

# CEQA

The California Environmental Quality Act

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

## **Article 19. Categorical Exemptions**

### **Sections 15300 to 15332**

*(Note: Newly revised language is underlined; deleted language is stricken through. The numbered sections have been adopted by the Secretary of Resources as part of the California Code of Regulations. The discussions after each section are provided by the Governor's Office of Planning and Research; they are not in the California Code of Regulations.)*

### **15300. Categorical Exemptions**

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

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

#### **15300.1. Relation to Ministerial Projects**

Section 21080 of the Public Resources Code exempts from the application of CEQA those projects over which public agencies exercise only ministerial authority. Since ministerial projects are already exempt, categorical exemptions should be applied only where a project is not ministerial under a public agency's statutes and ordinances. The inclusion of activities which may be ministerial within the classes and examples contained in this article shall not be construed as a finding by the Secretary for Resources that such an activity is discretionary.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

#### **15300.2. Exceptions**

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a

particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

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

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

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

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

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; References: Sections 21084 and 21084.1, Public Resources Code; *Wildlife Alive v. Chickering* (1977) 18 Cal.3d 190; *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896; *Citizens for Responsible Development in West Hollywood v. City of West Hollywood* (1995) 39 Cal.App.4th 925; *City of Pasadena v. State of California* (1993) 14 Cal.App.4th 810; *Association for the Protection etc. Values v. City of Ukiah* (1991) 2 Cal.App.4th 720; and *Baird v. County of Contra Costa* (1995) 32 Cal.App.4th 1464

Discussion: In *McQueen v. Mid-Peninsula Regional Open Space* (1988) 202 Cal. App. 3d 1136, the court reiterated that categorical exemptions are construed strictly, shall not be unreasonably expanded beyond their terms, and may not be used where there is substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment.

Public Resources Code Section 21084 provides several additional exceptions to the use of categorical exemptions. Pursuant to that statute, none of the following may qualify as a categorical exemption: (1) a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources within a scenic highway (this does not apply to improvements which are required as mitigation for a project for which a negative declaration or EIR has previously been adopted or certified; (2) a project located on a site included on any list compiled pursuant to Government Code section 65962.5 (hazardous and toxic waste sites, etc.); and (3) a project which may cause a substantial adverse change in the significance of a historical resource.

### 15300.3. Revisions to List of Categorical Exemptions

A public agency may, at any time, request that a new class of categorical exemptions be added, or an existing one amended or deleted. This request must be made in writing to the Office of Planning and Research and shall contain detailed information to support the request. The granting of such request shall be by amendment to these Guidelines.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

### 15300.4. Application By Public Agencies

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

## 15301. Existing Facilities

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

Examples include but are not limited to:

- (a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;
- (b) Existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;
- (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety).
- (d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;
- (e) Additions to existing structures provided that the addition will not result in an increase of more than:
  - (1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or
  - (2) 10,000 square feet if:
    - (A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and
    - (B) The area in which the project is located is not environmentally sensitive.
- (f) Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices;
- (g) New copy on existing on and off-premise signs;
- (h) Maintenance of existing landscaping, native growth, and water supply reservoirs (excluding the use of pesticides economic poisons, as defined in Section 12753, Division 7, Chapter 2, Food and Agricultural Code California Agricultural Code);
- (i) Maintenance of fish screens, fish ladders, wildlife habitat areas, artificial wildlife waterway

devices, streamflows, springs and waterholes, and stream channels (clearing of debris) to protect fish and wildlife resources;

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

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

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

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

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

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

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

(m) Minor repairs and alterations to existing dams and appurtenant structures under the supervision of the Department of Water Resources.

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

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

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; References: Sections 21084 and 21084.2, Public Resources Code; *Bloom v. McGurk* (1994) 26 Cal.App.4th 1307.

Discussion: This section describes the class of projects wherein the proposed activity will involve negligible or no expansion of the use existing at the time the exemption is granted. Application of this exemption, as all categorical exemptions, is limited by the factors described in section 15300.2. Accordingly, a project with significant cumulative impacts or which otherwise has a reasonable possibility of resulting in a significant effect does not qualify for a Class 1 exemption.

## 15302. Replacement or Reconstruction

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

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

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

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

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

### 15303. New Construction or Conversion of Small Structures

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

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

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

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

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

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

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21084 and 21084.2, Public Resources Code.

**Discussion:** This section describes the class of small projects involving new construction or conversion of existing small structures. The 1998 revisions to the section clarify the types of projects to which it applies. In order to simplify and standardize application of this section to commercial structures, the reference to occupant load of 30 persons or less contained in the prior guideline was replaced by a limit on square footage. Subsection (c) further limits the use of this exemption to those commercial projects which have available all necessary public services and facilities, and which are not located in an environmentally sensitive area.

### 15304. Minor Alterations to Land

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

- (a) Grading on land with a slope of less than 10 percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist.
- (b) New gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping.
- (c) Filling of earth into previously excavated land with material compatible with the natural features of the site.
- (d) Minor alterations in land, water, and vegetation on existing officially designated wildlife management areas or fish production facilities which result in improvement of habitat for fish and wildlife resources or greater fish production;
- (e) Minor temporary use of land having negligible or no permanent effects on the environment, including carnivals, sales of Christmas trees, etc;
- (f) Minor trenching and backfilling where the surface is restored;
- (g) Maintenance dredging where the spoil is deposited in a spoil area authorized by all applicable state and federal regulatory agencies;
- (h) The creation of bicycle lanes on existing rights-of-way.
- (i) Fuel management activities within 30 feet of structures to reduce the volume of flammable vegetation, provided that the activities will not result in the taking of endangered, rare, or threatened plant or animal species or significant erosion and sedimentation of surface waters. This exemption shall apply to fuel management activities within 100 feet of a structure if the public agency having fire protection responsibility for the area has determined that 100 feet of fuel clearance is required due to extra hazardous fire conditions.

**Note:** Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

**Discussion:** This section describes the class of projects involving minor alterations to the land. The 1998 revision to the section specified that this exemption applies to fuel management activities which will not impact threatened or endangered species or result in significant erosion or sedimentation.

**15305. Minor Alterations in Land Use Limitations**

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

- (a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;
- (b) Issuance of minor encroachment permits;
- (c) Reversion to acreage in accordance with the Subdivision Map Act.

**Note:** Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

**15306. Information Collection**

Class 6 consists of basic data collection, research, experimental management, and resource evaluation

activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15307. Actions by Regulatory Agencies for Protection of Natural Resources**

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15308. Actions by Regulatory Agencies for Protection of the Environment**

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code; *International Longshoremen's and Warehousemen's Union v. Board of Supervisors*, (1981) 116 Cal. App. 3d 265.

Discussion: This section reflects the ruling in *International Longshoremen's and Warehousemen's Union v. Board of Supervisors*, (1981) 116 Cal. App. 3d 265. That decision ruled that the use of categorical exemption Class 8 was improper for a change in a county air pollution rule that allowed a doubling of the emissions of oxides of nitrogen. The court followed the ruling in *Wildlife Alive v. Chickering*, (1976) 18 Cal. 3d 190 that provided that where there is a reasonable possibility that a project or activity may have a significant effect on the environment, an exemption is improper.

### **15309. Inspections**

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15310. Loans**

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

(a) Loans made by the Department of Veterans Affairs under the Veterans Farm and Home Purchase

Act of 1943.

(b) Purchases of mortgages from banks and mortgage companies by the Public Employees Retirement System and by the State Teachers Retirement System.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

### 15311. Accessory Structures

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

(a) On-premise signs;

(b) Small parking lots;

(c) Placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar items in generally the same locations from time to time in publicly owned parks, stadiums, or other facilities designed for public use.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

### 15312. Surplus Government Property Sales

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

(a) The property does not have significant values for wildlife habitat or other environmental purposes, and

(b) Any of the following conditions exist:

(1) The property is of such size, shape, or inaccessibility that it is incapable of independent development or use; or

(2) The property to be sold would qualify for an exemption under any other class of categorical exemption in these Guidelines; or

(3) The use of the property and adjacent property has not changed since the time of purchase by the public agency.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

Discussion: In *McQueen v. Midpeninsula Regional Open Space District* (1988) 202 Cal. App. 3d 1136, the court stated that the terms 'sale' and 'acquisition' are not interchangeable and reaffirmed that exemptions must comply with the "specific terms" of the exemption which are to be narrowly construed.

### 15313. Acquisition of Lands for Wildlife Conservation Purposes

Class 13 consists of the acquisition of lands for fish and wildlife conservation purposes including preservation of fish and wildlife habitat, establishing ecological reserves under Fish and Game Code Section 1580, and preserving access to public lands and waters where the purpose of the acquisition is



to preserve the land in its natural condition.

**Note:** Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15314. Minor Additions to Schools**

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

**Note:** Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15315. Minor Land Divisions**

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

**Note:** Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15316. Transfer of Ownership of Land in Order to Create Parks**

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

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

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

**Note:** Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21084, 21083.2, and 21084.1, Public Resources Code.

**Discussion:** In *McQueen v. Midpeninsula Regional Open Space District* (1988) 202 Cal. App. 3d 1136, the court ruled that the taking or acquiring property "as-is" does not constitute a "natural condition" when there is substantial evidence in the record that hazardous waste has been upon it.

### **15317. Open Space Contracts or Easements**

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

**Note:** Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15318. Designation of Wilderness Areas**

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

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

Class 19 consists of only the following annexations:

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

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

Discussion: The exemption under subsection (a) is not allowed if it is foreseeable that utility services would extend into the annexed parcels and have the potential to serve a greater capacity than existing uses. The exemption is also unavailable if "unusual circumstances" under Section 15300.2(c) are found. For example, in *City of Santa Clara v. LAFCO of Santa Clara County*, (1983) 139 Cal. App. 3d 923, the court found that unusual circumstances existed when the annexing city's general plan called for the newly annexed parcels to eventually become residential and industrial rather than the pre-zoned agricultural use. The unusual circumstances arose from the inconsistency between the pre-zoned agricultural use and the general plan's designated land use and thus precluded the use of this categorical exemption.

### 15320. Changes in Organization of Local Agencies

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

- (a) Establishment of a subsidiary district;
- (b) Consolidation of two or more districts having identical powers;
- (c) Merger with a city of a district lying entirely within the boundaries of the city.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

### 15321. Enforcement Actions by Regulatory Agencies

Class 21 consists of:

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

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

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

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

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

Discussion: The exemption for law enforcement activities by peace officers acting under any law that provides a criminal sanction is based largely on the rationale explained by the court in *Pacific Water Conditioning Association v. City Council*, (1977) 73 Cal. App. 3d 546. There the court noted that enforcement actions are taken long after the public agency, or possibly the State Legislature, has exercised its discretion to set standards governing a certain kind of activity.

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

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

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

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

## 15323. Normal Operations of Facilities for Public Gatherings

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

Discussion: This section clarifies what is meant by the term "a past history of the facility being used for the same kind of purpose." The section relates the concept of past history to public expectations for use of the facility in the future. Where the facility has been used for a particular purpose for several years and people expect the use to continue in the future, continuation of that use would not represent a change in the environmental conditions. For example, if a county fair had included a stock car racing meet for each of three consecutive years, people living in the area would have come to expect that the county fair would involve stock car racing in the future. Continuing racing activity would not represent a substantial change in the environment from what people had come to expect. However, in *Lewis v. 17th District Agricultural Ass'n* (1985) 165 Cal. App. 3d 823, the court found that the

existence of residential areas near a racetrack constituted "unusual circumstances" (Guidelines section 15300.2 (c)) which removed the racing activity from the exemption. Additionally, the court found that imposing mitigation measures to offset the possible significant adverse change in the environment caused by the activity will not cause the exemption to be applicable unless the mitigation measures result in the elimination of the possibility of a significant adverse change in the environment. The decision to allow stock car racing at a county fair in the first place could well call for some kind of CEQA analysis before starting that activity. Once the activity has been established, however, continuing the activity does not represent a change, and absent a significant change in the use and absent the existence of unusual circumstances. Concerning what are considered normal operations of facilities for public gatherings see *Campbell v. Third District Agricultural Association* (1987) 195 Cal.App. 3d 115.

## 15324. Regulations of Working Conditions

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

- (a) Employee wages,
- (b) Hours of work, or
- (c) Working conditions where there will be no demonstrable physical changes outside the place of work.

**Note:** Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

## 15325. Transfers of Ownership of Interest In Land to Preserve Existing Natural Conditions and Historical Resources

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

- (a) Acquisition, sale, or other transfer of areas to preserve existing natural conditions, including plant or animal habitats.
- (b) Acquisition, sale, or other transfer of areas to allow continued agricultural use of the areas.
- (c) Acquisition, sale, or other transfer to allow restoration of natural conditions, including plant or animal habitats.
- (d) Acquisition, sale, or other transfer to prevent encroachment of development into flood plains.
- (e) Acquisition, sale, or other transfer to preserve historical resources.

**Note:** Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

**Discussion:** In *McQueen v. Midpeninsula Regional Open Space District* (1988) 202 Cal. App. 3d 1136, stated that the terms 'sale' and 'acquisition' are not interchangeable and reaffirmed that exemptions must comply with the "specific terms" of the exemption which are to be narrowly construed.

The class of project described by this section consists of transfers of ownership that are made to preserve open space, habitat, or historical resources. The 1998 revisions to this section clarify that sale or other transfer of lands is included among the exempt activities. Use of this exemption, like all categorical exemptions, is limited by the factors described in section 15300.2.

## 15326. Acquisition of Housing for Housing Assistance Programs

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

## 15327. Leasing New Facilities

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

(1) Shall be in conformance with existing state plans and policies and with general, community, and specific plans for which an EIR or Negative Declaration has been prepared;

(2) Shall be substantially the same as that originally proposed at the time the building permit was issued;

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

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

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

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

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

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

## 15328. Small Hydroelectric Projects at Existing Facilities

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

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

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

(1) Rate and volume of flow;

(2) Temperature;

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

(4) Timing of release.

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

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river;

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

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

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

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

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

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

### **15329. Cogeneration Projects at Existing Facilities**

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

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

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

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

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

(1) Meet all the criteria described in subsection (a);

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

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

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

Class 30 consists of any minor cleanup actions taken to prevent, minimize, stabilize, mitigate, or eliminate the release or threat of release of a hazardous waste or substance which are small or medium removal actions costing \$1 million or less. No cleanup action shall be subject to this Class ~~30~~ exemption if the action requires the onsite use of a hazardous waste incinerator or thermal treatment unit, with the exception of low temperature thermal desorption, or the relocation of residences or businesses, or the action involves the potential release into the air of volatile organic compounds as defined in Health and Safety Code section 25123.6, except for small scale in situ soil vapor extraction

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and treatment systems which have been permitted by the local Air Pollution Control District or Air Quality Management District. All actions must be consistent with applicable state and local environmental permitting requirements including, but not limited to, air quality rules such as those governing volatile organic compounds and water quality standards, and approved by the regulatory body with jurisdiction over the site. Examples of such minor cleanup actions include but are not limited to:

- (a) Removal of sealed, non-leaking drums or barrels of hazardous waste or substances that have been stabilized, containerized and are designated for a lawfully permitted destination;
- (b) Maintenance or stabilization of berms, dikes, or surface impoundments;
- (c) Construction or maintenance of interim or temporary surface caps;
- (d) Onsite treatment of contaminated soils or sludges provided treatment system meets Title 22 requirements and local air district requirements;
- (e) Excavation and/or offsite disposal of contaminated soils or sludges in regulated units;
- (f) Application of dust suppressants or dust binders to surface soils;
- (g) Controls for surface water run-on and run-off that meets seismic safety standards;
- (h) Pumping of leaking ponds into an enclosed container;
- (i) Construction of interim or emergency ground water treatment systems;
- (j) Posting of warning signs and fencing for a hazardous waste or substance site that meets legal requirements for protection of wildlife.

**Note:** Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Section 21084, Public Resources Code.

**Discussion:** This defines certain minor hazardous waste or hazardous substances cleanup actions as a class of exempt projects. This exemption is intended to speed such cleanups, while at the same time providing sufficient safeguards to ensure that no significant environmental effects may occur as a result. Application of this exemption, as all categorical exemptions, is limited by the factors described in section 15300.2.

### **15331. Historical Resource Restoration/Rehabilitation.**

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

**Note:** Authority cited: Section 21083 and 21087, Public Resources Code. Reference: Section 21084, Public Resources Code.

**Discussion:** This section establishes an exemption for projects involving the maintenance, rehabilitation, restoration, preservation, or reconstruction of historical resources, provided that the activity meets published federal standards for the treatment of historic properties. These federal standards describe means of preserving, rehabilitating, restoring, and reconstructing historic buildings without adversely affecting their historic significance. Use of this exemption, like all categorical exemptions, is limited by the factors described in section 15300.2 and is not to be used where the activity would cause a substantial adverse change in the significance of a historical resource.

### **15332. In-Fill Development Projects.**

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Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.

(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

(b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

(c) The project site has no value as habitat for endangered, rare or threatened species.

(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

(e) The site can be adequately served by all required utilities and public services.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21084, Public Resources Code.

**Discussion:** This section is intended to promote infill development within urbanized areas. The class consists of environmentally benign in-fill projects which are consistent with local general plan and zoning requirements. This class is not intended to be applied to projects which would result in any significant traffic, noise, air quality, or water quality effects. Application of this exemption, as all categorical exemptions, is limited by the factors described in section 15300.2.

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