control improvements, street or road improvements, and contributions to road improvement or transit funds, transit passes for future residents, or other measures that will avoid or mitigate the traffic impacts of those transit priority projects.

(b) (1) A transit priority project that is seeking a discretionary approval is not required to comply with any additional mitigation measures required by paragraph (1) or (2) of subdivision (a) of Section 21081, for the traffic impacts of that project on intersections, streets, highways, freeways, or mass transit, if the local jurisdiction issuing that discretionary approval has adopted traffic mitigation measures in accordance with this section.

(2) Paragraph (1) does not restrict the authority of a local jurisdiction to adopt feasible mitigation measures with respect to the effects of a project on public health or on pedestrian or bicycle safety.

(c) The legislative body shall review its traffic mitigation measures and update them as needed at least every five years.

(Added by Stats. 2008, Ch. 728, Sec. 14. Effective January 1, 2009.)

21155.4.

(a) Except as provided in subdivision (b), a residential, employment center, as defined in paragraph (1) of subdivision (a) of Section 21099, or mixed-use development project, including any subdivision, or any zoning, change that meets all of the following criteria is exempt from the requirements of this division:

(1) The project is proposed within a transit priority area, as defined in subdivision (a) of Section 21099.

(2) The project is undertaken to implement and is consistent with a specific plan for which an environmental impact report has been certified.

(3) The project is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization’s determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emissions reduction targets.

(b) Further environmental review shall be conducted only if any of the events specified in Section 21166 have occurred.
(Added by Stats. 2013, Ch. 386, Sec. 6. (SB 743) Effective January 1, 2014.)

CHAPTER 4.3. Housing Sustainability Districts [21155.10 - 21155.11]
(Chapter 4.3 added by Stats. 2017, Ch. 371, Sec. 3.)

21155.10.

A lead agency shall prepare an environmental impact report when designating a housing sustainability district pursuant to Section 66201 of the Government Code to identify and mitigate, to the extent feasible, environmental impacts resulting from the designation. The environmental impact report shall identify mitigation measures that may be undertaken by housing projects in the housing sustainability district to mitigate the environmental impacts identified by the environmental impact report.
(Added by Stats. 2017, Ch. 371, Sec. 3. (AB 73) Effective January 1, 2018. Conditionally inoperative as provided in Stats. 2017, Ch. 371, Sec. 4.)

21155.11.

This division does not apply to a housing project undertaken in a housing sustainability district designated by a local government if all of the following are met:
(a) The lead agency has certified an environmental impact report for the housing sustainability district, and the Department of Housing and Community Development has approved the housing sustainability district pursuant to Section 66202 of the Government Code, within 10 years of the lead agency's review of the housing project.
(b) The housing project meets the conditions specified in the designation for the housing sustainability district.
(c) The housing project is required to implement appropriate mitigation measures identified in the environmental impact report prepared pursuant to Section 21155.10 to mitigate environmental impacts identified by that environmental impact report.
(Added by Stats. 2017, Ch. 371, Sec. 3. (AB 73) Effective January 1, 2018. Conditionally inoperative as provided in Stats. 2017, Ch. 371, Sec. 4.)

PUBLIC RESOURCES CODE - PRC
DIVISION 13. ENVIRONMENTAL QUALITY [21000 - 21189.70.10]
(Division 13 added by Stats. 1970, Ch. 1433.)
CHAPTER 4.5. Streamlined Environmental Review [21156 - 21159.28]
(Chapter 4.5 added by Stats. 1993, Ch. 1130, Sec. 18.)

ARTICLE 1. Findings [21156- 21156.]
(Article 1 added by Stats. 1993, Ch. 1130, Sec. 18.)

21156.

It is the intent of the Legislature in enacting this chapter that a master environmental impact report shall evaluate the cumulative impacts, growth inducing impacts, and irreversible significant effects on the environment of subsequent projects to the greatest extent feasible. The Legislature further intends that the environmental review of subsequent projects be substantially reduced to the extent that the project impacts have been reviewed and appropriate mitigation measures are set forth in a certified master environmental impact report.
(Added by Stats. 1993, Ch. 1130, Sec. 18. Effective January 1, 1994.)

ARTICLE 2. Master Environmental Impact Report [21157 - 21157.7]

(Article 2 added by Stats. 1993, Ch. 1130, Sec. 18.)

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.

(Amended by Stats. 2006, Ch. 882, Sec. 1. Effective January 1, 2007.)

21157.1.

The preparation and certification of a master environmental impact report, if prepared and certified consistent with this division, may allow for the limited review of subsequent projects that were described in the master environmental impact report as being within the scope of the report, in accordance with the following requirements:

(a) The lead agency for a subsequent project shall be the lead agency or any responsible agency identified in the master environmental impact report.

(b) The lead agency shall prepare an initial study on any proposed subsequent project. This initial study shall analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the master environmental impact report and whether the subsequent project was described in the master environmental impact report as being within the scope of the report.

(c) If the lead agency, based on the initial study, determines that a proposed subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158, that was not identified in the master environmental impact report and that no new or additional mitigation measures or alternatives may be required, the lead agency shall make a written finding based upon the information contained in the initial study that the subsequent project is within the scope of the project covered by the master environmental impact report. No new environmental document nor findings pursuant to Section 21081 shall be required by this division. Prior to approving or carrying out the proposed subsequent project, the lead agency shall provide notice of this fact pursuant to Section 21092 and incorporate all feasible mitigation measures or feasible alternatives set forth in the master environmental impact report which are appropriate to the project. Whenever a lead agency approves or determines to carry out any subsequent project pursuant to this section, it shall file a notice pursuant to Section 21108 or 21152.
(d) Where a lead agency cannot make the findings required in subdivision (c), the lead agency shall prepare, pursuant to Section 21157.7, either a mitigated negative declaration or environmental impact report.
(Amended by Stats. 1994, Ch. 1294, Sec. 13. Effective October 1, 1994. Note: October 1, 1994, is the date that Ch. 1294 became law without the Governor's signature.)

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.
(Added by Stats. 1993, Ch. 1130, Sec. 18. Effective January 1, 1994.)

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.

(Amended by Stats. 2004, Ch. 684, Sec. 1. Effective January 1, 2005.)

21157.7.

(a) For purposes of this section, a master environmental impact report is a document prepared in accordance with subdivision (c) for the projects described in subdivision (b) that, upon certification, is followed by review of subsequent projects as provided in Sections 21157.1 and 21157.5.

(b) A master environmental impact report may be prepared for a plan adopted by the Department of Transportation for improvements to regional segments of Highway 99 funded pursuant to subdivision (b) of Section 8879.23 of the Government Code, to streamline, coordinate, and improve environmental review.

(c) The report shall include all of the following:

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

(2) A description of the anticipated highway improvements along Highway 99 that would be within the scope of the master environmental impact report, that contains sufficient information about all phases of the Highway 99 construction activities, including, but not limited to, all of the following:

(A) The specific types of improvements that will be undertaken.

(B) The anticipated location and alternative locations for any of the Highway 99 improvements, including overpasses, bridges, railroad crossings, and interchanges.

(C) A capital outlay or capital improvement program, or other scheduling or implementing device that governs the construction activities associated with the Highway 99 improvements.

(d) The Department of Transportation may communicate, coordinate, and consult with the Resources Agency, Wildlife Conservation Board, Department of Fish and Game, Department of Conservation, and other appropriate federal, state, or local governments, including interested stakeholders, to consider and implement mitigation requirements on a regional basis for the projects described in subdivision (b). This may include both of the following:

(1) Identification of priority areas for mitigation, using information from these agencies and departments as well as from other sources.

(2) Utilization of existing conservation programs of the agencies or departments identified in this subdivision, if mitigation under those programs for improvements under this section does not supplant mitigation for a project.

(e) The Department of Transportation may execute an agreement, memorandum of understanding, or other similar instrument to memorialize its understanding of any communication, coordination, or implementation activities with other state agencies for the purposes of meeting mitigation requirements on a regional basis.

(f) Notwithstanding any other provision of law, nothing in this section is intended to interfere with or prevent the existing authority of an agency or department to carry out its programs, projects, or responsibilities to identify, review, approve, deny, or implement any mitigation requirements, and nothing in this section shall be construed as a limitation on mitigation requirements for the project, or a limitation on compliance with requirements under this division or any other provision of law.

(g) Notwithstanding Section 21157.6, the master environmental impact report shall not be used for the purposes of this section, if the certification of the master environmental impact report occurred more than seven years prior to the filing of an application for the subsequent project.

(Amended by Stats. 2007, Ch. 503, Sec. 2. Effective January 1, 2008.)

ARTICLE 3. Focused Environmental Impact Report [21158 - 21158.5]

(Article 3 added by Stats. 1993, Ch. 1130, Sec. 18.)

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.
(Amended by Stats. 1994, Ch. 1294, Sec. 16. Effective October 1, 1994. Note: October 1, 1994, is the date that Ch. 1294 became law without the Governor's signature.)

21158.1.

When a lead agency is required to prepare an environmental impact report pursuant to subdivision (d) of Section 21157.1 or is authorized to prepare a focused environmental impact report pursuant to Section 21158, the lead agency may not rely on subdivision (a) of Section 21080.5 for that purpose even though the lead agency's regulatory program is otherwise certified in accordance with Section 21080.5.
(Added by Stats. 1996, Ch. 444, Sec. 4. Effective January 1, 1997.)

21158.5.

(a) Where a project consists of multiple-family residential development of not more than 100 units or a residential and commercial or retail mixed-use development of not more than 100,000 square feet which complies with all of the following, a focused environmental impact report shall be prepared, notwithstanding that the project was not identified in a master environmental impact report:

(1) Is consistent with a general plan, specific plan, community plan, or zoning ordinance for which an environmental impact report was prepared within five years of the certification of the focused environmental impact report.

(2) The lead agency cannot make the finding described in subdivision (c) of Section 21157.1, a negative declaration or mitigated negative declaration cannot be prepared pursuant to Section 21080, 21157.5, or 21158, and Section 21166 does not apply.

(3) Meets one or more of the following conditions:

(A) The parcel on which the project is to be developed is surrounded by immediately contiguous urban development.

(B) The parcel on which the project is to be developed has been previously developed with urban uses.

(C) The parcel on which the project is to be developed is within one-half mile of an existing rail transit station.

(b) A focused environmental impact report prepared pursuant to this section shall be limited to a discussion of potentially significant effects on the environment specific to the project, or which substantial new information shows will be more significant than described in the prior environmental impact report. No discussion shall be required of alternatives to the project, cumulative impacts of the project, or the growth inducing impacts of the project.
(Added by Stats. 1993, Ch. 1130, Sec. 18. Effective January 1, 1994.)

ARTICLE 4. Expedited Environmental Review for Environmentally Mandated Projects [21159 - 21159.4]
(Article 4 added by Stats. 1993, Ch. 1131, Sec. 8.)

21159.

(a) An agency listed in Section 21159.4 shall perform, at the time of the adoption of a rule or regulation requiring the installation of pollution control equipment, or a performance standard or treatment requirement, including a rule or regulation that requires the installation of pollution control equipment or a performance standard or treatment requirement pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), an environmental analysis of the reasonably foreseeable methods of compliance. In the preparation of this analysis, the agency may utilize numerical ranges or averages where specific data is not available; however, the agency shall not be required to engage in speculation or conjecture. The environmental analysis shall, at minimum, include all of the following:

(1) An analysis of the reasonably foreseeable environmental impacts of the methods of compliance.

(2) An analysis of reasonably foreseeable feasible mitigation measures.

(3) An analysis of reasonably foreseeable alternative means of compliance with the rule or regulation.

(4) For a rule or regulation that requires the installation of pollution control equipment adopted pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), the analysis shall also include reasonably foreseeable greenhouse gas emission impacts of compliance with the rule or regulation.

(b) The preparation of an environmental impact report at the time of adopting a rule or regulation pursuant to this division shall be deemed to satisfy the requirements of this section.

(c) The environmental analysis shall take into account a reasonable range of environmental, economic, and technical factors, population and geographic areas, and specific sites.

(d) This section does not require the agency to conduct a project-level analysis.

(e) For purposes of this article, the term "performance standard" includes process or raw material changes or product reformulation.

(f) This section is not intended, and may not be used, to delay the adoption of any rule or regulation for which an analysis is required to be performed pursuant to this section.

(Amended by Stats. 2010, Ch. 195, Sec. 2. (AB 1846) Effective January 1, 2011.)

21159.1.

(a) A focused environmental impact report may be utilized if a project meets all of the following requirements:

(1) The project consists solely of the installation of either of the following:

(A) Pollution control equipment required by a rule or regulation of an agency listed in subdivision (a) of Section 21159.4 and other components necessary to complete the installation of that equipment.

(B) Pollution control equipment and other components necessary to complete the installation of that equipment that reduces greenhouse gases required by a rule or regulation of an agency listed in Section 21159.4 pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(2) The agency certified an environmental impact report on the rule or regulation or reviewed it pursuant to a certified regulatory program, and, in either case, the review included an assessment of growth inducing impacts and cumulative impacts of, and alternatives to, the project.

(3) The environmental review required by paragraph (2) was completed within five years of certification of the focused environmental impact report.

(4) An environmental impact report is not required pursuant to Section 21166.

(b) The discussion of significant effects on the environment in the focused environmental impact report shall be limited to project-specific potentially significant effects on the environment of the project that were not discussed in the environmental analysis of the rule or regulation required pursuant to subdivision (a) of Section 21159. A discussion of growth-inducing impacts or cumulative impacts shall not be required in the focused environmental impact report, and the discussion of alternatives shall be limited to a discussion of alternative means of compliance, if any, with the rule or regulation.
(Amended by Stats. 2010, Ch. 195, Sec. 3. (AB 1846) Effective January 1, 2011.)

21159.2.

(a) If a project consists solely of compliance with a performance standard or treatment requirement imposed by an agency listed in Section 21159.4, the lead agency for the compliance project shall, to the greatest extent feasible, utilize the environmental analysis required pursuant to subdivision (a) of Section 21159 in the preparation of a negative declaration, mitigated negative declaration, or environmental impact report on the compliance project or in otherwise fulfilling its responsibilities under this division. The use of numerical averages or ranges in an environmental analysis shall not relieve a lead agency of its obligations under this division to identify and evaluate the environmental effects of a compliance project.
(b) If the lead agency determines that an environmental impact report on the compliance project is required, the lead agency shall prepare an environmental impact report which addresses only the project-specific issues related to the compliance project or other issues that were not discussed in sufficient detail in the environmental analysis to enable the lead agency to fulfill its responsibilities under Section 21100 or 21151, as applicable. The mitigation measures imposed by the lead agency for the project shall relate only to the significant effects on the

environment to be mitigated. The discussion of alternatives shall be limited to a discussion of alternative means of compliance, if any, with the rule or regulation.
(Added by Stats. 1993, Ch. 1130, Sec. 18. Effective January 1, 1994.)

21159.3.

In the preparation of any environmental impact report pursuant to Section 21159.1 or 21159.2, the following deadlines shall apply:
(a) A lead agency shall determine whether an environmental impact report should be prepared within 30 days of its determination that the application for the project is complete.
(b) If the environmental impact report will be prepared under contract to the lead agency pursuant to Section 21082.1, the lead agency shall issue a request for proposals for preparation of the environmental impact report as soon as it has enough information to prepare a request for proposals, and in any event, not later than 30 days after the time for response to the notice of preparation has expired. The contract shall be awarded within 30 days of the response date for the request for proposals.
(Added by Stats. 1993, Ch. 1130, Sec. 18. Effective January 1, 1994.)

21159.4.

(a) This article shall apply to all of the following agencies:
(1) The State Air Resources Board.

(2) A district as defined in Section 39025 of the Health and Safety Code.

(3) The State Water Resources Control Board.

(4) A California regional water quality control board.

(5) The Department of Toxic Substances Control.

(6) The Department of Resources Recycling and Recovery.

(b) This article shall apply to the State Energy Resources Conservation and Development Commission and the California Public Utilities Commission for rules and regulations requiring the installation of pollution control equipment adopted pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).
(Amended by Stats. 2010, Ch. 195, Sec. 4. (AB 1846) Effective January 1, 2011.)

ARTICLE 5. Public Assistance Program [21159.9- 21159.9.]

(Article 5 added by Stats. 1993, Ch. 1130, Sec. 18.)

21159.9.

The Office of Planning and Research shall implement a public assistance and information program to ensure efficient and effective implementation of this division and to do both of the following:
(a) Establish a public education and training program for planners, developers, and other interested parties to assist them in implementing this division.
(b) (1) Establish and maintain a database for the collection, storage, retrieval, and dissemination of environmental documents, notices of exemption, notices of preparation, notices of determination, and notices of completion provided to the Office of Planning and Research. The database shall be available online to the public through the Internet. The Office of Planning and Research may coordinate with another state agency to host and maintain the online database.

(2) The Office of Planning and Research may phase in the submission of electronic documents and use of the database by state and local public agencies.

(3) (A) Pursuant to Section 9795 of the Government Code, the Office of Planning and Research shall, no later than July 1, 2017, submit to the Legislature a report describing how it plans to implement this subdivision, and shall provide an additional report to the Legislature no later than July 1, 2019, describing the status of the implementation of this subdivision.

(B) Pursuant to Section 10231.5 of the Government Code, this paragraph is inoperative on July 1, 2023.

(Amended by Stats. 2016, Ch. 476, Sec. 3. (SB 122) Effective January 1, 2017.)

ARTICLE 6. Special Review of Housing Projects [21159.20 - 21159.28]

(Article 6 added by Stats. 2002, Ch. 1039, Sec. 12.)

21159.20.

For the purposes of this article, the following terms have the following meanings:
(a) "Census-defined place" means a specific unincorporated land area within boundaries determined by the United States Census Bureau in the most recent decennial census.
(b) "Community-level environmental review" means either of the following:

(1) An environmental impact report certified on any of the following:

(A) A general plan.

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

(C) An applicable community plan.

(D) An applicable specific plan.

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

(2) Pursuant to this division and the implementing guidelines adopted pursuant to this division that govern subsequent review following a program environmental impact report, or pursuant to Section 21157.1, 21157.5, or 21166, a negative declaration or mitigated negative declaration was adopted as a subsequent environmental review document, following and based upon an environmental impact report on any of the projects listed in subparagraphs (A), (C), or (D) of paragraph (1).

(c) "Low-income households" means households of persons and families of very low and low income, as defined in Sections 50093 and 50105 of the Health and Safety Code.
(d) "Low- and moderate-income households" means households of persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code.
(Added by Stats. 2002, Ch. 1039, Sec. 12. Effective January 1, 2003.)

21159.21.

A housing project qualifies for an exemption from this division pursuant to Section 21159.22, 21159.23, or 21159.24 if it meets the criteria in the applicable section and all of the following criteria:
(a) The project is consistent with any applicable general plan, specific plan, and local coastal program, including any mitigation measures required by a plan or program, as that plan or program existed on the date that the application was deemed complete and with any applicable zoning ordinance, as that zoning ordinance existed on the date that the application was deemed complete, except that a project shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the project site has not been rezoned to conform with a more recently adopted general plan.
(b) Community-level environmental review has been adopted or certified.
(c) The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.
(d) The site of the project does not contain wetlands, does not have any value as a wildlife habitat, and the project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete. For the purposes of this subdivision, "wetlands" has the same meaning as in Section 328.3 of Title 33 of the Code of Federal Regulations and "wildlife habitat" means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(e) The site of the project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.
(f) The site of the project is subject to a preliminary endangerment assessment prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

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

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

(g) The project does not have a significant effect on historical resources pursuant to Section 21084.1.
(h) The project site is not subject to any of the following:

(1) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(2) An unusually high risk of fire or explosion from materials stored or used on nearby properties.

(3) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(4) Within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.

(5) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

(i) (1) The project site is not located on developed open space.

(2) For the purposes of this subdivision, "developed open space" means land that meets all of the following criteria:

(A) Is publicly owned, or financed in whole or in part by public funds.

(B) Is generally open to, and available for use by, the public.

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

(3) For the purposes of this subdivision, "developed open space" includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired by public funds dedicated to the acquisition of land for housing purposes.

(j) The project site is not located within the boundaries of a state conservancy.
(Amended by Stats. 2012, Ch. 39, Sec. 96. (SB 1018) Effective June 27, 2012.)

21159.22.

(a) This division does not apply to any development project that meets the requirements of subdivision (b), and meets either of the following criteria:

(1) Consists of the construction, conversion, or use of residential housing for agricultural employees, and meets all of the following criteria:

(A) Is affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Lacks public financial assistance.

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

(2) Consists of the construction, conversion, or use of residential housing for agricultural employees and meets all of the following criteria:

(A) Is housing for very low, low-, or moderate-income households as defined in paragraph (2) of subdivision (h) of Section 65589.5 of the Government Code.

(B) Public financial assistance exists for the development project.

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

(b) (1) If the development project is proposed within incorporated city limits or within a census defined place with a minimum population density of at least 5,000 persons per square mile, it is located on a project site that is adjacent, on at least two sides, to land that has been developed, and consists of not more than 45 units, or is housing for a total of 45 or fewer agricultural employees if the housing consists of dormitories, barracks, or other group living facilities.

(2) If the development project is located on a project site zoned for general agricultural use, and consists of not more than 20 units, or is housing for a total

of 20 or fewer agricultural employees if the housing consists of dormitories, barracks, or other group living facilities.

(3) The project satisfies the criteria in Section 21159.21.

(4) The development project is not more than five acres in area, except that a project site located in an area with a population density of at least 1,000 persons per square mile shall not be more than two acres in area.

(c) Notwithstanding subdivision (a), if a project satisfies the criteria described in subdivisions (a) and (b), but does not satisfy the criteria described in paragraph (1) of subdivision (b), this division does not apply to the project if the project meets all of the following criteria:

(1) Is located within either an incorporated city or a census-defined place.

(2) The population density of the incorporated city or census-defined place has a population density of at least 1,000 persons per square mile.

(3) The project site is adjacent on at least two sides to land that has been developed and the project consists of not more than 45 units, or the project consist of dormitories, barracks, or other group housing facilities for a total of 45 or fewer agricultural employees.

(d) Notwithstanding subdivision (c), this division shall apply to a project that meets the criteria described in subdivision (c) if a public agency that is carrying out or approving the project determines that there is a reasonable possibility that the project, if completed, would have a significant effect on the environment due to unusual circumstances or that the cumulative impacts of successive projects of the same type in the same area, over time, would be significant.

For the purposes of this section, "agricultural employee" has the same meaning as defined by subdivision (b) of Section 1140.4 of the Labor Code.

(Added by Stats. 2002, Ch. 1039, Sec. 12. Effective January 1, 2003.)

21159.23.

(a) This division does not apply to any development project that consists of the construction, conversion, or use of residential housing consisting of 100 or fewer that is affordable to low-income households if both of the following criteria are met:

(1) The developer of the development project provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for lower income households, as defined in Section 50079.5 of the Health and Safety Code, for a period of at least 30 years, at monthly housing costs, as determined pursuant to Section 50053 of the Health and Safety Code.

(2) The development project meets all of the following requirements:

(A) The project satisfies the criteria described in Section 21159.21.

(B) The project site meets one of the following conditions:

(i) Has been previously developed for qualified urban uses.

(ii) The parcels immediately adjacent to the site are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25 percent of the perimeter of the site adjoins parcels that have previously been developed for qualified urban uses, and the site has not been developed for urban uses and no parcel within the site has been created within 10 years prior to the proposed development of the site.

(C) The project site is not more than five acres in area.

(D) The project site is located within an urbanized areaor within a census-defined place with a population density of at least 5,000 persons per square mile or, if the project consists of 50 or fewer units, within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.

(b) Notwithstanding subdivision (a), if a project satisfies all of the criteria described in subdivision (a) except subparagraph (D) of paragraph (2) of that subdivision, this division does not apply to the project if the project is located within either an incorporated city or a census defined place with a population density of at least 1,000 persons per square mile.
(c) Notwithstanding subdivision (b), this division applies to a project that meets the criteria of subdivision (b), if there is a reasonable possibility that the project would have a significant effect on the environment or the residents of the project due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.
(d) For the purposes of this section, "residential" means a use consisting of either of the following:

(1) Residential units only.

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

(Added by Stats. 2002, Ch. 1039, Sec. 12. Effective January 1, 2003.)

21159.24.

(a) Except as provided in subdivision (b), this division does not apply to a project if all of the following criteria are met:

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

(2) The project is located within an urbanized area.

(3) The project satisfies the criteria of Section 21159.21.

(4) Within five years of the date that the application for the project is deemed complete pursuant to Section 65943 of the Government Code, community-level environmental review was certified or adopted.

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

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

(7) Either of the following criteria are met:

(A) (i) At least 10 percent of the housing is sold to families of moderate income, or not less than 10 percent of the housing is rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.

(ii) The project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs determined pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code.

(B) The project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to subparagraph (A).

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

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

(10) The project promotes higher density infill housing. A project with a density of at least 20 units per acre shall be conclusively presumed to promote higher density infill housing. A project with a density of at least 10 units per acre and a density greater than the average density of the residential properties within 1,500 feet shall be presumed to promote higher density housing unless the preponderance of the evidence demonstrates otherwise.

(b) Notwithstanding subdivision (a), this division shall apply to a development project that meets the criteria described in subdivision (a), if any of the following occur:

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

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

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

(c) If a project satisfies the criteria described in subdivision (a), but is not exempt from this division as a result of satisfying the criteria described in subdivision (b), the analysis of the environmental effects of the project in the environmental impact report or the negative declaration shall be limited to an analysis of the project-specific effect of the projects and any effects identified pursuant to paragraph (2) or (3) of subdivision (b).
(d) For the purposes of this section, "residential" means a use consisting of either of the following:
(1) Residential units only.

(2) Residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 25 percent of the total building square footage of the project.

(Amended by Stats. 2014, Ch. 549, Sec. 1. (SB 674) Effective January 1, 2015.)

21159.25.

(a) For purposes of this section, the following definitions apply:
(1) "Residential or mixed-use housing project" means a project consisting of multifamily residential uses only or a mix of multifamily residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

(2) "Substantially surrounded" means at least 75 percent of the perimeter of the project site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. The remainder of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that have been designated for qualified urban uses in a zoning, community plan, or general plan for which an environmental impact report was certified.

(b) Without limiting any other statutory exemption or categorical exemption, this division does not apply to a residential or mixed-use housing project if all of the following conditions described in this section are met:
(1) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

(2) (A) The public agency approving or carrying out the project determines, based upon substantial evidence, that the density of the residential portion of the project is not less than the greater of the following:

(i) The average density of the residential properties that adjoin, or are separated only by an improved public right-of-way from, the perimeter of the project site, if any.

(ii) The average density of the residential properties within 1,500 feet of the project site.

(iii) Six dwelling units per acre.

(B) The residential portion of the project is a multifamily housing development that contains six or more residential units.

(3) The proposed development occurs within an unincorporated area of a county on a project site of no more than five acres substantially surrounded by qualified urban uses.

(4) The project site has no value as habitat for endangered, rare, or threatened species.

(5) Approval of the project would not result in any significant effects relating to transportation, noise, air quality, greenhouse gas emissions, or water quality.

(6) The site can be adequately served by all required utilities and public services.

(7) The project is located on a site that is a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(c) Subdivision (b) does not apply to a residential or mixed-use housing project if any of the following conditions exist:

(1) The cumulative impact of successive projects of the same type in the same place over time is significant.

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

(3) The project may result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway.

(4) The project is located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(5) The project may cause a substantial adverse change in the significance of a historical resource.

(d) If the lead agency determines that a project is not subject to this division pursuant to this section and it determines to approve or carry out the project, the lead agency shall file a notice with the Office of Planning and Research and with the

county clerk in the county in which the project will be located in the manner specified in subdivisions (b) and (c) of Section 21152.
(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.
(Amended by Stats. 2019, Ch. 497, Sec. 224. (AB 991) Effective January 1, 2020. Repealed as of January 1, 2025, by its own provisions.)

21159.26.

With respect to a project that includes a housing development, a public agency may not reduce the proposed number of housing units as a mitigation measure or project alternative for a particular significant effect on the environment if it determines that there is another feasible specific mitigation measure or project alternative that would provide a comparable level of mitigation. This section does not affect any other requirement regarding the residential density of that project.
(Added by Stats. 2002, Ch. 1039, Sec. 12. Effective January 1, 2003.)

21159.27.

A project may not be divided into smaller projects to qualify for one or more exemptions pursuant to this article.
(Added by Stats. 2002, Ch. 1039, Sec. 12. Effective January 1, 2003.)

21159.28.

(a) If a residential or mixed-use residential project is consistent with the use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board pursuant to subparagraph (I) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code has accepted the metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets and if the project incorporates the mitigation measures required by an applicable prior environmental document, then any findings or other determinations for an exemption, a negative declaration, a mitigated negative declaration, a sustainable communities environmental assessment, an environmental impact report, or addenda prepared or adopted for the project pursuant to this division shall not be required to reference, describe, or discuss (1) growth inducing impacts; or (2) any project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming or the regional transportation network.
(b) Any environmental impact report prepared for a project described in subdivision (a) shall not be required to reference, describe, or discuss a reduced residential density alternative to address the effects of car and light-duty truck trips generated by the project.

(c) "Regional transportation network," for purposes of this section, means all existing and proposed transportation system improvements, including the state transportation system, that were included in the transportation and air quality conformity modeling, including congestion modeling, for the final regional transportation plan adopted by the metropolitan planning organization, but shall not include local streets and roads. Nothing in the foregoing relieves any project from a requirement to comply with any conditions, exactions, or fees for the mitigation of the project's impacts on the structure, safety, or operations of the regional transportation network or local streets and roads.
(d) A residential or mixed-use residential project is a project where at least 75 percent of the total building square footage of the project consists of residential use or a project that is a transit priority project as defined in Section 21155.
(Added by Stats. 2008, Ch. 728, Sec. 15. Effective January 1, 2009.)

CHAPTER 5. Submission of Information [21160 - 21161]

(Chapter 5 added by Stats. 1972, Ch. 1154.)

21160.

Whenever any person applies to any public agency for a lease, permit, license, certificate, or other entitlement for use, the public agency may require that person to submit data and information which may be necessary to enable the public agency to determine whether the proposed project may have a significant effect on the environment or to prepare an environmental impact report.
If any or all of the information so submitted is a "trade secret" as defined in Section 6254.7 of the Government Code by those submitting that information, it shall not be included in the impact report or otherwise disclosed by any public agency. This section shall not be construed to prohibit the exchange of properly designated trade secrets between public agencies who have lawful jurisdiction over the preparation of the impact report.
(Added by Stats. 1972, Ch. 1154. Superseded on January 1, 2023; see amendment by Stats. 2021, Ch. 615.)

21160.

(a) Whenever any person applies to any public agency for a lease, permit, license, certificate, or other entitlement for use, the public agency may require that person to submit data and information that may be necessary to enable the public agency to determine whether the proposed project may have a significant effect on the environment or to prepare an environmental impact report.
(b) If any or all of the information so submitted is a "trade secret" as defined in Section 7924.510 of the Government Code by those submitting that information, it shall not be included in the impact report or otherwise disclosed by any public agency. This section shall not be construed to prohibit the exchange of properly designated trade secrets between public agencies who have lawful jurisdiction over the preparation of the impact report.
(Amended by Stats. 2021, Ch. 615, Sec. 380. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

21161.

Whenever a public agency has completed an environmental document, it shall cause a notice of completion of that report to be filed with the Office of Planning and Research using the Office of Planning and Research's online process. The public agency is not required to mail a printed copy of the notice of completion to the Office of Planning and Research. The notice of completion shall briefly identify the project and shall indicate that an environmental document has been prepared. The notice of completion shall identify the project location by latitude and longitude. Failure to file the notice required by this section shall not affect the validity of a project.
(Amended by Stats. 2021, Ch. 97, Sec. 9. (AB 819) Effective January 1, 2022.)

CHAPTER 5.5. No Place Like Home Projects [21163 - 21163.4]

(Chapter 5.5 added by Stats. 2019, Ch. 346, Sec. 5.)

21163.

For purposes of this chapter, "No Place Like Home project" means a permanent supportive housing project that meets the criteria for funding pursuant to the No Place Like Home Program (Part 3.9 (commencing with Section 5849.1) of Division 5 of the Welfare and Institutions Code) and for which a public agency applies for, or receives, funding from the Department of Housing and Community Development.
(Added by Stats. 2019, Ch. 346, Sec. 5. (SB 744) Effective January 1, 2020. Repealed on date prescribed by Section 21163.4)

21163.1.

A decision by a public agency to seek funding from, or the Department of Housing and Community Development's awarding of funds pursuant to, the No Place Like Home Program (Part 3.9 (commencing with Section 5849.1) of Division 5 of the Welfare and Institutions Code) does not constitute a "project" for purposes of this division.
(Added by Stats. 2019, Ch. 346, Sec. 5. (SB 744) Effective January 1, 2020. Repealed on date prescribed by Section 21163.4)

21163.2.

If a No Place Like Home project is not eligible for approval as a use by right pursuant to Article 11 (commencing with Section 65650) of Chapter 3 of Division 1 of Title 7 of the Government Code and is subject to this division, the development applicant may request, within 10 days after the lead agency determines the type of environmental documentation required for the project pursuant to this division, that the lead agency prepare and certify the record of proceeding for the environmental review of the No Place Like Home project in accordance with Section 21186.
(Added by Stats. 2019, Ch. 346, Sec. 5. (SB 744) Effective January 1, 2020. Repealed on date prescribed by Section 21163.4)

21163.3.

(a) (1) If a local agency approves or determines to carry out a No Place Like Home project that is subject to this division, the local agency shall file notice of that approval or determination in accordance with the requirements of subdivision (a) of Section 21152, except that the notice shall be filed within two working days after the approval or determination becomes final.

(2) If a local agency approves or determines to carry out a No Place Like Home project that is not subject to this division, the local agency shall file a notice of exemption in accordance with the requirements of subdivision (b) of Section 21152, except that the notice shall be filed within two working days after the approval or determination becomes final.

(b) Notwithstanding Section 21167, an action or proceeding to attack, review, set aside, void, or annul the acts or decision of a public agency on the grounds of noncompliance with this division for a No Place Like Home project shall commence within 30 days from the date of the filing of the notice required pursuant to subdivision (a).

(c) If the local agency fails to comply with the applicable timing requirements set forth in subdivision (a), an action or proceeding to attack, review, set aside, void, or annul the acts or decision of a public agency on the grounds of noncompliance with this division for a No Place Like Home project shall commence within 30 days from the date of the local agency's late filing of the notice required pursuant to subdivision (a) or 90 days from the date that the notice was required to be filed pursuant to subdivision (a), whichever is earlier.

(Added by Stats. 2019, Ch. 346, Sec. 5. (SB 744) Effective January 1, 2020. Repealed on date prescribed by Section 21163.4)

21163.4.

(a) (1) The Department of Housing and Community Development shall notify the Speaker of the Assembly and the President pro Tempore of the Senate when the funding provided pursuant to the No Place Like Home Program (Part 3.9 (commencing with Section 5849.1) of Division 5 of the Welfare and Institutions Code) is fully allocated and disbursed. Notification from the Department of Housing and Community Development pursuant to this subdivision shall be printed in the journal of each of the respective houses of the Legislature.

(2) The Department of Housing and Community Development shall post a copy of the notification provided pursuant to this subdivision on its internet website.

(b) This chapter shall remain in effect only until January 1 of the year following notification from the Department of Housing and Community Development pursuant to subdivision (a), and as of that date is repealed.

(Added by Stats. 2019, Ch. 346, Sec. 5. (SB 744) Effective January 1, 2020. Repealed on date prescribed by its own provisions. Note: Repeal affects Chapter 5.5, commencing with Section 21163.)

CHAPTER 5.5. No Place Like Home Projects [21163 - 21163.4]

(Chapter 5.5 added by Stats. 2019, Ch. 346, Sec. 5.)

21163.

For purposes of this chapter, "No Place Like Home project" means a permanent supportive housing project that meets the criteria for funding pursuant to the No Place Like Home Program (Part 3.9 (commencing with Section 5849.1) of Division 5 of the Welfare and Institutions Code) and for which a public agency applies for, or receives, funding from the Department of Housing and Community Development.
(Added by Stats. 2019, Ch. 346, Sec. 5. (SB 744) Effective January 1, 2020. Repealed on date prescribed by Section 21163.4)

21163.1.

A decision by a public agency to seek funding from, or the Department of Housing and Community Development's awarding of funds pursuant to, the No Place Like Home Program (Part 3.9 (commencing with Section 5849.1) of Division 5 of the Welfare and Institutions Code) does not constitute a "project" for purposes of this division.
(Added by Stats. 2019, Ch. 346, Sec. 5. (SB 744) Effective January 1, 2020. Repealed on date prescribed by Section 21163.4)

21163.2.

If a No Place Like Home project is not eligible for approval as a use by right pursuant to Article 11 (commencing with Section 65650) of Chapter 3 of Division 1 of Title 7 of the Government Code and is subject to this division, the development applicant may request, within 10 days after the lead agency determines the type of environmental documentation required for the project pursuant to this division, that the lead agency prepare and certify the record of proceeding for the environmental review of the No Place Like Home project in accordance with Section 21186.
(Added by Stats. 2019, Ch. 346, Sec. 5. (SB 744) Effective January 1, 2020. Repealed on date prescribed by Section 21163.4)

21163.3.

(a) (1) If a local agency approves or determines to carry out a No Place Like Home project that is subject to this division, the local agency shall file notice of that approval or determination in accordance with the requirements of subdivision (a) of Section 21152, except that the notice shall be filed within two working days after the approval or determination becomes final.

(2) If a local agency approves or determines to carry out a No Place Like Home project that is not subject to this division, the local agency shall file a notice of exemption in accordance with the requirements of subdivision (b) of Section 21152, except that the notice shall be filed within two working days after the approval or determination becomes final.

(b) Notwithstanding Section 21167, an action or proceeding to attack, review, set aside, void, or annul the acts or decision of a public agency on the grounds of noncompliance with this division for a No Place Like Home project shall commence within 30 days from the date of the filing of the notice required pursuant to subdivision (a).
(c) If the local agency fails to comply with the applicable timing requirements set forth in subdivision (a), an action or proceeding to attack, review, set aside, void, or annul the acts or decision of a public agency on the grounds of noncompliance with this division for a No Place Like Home project shall commence within 30 days from the date of the local agency's late filing of the notice required pursuant to subdivision (a) or 90 days from the date that the notice was required to be filed pursuant to subdivision (a), whichever is earlier.
(Added by Stats. 2019, Ch. 346, Sec. 5. (SB 744) Effective January 1, 2020. Repealed on date prescribed by Section 21163.4)

21163.4.

(a) (1) The Department of Housing and Community Development shall notify the Speaker of the Assembly and the President pro Tempore of the Senate when the funding provided pursuant to the No Place Like Home Program (Part 3.9 (commencing with Section 5849.1) of Division 5 of the Welfare and Institutions Code) is fully allocated and disbursed. Notification from the Department of Housing and Community Development pursuant to this subdivision shall be printed in the journal of each of the respective houses of the Legislature.
(2) The Department of Housing and Community Development shall post a copy of the notification provided pursuant to this subdivision on its internet website.

(b) This chapter shall remain in effect only until January 1 of the year following notification from the Department of Housing and Community Development pursuant to subdivision (a), and as of that date is repealed.
(Added by Stats. 2019, Ch. 346, Sec. 5. (SB 744) Effective January 1, 2020. Repealed on date prescribed by its own provisions. Note: Repeal affects Chapter 5.5, commencing with Section 21163.)

CHAPTER 6.5. Jobs and Economic Improvement Through Environmental Leadership Act of 2021 [21178 - 21189.3]

(Chapter 6.5 added by Stats. 2021, Ch. 19, Sec. 1.)

21178.

The Legislature finds and declares all of the following:
(a) The California Environmental Quality Act (Division 13 (commencing with Section 21000)) requires that the environmental impacts of development projects be identified and mitigated.
(b) The California Environmental Quality Act also guarantees the public an opportunity to review and comment on the environmental impacts of a project and to participate meaningfully in the development of mitigation measures for potentially significant environmental impacts.

(c) There are large projects under consideration in various regions of the state that would replace old and outmoded facilities with new job-creating facilities to meet those regions' needs while also establishing new, cutting-edge environmental benefits in those regions.
(d) These projects are privately financed or financed from revenues generated from the projects themselves and do not require taxpayer financing.
(e) These projects will further generate thousands of full-time jobs during construction and thousands of additional, permanent jobs once the projects are constructed and operating.
(f) These projects also present an unprecedented opportunity to implement nation-leading innovative measures that will significantly reduce traffic, air quality, and other significant environmental impacts, and fully mitigate the greenhouse gas emissions resulting from passenger vehicle trips attributed to the projects.
(g) These pollution reductions will be the best in the nation compared to other comparable projects in the United States.
(h) The purpose of this chapter is to provide, for a limited time, unique and unprecedented streamlining benefits under the California Environmental Quality Act for projects that provide the benefits described above to put people to work as soon as possible.
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21180.

For purposes of this chapter, the following definitions apply:
(a) "Applicant" means a public or private entity or its affiliates, or a person or entity that undertakes a public works project, that proposes a project and its successors, heirs, and assignees.
(b) "Environmental leadership development project," "leadership project," or "project" means a project as described in Section 21065 that is one of the following:

(1) A residential, retail, commercial, sports, cultural, entertainment, or recreational use project that is certified as Leadership in Energy and Environmental Design (LEED) gold or better by the United States Green Building Council and, where applicable, that achieves a 15-percent greater standard for transportation efficiency than for comparable projects. These projects must be located on an infill site. For a project that is within a metropolitan planning organization for which a sustainable communities strategy or alternative planning strategy is in effect, the infill project shall be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board has accepted a metropolitan planning organization's determination, under subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(2) A clean renewable energy project that generates electricity exclusively through wind or solar, but not including waste incineration or conversion.

(3) A clean energy manufacturing project that manufactures products, equipment, or components used for renewable energy generation, energy efficiency, or for the production of clean alternative fuel vehicles.

(4) (A) A housing development project that meets all of the following conditions:

(i) The housing development project is located on an infill site.

(ii) For a housing development project that is located within a metropolitan planning organization for which a sustainable communities strategy or alternative planning strategy is in effect, the project is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board has accepted a metropolitan planning organization's determination, under subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(iii) Notwithstanding paragraph (1) of subdivision (a) of Section 21183, the housing development project will result in a minimum investment of fifteen million dollars ($15,000,000), but less than one hundred million dollars ($100,000,000), in California upon completion of construction.

(iv) (I) Except as provided in subclause (II), at least 15 percent of the housing development project is dedicated as housing that is affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code. Upon completion of a housing development project that is qualified under this paragraph and is certified by the Governor, the lead agency or applicant of the project shall notify the Office of Planning and Research of the number of housing units and affordable housing units established by the project.

(II) Notwithstanding subclause (I), if a local agency has adopted an inclusionary zoning ordinance that establishes a minimum percentage for affordable housing within the jurisdiction in which the housing development project is located that is higher than 15 percent, the percentage specified in the inclusionary zoning ordinance shall be the threshold for affordable housing.

(v) (I) Except for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code, no part of the housing development project shall be used for a rental unit for a term shorter than 30 days, or designated for hotel, motel, bed and breakfast inn, or other transient lodging use.

(II) No part of the housing development project shall be used for manufacturing or industrial uses.

(B) For purposes of this paragraph, "housing development project" means a project for any of the following:

(i) Residential units only.

(ii) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

(iii) Transitional housing or supportive housing.

(c) "Infill site" has the same meaning as set forth in Section 21061.3.
(d) "Transportation efficiency" means the number of vehicle trips by employees, visitors, or customers of the residential, retail, commercial, sports, cultural, entertainment, or recreational use project divided by the total number of employees, visitors, and customers.
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21181.

This chapter does not apply to a project if the Governor does not certify the project as an environmental leadership development project eligible for streamlining under this chapter before January 1, 2024.
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21182.

A person proposing to construct a leadership project may apply to the Governor for certification that the leadership project is eligible for streamlining as provided by this chapter. The person shall supply evidence and materials that the Governor deems necessary to make a decision on the application. Any evidence or materials shall be made available to the public at least 15 days before the Governor certifies a project under this chapter.
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21183.

The Governor may certify a leadership project for streamlining before a lead agency certifies a final environmental impact report for a project under this chapter if all the following conditions are met:

(a) (1) Except as provided in paragraph (2), the project will result in a minimum investment of one hundred million dollars ($100,000,000) in California upon completion of construction.

(2) Paragraph (1) does not apply to a leadership project described in paragraph (4) of subdivision (b) of Section 21180.

(b) The project creates high-wage, highly skilled jobs that pay prevailing wages and living wages, provides construction jobs and permanent jobs for Californians, helps reduce unemployment, and promotes apprenticeship training. For purposes of this subdivision, a project is deemed to create jobs that pay prevailing wages, create highly skilled jobs, and promote apprenticeship training if the applicant demonstrates to the satisfaction of the Governor that the project will comply with Section 21183.5.

(c) (1) For a project described in paragraph (1), (2), or (3) of subdivision (b) of Section 21180, the project does not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation. For purposes of this paragraph, a project is deemed to meet the requirements of this paragraph if the applicant demonstrates to the satisfaction of the Governor that the project will comply with Section 21183.6.

(2) For a project described in paragraph (4) of subdivision (b) of Section 21180, the project does not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation.

(d) The applicant demonstrates compliance with the requirements of Chapter 12.8 (commencing with Section 42649) and Chapter 12.9 (commencing with Section 42649.8) of Part 3 of Division 30, as applicable.

(e) The applicant has entered into a binding and enforceable agreement that all mitigation measures required under this division to certify the project under this chapter shall be conditions of approval of the project, and those conditions will be fully enforceable by the lead agency or another agency designated by the lead agency. In the case of environmental mitigation measures, the applicant agrees, as an ongoing obligation, that those measures will be monitored and enforced by the lead agency for the life of the obligation.

(f) The applicant agrees to pay the costs of the trial court and the court of appeal in hearing and deciding any case challenging a lead agency’s action on a certified project under this division, including payment of the costs for the appointment of a special master if deemed appropriate by the court, in a form and manner specified by the Judicial Council, as provided in the California Rules of Court adopted by the Judicial Council under Section 21185.

(g) The applicant agrees to pay the costs of preparing the record of proceedings for the project concurrent with review and consideration of the project under this division, in a form and manner specified by the lead agency for the project.

(h) For a project for which environmental review has commenced, the applicant demonstrates that the record of proceedings is being prepared in accordance with Section 21186.

(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21183.5.

(a) For purposes of this section, the following definitions apply:
(1) "Project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(2) "Skilled and trained workforce" has the same meaning as set forth in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(b) (1) For a project undertaken by a public agency that is certified under this chapter, except as provided in paragraph (2), an entity shall not be prequalified or shortlisted or awarded a contract by the public agency to perform any portion of the project unless the entity provides an enforceable commitment to the public agency that the entity and its contractors and subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades.
(2) Paragraph (1) does not apply if any of the following requirements are met:

(A) The public agency has entered into a project labor agreement that will bind all contractors and subcontractors at every tier performing work on the project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.

(B) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the public agency before January 1, 2021.

(C) The entity has entered into a project labor agreement that will bind the entity and all of its contractors and subcontractors at every tier performing work on the project or contract to use a skilled and trained workforce.

(c) For a project undertaken by a private entity that is certified under this chapter, the applicant shall do both of the following:
(1) Certify to the lead agency that either of the following is true:

(A) The entirety of the project is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(B) If the project is not in its entirety a public work, all construction workers employed in the execution of the project will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations under Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the project is subject to this subparagraph, then, for those portions of the project that are not a public work, all of the following shall apply:

(i) The applicant shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(ii) All contractors and subcontractors at every tier shall pay to all construction workers employed in the execution of the work on the project or contract at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(iii) (I) Except as provided in subclause (III), all contractors and subcontractors at every tier shall maintain and verify payroll records under Section 1776 of the Labor Code and make those records available for inspection and copying as provided by that section.

(II) Except as provided in subclause (III), the obligation of all contractors and subcontractors at every tier to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment under Section 1741 of the Labor Code, which may be reviewed under Section 1742 of the Labor Code, within 18 months after the completion of the project, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages under Section 1742.1 of the Labor Code.

(III) Subclauses (I) and (II) do not apply if all contractors and subcontractors at every tier performing work on the project or contract are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the project or contract and provides for enforcement of that obligation through an arbitration procedure.

(iv) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted under Section 511 or 514 of the Labor Code.

(2) Certify to the lead agency that a skilled and trained workforce will be used to perform all construction work on the project or contract. All of the following requirements shall apply to the project:

(A) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the project.

(B) Every contractor and subcontractor at every tier shall use a skilled and trained workforce to complete the project.

(C) (i) Except as provided in clause (ii), the applicant shall provide to the lead agency, on a monthly basis while the project or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the lead agency under this clause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the project using the same procedures for issuance of civil wage and penalty assessments under Section 1741 of the Labor Code, and may be reviewed under the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(ii) Clause (i) does not apply if all contractors and subcontractors at every tier performing work on the project are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure.

(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21183.6.

(a) The quantification and mitigation of the impacts of a project described in paragraph (1), (2), or (3) of subdivision (b) of Section 21180 from the emissions of greenhouse gases shall be as follows:

(1) The environmental baseline for greenhouse gas emissions shall be established based upon the physical environmental conditions in the vicinity of the project site at the time the application is submitted in a manner consistent with Section 15125 of Title 14 of the California Code of Regulations as those regulations existed on January 1, 2021.

(2) The mitigation of the impacts resulting from the emissions of greenhouse gases shall be achieved in accordance with the following priority:

(A) Direct emissions reductions from the project that also reduce emissions of criteria air pollutants or toxic air contaminants through implementation of project features, project design, or other measures, including, but not limited to, energy efficiency, installation of renewable energy electricity generation, and reductions in vehicle miles traveled.

(B) If all of the project impacts cannot be feasibly and fully mitigated by direct emissions reductions as described in subparagraph (A), the remaining unmitigated impacts shall be mitigated by direct emissions reductions that also reduce emissions of criteria air pollutants or toxic air contaminants within the same air pollution control district or air quality management district in which the project is located.

(C) If all of the project impacts cannot be feasibly and fully mitigated by direct emissions reductions as described in subparagraph (A) or (B), the remaining unmitigated impacts shall be mitigated through the use of offsets that originate within the same air pollution control district or air quality management district in which the project is located. The offsets shall be undertaken in a manner consistent with Division 25.5 (commencing with Section 38500) of the Health and Safety Code, including, but not limited to, the requirement that the offsets be real, permanent, quantifiable, verifiable, and enforceable, and shall be undertaken from sources in the community in which the project is located or in adjacent communities.

(D) If all of the project impacts cannot be feasibly and fully mitigated by the measures described in subparagraph (A), (B), or (C), the remaining unmitigated impacts shall be mitigated through the use of offsets that originate from sources that provide a specific, quantifiable, and direct environmental and public health benefit to the region in which the project is located.

(b) It is the intent of the Legislature, in enacting this section, to maximize the environmental and public health benefits from measures to mitigate the project impacts resulting from the emissions of greenhouse gases to those people that are impacted most by the project.

(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21184.

(a) The Governor may certify a project for streamlining under this chapter if it complies with the conditions specified in Section 21183.

(b) (1) Before certifying a project, the Governor shall make a determination that each of the conditions specified in Section 21183 have been met. These findings are not subject to judicial review.

(2) (A) If the Governor determines that a leadership project is eligible for streamlining under this chapter, the Governor shall submit that determination, and any supporting information, to the Joint Legislative Budget Committee for review and concurrence or nonconcurrence.

(B) Within 30 days of receiving the determination, the Joint Legislative Budget Committee shall concur or nonconcur in writing on the determination.

(C) If the Joint Legislative Budget Committee fails to concur or nonconcur on a determination by the Governor within 30 days of the submittal, the leadership project is deemed to be certified.

(c) The Governor may issue guidelines regarding application and certification of projects under this chapter. Any guidelines issued under this subdivision are not subject to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21184.5.

(a) Notwithstanding any other law, except as provided in subdivision (b), a multifamily residential project certified under this chapter shall provide unbundled parking, such that private vehicle parking spaces are priced and rented or purchased separately from dwelling units.
(b) Subdivision (a) shall not apply if the dwelling units are subject to affordability restrictions in law that prescribe rent or sale prices, and the cost of parking spaces cannot be unbundled from the cost of dwelling units.
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21184.7.

The Office of Planning and Research may charge a fee to an applicant seeking certification under this chapter for the costs incurred by the Governor's office in implementing this chapter.
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21185.

The Judicial Council shall adopt a rule of court to establish procedures that require actions or proceedings brought to attack, review, set aside, void, or annul the certification of an environmental impact report for an environmental leadership development project certified by the Governor under this chapter or the granting of any project approvals that require the actions or proceedings, including any

potential appeals to the court of appeal or the Supreme Court, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21186.

Notwithstanding any other law, the preparation and certification of the record of proceedings for a leadership project certified by the Governor shall be performed in the following manner:
(a) The lead agency for the project shall prepare the record of proceedings under this division concurrently with the administrative process.
(b) All documents and other materials placed in the record of proceedings shall be posted on, and be downloadable from, an internet website maintained by the lead agency commencing with the date of the release of the draft environmental impact report.
(c) The lead agency shall make available to the public in a readily accessible electronic format the draft environmental impact report and all other documents submitted to, or relied on by, the lead agency in preparing the draft environmental impact report.
(d) Any document prepared by the lead agency or submitted by the applicant after the date of the release of the draft environmental impact report that is a part of the record of the proceedings shall be made available to the public in a readily accessible electronic format within five days after the document is released or received by the lead agency.
(e) The lead agency shall encourage written comments on the project to be submitted in a readily accessible electronic format, and shall make any comment available to the public in a readily accessible electronic format within five days of its receipt.
(f) Within seven days after the receipt of any comment that is not in an electronic format, the lead agency shall convert that comment into a readily accessible electronic format and make it available to the public in that format.
(g) Notwithstanding paragraphs (b) to (f), inclusive, documents submitted to or relied on by the lead agency that were not prepared specifically for the project and are copyright protected are not required to be made readily accessible in an electronic format. For those copyright-protected documents, the lead agency shall make an index of these documents available in an electronic format no later than the date of the release of the draft environmental impact report, or within five days if the document is received or relied on by the lead agency after the release of the draft environmental impact report. The index must specify the libraries or lead agency offices in which hardcopies of the copyrighted materials are available for public review.
(h) The lead agency shall certify the final record of proceedings within five days of its approval of the project.
(i) Any dispute arising from the record of proceedings shall be resolved by the superior court. Unless the superior court directs otherwise, a party disputing the

content of the record shall file a motion to augment the record at the time it files its initial brief.
(j) The contents of the record of proceedings shall be as set forth in subdivision (e) of Section 21167.6.
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21187.

Within 10 days of the Governor certifying an environmental leadership development project under this chapter, a lead agency shall, at the applicant's expense, issue a public notice in no less than 12-point type stating the following:

"THE APPLICANT HAS ELECTED TO PROCEED UNDER CHAPTER 6.5 (COMMENCING WITH SECTION 21178) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG OTHER THINGS, THAT ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT (EIR) OR THE APPROVAL OF THE PROJECT DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH IN SECTIONS 21185 TO 21186, INCLUSIVE, OF THE PUBLIC RESOURCES CODE. A COPY OF CHAPTER 6.5 (COMMENCING WITH SECTION 21178) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE IS INCLUDED BELOW."

The public notice shall be distributed by the lead agency as required for public notices issued under paragraph (3) of subdivision (b) of Section 21092.
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21187.5.

(a) For purposes of this section, "project alternative" means an alternative studied in a leadership project's environmental impact report under Section 15126.6 of Title 14 of the California Code of Regulations as those regulations existed on January 1, 2021.
(b) Before a lead agency's approval of a project alternative described in an environmental impact report for a leadership project certified by the Governor under this chapter, the Governor may, upon application of the applicant, certify the project alternative under this chapter if the project alternative meets the definition of a leadership project pursuant to Section 21180 and complies with Section 21183 as those sections existed at the time of the Governor's certification of the leadership project. The applicant shall supply evidence and materials that the Governor deems necessary to make a decision on the application to certify the project alternative. Any evidence or materials provided by the applicant shall be made available by the Governor to the public at least 15 days before the Governor certifies a project alternative pursuant to this chapter. Paragraph (2) of subdivision (b) of Section 21184 shall not apply to the certification of a project alternative

pursuant to this section. The findings made by the Governor pursuant to this section are not subject to judicial review.
(c) The rule of court adopted under Section 21185 applies to actions or proceedings brought to attack, review, set aside, void, or annul a public agency's approval of a project alternative certified under this section on the grounds of noncompliance with this division.
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21188.

The provisions of this chapter are severable. If any provision of this chapter or its application is held to be invalid, that invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application.
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21189.

Except as otherwise provided expressly in this chapter, nothing in this chapter affects the duty of any party to comply with this division.
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21189.1.

If, before January 1, 2025, a lead agency fails to approve a project certified by the Governor under this chapter, then the certification expires and is no longer valid.
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, pursuant to Section 21189.3.)

21189.3.

This chapter shall remain in effect until January 1, 2026, and as of that date is repealed unless a later enacted statute extends or repeals that date.
(Added by Stats. 2021, Ch. 19, Sec. 1. (SB 7) Effective May 20, 2021. Repealed as of January 1, 2026, by its own provisions. Note: Repeal affects Chapter 6.5, commencing with Section 21178.)

CHAPTER 6.7. Judicial Review of Capitol Building Annex and State Office Building Projects [21189.50 - 21189.57]

(Heading of Chapter 6.7 amended by Stats. 2018, Ch. 40, Sec. 9.)

21189.50.

As used in this chapter, the following definitions shall apply:

(a) "Capitol building annex project" means any work of construction of a state capitol building annex or restoration, rehabilitation, renovation, or reconstruction of the State Capitol Building Annex described in Section 9105 of the Government Code that is performed pursuant to Article 5.2 (commencing with Section 9112) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code.
(b) "Annex project related work" means all work closely related to the Capitol building annex project, including, but not limited to, any visitor's center or parking facility constructed pursuant to Section 9112 of the Government Code.
(c) "State office building project" means any work of construction, restoration, rehabilitation, renovation, or reconstruction of a state office building that is performed pursuant to Article 5.6 (commencing with Section 9125) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code.
(Amended by Stats. 2018, Ch. 40, Sec. 10. (AB 1826) Effective June 27, 2018.)

21189.51.

(a) On or before July 1, 2017, the Judicial Council shall adopt a rule of court to establish procedures applicable to actions or proceedings brought to attack, review, set aside, void, or annul the certification of the environmental impact report for a capitol building annex project or the granting of any project approvals that require the actions or proceedings, including any potential appeals therefrom, be resolved, to the extent feasible, within 270 days of certification of the record of proceedings pursuant to Section 21189.52.
(b) On or before July 1, 2019, the Judicial Council shall adopt a rule of court to establish procedures applicable to actions or proceedings brought to attack, review, set aside, void, or annul the certification of the environmental impact report for annex project related work or a state office building or the granting of any project approvals with respect to either that work or building that require the actions or proceedings, including any potential appeals therefrom, be resolved, to the extent feasible, within 270 days of certification of the record of proceedings pursuant to Section 21189.52.
(Amended by Stats. 2018, Ch. 40, Sec. 11. (AB 1826) Effective June 27, 2018.)

21189.52.

(a) The lead agency shall prepare and certify the record of the proceedings in accordance with this section and in accordance with Rule 3.1365 of the California Rules of Court.
(b) No later than three business days following the date of the release of the draft environmental impact report, the lead agency shall make available to the public in a readily accessible electronic format the draft environmental impact report and all other documents submitted to or relied on by the lead agency in the preparation of the draft environmental impact report. A document prepared by the lead agency after the date of the release of the draft environmental impact report that is a part of the record of the proceedings shall be made available to the public in a readily accessible electronic format within five business days after the document is prepared or received by the lead agency.

(c) Notwithstanding subdivision (b), documents submitted to or relied on by the lead agency that were not prepared specifically for the capitol building annex project, annex project related work, or the state office building project, as applicable, and are copyright protected are not required to be made readily accessible in an electronic format. For those copyright protected documents, the lead agency shall make an index of these documents available in an electronic format no later than the date of the release of the draft environmental impact report, or within five business days if the document is received or relied on by the lead agency after the release of the draft environmental impact report. The index must specify the libraries or lead agency offices in which hard copies of the copyrighted materials are available for public review.
(d) The lead agency shall encourage written comments on the capitol building annex project, annex project related work, and the state office building project, to be submitted in a readily accessible electronic format, and shall make any such comment available to the public in a readily accessible electronic format within five days of its receipt.
(e) Within seven business days after the receipt of any comment that is not in an electronic format, the lead agency shall convert that comment into a readily accessible electronic format and make it available to the public in that format.
(f) The lead agency shall indicate in the record of the proceedings comments received that were not considered by the lead agency pursuant to subdivision (d) of Section 21189.55 and need not include the content of the comments as a part of the record.
(g) Within five days after the filing of the notice required by subdivision (a) of Section 21152, the lead agency shall certify the record of the proceedings for the approval or determination and shall provide an electronic copy of the record to a party that has submitted a written request for a copy. The lead agency may charge and collect a reasonable fee from a party requesting a copy of the record for the electronic copy, which shall not exceed the reasonable cost of reproducing that copy.
(h) Within 10 days after being served with a complaint or a petition for a writ of mandate, the lead agency shall lodge a copy of the certified record of proceedings with the superior court.
(i) Any dispute over the content of the record of the proceedings shall be resolved by the superior court. Unless the superior court directs otherwise, a party disputing the content of the record shall file a motion to augment the record at the time it files its initial brief.
(j) The contents of the record of proceedings shall be as set forth in subdivision (e) of Section 21167.6.
(Amended by Stats. 2018, Ch. 40, Sec. 12. (AB 1826) Effective June 27, 2018.)

21189.53.

(a) In granting relief in an action or proceeding brought pursuant to this chapter, the court shall not enjoin the capitol building annex project, annex project related work, or the state office building project unless the court finds either of the following:

(1) The continuation of the capitol building annex project, annex project related work, or the state office building project presents an imminent threat to the public health and safety.

(2) The capitol building annex project, annex project related work, or the state office building project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continuation of the capitol building annex project, annex project related work, or the state office building project unless the court stays or enjoins the capitol building annex project.

(b) If the court finds that either paragraph (1) or (2) of subdivision (a) is satisfied, the court shall only enjoin those specific activities associated with the capitol building annex project, annex project related work, or the state office building project, as applicable, that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values.
(Amended by Stats. 2018, Ch. 40, Sec. 13. (AB 1826) Effective June 27, 2018.)

21189.54.

(a) The draft and final environmental impact report shall include a notice in not less than 12-point type stating the following:

THIS EIR IS SUBJECT TO CHAPTER 6.7 (COMMENCING WITH SECTION 21189.50) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG OTHER THINGS, THAT THE LEAD AGENCY NEED NOT CONSIDER CERTAIN COMMENTS FILED AFTER THE CLOSE OF THE PUBLIC COMMENT PERIOD FOR THE DRAFT EIR. ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF THE EIR OR THE APPROVAL OF THE PROJECT DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH IN SECTIONS 21189.51 TO 21189.53, INCLUSIVE, OF THE PUBLIC RESOURCES CODE. A COPY OF CHAPTER 6.7 (COMMENCING WITH SECTION 21189.50) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE IS INCLUDED IN THE APPENDIX TO THIS EIR.

(b) The draft environmental impact report and final environmental impact report shall contain, as an appendix, the full text of this chapter.
(Added by Stats. 2016, Ch. 31, Sec. 271. (SB 836) Effective June 27, 2016.)

21189.55.

(a) Within 10 days after the release of the draft environmental impact report, the lead agency shall conduct an informational workshop to inform the public of the key analyses and conclusions of that report.

(b) Within 10 days before the close of the public comment period, the lead agency shall hold a public hearing to receive testimony on the draft environmental impact report. A transcript of the hearing shall be included as an appendix to the final environmental impact report.

(c) (1) Within five days following the close of the public comment period, a commenter on the draft environmental impact report may submit to the lead agency a written request for nonbinding mediation. The lead agency shall participate in nonbinding mediation with all commenters who submitted timely comments on the draft environmental impact report and who requested the mediation. Mediation conducted pursuant to this paragraph shall end no later than 35 days after the close of the public comment period.

(2) A request for mediation shall identify all areas of dispute raised in the comment submitted by the commenter that are to be mediated.

(3) The lead agency shall select one or more mediators who shall be retired judges or recognized experts with at least five years experience in land use and environmental law or science, or mediation.

(4) A mediation session shall be conducted on each area of dispute with the parties requesting mediation on that area of dispute.

(5) The lead agency shall adopt, as a condition of approval, any measures agreed upon by the lead agency and any commenter who requested mediation. A commenter who agrees to a measure pursuant to this subparagraph shall not raise the issue addressed by that measure as a basis for an action or proceeding challenging the lead agency's decision to certify the environmental impact report or to grant one or more initial project approvals.

(d) The lead agency need not consider written comments submitted after the close of the public comment period, unless those comments address any of the following:

(1) New issues raised in the response to comments by the lead agency.

(2) New information released by the public agency subsequent to the release of the draft environmental impact report, such as new information set forth or embodied in a staff report, proposed permit, proposed resolution, ordinance, or similar documents.

(3) Changes made to the project after the close of the public comment period.

(4) Proposed conditions for approval, mitigation measures, or proposed findings required by Section 21081 or a proposed reporting and monitoring program required by paragraph (1) of subdivision (a) of Section 21081.6, where the lead agency releases those documents subsequent to the release of the draft environmental impact report.

(5) New information that was not reasonably known and could not have been reasonably known during the public comment period.

(Added by Stats. 2016, Ch. 31, Sec. 271. (SB 836) Effective June 27, 2016.)

21189.56.

The provisions of this chapter are severable. If any provision of this chapter or its application is held to be invalid, that invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application.
(Added by Stats. 2016, Ch. 31, Sec. 271. (SB 836) Effective June 27, 2016.)

21189.57.

Except as otherwise provided expressly in this chapter, nothing in this chapter affects the duty of any party to comply with this division.
(Added by Stats. 2016, Ch. 31, Sec. 271. (SB 836) Effective June 27, 2016.)

CHAPTER 6.9. Old Town Center Redevelopment in the City of San Diego [21189.70 - 21189.70.10]

(Chapter 6.9 added by Stats. 2020, Ch. 291, Sec. 2.)

21189.70.

For purposes of this chapter, the following definitions apply:
(a) "Lead agency" or "public agency" means SANDAG.
(b) "Navy" means the United States Department of the Navy.
(c) "Old Town Center site" means the approximately 70.5-acres comprising the Naval Base Point Loma's Old Town Center.
(d) "Project labor agreement" has the same meaning as in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.
(e) "SANDAG" means the San Diego Association of Governments.
(f) "Site control" means a lease agreement, property transfer, or other property conveyance from the Navy to SANDAG related to transit and transportation facilities.
(g) "Site plan" means the site development plan approved, on or before December 31, 2022, by the Navy and SANDAG for the Old Town Center site that complies with the content requirements specified in subdivision (a) of Section 65451 of the Government Code and Section 65452 of the Government Code.
(h) "Skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.
(i) "Transit and transportation facilities" means a multimodal regional transportation facility, including a central mobility hub located in the Old Town Center site, and transportation linkages that connect the central mobility hub to the San Diego regional transportation system, as that transportation system existed as of December 31, 2020, and that connect the central mobility hub to the San Diego International Airport. A transit and transportation facility does not include a transit station or hub that is located outside of the Old Town Center site. The central mobility hub may include a multimodal transportation center that may include a high-frequency automated people mover service and one of the following:

(1) A nonstop, high-speed service to San Diego International Airport via a one-mile tunnel route.

(2) Service to San Diego International Airport via a 3.6 mile surface or elevated automated people mover route along the Pacific Highway, Laurel Street, and Harbor Drive with intermediate stops at the airport rental car center and the planned development at Harbor Island East Basin.

(3) An airport-like curb experience for auto-based travelers, an automated people mover station that would provide services to San Diego International Airport via a 2.6 mile surface or elevated route along the Pacific Highway, Laurel Street, and Harbor Drive, with intermediate stops at the airport rental car center and planned development at the Harbor Island East Basin.

(j) "Transit-oriented development project" means a project for the redevelopment of the Old Town Center site that substantially conforms to the description of the proposed action for the Navy Old Town Campus Revitalization at Naval Base Point Loma, California, set forth in the notice of intent to prepare an environmental impact statement published in the Federal Register on January 24, 2020, and that includes up to 10,000 residential units and up to 1,600,000 square feet of office and retail space, and one of the following:

(1) High-density mixed-use revitalization, including a transit center.

(2) Low-density mixed-use revitalization, including a transit center.

(Added by Stats. 2020, Ch. 291, Sec. 2. (AB 2731) Effective January 1, 2021.)

21189.70.1.

(a) For purposes of this section, the following definitions apply:

(1) "Employment center project" means a project with a floor area ratio of no less than 0.75 and that is located within a transit priority area.

(2) "Floor area ratio" has the same meaning as in Section 21099.

(3) "Transit priority area" has the same meaning as in Section 21099.

(b) Except as provided in subdivision (c), the requirements of this division are satisfied by an environmental impact statement prepared pursuant to the notice of intent described in subdivision (i) of Section 21189.70 and that meets the requirements of subdivision (d) for a transit-oriented development project, including a residential, employment center, or mixed-use development project, approved by the lead agency, located in the Old Town Center site, if the transit-oriented development project meets all of the following criteria:

(1) The transit-oriented development project is proposed within a transit priority area.

(2) (A) The transit-oriented development project is undertaken to implement and is consistent with the land use standards approved by the Navy and SANDAG for the Old Town Center site and the site plan for which the environmental impact report has been certified on or before December 31, 2022.

(B) The site plan shall meet a vehicle miles traveled reduction of 25 percent below the regional average vehicle miles traveled identified in the sustainable communities strategy or alternative planning strategy applicable at the time of the approval of the site plan.

(3) The transit-oriented development project is consistent with the general use designation, density, building intensity, and applicable policies specified in the Old Town Center site in either a sustainable communities strategy or an alternative planning strategy for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted SANDAG's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emissions reduction targets.

(4) (A) For a transit-oriented development project undertaken by a public agency, except as provided in subparagraph (B), an entity shall not be prequalified or shortlisted or awarded a contract by the public agency to perform any portion of the transit-oriented development project unless the entity provides an enforceable commitment to the public agency that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the transit-oriented development project or contract that falls within an apprenticeable occupation in the building and construction trades.

(B) Subparagraph (A) does not apply if any of the following requirements are met:

(i) The public agency has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the transit-oriented development project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.

(ii) The transit-oriented development project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the public agency before January 1, 2021.

(iii) The entity has entered into a project labor agreement that will bind the entity and all of its subcontractors at every tier performing the transit-oriented development project or contract to use a skilled and trained workforce.

(5) For a transit-oriented development project undertaken by a private entity, the transit-oriented development project applicant shall do both of the following:

(A) Certify to the lead agency that either of the following is true:

(i) The entirety of the transit-oriented development project is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) If the transit-oriented development project is not in its entirety a public work, all construction workers employed in the execution of the transit-oriented development project will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the transit-oriented development project is subject to this clause, then, for those portions of the transit-oriented development project that are not a public work, all of the following shall apply:

(I) The transit-oriented development project applicant shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided by that section.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the transit-oriented development project, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) do not apply if all contractors and subcontractors performing work on the transit-oriented development project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the transit-oriented development project and provides for enforcement of that obligation through an arbitration procedure.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude the use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) Certify to the lead agency that a skilled and trained workforce will be used to perform all construction work on the transit-oriented development project. All of the following requirements shall apply to the transit-oriented development project:

(i) The transit-oriented development project applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the transit-oriented development project.

(ii) Every contractor and subcontractor shall use a skilled and trained workforce to complete the transit-oriented development project.

(iii) (I) Except as provided in subclause (II), the transit-oriented development project applicant shall provide to the lead agency, on a monthly basis while the transit-oriented development project or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the lead agency pursuant to this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall be open to public inspection. A transit-oriented development project applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the transit-oriented development project using

the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(II) Subclause (I) does not apply if all contractors and subcontractors performing work on the transit-oriented development project are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure.

(c) Further environmental review, including the preparation of a supplemental environmental impact report, if appropriate, shall be conducted only if any of the events specified in Section 21166 have occurred.

(d) (1) Pursuant to Section 21083.5, the environmental impact statement prepared by the Navy for the redevelopment of the Old Town Center site pursuant to the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) may be used in lieu of all or any part of an environmental impact report prepared pursuant to this division for the redevelopment of the Old Town Center site if that statement complies with the applicable requirements of this division and the guidelines adopted pursuant to this division and its use for purposes of compliance with this division shall not in and of itself constitute a prejudicial abuse of discretion so long as the lead agency consults with the Navy, notifies the Navy regarding any scoping meetings for the proposed transit-oriented development project, and a discussion of mitigation measures or growth-inducing impacts are included in the environmental impact statement.

(2) Paragraph (1) is not intended to exempt approvals of public agencies from the requirements of Section 21081, 21081.6, 21100, or 21151, or to limit judicial review of those approvals under Section 21168.

(3) Any significant impacts identified in the Navy's environmental impact statement for the redevelopment of the Old Town Center site that are offsite of the Old Town Center site and that are incorporated by the lead agency into the environmental impact report shall be subject to the applicable mitigation requirements and enforcement provisions of this division.

(e) The approval of a transit-oriented development project shall be preceded by a determination under subdivisions (b) and (c).

(Added by Stats. 2020, Ch. 291, Sec. 2. (AB 2731) Effective January 1, 2021. Superseded on January 1, 2023; see amendment by Stats. 2021, Ch. 615.)

21189.70.1.

(a) For purposes of this section, the following definitions apply:

(1) "Employment center project" means a project with a floor area ratio of no less than 0.75 and that is located within a transit priority area.

(2) "Floor area ratio" has the same meaning as in Section 21099.

(3) "Transit priority area" has the same meaning as in Section 21099.

(b) Except as provided in subdivision (c), the requirements of this division are satisfied by an environmental impact statement prepared pursuant to the notice of intent described in subdivision (i) of Section 21189.70 and that meets the requirements of subdivision (d) for a transit-oriented development project, including a residential, employment center, or mixed-use development project, approved by the lead agency, located in the Old Town Center site, if the transit-oriented development project meets all of the following criteria:

(1) The transit-oriented development project is proposed within a transit priority area.

(2) (A) The transit-oriented development project is undertaken to implement and is consistent with the land use standards approved by the Navy and SANDAG for the Old Town Center site and the site plan for which the environmental impact report has been certified on or before December 31, 2022.

(B) The site plan shall meet a vehicle miles traveled reduction of 25 percent below the regional average vehicle miles traveled identified in the sustainable communities strategy or alternative planning strategy applicable at the time of the approval of the site plan.

(3) The transit-oriented development project is consistent with the general use designation, density, building intensity, and applicable policies specified in the Old Town Center site in either a sustainable communities strategy or an alternative planning strategy for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted SANDAG's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emissions reduction targets.

(4) (A) For a transit-oriented development project undertaken by a public agency, except as provided in subparagraph (B), an entity shall not be prequalified or short-listed or awarded a contract by the public agency to perform any portion of the transit-oriented development project unless the entity provides an enforceable commitment to the public agency that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the transit-oriented development project or contract that falls within an apprenticeable occupation in the building and construction trades.

(B) Subparagraph (A) does not apply if any of the following requirements are met:

(i) The public agency has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the transit-oriented development project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.

(ii) The transit-oriented development project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the public agency before January 1, 2021.

(iii) The entity has entered into a project labor agreement that will bind the entity and all of its subcontractors at every tier performing the transit-oriented development project or contract to use a skilled and trained workforce.

(5) For a transit-oriented development project undertaken by a private entity, the transit-oriented development project applicant shall do both of the following:

(A) Certify to the lead agency that either of the following is true:

(i) The entirety of the transit-oriented development project is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) If the transit-oriented development project is not in its entirety a public work, all construction workers employed in the execution of the transit-oriented development project will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the transit-oriented development project is subject to this clause, then, for those portions of the transit-oriented development project that are not a public work, all of the following shall apply:

(I) The transit-oriented development project applicant shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided by that section.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil

wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the transit-oriented development project, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) do not apply if all contractors and subcontractors performing work on the transit-oriented development project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the transit-oriented development project and provides for enforcement of that obligation through an arbitration procedure.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude the use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) Certify to the lead agency that a skilled and trained workforce will be used to perform all construction work on the transit-oriented development project. All of the following requirements shall apply to the transit-oriented development project:

(i) The transit-oriented development project applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the transit-oriented development project.

(ii) Every contractor and subcontractor shall use a skilled and trained workforce to complete the transit-oriented development project.

(iii) (I) Except as provided in subclause (II), the transit-oriented development project applicant shall provide to the lead agency, on a monthly basis while the transit-oriented development project or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the lead agency pursuant to this subclause shall be a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall be open to public inspection. A transit-

oriented development project applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the transit-oriented development project using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(II) Subclause (I) does not apply if all contractors and subcontractors performing work on the transit-oriented development project are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure.

(c) Further environmental review, including the preparation of a supplemental environmental impact report, if appropriate, shall be conducted only if any of the events specified in Section 21166 have occurred.

(d) (1) Pursuant to Section 21083.5, the environmental impact statement prepared by the Navy for the redevelopment of the Old Town Center site pursuant to the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) may be used in lieu of all or any part of an environmental impact report prepared pursuant to this division for the redevelopment of the Old Town Center site if that statement complies with the applicable requirements of this division and the guidelines adopted pursuant to this division and its use for purposes of compliance with this division shall not in and of itself constitute a prejudicial abuse of discretion so long as the lead agency consults with the Navy, notifies the Navy regarding any scoping meetings for the proposed transit-oriented development project, and a discussion of mitigation measures or growth-inducing impacts are included in the environmental impact statement.

(2) Paragraph (1) is not intended to exempt approvals of public agencies from the requirements of Section 21081, 21081.6, 21100, or 21151, or to limit judicial review of those approvals under Section 21168.

(3) Any significant impacts identified in the Navy's environmental impact statement for the redevelopment of the Old Town Center site that are offsite of the Old Town Center site and that are incorporated by the lead agency into the environmental impact report shall be subject to the applicable mitigation requirements and enforcement provisions of this division.

(e) The approval of a transit-oriented development project shall be preceded by a determination under subdivisions (b) and (c).

(Amended by Stats. 2021, Ch. 615, Sec. 382. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

21189.70.2.

A transit and transportation facilities project subject to this chapter shall meet all of the following requirements:

(a) Any facility that is a part of the transit and transportation facilities project shall obtain Leadership in Energy and Environmental Design (LEED) gold certification for new construction within one year of the transit and transportation facilities project completion.

(b) (1) The project does not result in any net additional emission of greenhouse gases, as determined by the State Air Resources Board pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code. The State Air Resources Board is encouraged to make its determination no later than 120 calendar days after receiving an application for review of the methodology and calculations of the project's greenhouse gas emissions.

(2) The environmental baseline for greenhouse gas emissions shall be established based upon the physical conditions at the project site at the time the notice of preparation for the project-level environmental impact report is published in a manner consistent with Section 15125 of Title 14 of the California Code of Regulations as those regulations existed on January 1, 2020.

(3) To maximize public health and environmental benefits, the lead agency shall require measures that will reduce the emissions of greenhouse gases in the project area and in the neighboring communities.

(4) Not less than 50 percent of the greenhouse gas emissions reductions necessary to achieve the requirement of this subdivision shall be from local, direct greenhouse gas emissions reduction measures, including, but not limited to, any of the following:

(A) Project design features or onsite reduction measures, or both design features and onsite reduction measures, that include, but are not limited to, any of the following:

(i) Implementing project design features that enable the project to exceed the building energy efficiency standards set forth in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations, except for 50 percent of emissions reductions attributable to design features necessary to meet the LEED gold certification requirement.

(ii) Requiring a transportation demand management program to reduce single-occupancy vehicular travel and vehicle miles traveled.

(iii) Providing onsite renewable energy generation, including a solar roof on the project with a minimum peak generation capacity of 500 kilowatts.

(iv) Providing solar-ready roofs.

(v) Providing cool roofs and cool parking promoting cool surface treatment for new parking facilities.

(B) Offsite reduction measures in the neighboring communities, including, but not limited to, any of the following:

(i) Providing funding to an offsite mitigation project consisting of replacing buses, trolleys, or other transit vehicles with zero-emission vehicles.

(ii) Providing offsite safety or other improvements for bicycles, pedestrians, and transit connections.

(iii) Undertaking or funding building retrofits to improve the energy efficiency of existing buildings.

(5) (A) The transit and transportation facilities project proponent may obtain offset credits for up to 50 percent of the greenhouse gas emissions reductions necessary to achieve the requirement of this subdivision that produce emissions reductions within the City of San Diego or the boundaries of the San Diego County Air Pollution Control District. Any offset credits shall be verified by a third party accredited by the State Air Resources Board, and shall be undertaken in a manner consistent with Division 25.5 (commencing Section 38500) of the Health and Safety Code, including, but not limited to, the requirement that the offset be real, permanent, quantifiable, verifiable, and enforceable, and shall be undertaken from sources in the same community within which the project is located or adjacent communities.

(B) If 50 percent of greenhouse gas emissions reductions necessary to achieve no additional emissions of greenhouse gases cannot be feasibly and fully mitigated by offset credits as described in subparagraph (A), the mitigation of the remaining emissions of greenhouse gases shall be achieved pursuant to the following priority:

(i) Offset credits that would also reduce the emissions of criteria air pollutants or toxic air contaminants. The offsets shall be undertaken in a manner consistent with Division 25.5 (commencing with Section 38500) of the Health and Safety Code, including, but not limited to, the requirement that the offsets be real, permanent, quantifiable, verifiable, and enforceable, and shall be undertaken from sources in the community within which the project is located or in adjacent communities.

(ii) If the remaining emissions of greenhouse gases cannot be feasibly and fully mitigated by the offset credits described in clause (i), the remaining unmitigated greenhouse gas emissions shall be mitigated through the use of offsets that would also reduce the emissions of criteria air pollutants or toxic air contaminants and shall be undertaken in a manner consistent with clause (i) and shall be undertaken from sources that provide a specific,

quantifiable, and direct environmental and public health benefit to the community in which the project is located.

(6) It is the intent of the Legislature, in enacting this subdivision, to maximize the environmental and public health benefits from measures to mitigate the emissions of greenhouse gases of a transit and transportation facilities project to those people that are impacted most by the project.

(c) (1) The transit and transportation facilities project has a transportation demand management program and achieves at least 25 percent reduction in vehicle miles traveled as compared to the regional average vehicle miles traveled identified in the sustainable communities strategy or alternative planning strategy applicable at the time of the approval of the transit and transportation facilities project.

(2) For purposes of this subdivision, "transportation demand management program" means a specific program of strategies, incentives, and tools to be implemented, including, with specified annual status reporting obligations, to reduce vehicle trips by providing opportunities for the public to choose sustainable travel options, such as transit, bicycle riding, or walking. A specific program of strategies, incentives, and tools includes, but is not limited to, any of the following:

(A) Provision of onsite electric vehicle charging stations in excess of applicable requirements.

(B) Provision of dedicated parking for car share or zero-emission vehicles, or both types of vehicles, in excess of applicable requirements.

(C) Provision of bicycle parking in excess of applicable requirements.

(d) The transit and transportation facilities project proponent certifies that the transit and transportation facilities project will comply with Section 21189.70.8.

(Added by Stats. 2020, Ch. 291, Sec. 2. (AB 2731) Effective January 1, 2021. Conditionally inoperative January 1, 2025. Repealed on January 1 following inoperative date, pursuant to Section 21189.70.5.)

21189.70.3.

Notwithstanding any other law, Rules 3.2220 to 3.2237, inclusive, of the California Rules of Court, as may be amended by the Judicial Council, shall apply to an action or proceeding brought to attack, review, set aside, void, or annul the certification of an environmental impact report for the transit and transportation facilities project approved pursuant to Section 21189.70.2 or the granting of any approvals for this project, including any potential appeals to the court of appeal or the Supreme Court, to be resolved, to the extent feasible, within 270 business days of the filing of the certified record of proceedings with the court. On or before January 1, 2022, the Judicial Council shall amend the California Rules of Court, as necessary, to implement this section.

(Added by Stats. 2020, Ch. 291, Sec. 2. (AB 2731) Effective January 1, 2021. Conditionally inoperative January 1, 2025. Repealed on January 1 following inoperative date, pursuant to Section 21189.70.5.)

21189.70.4.

Notwithstanding any other law, the preparation and certification of the record of proceedings for the transit and transportation facilities project shall be performed in the following manner:
(a) The lead agency for the transit and transportation facilities project shall prepare the record of proceedings pursuant to this division concurrently with the administrative process.
(b) All documents and other materials placed in the record of proceedings shall be posted on, and be downloadable from, an internet website maintained by the lead agency commencing with the date of the release of the draft environmental impact report.
(c) The lead agency shall make available to the public in a readily accessible electronic format the draft environmental impact report and all other documents submitted to, or relied on by, the lead agency in the preparation of the draft environmental impact report.
(d) A document prepared by the lead agency or submitted by the transit and transportation facilities project proponent after the date of the release of the draft environmental impact report that is a part of the record of the proceedings shall be made available to the public in a readily accessible electronic format within five business days after the document is released or received by the lead agency.
(e) The lead agency shall encourage written comments on the transit and transportation facilities project to be submitted in a readily accessible electronic format, and shall make any comment available to the public in a readily accessible electronic format within five days of its receipt.
(f) Within 14 business days after the receipt of any comment that is not in an electronic format, the lead agency shall convert that comment into a readily accessible electronic format and make it available to the public in that format.
(g) Notwithstanding subdivisions (b) to (f), inclusive, documents submitted to or relied on by the lead agency that were not prepared specifically for the transit and transportation facilities project and are copyright protected are not required to be made readily accessible in an electronic format. For those copyright-protected documents, the lead agency shall make an index of these documents available in an electronic format no later than the date of the release of the draft environmental impact report, or within five business days if the document is received or relied on by the lead agency after the release of the draft environmental impact report. The index shall specify the libraries or lead agency offices in which hardcopies of the copyrighted materials are available for public review.
(h) The lead agency shall certify the final record of proceedings within five days after the filing of the notice required by subdivision (a) of Section 21152.
(i) Any dispute arising from the record of proceedings shall be resolved by the superior court. Unless the superior court directs otherwise, a party disputing the content of the record of proceedings shall file a motion to augment the record of proceedings at the time it files its initial brief.
(j) The contents of the record of proceedings shall be as set forth in subdivision (e) of Section 21167.6.
(Added by Stats. 2020, Ch. 291, Sec. 2. (AB 2731) Effective January 1, 2021. Conditionally inoperative January 1, 2025. Repealed on January 1 following inoperative date, pursuant to Section 21189.70.5.)

21189.70.5.

(a) If the lead agency fails to certify an environmental impact report for the transit and transportation facilities project before January 1, 2025, Sections 21189.70.2 to 21189.70.7, inclusive, shall become inoperative and are repealed on January 1 of the following year.
(b) On or before February 1, 2025, the lead agency shall, if it fails to certify the environmental impact report for the transit and transportation facilities project before January 1, 2025, notify the Secretary of State of its failure.
(c) SANDAG may obtain site control to support the redevelopment of the Old Town Center site, including the transit and transportation facilities project, before completing environmental review pursuant to this division.
(Added by Stats. 2020, Ch. 291, Sec. 2. (AB 2731) Effective January 1, 2021. Conditionally repealed by its own provisions.)

21189.70.6.

(a) The draft and final environmental impact report for the transit and transportation facilities project shall include a notice in not less than 12-point type stating the following:

THIS ENVIRONMENTAL IMPACT REPORT (EIR) IS SUBJECT TO CHAPTER 6.9 (COMMENCING WITH SECTION 21189.70) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG OTHER THINGS, THAT THE LEAD AGENCY NEED NOT CONSIDER CERTAIN COMMENTS FILED AFTER THE CLOSE OF THE PUBLIC COMMENT PERIOD FOR THE DRAFT EIR. ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF THE EIR OR THE APPROVAL OF THE PROJECT DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH IN CHAPTER 6.9 (COMMENCING WITH SECTION 21189.70) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE. A COPY OF CHAPTER 6.9 (COMMENCING WITH SECTION 21189.70) OF DIVISION 13 OF THE PUBLIC RESOURCES CODE IS INCLUDED IN THE APPENDIX TO THIS EIR.

(b) The draft environmental impact report and final environmental impact report shall contain, as an appendix, the full text of this section.
(c) Within 10 days after the release of the draft environmental impact report, the lead agency shall conduct an informational workshop to inform the public of the key analyses and conclusions of that report.
(d) Within 10 days before the close of the public comment period, the lead agency shall hold a public hearing to receive testimony on the draft environmental impact report. A transcript of the hearing shall be included as an appendix to the final environmental impact report.
(e) (1) Within five days following the close of the public comment period, a commenter on the draft environmental impact report may submit to the lead agency a written request for nonbinding mediation. The lead agency and transit and transportation facilities project proponent shall participate in nonbinding mediation with all commenters who submitted timely comments on the draft environmental

impact report and who requested the mediation. Mediation conducted pursuant to this paragraph shall end no later than 35 days after the close of the public comment period.

(2) A request for mediation shall identify all areas of dispute raised in the comment submitted by the commenter that are to be mediated.

(3) The lead agency shall select one or more mediators who shall be retired judges or recognized experts with at least five years of experience in land use and environmental law or science, or mediation. The transit and transportation facilities project proponent shall bear the costs of mediation.

(4) A mediation session shall be conducted on each area of dispute with the parties requesting mediation on that area of dispute.

(5) The lead agency shall adopt, as a condition of approval, any measures agreed upon by the lead agency, the transit and transportation facilities project proponent, and any commenter who requested mediation. A commenter who agrees to a measure pursuant to this paragraph shall not raise the issue addressed by that measure as a basis for an action or proceeding challenging the lead agency's decision to certify the environmental impact report or to grant one or more initial transit and transportation facilities project approvals.

(f) The lead agency need not consider written comments submitted after the close of the public comment period, unless those comments address any of the following:

(1) New issues raised in the response to comments by the lead agency.

(2) New information released by the public agency subsequent to the release of the draft environmental impact report, such as new information set forth or embodied in a staff report, proposed permit, proposed resolution, ordinance, or similar documents.

(3) Changes made to the transit and transportation facilities project after the close of the public comment period.

(4) Proposed conditions for approval, mitigation measures, or proposed findings required by Section 21081 or a proposed reporting or monitoring program required by paragraph (1) of subdivision (a) of Section 21081.6, where the lead agency releases those documents subsequent to the release of the draft environmental impact report.

(5) New information that was not reasonably known and could not have been reasonably known during the public comment period.

(g) (1) The lead agency shall file the notice required by subdivision (a) of Section 21152 within five days after the last initial transit and transportation facilities project approval.

(2) (A) The lead agency shall prepare and certify the record of proceedings in accordance with this subdivision and in accordance with Rule 3.1365 of the California Rules of Court. The transit and transportation facilities project

proponent shall pay the lead agency for all costs of preparing and certifying the record of proceedings.

(B) No later than three business days following the date of the release of the draft environmental impact report, the lead agency shall make available to the public in a readily accessible electronic format the draft environmental impact report and all other documents submitted to or relied on by the lead agency in the preparation of the draft environmental impact report. A document prepared by the lead agency or submitted by the transit and transportation facilities project proponent after the date of the release of the draft environmental impact report that is a part of the record of proceedings shall be made available to the public in a readily accessible electronic format within five business days after the document is prepared or received by the lead agency.

(C) Notwithstanding subparagraph (B), documents submitted to or relied on by the lead agency that were not prepared specifically for the transit and transportation facilities project and are copyright-protected are not required to be made readily accessible in an electronic format. For those copyright protected documents, the lead agency shall make an index of these documents available in an electronic format no later than the date of the release of the draft environmental impact report, or within five business days if the document is received or relied on by the lead agency after the release of the draft environmental impact report. The index must specify the libraries or lead agency offices in which hardcopies of the copyrighted materials are available for public review.

(D) The lead agency shall encourage written comments on the transit and transportation facilities project to be submitted in a readily accessible electronic format, and shall make any such comment available to the public in a readily accessible electronic format within five days of its receipt.

(E) Within seven business days after the receipt of any comment that is not in an electronic format, the lead agency shall convert that comment into a readily accessible electronic format and make it available to the public in that format.

(F) The lead agency shall indicate in the record of proceedings comments received that were not considered by the lead agency pursuant to subdivision (f) and need not include the content of the comments as a part of the record of proceedings.

(G) Within five days after the filing of the notice required by subdivision (a) of Section 21152, the lead agency shall certify the record of proceedings for the approval or determination and shall provide an electronic copy of the record of proceedings to a party that has submitted a written request for a copy. The lead agency may charge and collect a reasonable fee from a party requesting a copy of the record of proceedings for the electronic copy, which shall not exceed the reasonable cost of reproducing that copy.

(3) Within 10 days after being served with a complaint or a petition for a writ of mandate, the lead agency shall lodge a copy of the certified record of proceedings with the superior court.

(4) Any dispute over the content of the record of proceedings shall be resolved by the superior court. Unless the superior court directs otherwise, a party disputing the content of the record of proceedings shall file a motion to augment the record of proceedings at the time it files its initial brief.

(5) The contents of the record of proceedings shall be as set forth in subdivision (e) of Section 21167.6.

(h) Except as provided in subdivision (c) of Section 21189.70.5, the approval of a transit and transportation facilities project shall be preceded by the certification of a project-level environmental impact report.

(Added by Stats. 2020, Ch. 291, Sec. 2. (AB 2731) Effective January 1, 2021. Conditionally inoperative January 1, 2025. Repealed on January 1 following inoperative date, pursuant to Section 21189.70.5.)

21189.70.7.

Except as provided in this chapter, an action or proceeding to attack, set aside, void, or annul a determination, finding, or decision of the lead agency granting the approval for a transit and transportation facilities project shall be subject to the requirements of Chapter 6 (commencing with Section 21165).

(Added by Stats. 2020, Ch. 291, Sec. 2. (AB 2731) Effective January 1, 2021. Conditionally inoperative January 1, 2025. Repealed on January 1 following inoperative date, pursuant to Section 21189.70.5.)

21189.70.8.

(a) (1) For a transit and transportation facilities project undertaken by a public agency, except as provided in paragraph (2), an entity shall not be prequalified or shortlisted or awarded a contract by the public agency to perform any portion of the transit and transportation facilities project unless the entity provides an enforceable commitment to the public agency that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the transit and transportation facilities project or contract that falls within an apprenticeable occupation in the building and construction trades.

(2) Paragraph (1) does not apply if any of the following requirements are met:

(A) The public agency has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the transit and transportation facilities project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.

(B) The transit and transportation facilities project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the public agency before January 1, 2021.

(C) The entity has entered into a project labor agreement that will bind the entity and all of its subcontractors at every tier performing the transit and transportation facilities project or contract to use a skilled and trained workforce.

(b) For a transit and transportation facilities project undertaken by a private entity, the transit and transportation facilities project proponent shall do both of the following:

(1) Certify to the lead agency that either of the following is true:

(A) The entirety of the transit and transportation facilities project is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(B) If the transit and transportation facilities project is not in its entirety a public work, all construction workers employed in the execution of the transit and transportation facilities project will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the transit and transportation facilities project is subject to this subparagraph, then, for those portions of the transit and transportation facilities project that are not a public work, all of the following shall apply:

(i) The transit and transportation facilities project proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(ii) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(iii) (I) Except as provided in subclause (III), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided by that section.

(II) Except as provided in subclause (III), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the transit and transportation facilities project, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management

committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(III) Subclauses (I) and (II) do not apply if all contractors and subcontractors performing work on the transit and transportation facilities project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the transit and transportation facilities project and provides for enforcement of that obligation through an arbitration procedure.

(iv) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(2) Certify to the lead agency that a skilled and trained workforce will be used to perform all construction work on the transit and transportation facilities project. All of the following requirements shall apply to the transit and transportation facilities project:

(A) The transit and transportation facilities project proponent shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the transit and transportation facilities project.

(B) Every contractor and subcontractor shall use a skilled and trained workforce to complete the transit and transportation facilities project.

(C) (i) Except as provided in clause (ii), the transit and transportation facilities project proponent shall provide to the lead agency, on a monthly basis while the transit and transportation facilities project or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the lead agency pursuant to this clause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall be open to public inspection. A transit and transportation facilities project proponent that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and

trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the transit and transportation facilities project using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(ii) Clause (i) does not apply if all contractors and subcontractors performing work on the transit and transportation facilities project are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure.

(Added by Stats. 2020, Ch. 291, Sec. 2. (AB 2731) Effective January 1, 2021.)

21189.70.9.

Notwithstanding Section 21189.70.10, the requirements of paragraph (4) of subdivision (b) of Section 21189.70.1 regarding the payment of prevailing wages and use of a skilled and trained workforce are material and integral parts of Section 21189.70.1. If the requirements of paragraph (4) of subdivision (b) of Section 21189.70.1 cannot lawfully be applied to a transit-oriented development project, then the other provisions of 21189.70.1 shall be null and void with respect to that transit-oriented development project unless all contractors and subcontractors performing work on the project are subject to a project labor agreement that provides hiring preferences for veterans and for apprentices who were emancipated minors or in foster care.
(Added by Stats. 2020, Ch. 291, Sec. 2. (AB 2731) Effective January 1, 2021.)

21189.70.10.

Except as provided in Section 21189.70.9, the provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.
(Added by Stats. 2020, Ch. 291, Sec. 2. (AB 2731) Effective January 1, 2021.)