



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

**Article 3. Authorities Granted to Public Agencies by
CEQA**

Sections 15040 to 15045

15040. Authority Provided by CEQA

- (a) CEQA is intended to be used in conjunction with discretionary powers granted to public agencies by other laws.
- (b) CEQA does not grant an agency new powers independent of the powers granted to the agency by other laws.
- (c) Where another law grants an agency discretionary powers, CEQA supplements those discretionary powers by authorizing the agency to use the discretionary powers to mitigate or avoid significant effects on the environment when it is feasible to do so with respect to projects subject to the powers of the agency. Prior to January 1, 1983, CEQA provided implied authority for an agency to use its discretionary powers to mitigate or avoid significant effects on the environment. Effective January 1, 1983, CEQA provides express authority to do so.
- (d) The exercise of the discretionary powers may take forms that had not been expected before the enactment of CEQA, but the exercise must be within the scope of the power.
- (e) The exercise of discretionary powers for environmental protection shall be consistent with express or implied limitations provided by other laws.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000, 21001, 21002, 21002.1, and 21004, Public Resources Code; Section 4, Chapter 1438, Statutes of 1982; *Golden Gate Bridge, etc., District v. Muzzi*, (1978) 83 Cal. App. 3d 707; *E.D.F. v. Mathews*, 410 F. Supp. 366, 339 (D.D.C., 1976); *Friends of Mammoth v. Board of Supervisors*, (1972) 8 Cal. 3d 247; *Pinewood Investors v. City of Oxnard*, (1982) 133 Cal. App. 3d 1030.

15041. Authority to Mitigate

Within the limitations described in Section 15040 :

- (a) A lead agency for a project has authority to require feasible changes in any or all activities involved in the project in order to substantially lessen or avoid significant effects on the environment, consistent with applicable constitutional requirements such as the "nexus" and "rough proportionality" standards established by case law (*Nollan v. California Coastal Commission* (1987) 483 U.S. 825, *Dolan v. City of*

Tigard, (1994) 512 U.S. 374, Ehrlich v. City of Culver City, (1996) 12 Cal. 4th 854.).

(b) When a public agency acts as a Responsible Agency for a project, the agency shall have more limited authority than a Lead Agency. The Responsible Agency may require changes in a project to lessen or avoid only the effects, either direct or indirect, of that part of the project which the agency will be called on to carry out or approve.

(c) With respect to a project which includes housing development, a Lead or Responsible Agency shall not reduce the proposed number of housing units as a mitigation measure or alternative to lessen a particular significant effect on the environment if that agency determines that there is another feasible, specific mitigation measure or alternative that would provide a comparable lessening of the significant effect.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21002.1, and 21159.26, Public Resources Code; *Golden Gate Bridge, etc., District v. Muzzi*, 83 Cal. App. 3d 707.

15042. Authority to Disapprove Projects

A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed. A Lead Agency has broader authority to disapprove a project than does a Responsible Agency. A Responsible Agency may refuse to approve a project in order to avoid direct or indirect environmental effects of that part of the project which the Responsible Agency would be called on to carry out or approve. For example, an air quality management district acting as a Responsible Agency would not have authority to disapprove a project for water pollution effects that were unrelated to the air quality aspects of the project regulated by the district.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002 and 21002.1, Public Resources Code; *Friends of Mammoth v. Mono County*, 8 Cal. App. 3d 247; *San Diego Trust and Savings Bank v. Friends of Gill*, 121 Cal. App. 3d 203.

15043. Authority to Approve Projects Despite Significant Effects

A public agency may approve a project even though the project would cause a significant effect on the environment if the agency makes a fully informed and publicly disclosed decision that:

- (a) There is no feasible way to lessen or avoid the significant effect (see Section 15091); and
- (b) Specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project. (See: Section 15093.)

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002 and 21002.1, Public Resources Code; *San Francisco Ecology Center v. City and County of San Francisco*, (1975) 48 Cal. App. 3d 584; *San Diego Trust & Savings Bank v. Friends of Gill*, (1981) 121 Cal. App. 3d 203.

15044. Authority to Comment

Any person or entity other than a Responsible Agency may submit comments to a Lead Agency concerning any environmental effects of a project being considered by the Lead Agency.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21000, 21001, 21002.1, 21104, and 21153, Public Resources Code.

15045. Fees

(a) For a project to be carried out by any person or entity other than the lead agency, the lead agency may charge and collect a reasonable fee from the person or entity proposing the project in order to recover the estimated costs incurred in preparing environmental documents and for procedures necessary to comply with CEQA on the project. Litigation expenses, costs and fees incurred in actions alleging noncompliance with CEQA are not recoverable under this section.

(b) Public agencies may charge and collect a reasonable fee from members of the public for a copy of an environmental document not to exceed the actual cost of reproducing a copy.

Note: Authority: Section 21083, Public Resources Code. Reference: Section 21089 and 21105, Public Resources Code.