

ATTACHMENT C

RESOLUTION No. 2015-95

A RESOLUTION OF THE BOARD OF SUPERVISORS OF TEHAMA COUNTY, ADOPTING THE UPDATE OF THE PROCEDURES FOR PREPARATION AND PROCESSING OF ENVIRONMENTAL DOCUMENTS TO IMPLEMENT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AS AMENDED

WHEREAS, on July 16, 2015 the Planning Commission did conduct a public hearing to receive public comments relating to Resolution No. 2015-07 recommending adoption of the Tehama County's June 22, 2015 "Procedures for Preparation and Processing of Environmental Documents" to the Board of Supervisors. The Procedures Manual update will include current legislative statutes, that will help streamline and assist private parties, as well as, local agencies in the procedures, process, analysis and determination of a project's environmental impact(s), the Planning Commission did consider all related comments; and

WHEREAS, the Planning Commission believes it is necessary to update Tehama County's CEQA Manual for the Procedures for Preparation and Processing of Environmental Documents, as it will address the requirements of CEQA Guidelines Section 15022; and

WHEREAS, on July 16, 2015 the Planning Commission found it in the public interest to recommend to the Tehama County Board of Supervisors that they adopt Tehama County's June 22, 2015 "Procedures for Preparation and Processing of Environmental Documents" by a unanimous vote of 5:0; and

WHEREAS, staff believes that the June 22, 2015 "Procedures for Preparation and Processing of Environmental Documents" will help identify and ensure that individual(s) action(s) do not adversely impact the health, safety, and welfare of the County's citizens as encouraged in the Tehama County General Plan; and

WHEREAS, on January 1, 1990 Tehama County's current "Procedures for Preparation and Processing of Environmental Documents" became effective with no subsequent amendments to date; and

WHEREAS, these latest revisions to the Tehama County June 22, 2015 "Procedures for Preparation and Processing of Environmental Documents" have been prepared to be consistent with the California Environmental Quality Act; and Tehama County General Plan; and

WHEREAS, the Board of Supervisors did conduct a public hearing to receive public comments relating to Board of Supervisors Resolution No. regarding the adoption/approval of the Tehama County's June 22, 2015 "Procedures for Preparation

and Processing of Environmental Documents”. The Procedures Manual update will include current legislative statutes, that will help streamline and assist private parties, as well as, local agencies in the procedures, process, analysis and determination of a project’s environmental impact(s), the Board of Supervisors did consider all related comments; and

WHEREAS, the Board of Supervisors believe that Tehama County’s June 22, 2015 CEQA Manual for the Procedures for Preparation and Processing of Environmental Documents is consistent with, and will address the requirements of CEQA Guidelines Section 15022; and

WHEREAS, the Board of Supervisors of the County of Tehama deems it in the public interest to adopt such procedures; and

WHEREAS, the Board of Supervisors deems the adoption of said CEQA procedures necessary in order to provide for the orderly development of the County and to provide for the promotion and protection of the public health, safety, peace, morals, comfort, convenience and general welfare; and

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Tehama:

1. Finds that adoption of the Board of Supervisors Resolution regarding the approval of Tehama County’s June 22, 2015 “Procedures for Preparation and Processing of Environmental Documents” is exempt from CEQA per CEQA Guidelines 15308 (Class 8 Categorical Exemption) Actions by Regulatory Agencies for Protection of the Environment.
2. Adopts Board of Supervisors Resolution approving/adopting Tehama County’s June 22, 2015 “Procedures for Preparation and Processing of Environmental Documents”.

The foregoing resolution was offered on a motion by Supervisor Garton, seconded by Supervisor Carlson, and carried by the following vote of the Board:

AYES: Supervisors Carlson, Garton, Chamblin, Williams, and Bundy
NOES: None
ABSENT OR NOT VOTING: None

COUNTY OF TEHAMA)ss
)

I, Jennifer A. Vise, County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Tehama, State of California, hereby certify the above and foregoing to be a full, true and correct copy of a resolution adopted by said Board of Supervisors on the 1st day of August, 2015.

DATED: This 18th day of August, 2015.

JENNIFER A. VISE, County Clerk and ex-officio Clerk
of the Board of Supervisors of the County of Tehama,
State of California.

By 

**PROCEDURES FOR PREPARATION AND PROCESSING OF
ENVIRONMENTAL DOCUMENTS
TEHAMA COUNTY 2015**

6-22-15



TEHAMA COUNTY PLANNING DEPARTMENT

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- A. CEQA APPENDIX A PROCESS FLOW CHART

I. INTRODUCTION

The California Environmental Quality Act (CEQA) of 1970 (as amended) is California's most fundamental and far reaching environmental law. CEQA is a procedural act that governs the review and approval process of most developments in California. These policies and procedures are written for the purpose of implementing the requirements of CEQA as contained in §21000 et seq of the Public Resources Code (PRC) and the state CEQA Guidelines as contained in §15000 et seq of the California Code of Regulations (CCR).

A. BASIC PURPOSES OF CEQA (§15002)

The basic purposes of CEQA are to:

- (1) Inform governmental decision-makers and the public about the environmental effects of proposed activities;
- (2) Involve the public in the decision-making process;
- (3) Identify ways that damage to the environment can be avoided or significantly reduced; and,
- (4) Prevent environmental damage by requiring changes in projects through the use of alternatives, mitigation measures, or both.

B. PURPOSE OF COUNTY GUIDELINES

Tehama County's Environmental Review Guidelines (hereafter referred to as Guidelines) set forth comprehensive procedures for complying with the California Environmental Quality Act (CEQA). CEQA requires each public agency to adopt guidelines (objectives, criteria, and specific procedures) for administering its responsibilities under CEQA (§15022 of CAC and §21000 et seq of PRC). The purpose of these Guidelines is to protect both local and regional environmental resources in a manner that reflects local values.

An additional purpose of these Guidelines is to implement Section 15006: to reduce delay and paperwork in determining if CEQA applies to particular projects. Section 15006 enumerates methods for conducting environmental review of projects that are not exempt. The intent of this document is to translate the myriad of State laws and judicial interpretations into a precise guide for use by the County, project proponents, and general public.

Tehama County's CEQA Guidelines are consistent with and summarize State law. Please refer to the State CEQA Guidelines (California Code of Regulations Sections in parentheses) for more detail.

C. PROJECT APPLICATION

1. Review of Application for Filing - All applications for private projects, or projects undertaken by other public entities for which discretionary approval by the County is required, shall be filed with the County and shall include the following:
 - a. A fully completed and signed Application Form/Packet.
 - b. A fully completed and signed Environmental Information Form as included in the appropriate Application Packet.
 - c. The appropriate environmental review fee as set forth on the County's fee schedule.
2. Review of Application for Completeness - The County Planning Department shall determine in writing whether an application is complete within 30 calendar days of receipt (filing). If the application is determined to be incomplete, within this 30 calendar day period, the applicant shall be notified in writing with the reasons as to why it is not complete and with suggested revisions to ensure completeness. The application will be held as pending until the requested information has been provided to the Planning Department. The County then has 30 calendar days to determine whether the application with the requested information is complete.
3. Additional Information - After an application has been accepted as complete, the County Director of Planning or designee may at any time require the applicant to submit additional information needed for environmental evaluation (Initial Study) of the project.
 - a. If the applicant unreasonably fails to supply any additional information needed for the County to complete its environmental evaluation within 30 calendar days after the County's request, the timelines set forth hereunder shall be suspended in accordance with CEQA Guidelines section 15109 and processing of the application shall cease until the applicant provides the additional information.
 - b. Alternatively, the Planning Director may, in their

discretion, send the project to the approving authority with a staff recommendation for Denial without Prejudice.

4. If the Tehama County Director of Planning determines that an EIR should be prepared for a project, the applicant, when authorized by the Director of Planning, may skip further initial review of the project and begin work directly on the EIR process. The Planning Director may specify potentially significant effects to be addressed in the EIR, and the EIR shall, at a minimum, address those effects.

II. OVERVIEW AND SUMMARY OF PROCEDURES (NON-COUNTY PROJECTS)

The following subsections provide the procedures for following CEQA requirements. See Appendix A for helpful flowcharts, outlines, and time periods.

A. CEQA APPLICABILITY

A proposed activity or application must first be evaluated to determine if it is for a "project" and is, therefore, subject to further CEQA review. A project is defined as any discretionary action that may cause a physical change to the environment. A project is the whole of an action that might result in a physical change to the environment, directly or ultimately. However, if the proposed activity is a project under CEQA, it may still be exempt from environmental review. The applicable Exemptions as Identified in Article 18 (Statutory Exemptions) and Article 19 (Categorical Exemptions) of the CEQA Guidelines, are hereby incorporated by reference.

B. CEQA PROCESS (three separate steps):

There are three steps in the CEQA process that incorporate environmental documentation. These three separate steps are taken in deciding which environmental document to prepare for a project subject to CEQA. For private projects, or projects undertaken by other public entities for which discretionary approval by the County is required, the Director of Planning shall specify the minimum level of CEQA review (or exemption) required prior to presentation of the project to the approving body. The Planning Director's determination of the minimum level of CEQA review shall be final, subject to Section 8.D ("Appeal").

1. Preliminary review of a project to determine whether it is subject to CEQA, or is exempt;

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2. If the project is not exempt an Initial Study shall be prepared to determine whether the project may have any significant environmental effects. Unless otherwise specified by the Director of Planning or approving body, the State CEQA Guidelines Initial Study Checklist (Appendix G of CEQA Guidelines), shall be used as the Tehama County Initial Study Checklist.
 3. Preparation of environmental document:
 - a. If the Initial Study shows that there is no substantial evidence that the project may have a significant impact, the County prepares a Negative Declaration.
 - b. If the Initial Study shows the project may have a significant impact but the project can be revised to avoid or mitigate the impact, the County prepares a Mitigated Negative Declaration.
 - c. If the Initial Study shows the project may have a significant impact that cannot be avoided or adequately mitigated, the County requires the preparation of an EIR (Guidelines §15002(k)).

C. INITIAL STUDIES, NEGATIVE DECLARATIONS (N.D.s), MITIGATED NEGATIVE DECLARATIONS (M.N.D.s), AND ENVIRONMENTAL IMPACT REPORTS (EIRs)

Initial Study. If the proposed activity is a project under CEQA (Guidelines, §15378), and is not exempt from review, the County will prepare, or allow an applicant/owner to prepare an Initial Study, which will be reviewed by the Director of Planning or designee for adequacy prior to presentation to the approving body. Where an EIR is required, the preparation of an Initial Study is at the option of the County Director of Planning. The Initial Study determines whether a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report (EIR) is needed.

If the Initial Study identifies potentially significant impacts resulting from a project, the County may consult with the applicant to determine if the applicant is willing to modify the project to reduce or avoid the significant effects identified in the Initial Study (§ 15063(g)). The applicant may make changes to the project, or agree to changes suggested by the County in order to avoid or reduce to insignificance potential impacts (§15063(c)(2) and §15070(b)(1)).

Negative Declaration (N.D.). If no significant impacts are identified, a Negative Declaration is prepared. A Negative Declaration is a written statement by the County describing why a project will not have a significant impact on the environment and therefore does not require the preparation of an EIR. (Guidelines, §15070). The Director of Planning or designee shall make the initial determination regarding whether a Negative Declaration shall be prepared. Except as provided in Section 8.D (“Appeal”), such Negative Declaration, at a minimum, shall be completed before the project is presented to the approving body for consideration.

Mitigated Negative Declaration (M.N.D.). If project revisions or mitigation measures are needed to lessen the impacts to an insignificant level or to avoid significant impacts, then a Mitigated Negative Declaration shall be prepared. (§15041(a)). The Director of Planning or designee shall make the initial determination regarding whether a Mitigated Negative Declaration shall be prepared. Except as provided in Section 8.D (“Appeal”), such Mitigated Negative Declaration, at a minimum, shall be completed before the project is presented to the approving body for consideration.

Focused EIR (PRC §21158). A focused environmental impact report may be permissible pursuant to the criteria specified in Public Resources Code section 21158, incorporated here by reference.

Full EIR. A full EIR shall be required when the physical conditions existing within an area will be potentially significantly affected by a proposed projects impacts, those physical conditions include land, biological (Plant or Animal), air, water, minerals, ambient noise, and objects of historical or aesthetic significance. The Director of Planning or designee shall make the initial determination regarding whether a full EIR shall be prepared. Except as provided in Section 8.D (“Appeal”), such EIR, at a minimum, shall be completed before the project is presented to the approving body for consideration.

- D. CONTENTS OF EIRs (§15120 et seq):** The required contents of EIRs, as set forth in Article 9 of the State Guidelines, are hereby incorporated by reference.

III. AUTHORITY PROVIDED BY CEQA (§15040)

CEQA gives the County, as lead agency, authority to mitigate, disapprove, or approve projects despite significant impacts, and to charge fees to recover

costs incurred in the preparation of the environmental documentation.

A. MITIGATE (§15041(a)):

The County has the authority to require changes in the project to lessen or avoid significant effects on the environment and shall apply mitigation measures to projects as required by applicable law. (Guidelines §15041(a), 15042, & 15064(b); Public Resources Code §21002 & 21004).

B. DISAPPROVE PROJECTS (§15042):

The County may disapprove a project, if necessary pursuant to California Code of Regulations Title 14 section 15042, incorporated here by reference.

C. APPROVE PROJECTS DESPITE SIGNIFICANT EFFECTS (§15043):

The County may approve a project despite significant environmental effects identified in an EIR pursuant to California Code of Regulations Title 14 section 15042, incorporated here by reference.

D. FEES (§15045):

The County, as a lead agency, may charge and collect reasonable fees in order to recover the estimated cost in preparing an Initial Study, Negative Declaration or Mitigated Negative Declaration, and/or EIR. These fees shall be established by Resolution of the Board of Supervisors in accordance with applicable law.

The Board of Supervisors may also, in its discretion, enter into agreements with project applicants for reimbursement of the County's costs associated with the CEQA process upon terms and conditions specified in the agreement.

IV. APPLICABILITY OF CEQA (§15002)

A. TIME OF COMPLIANCE

The County will comply with CEQA procedures as set forth in these guidelines whenever the County proposes to carry out or approve a project. CEQA review, preparation, and certification of appropriate documentation occurs prior to or concurrently with an approval of a private project or authorization of a public project.

B. RESPONSIBILITY FOR COMPLIANCE

The Director of Planning, or Director's designee, shall ensure that these guidelines are followed for public and private projects undertaken, funded, or approved by the County. These guidelines apply to all agencies of the County.

C. ROLES OF TEHAMA COUNTY DIRECTOR OF PLANNING AND APPROVING BODY

1. Where an applicant for a private project is required to comply with CEQA, the Director of Planning or designee shall be responsible for determining completeness of all applications for projects received by the Planning Department. Wherever these guidelines require any determination by an approving body, the Director of Planning or designee shall make a recommendation which shall be considered by the approving body.
2. Where a County Department is required to comply with CEQA, it shall coordinate the CEQA process with Planning Department. The Planning Department shall be notified prior to presentation of the project to the approving body, and the Director of Planning shall make recommendations regarding the nature and scope of CEQA review (or exemption) required, and the conduct of the CEQA process. Unless otherwise directed by the Board of Supervisors, the CEQA review recommended by the Director of Planning, at a minimum, shall be completed before the project is presented to the approving body for consideration.
3. The approving body is the legislative body or officer of the County authorized by law or ordinance to approve a discretionary public or private project (e.g., the Board of Supervisors or Planning Commission). If the approving body for any project is not the Board of Supervisors, any action of the approving body to certify an environmental impact report, approve a negative declaration or mitigated negative declaration, or determine that a project is not subject to CEQA may be appealed to the Board of Supervisors. Such appeal shall be made in accordance with the procedures and timelines set forth in the Tehama County Code for the type of project, or if no procedure is provided by the County Code, shall be filed with the Clerk of the Board of Supervisors within fifteen (15) calendar days of the action of the approving body.
4. The County Counsel's office shall be the legal advisor to the Director of Planning and County approving bodies.

V. PRELIMINARY REVIEW

A. INITIAL PROJECT REVIEW

All Discretionary Projects, as defined herein, that are undertaken or approved by the County, will be reviewed by the Director of Planning or designee for a recommendation to the approving body as to the CEQA review (or exemption) appropriate for the project. Except as provided in Section 8.D ("Appeal"), the CEQA review specified by the Director of Planning, at a minimum, shall be completed before the project is presented to the approving body for consideration.

B. ACTIONS THAT CONSTITUTE A "PROJECT"

Except as otherwise provided, these Guidelines shall apply to Discretionary Projects as defined by Public Resources Code section 21065 and CEQA Guidelines section 15378 incorporated here by reference.

C. DETERMINING EXEMPTIONS

Generally, there are two types of exemptions: statutory and categorical. Statutory exemptions apply to projects that the State Legislature has ruled to have insignificant effects. Statutory exemptions include ministerial projects and emergency projects.

The Planning Department shall make a preliminary investigation regarding whether any exemptions apply to the project, and if so, recommend such exemption(s) to the approving body without delay. (For projects subject to the Permit Streamlining Act, the County must act on a project determined to be exempt within 60 calendar days after determination of exemption by the approving body.)

All proposed activities must be reviewed to determine if one of the following exemptions is appropriate:

1. **Not a Project under CEQA:** If a proposed activity is not a project, it is exempt from CEQA review.
2. **Statutory Exemptions:** Certain activities have been exempted from CEQA by the Legislature. These exemptions include feasibility or planning studies, ministerial projects, and emergency actions. A complete list of statutory exemptions is included in Article 18 of the CEQA Guidelines, which is incorporated by reference.
3. **Categorical Exemptions:** Certain classes or "categories" of

projects have been determined by the State's Secretary for Resources to have an insignificant effect on the environment, and are known as categorical exemptions. Currently, the State's CEQA Guidelines recognize 33 classes of categorically exempt projects. A complete list of these exemptions is in Article 19 of the CEQA Guidelines, which is incorporated by reference.

4. **Exemption Verification:** If a project falls within a Categorical Exemption category, the County shall make an additional inquiry as to whether the Categorical Exemption is inapplicable, because of the existence of any of the factors set forth in CEQA Guidelines section 15300.2. If any of these factors cause the Categorical Exemption to be inapplicable, the applicant shall be required to submit an Environmental Information Form and a detailed project description. Additional information, data, studies, and the like, may be required of the applicant in order for the County to make an environmental determination.

D. GENERAL RULE

Where it can be seen with that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to environmental review. In such cases, the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment (Guidelines, §15061(b)(3)).

E. NOTICE OF EXEMPTION (§15062)

Upon approval of an exempt project by the approving body, the Planning Department or other County Department specified by the approving body shall file a Notice of Exemption with the County Clerk.

1. When the County approves or decides to carry out the project, the Notice of Exemption shall be posted within 24 hours of receipt in the office of the County Clerk. The clerk shall return the notice after it was posted for thirty days to the filing Department. The Department must then retain the notice for two years, or any longer period required by state law or the record retention schedule adopted by the Board of Supervisors. Filing the NOE initiates a 35 calendar day statute of limitations period on legal challenges to the County's determination that the project is exempt from CEQA.
2. The NOE shall include a brief description of the project, findings

of exemption, including citation to the State CEQA Guidelines section under which it is found exempt, and reasons supporting those findings.

F. COUNTY PROJECTS: ENVIRONMENTAL REVIEW PROCEDURES):

When the County, or any of its departments, as the Lead Agency, contemplates any activity subject to CEQA, the following procedures shall be followed.

The department which contemplates the activity potentially subject to CEQA shall first notify the Director of Planning and request a preliminary investigation regarding whether any exemptions apply to the project. If the Director concludes that an exemption applies, the Planning Department shall assist the requesting department in preparing appropriate exemption findings and draft notice of exemption, and the project may be presented to the approving body with the recommendation that such exemption be adopted.

If the activity is not exempt, the department shall consult with the Director of Planning regarding the nature and scope of CEQA review (or exemption) required, and the conduct of the CEQA process. Unless otherwise directed by the Board of Supervisors, the CEQA review recommended by the Director of Planning, at a minimum, shall be completed before the project is presented to the approving body for consideration.

Review of County projects shall generally proceed as set forth in Section VI through IX, to the extent applicable.

VI. INITIAL STUDY

The County, or the project applicant as authorized by the Director of Planning, will prepare an Initial Study within 30 calendar days after determining the application is complete. The 30 calendar day period may be extended 15 calendar days upon the consent of the County and the project applicant.

A. PURPOSES OF AN INITIAL STUDY:

1. Provide the County with information to use as the basis for deciding whether to prepare a Negative Declaration, Mitigated Negative Declaration or EIR (§15063(c)(1)); and,
2. Enable an applicant or the County to modify a project, avoiding, or mitigating adverse impacts thereby enabling the project to

qualify for a Negative Declaration or Mitigated Negative Declaration; and,

3. Assist the preparation of an EIR, if one is required; and,
4. Facilitate environmental assessment early in the design of a project; and,
5. Determine whether a previously prepared EIR may be used for the project.

B. PROJECT INFORMATION REQUIRED:

The primary source of project information for the Initial Study is a form prescribed and provide by the Tehama County Planning Department that includes project application, description, environmental setting, project boundaries etc. This form is completed by the applicant and received as part of the project (application) submittal. Any information that the project proponent or County deems relevant and will facilitate the environmental review of a project, should be submitted along with the project application. The County may require the project proponent to provide additional data and information determined necessary for the preparation of the Initial Study (§15060(b), 15063(e), & 15064(b)).

An unreasonable delay by the applicant as determined by the Director of Planning or designee in providing information (studies, surveys, maps, etc.) requested by the County shall suspend the running of the time periods as described in these guidelines. (§ 15109).

C. PREPARATION

1. Following preliminary review, the County Director of Planning or designee will cause the preparation of an Initial Study for nonexempt non-county projects to determine if the project may have a significant effect on the environment.
2. On non-county projects where the County Director of Planning or designee can clearly determine that an EIR will be required for the project, the County may skip any further initial review of the project and authorized work directly on the EIR process.
3. On county projects, the Initial Study may be prepared either by the Planning Department, or by the department undertaking project in consultation with the Planning Department.

D. CONTENT OF INITIAL STUDY

(Note. Absent unusual circumstances, the contents of an Initial Study shall be the same as shown in Appendix G of the States CEQA Guidelines, which has been incorporated into this document by reference. The following Website has the State's Appendix G: Initial Study Checklist:
http://resources.ca.gov/ceqa/docs/2014_CEQA_Statutes_and_Guidelines.pdf).

In general, the Initial Study will include, at a minimum:

- Project description; and,
- Environmental setting; and,
- Environmental checklist, if determined to be necessary; and,
- Identification of environmental effects by use of a checklist, matrix, or other method; and,
- Discussion of any impacts and ways to avoid or mitigate identified impacts; and,
- Examination of consistency with zoning, general plans and other applicable land use controls (§15063(d)).

All phases of project planning, implementation, and operation shall be considered in the Initial Study. Staff shall consult with County departments, public entities that may be a responsible or trustee agency for the project and any individuals or organizations otherwise concerned.

E. DETERMINING ENVIRONMENTAL SIGNIFICANCE

Critical to the environmental analysis is the determination of significant effect. The CEQA Guidelines §15382 define the term "significant effect on the environment," and is incorporated here by reference.

The environmental evaluation must consider:

- A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to

the project. Examples of direct physical changes in the environment include but are not limited to the dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment plant and possible odors from operation of the plant. (§15064(d)(1));

- An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project.

Note. An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable; and,

- “Cumulative impacts” refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. (§15355).

Significance will be judged by the intensity and longevity of the change, the size of the area affected, and deviation from existing conditions. Establishing thresholds of significance is the best way to enable a determination of environmental impacts.

1. **Mandatory Findings of Significance (§15065):** The project may be found to have a significant effect on the environment and thereby require an EIR pursuant to California Code of Regulations Title 14 section 15065.
2. **Normal Thresholds of Significance:** Unless alternative thresholds of significance are adopted by the approving body, a project will normally have a significant environmental effect if it may indirectly or directly affect the items set forth in Appendix G to the CEQA Guidelines.

- F. ALTERNATIVE THRESHOLDS:** Determining the significance of environmental impacts is a critical and often controversial aspect of the environmental review process. State CEQA Guidelines define the term "significant impact on the environment" as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project. However, there is no iron-clad definition of what constitutes a substantial change because the significance of an activity may vary according to location. The approving body may adopt

alternative thresholds of significance for a particular project in accordance with the CEQA Guidelines.

G. FORMULATION OF MITIGATION MEASURES (Section 15370):

Mitigation measures are actions designed to alleviate or avoid the adverse environmental effects of proposed plans and projects. If there is a potential for significant impacts, efforts should be made to identify and incorporate mitigation measures, either into the project design prior to completion of the Initial Study, or staff, in consultation with the applicant, shall incorporate appropriate mitigation measures into the project approval. If identified impacts can be mitigated to a non-significant level, a Mitigated Negative Declaration can be used. Impacts must be reduced to a non-significant level or an EIR is required. Mitigation includes:

1. *Avoiding* the impact altogether by not taking a certain action, or parts of an action or redesigning the project;
2. *Minimizing* impacts by limiting the degree or magnitude of the action and its implementation;
3. *Repairing, rehabilitating, or restoring* an impacted environment to rectify the impact;
4. *Reducing or eliminating* the impact over time by preservation and maintenance operations during the life of the action;
5. *Compensation* for the impact by replacing or providing substitute resources or environments.

Creativity, reasonableness, and practicality should be used in developing mitigation measures for identified impacts, providing that the mitigation adequately and accurately addresses the impact.

A Mitigation Monitoring & Reporting Program shall be made a condition of approval of the project. The County shall require applicants to furnish a monitoring program for each mitigation measure required. The Mitigation Monitoring Program shall be required as part of the final EIR for consideration by the appropriate governing body (see Section VII Mitigation Monitoring or Reporting Program).

When other agencies have jurisdiction over aspects of the project, the applicant will have to meet the design, mitigation, and monitoring requirements imposed by those agencies, as well as any additional requirements established by Tehama County.

**VII. NEGATIVE DECLARATIONS OR MITIGATED NEGATIVE DECLARATIONS
(Guidelines, §15070)**

There are two types of Negative Declarations: a (standard) Negative Declaration, and a Negative Declaration with mitigations, or "Mitigated Negative Declaration." When the Initial Study shows that the project may not have a significant effect on the environment, CEQA allows for a Negative Declaration to be adopted.

CEQA continues to give the County the option of allowing applicants to modify their project so that the County can make a finding that the project would not have a significant effect on the environment as proposed. If the applicant can modify the project to avoid potential significant effects, they can qualify for a Mitigated Negative Declaration.

- A. PREPARATION OF A NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION (Section 15070):** A Negative Declaration or Mitigated Negative Declaration shall be prepared for non-exempt projects if the criteria set forth in CEQA Guidelines section 15070 are met.
- B. CONTENTS OF NEGATIVE DECLARATIONS OR MITIGATED NEGATIVE DECLARATIONS (Section 15071):** A Negative Declaration shall include the information set forth in CEQA Guidelines section 15071.
- C. NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION (§15072):** The County shall notify the public of its intention to adopt a Negative Declaration or Mitigated Negative Declaration, and provide opportunities to review it and any related documents by direct mail to all landowners within a 1,000 foot radius of the exterior project boundary, but not less than ten (10) owner occupied properties in the surrounding area. The notice shall include a reference as to where all documents are available for review. The notice shall also be published in a newspaper of local circulation.

Where one or more state agencies will be a Responsible Agency or a Trustee Agency or will exercise jurisdiction by law over natural resources affected by the project, the County shall send fifteen copies of the Negative Declaration to the State Clearinghouse for distribution to the state agencies (§15073).

Public review period for a Negative Declaration or Mitigated Negative Declaration shall be at least 20 calendar days. The review period for a

Negative Declaration which has been submitted to the State Clearinghouse shall be at least 30 calendar days (Public Resources Code, Section 21091).

D. TIME LIMITS: The Negative Declaration or Mitigated Negative declaration must be completed and ready for approval within 180 calendar days from the date when the County accepted the application as complete, unless the project is subject to NEPA. Approval of the Negative Declaration or Mitigated Negative Declaration by the hearing body may occur at a later date (§15107). Any unreasonable delays resulting from failure of the applicant to provide information requested by the County necessary to complete the Negative Declaration or Mitigated Negative Declaration, shall suspend these limits (§15109).

E. CONSIDERATION AND APPROVAL OF NEGATIVE DECLARATIONS OR MITIGATED NEGATIVE DECLARATIONS (§15074): Prior to project approval, the approving body shall consider the proposed Negative Declaration or Mitigated Negative Declaration with any comments received during the review process:

- 1) The approving body shall approve the Negative Declaration or Mitigated Negative Declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment.
- 2) The Negative Declaration or Mitigated Negative Declaration shall reflect the County's independent judgment and analysis.
- 3) The County shall inform, through public notice, the location and custodian of documents or other material which constitutes the record.
- 4) When a Mitigated Negative Declaration is adopted, the County shall adopt a mitigation monitoring program (PRC §21081.6).
- 5) A Negative Declaration or Mitigated Negative Declaration cannot be adopted for a project within the boundaries of a comprehensive airport land use plan without first considering safety and noise issues (PRC §21096).

F. NOTICE OF DETERMINATION (§15075): After deciding to carry out or approve a project for which a Negative Declaration or Mitigated Negative Declaration has been approved, the Planning Department or other County Department specified by the approving body shall file a Notice of Determination with the County Clerk within five (5) working

days. The Notice of Determination shall be posted with the County Clerk within 24 hours of receipt from a lead agency and remain posted for at least 30 calendar days. The County must then retain the notice for not less than two years, or such longer period required by state law or the record retention schedule adopted by the Board of Supervisors. Filing and posting the Notice of Determination starts a 30 calendar day statute of limitations on court challenges to CEQA approvals. If the project requires a discretionary approval from any State agency, the notice shall also be filed with the Governor's Office of Planning and Research.

Public Review: The review period for a Negative Declaration or Mitigated Negative Declaration shall not be less than 20 calendar days (30 calendar days when the document is submitted to the State Clearinghouse).

VIII. ENVIRONMENTAL IMPACT REPORTS (EIRs)

The EIR process starts with the decision to prepare an EIR. This decision will be made either during preliminary review (Guidelines, §15060) or at the conclusion of an Initial Study (§15064).

- A. DECISION TO PREPARE AN EIR (§15063):** If the Initial Study determines that a project may have a significant effect on the environment, which cannot be eliminated by changing the project or adding mitigation measures, the County shall initiate the preparation of an EIR. If the County can determine that an EIR will clearly be required for the project, an Initial Study is not required but may still be desirable.

For non-county projects, the Director of Planning, or the Director's designee, will determine whether preparation of an EIR will be required prior to presenting the project to the approving body within 30 calendar days of determining that an application is complete or in a timely manner as the determination relates to a County project. A 15 calendar day extension may be approved upon consent of the applicant.

- B. SCOPE OF AN EIR (§15082):** The breadth of analysis in the EIR shall be determined by an Initial Study, if any, comments of the County staff, and responses to the Notice of Preparation. The EIR should focus on potentially significant impacts, and need not discuss items determined to be insignificant by the Initial Study. For projects of unusual scope or complexity, the Director of Planning or County Department undertaking the project may hold a community scoping meeting.
- C. LETTER TO APPLICANT:** For non-county projects, prior to the

preparation and distribution of the Notice of Preparation, the County shall send to the applicant a letter giving notice of the need for an EIR. Within fifteen (15) calendar days the applicant shall notify the County in writing of his/her agreement to proceed with an EIR. Failure of the applicant to respond in writing within this time period may result in the scheduling of the project for hearing with a recommendation of **Disapproval without prejudice.**

In the letter to the applicant, the County shall include information regarding appeal procedure, applicable fees, the scope of the EIR coverage (with the Initial Study attached if one was done), and directions to the applicant on how to proceed. These directions shall include an explanation of the County's process for entering into agreements with applicants for reimbursements of the costs for CEQA review.

- D. APPEAL:** If the non-county project applicant wishes to seek review of the County Director of Planning's determination that a N.D., M.N.D. or EIR will be required, the applicant shall file a letter requesting review within fifteen (15) calendar days of the date of mailing the letter. The applicant shall submit, a letter specifying the reasons why the CEQA review recommended by the Planning Department should not be required. The request shall be filed with the Planning Department, and shall be considered by approving body.

Any dispute between county departments regarding the appropriate CEQA review for county projects shall be referred to the Board of Supervisors for resolution.

- E. NOTICE OF PREPARATION (§15082):** After determining that an EIR is required, and upon written confirmation of acceptance by the applicant of the need to prepare an EIR, the County shall prepare and distribute a Notice of Preparation (NOP) for an EIR. The NOP shall consist of the Notice of Preparation form and include a copy of the Initial Study if one was done. If any State agency is affected the Notice shall be sent to the State Clearinghouse in the Office of Planning and Research for distribution.

Response to Notice of Preparation. Each Responsible Agency shall provide a response within 30 calendar days after receiving the Notice of Preparation. If a Responsible Agency fails to reply within 30 calendar days with either a response or a request for additional time, the County may assume that the Responsible Agency has no response to make.

- F. PRIVATE PROJECT APPLICANT SPECIAL STUDIES OR DRAFT ENVIRONMENTAL DOCUMENT SUBMITTAL PROCEDURES AS**

ALLOWED PER CEQA GUIDELINES SECTION 15084:

Once it has been determined by the County that a N.D., M.N.D. or EIR will be prepared in accordance with the process described above the consultant selection process can begin. The County may determine to retain its own consultant, or may either authorize the applicant to have their own consultants carry out special studies for preparation of an environmental document, or allow the affected party to prepare a draft N.D., M.N.D. or EIR as allowed by CEQA Guidelines section 15084, of which shall be reviewed by the County Director of Planning (with the assistance of any third-party consultants retained by the County).

Certain projects may require the hiring of an independent, third-party consultant acceptable to and directed by the Director of Planning to evaluate the suitability of a special study and/or environmental documentation submitted to the County. The Director shall have the discretion to determine when a project would need this County-retained consultant on a case-by-case basis.

G. CONSULTANT SELECTION PROCEDURE FOR PRIVATE PROJECTS:

Once it has been determined by the Director of Planning that an Initial Study, special studies, N.D., M.N.D. or EIR will be prepared by the County in accordance with the process described above the consultant selection process shall be as follows:

- 1) Where the County determines that it will be necessary to retain consultants to complete the CEQA process, the County may, in its discretion, request that the applicant enter into an agreement for reimbursement of the County's costs associated with the CEQA process upon terms and conditions specified in the agreement. Refusal by the applicant to enter into such an agreement on terms acceptable to the County may result in the scheduling of the project for hearing with a recommendation of **Disapproval without prejudice.**
- 2) The applicant shall provide any initial and supplemental deposits of funds as required by the terms of the reimbursement agreement, and may receive refunds of deposited funds as provided thereunder.
- 2) The Director may prepare a Request for Qualifications to be sent out to various consulting firms and establish a listing of qualified consultants from which to choose a consultant. The Director may in lieu of a formal RFP, after consultation with the applicant,

request informal responses from three or more consultants as determined appropriate by the Director. It is the Board of Supervisors intent that applicant(s) be consulted on the selection of consultants, however in no case shall the applicant(s) have the option or right to select a consultant. It is the County's sole discretion on the final selection of any consultant.

- 3) The consultant shall provide the Director of Planning, upon request, one copy of a work/contract proposal containing:
 - (a) The personnel to be assigned; and,
 - (b) Wage scales; and,
 - (c) Time to complete Draft N.D., M.N.D., EIR and the resulting Final Environmental document; and,
 - (d) Total costs to provide a specified number of Draft N.D., M.N.D. or EIR's; and,
 - (e) Total costs to provide a specified number of Final N.D., M.N.D. or EIR's; and,
 - (f) Summation of total costs to provide described services in a "not to exceed cost" format; and,
 - (g) Any additional information requested by Planning Staff.
- 4) All proposals (RFP's) shall be reviewed and analyzed by the Director of Planning. The Director of Planning shall determine who will be recommended for award of the contract for the services described within the RFP's.
- 5) All consultant agreements hereunder shall be processed and approved through the County's regular contracting procedures.
- 6) The environmental documentation developed under County Contract by the consultant shall be submitted to the Director for review. (CEQA review requires the County's independent judgment, and therefore any retained consultant works for the County, although paid for by the Applicant).
- 7) The Director of Planning or designee shall review the submitted documentation and make a preliminary determination whether it meets all requirements of CEQA prior to presentation of the project to the approving body.

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- 8) In the preparation of a CEQA document the Director may allow the applicant to prepare certain technical documents (e.g., traffic study) that are then submitted to the primary consultant for review. In the event the technical study does not meet the standards of the County, the applicant may be allowed to revise the technical study or the Director may cause the technical study to be done by the primary consultant.

- H. PREPARATION OF ADMINISTRATIVE DRAFT EIR (§15084):** The Administrative Draft of the EIR is considered a working document to be circulated among County staff and any responsible agency, if appropriate. For private projects, the consultant shall submit a minimum of five (5) copies of the Administrative Draft EIR for staff review. The purpose of staff review is to evaluate the EIR for adequacy and accuracy prior to the public circulation period. Generally, review of the administrative draft EIR is concluded within a few weeks, after which comments are provided to the consultant, who prepares the draft EIR for publication and distribution.
- I. NOTICE OF COMPLETION OF A DRAFT EIR (§15085):** As soon as the draft EIR is completed and ready for public circulation, a Notice of Completion shall be filed with the Governor's Office of Planning and Research (OPR), 1400 10th Street, Room 121, Sacramento, CA 95814. Receipt of this notice by OPR will initiate the mandatory 45 calendar day review period for draft EIRs. The State Clearinghouse may set shorter review periods when requested by the County due to exceptional circumstances.
- J. PUBLIC REVIEW OF DRAFT EIRs (§15087):** At the time the Notice of Completion is filed with OPR, the County shall provide notice of the availability of a draft EIR by means of a public notice in a local newspaper. Additional notice shall be provided by direct mailing to property owners within 1,000' of the site. The public notice shall include the name of the staff person to contact, length of the review period, and deadline for receipt of comments. The public notice shall inform the public of the presence of hazardous wastes. Copies of the draft EIR will be made available at all County libraries, the public counter at the Planning Department, and County Administration Offices, and at the office of any other County department undertaking the project. Copies of the draft EIR will be made available for purchase at local printing/copying companies. The public review period for a draft EIR shall not be less than 30 calendar days (45 calendar days when the document is submitted to the State Clearinghouse). The State

Clearinghouse is authorized to allow a shorter review period for submitted draft EIRs of 30 calendar days (PRC §21091).

K. PUBLIC HEARING ON DRAFT EIR: A public hearing held before the approving body shall be conducted to solicit additional comments on the draft EIR. Notice of the hearing shall be provided by means provided in subsection L, above, and/or by other additional means as determined by the Director of Planning, or County department undertaking the project. The public hearing shall be scheduled during the review period, prior to the last week of the 45 day review period. For clarity and accuracy of the record, written comments are encouraged in conjunction with, or in lieu of, oral testimony. The hearing body may extend the comment period and continue the hearing.

L. EVALUATION OF RESPONSES TO COMMENTS (§15088): After the review period for the draft EIR closes, staff will assemble all written comments and summary minutes of comments made at the public hearing(s) and transmit this package to the consultant for preparation of the "Response to the Comments." Staff will work closely with the consultant to determine:

- a. Which comments address environmental impacts and mitigation(s). These comments shall be responded to by the consultant/staff;
- b. Which comments address the merits of the project (as distinguished from environmental impacts of the project) and do not require a response, but should be noted for the record;
- c. Which comments are beyond the scope of environmental review; and
- d. Which comments on impacts are too speculative for evaluation.

Responses shall be provided for all comments. At least ten (10) calendar days before certifying the EIR, the response to comments document must be provided to all agencies or individuals who request response to their comments.

M. PREPARATION OF THE FINAL EIR (§15089): The final EIR will consist of the draft EIR unchanged, copies of comments received, the response to comments and a list of persons and organizations who made comments.

N. CERTIFICATION OF THE FINAL EIR AND TIME LIMITS (§15108):

The approving body shall certify the final EIR for private projects within one year of accepting the application for the project as complete. Upon consent of the applicant and the County, the one-year limit may be extended a maximum of an additional 90 calendar days. Delays by the applicant in providing necessary information to complete the final EIR shall suspend these time periods. In certifying the final EIR the approving body shall find that the final EIR was prepared in compliance with CEQA, was reviewed and considered prior to project approval, and reflects the independent judgment of the County.

- O. FINDINGS (§15091):** The County shall not approve or carry out a project for which a certified EIR identifies one or more significant environmental effects unless written findings for each of the significant effects, accompanied by a brief explanation of the rationale for each finding are made. Findings must be supported by substantial evidence in the record of project review. The possible findings are:
1. Changes have been required, or incorporated into, the project that avoid or substantially lessen the significant environmental effects as identified in the certified final EIR. Necessary changes are generally identified after preparing the Initial Study.
 2. Changes that would avoid or substantially lessen the significant environmental effects are within the jurisdiction of another public agency or have already been adopted by another agency.
 3. Specific economic, social or other considerations make the identified mitigation measures or project alternatives infeasible.
- P. APPROVAL:** After considering the final EIR and certifying this document as adequate, the approving body shall not approve a project for which an EIR was prepared unless the project as approved will not have a significant effect on the environment, or all avoidable significant effects on the environment have been eliminated or substantially lessened; or any remaining significant effects on the environment are determined to be unavoidable and acceptable based on the findings described above.
- Q. STATEMENT OF OVERRIDING CONSIDERATIONS (§15093):** If the benefits of a proposed project outweigh the unavoidable adverse effects, such effects may be considered "acceptable." The County shall take into consideration economic, legal, social and technological benefits for consideration when determining if the benefits outweigh the significant effects. If the County approves a project that allows the occurrence of significant effects, it shall adopt a Statement of Overriding

Considerations as part of the project approval that states specific reasons to support its action based on the certified final EIR and/or other information in the record. This Statement of Overriding Considerations shall be in writing. For private projects, the consultant who prepared the draft and final EIR shall be responsible for drafting the findings in consultation with the County Counsel's office, subject to review and approval by the approving body.

- R. NOTICE OF DETERMINATION:** A Notice must be filed within five (5) business days of project approval when an EIR has been prepared and certified for the project. The Notice shall be posted with the County Clerk within twenty-four (24) hours of receipt from the lead agency and remain posted for at least 30 days. The County shall retain the notice for not less than two years, or such longer period as required by state law or the record retention schedule adopted by the Board of Supervisors. If the project requires discretionary approval from a state agency, the Notice of Determination shall also be filed with the Office of Planning and Research.

IX. MITIGATION MONITORING AND/OR REPORTING PROGRAM

Mitigation measures are specific requirements which will minimize, avoid, rectify, reduce, eliminate, or compensate for significant environmental effects.

Definitions:

Monitoring: the observation and oversight of mitigation activities at a project site.

Reporting: the communication of the monitoring results to agencies and the public.

A. PROCESSING OF MITIGATION MONITORING AND/OR REPORTING PROGRAM: ROLES AND RESPONSIBILITIES

Administrative Responsibilities

For private projects, it shall be the overall responsibility of the Director of Planning, or the Director's designee, to perform the duties of Mitigation

Coordinator. The Director shall assign the responsibilities of the Monitoring and/or Reporting of each one of the mitigation measures to Planning Staff, or other person(s) hired to implement the program, or may request assistance from other County departments. For county projects, the County department undertaking the project shall consult with the Planning Director regarding the performance of mitigation monitoring responsibilities.

Monitoring Responsibility

The Director of Planning or County department undertaking the project shall be responsible for:

- a) Coordinating the monitoring tasks and verification program; and,
- b) Coordinating monitoring by various County departments and other agencies; and,
- c) Processing and filing of compliance reports and verification reports, if determined necessary; and,
- e) Preparing an annual environmental monitoring report when determined to be appropriate.

When a report is warranted, it may include information on deficiencies, corrective measures taken, and suggestions for more effective future mitigation measures.

Selection of Monitor

For private projects, the Director of Planning or the Director's designee shall be responsible for selecting the person(s) or firm(s) hired by the County, to monitor those Mitigation and Reporting Programs related specifically to County Departments only. In all cases, the person(s) or firm(s) responsible for monitoring those County specific items shall have sufficient expertise to determine whether or not the mitigation measure has been accomplished.

Enforcement Responsibility

The Director of Planning is authorized to enforce compliance with the Monitoring Program for private projects. When compliance is lacking or incomplete, The Director Planning is empowered to either stop work, temporarily stop work, or allow work to continue while compliance is being achieved. For county projects, the Director may review the compliance of the County department undertaking the project, and

make appropriate recommendations to the department and the Board of Supervisors if compliance is lacking.

Exemptions - Limitations

Any deviation from the adopted mitigation measures must be approved by the approving body in accordance with the CEQA Guidelines.

B. PREPARATION OF MONITORING AND/OR REPORTING PROGRAM

A Mitigation Monitoring and/or Reporting Program shall be prepared by the EIR consultant for every project for which an EIR was prepared where mitigation measures were adopted by the approving body. The Program shall contain the following:

1. A statement which specifies the responsibilities of the applicant and the Environmental Coordinator, or his or her designee, as well as any professional expertise on completion or evaluation of any part of the Program.
2. The time requirements, schedule, phases or tasks for each mitigation measure.

The Mitigation Monitoring or Reporting Program shall be written to maintain consistency with the project as approved. For private projects, it shall be the responsibility of the Director of Planning to determine that the proposed Mitigation Monitoring Program complies with County requirements. For county projects, the County department undertaking the project shall consult with the Planning Director regarding the content of the proposed Mitigation Monitoring Program.