



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

## **Article 14. Projects Also Subject to the National Environmental Policy Act (NEPA)**

**Sections 15220 to 15229**

### **15220. General**

This article applies to projects that are subject to both CEQA and NEPA. NEPA applies to projects which are carried out, financed, or approved in whole or in part by federal agencies. Accordingly, this article applies to projects which involve one or more state or local agencies and one or more federal agencies.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21083.5, 21083.6, and 21083.7, Public Resources Code; National Environmental Policy Act of 1969, Public Law 91-190 as amended, 42 U.S.C.A. 4321-4347; NEPA Regulations, 40 Code of Federal Regulations (C.F.R.) Parts 1500-1508.

### **15221. NEPA Document Ready Before CEQA Document**

(a) When a project will require compliance with both CEQA and NEPA, state or local agencies should use the EIS or Finding of No Significant Impact rather than preparing an EIR or Negative Declaration if the following two conditions occur:

(1) An EIS or Finding of No Significant Impact will be prepared before an EIR or Negative Declaration would otherwise be completed for the project; and

(2) The EIS or Finding of No Significant Impact complies with the provisions of these Guidelines.

(b) Because NEPA does not require separate discussion of mitigation measures or growth inducing impacts, these points of analysis will need to be added, supplemented, or identified before the EIS can be used as an EIR.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21083.5 and 21083.7, Public Resources Code; Section 102(2)(C) of NEPA, 43 U.S.C.A. 4322(2)(C).

## **15222. Preparation of Joint Documents**

If a Lead Agency finds that an EIS or Finding of No Significant Impact for a project would not be prepared by the federal agency by the time when the Lead Agency will need to consider an EIR or Negative Declaration, the Lead Agency should try to prepare a combined EIR-EIS or Negative Declaration-Finding of No Significant Impact. To avoid the need for the federal agency to prepare a separate document for the same project, the Lead Agency must involve the federal agency in the preparation of the joint document.

This involvement is necessary because federal law generally prohibits a federal agency from using an EIR prepared by a state agency unless the federal agency was involved in the preparation of the document.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21083.5 and 21083.7, Public Resources Code; Section 102(2)(D) of NEPA, 43 U.S.C.A. 4322(2)(D); 40 C.F.R. Part 1506.2.

## **15223. Consultation With Federal Agencies**

When it plans to use an EIS or Finding of No Significant Impact or to prepare such a document jointly with a federal agency, the Lead Agency shall consult as soon as possible with the federal agency.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21083.5 and 21083.7, Public Resources Code.

## **15224. Time Limits**

Where a project will be subject to both CEQA and the National Environmental Policy Act, the one year time limit and the 105-day time limit may be waived pursuant to Section 15110.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21083.6, Public Resources Code.

## **15225. Circulation of Documents**

(a) Where the federal agency circulated the EIS or Finding of No Significant Impact for public review as broadly as state or local law may require and gave notice meeting the standards in Section 15072(a) or 15087(a), the Lead Agency under CEQA may use the federal document in the place of an EIR or Negative Declaration without recirculating the federal document for public review. One review and comment period is enough. Prior to using the federal document in this situation, the Lead Agency shall give notice that it will use the federal document in the place of an EIR or Negative Declaration and that it believes that the federal document meets the requirements of CEQA. The notice shall be given in the same manner as a notice of the public availability of a draft EIR under Section 15087.

(b) If an EIS has been prepared and filed pursuant to NEPA on the closure and reuse of a military base and the Lead Agency decides that the EIS does not fully meet the requirements of CEQA or has not been circulated for public review as state and local law may require, the Lead Agency responsible for preparation of an EIR for a reuse plan for the same base may proceed in the following manner:

(1) Prepare and circulate a notice of preparation pursuant to Section 15082. The notice shall include a

description of the reuse plan, a copy of the EIS, an address to which to send comments, and the deadline for submitting comments. The notice shall state that the lead agency intends to utilize the EIS as a draft EIR and requests comments on whether the EIS provides adequate information to serve as a draft EIR and what specific additional information, if any, is necessary.

(2) Upon the close of the comment period, the lead agency may proceed with preparation and circulation for comment of the draft EIR for the reuse plan. To the greatest extent feasible, the lead agency shall avoid duplication and utilize the EIS or information in the EIS as all or part of the draft EIR. The EIR shall be completed in compliance with the provisions of CEQA.

**Note:** Authority cited: Section 21083, Public Resources Code; References: Sections 21083.5, and 21092, Public Resources Code.

## **15226. Joint Activities**

State and local agencies should cooperate with federal agencies to the fullest extent possible to reduce duplication between the California Environmental Quality Act and the National Environmental Policy Act. Such cooperation should, to the fullest extent possible, include:

- (a) Joint planning processes,
- (b) Joint environmental research and studies,
- (c) Joint public hearings,
- (d) Joint environmental documents.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Sections 21083.5 and 21083.7, Public Resources Code; 40 C.F.R. Part 1506.2. Formerly Section 15063(h).

## **15227. State Comments on a Federal Project**

When a state agency officially comments on a proposed federal project which may have a significant effect on the environment, the comments shall include or reference a discussion of the material specified in Section 15126. An EIS on the federal project may be referenced to meet the requirements of this section.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21101, Public Resources Code.

## **15228. Where Federal Agency Will Not Cooperate**

Where a federal agency will not cooperate in the preparation of joint document and will require separate NEPA compliance for the project at a later time, the state or local agency should persist in efforts to cooperate with the federal agency. Because NEPA expressly allows federal agencies to use environmental documents prepared by an agency of statewide jurisdiction, a local agency should try to involve a state agency in helping prepare an EIR or Negative Declaration for the project. In this way there will be a greater chance that the federal agency may later use the CEQA document and not require the applicant to pay for preparation of a second document to meet NEPA requirements at a later time.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21083.5, Public Resources Code; Section 102(2)(D) of NEPA, 42 U.S.C.A. 4322(2)(D).

## **15229. Baseline Analysis for Military Base Reuse Plan EIRs**

When preparing and certifying an EIR for a plan for the reuse of a military base, including when utilizing an Environmental Impact Statement pursuant to Section 21083.5 of the Public Resources Code, the determination of whether the reuse plan may have a significant effect on the environment may, at the discretion of the lead agency, be based upon the physical conditions which were present at the time that the federal decision for the closure or realignment of the base or reservation became final. These conditions shall be referred to as the "baseline physical conditions." Impacts which do not exceed the baseline physical conditions shall not be considered significant.

(a) Prior to circulating a draft EIR pursuant to the provisions of this Section, the lead agency shall do all of the following, in order:

(1) Prepare proposed baseline physical conditions, identify pertinent responsible and trustee agencies and consult with those agencies prior to the public hearing required by subdivision (a)(2) as to the application of their regulatory authority and permitting standards to the proposed baseline physical conditions, the proposed reuse plan, and specific, planned future nonmilitary land uses of the base or reservation. The affected agencies shall have not less than 30 days prior to the public hearing to review the proposed baseline physical conditions and the proposed reuse plan and to submit their comments to the lead agency.

(2) Hold a public hearing at which is discussed the federal EIS prepared for, or being prepared for, the closure or realignment of the military base or reservation. The discussion shall include the significant effects on the environment, if any, examined in the EIS, potential methods of mitigating those effects, including feasible alternatives, and the mitigative effects of federal, state, and local laws applicable to future nonmilitary activities. Prior to the close of the hearing, the lead agency shall specify whether it will adopt any of the baseline physical conditions for the reuse plan EIR and identify those conditions. The lead agency shall specify particular baseline physical conditions, if any, which it will examine in greater detail than they were examined in the EIS. Notice of the hearing shall be given pursuant to Section 15087. The hearing may be continued from time to time.

(3) Prior to the close of the hearing, the lead agency shall do all of the following:

(A) Specify the baseline physical conditions which it intends to adopt for the reuse plan EIR, and specify particular physical conditions, if any, which it will examine in greater detail than were examined in the EIS.

(B) State specifically how it intends to integrate its discussion of the baseline physical conditions in the EIR with the reuse planning process, taking into account the adopted environmental standards of the community, including but not limited to, the adopted general plan, specific plan or redevelopment plan, and including other applicable provisions of adopted congestion management plans, habitat conservation or natural communities conservation plans, air quality management plans, integrated waste management plans, and county hazardous waste management plans.

(C) State the specific economic or social reasons, including but not limited to, new job creation, opportunities for employment of skilled workers, availability of low and moderate-income housing, and economic continuity which support selection of the baseline physical conditions.

(b) An EIR prepared under this section should identify any adopted baseline physical conditions in the environmental setting section. The baseline physical conditions should be cited in discussions of effects. The no-project alternative analyzed in an EIR prepared under this section shall discuss the conditions on

the base as they exist at the time of preparation, as well as what could be reasonably expected to occur in the foreseeable future if the reuse plan were not approved, based on current plans and consistent with available infrastructure and services.

(c) All public and private activities taken pursuant to or in furtherance of a reuse plan for which an EIR was prepared and certified pursuant to this section shall be deemed to be a single project. A subsequent or supplemental EIR shall be required only if the lead agency determines that any of the circumstances described in Section 15162 or 15163 exist.

(d) Limitations:

(1) Nothing in this section shall in any way limit the scope of review or determination of significance of the presence of hazardous or toxic wastes, substances, and materials, including but not limited to, contaminated soils and groundwater. The regulation of hazardous or toxic wastes, substances, and materials shall not be constrained by this section.

(2) This section does not apply to hazardous waste regulation and remediation projects undertaken pursuant to Chapter 6.5 (commencing with Section 25100) or Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code or pursuant to the Porter-Cologne Water Quality Control Act (Water Code Section 13000, et seq.)

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

(e) "Reuse plan" means the initial plan for the reuse of military base adopted by a local government, including a redevelopment agency or joint powers authority, in the form of a general plan, general plan amendment, specific plan, redevelopment plan, or other planning document. For purposes of this section, a reuse plan also shall include a statement of development policies, a diagram or diagrams illustrating its provisions, including a designation of the proposed general distribution, location, and development intensity for housing, business, industry, open space, recreation, natural resources, public buildings and grounds, roads, and other transportation facilities, infrastructure, and other categories of proposed uses, whether public or private.

(f) This section may be applied to any reuse plan EIR for which a notice of preparation is issued within one year from the date that the federal record of decision was rendered for the military base or reservation closure or realignment and reuse, or prior to January 1, 1997, whichever is later, but only if the EIR is completed and certified within five years from the date that the federal record of decision was rendered.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21083.8.1, Public Resources Code.