

**BOARD OF FORESTRY AND FIRE PROTECTION**

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**To:** Board of Forestry and Fire Protection

**Re:** Public comment under CEQA

The below CEQA regulation excerpts are intended to assist the Board in their decision making process to release the Draft VTP EIR for public comment. Please see in particular 14 CCR §§15088.5 and 15105.

**§ 15085 Notice of Completion**

- (a) As soon as the draft EIR is completed, a notice of completion must be filed with the Office of Planning and Research in a printed hard copy or in electronic form on a diskette or by electronic mail transmission.
- (b) The notice of completion shall include:
  - (1) A brief description of the project,
  - (2) The proposed location of the project (either by street address and cross street, for a project in an urbanized area, or by attaching a specific map, preferably a copy of a U.S.G.S. 15' or 7-1/2' topographical map identified by quadrangle name).
  - (3) An address where copies of the draft EIR are available, and
  - (4) The review period during which comments will be received on the draft EIR.
- (c) A sample form for the notice of completion is included in Appendix L.
- (d) Where the EIR will be reviewed through the state review process handled by the State Clearinghouse, the notice of completion cover form required by the State Clearinghouse will serve as the notice of completion (see Appendix C).
- (e) Public agencies are encouraged to make copies of notices of completion filed pursuant to this section available in electronic format on the Internet.

**§ 15087 Public Review of Draft EIR**

- (a) The lead agency shall provide public notice of the availability of a draft EIR at the same time as it sends a notice of completion to the Office of Planning and Research... The public notice shall be given as provided under Section 15105 (a sample form is provided in Appendix L). Notice shall be mailed to the last known name and address of all organizations and individuals who have previously requested such notice in writing, and shall also be given by at least one of the following procedures:
  - (1) Publication at least one time by the public agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.
  - (2) Posting of notice by the public agency on and off the site in the area where the project is to be located.
  - (3) Direct mailing to the owners and occupants of property contiguous to the parcel or parcels on which the project is located. Owners of such property shall be identified as shown on the latest equalized assessment roll.

## § 15088.5 Recirculation of an EIR Prior to Certification

- (a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term “information” can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. “Significant new information” requiring recirculation include, for example, a disclosure showing that:
- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
  - (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
  - (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.
  - (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish & Game Com.*(1989) 214 Cal.App.3d 1043).
- (b) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.
- (c) If the revision is limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified.
- (d) Recirculation of an EIR requires notice pursuant to Section 15087, and consultation pursuant to Section 15086.
- (e) A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.
- (f) The lead agency shall evaluate and respond to comments as provided in Section 15088. Recirculating an EIR can result in the lead agency receiving more than one set of comments from reviewers. The following are two ways in which the lead agency may identify the set of comments to which it will respond. This dual approach avoids confusion over whether the lead agency must respond to comments which are duplicates or which are no longer pertinent due to revisions to the EIR. In no case shall the lead agency fail to respond to pertinent comments on significant environmental issues.
- (1) When an EIR is substantially revised and the entire document is recirculated, the lead agency may require reviewers to submit new comments and, in such cases, need not respond to those comments received during the earlier circulation period. The lead agency shall advise reviewers, either in the text of the revised EIR or by an attachment to the revised EIR, that although part of the administrative record, the previous comments do not require a written response in the final EIR, and that new comments must be submitted for the revised EIR. The lead agency need only respond to those comments submitted in response to the recirculated revised EIR.
  - (2) When the EIR is revised only in part and the lead agency is recirculating only the revised chapters or portions of the EIR, the lead agency may request that reviewers limit their comments to the revised chapters or portions of the recirculated EIR. The lead agency need only respond to (i) comments received during the initial circulation period that relate to chapters or portions of the document that were not revised and recirculated, and (ii)

comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated. The lead agency's request that reviewers limit the scope of their comments shall be included either within the text of the revised EIR or by an attachment to the revised EIR.

(3) As part of providing notice of recirculation as required by Public Resources Code Section 21092.1, the lead agency shall send a notice of recirculation to every agency, person, or organization that commented on the prior EIR. The notice shall indicate, at a minimum, whether new comments may be submitted only on the recirculated portions of the EIR or on the entire EIR in order to be considered by the agency.

(g) When recirculating a revised EIR, either in whole or in part, the lead agency shall, in the revised EIR or by an attachment to the revised EIR, summarize the revisions made to the previously circulated draft EIR.

#### § 15105 Public Review Period for a Draft EIR or a Proposed Negative Declaration or Mitigated Negative Declaration

(a) The public review period for a draft EIR shall not be less than 30 days nor should it be longer than 60 days except in unusual circumstances. When a draft EIR is submitted to the State Clearinghouse for review by state agencies, the public review period shall not be less than 45 days, unless a shorter period, not less than 30 days, is approved by the State Clearinghouse.

...

(c) If a draft EIR or proposed negative declaration or mitigated negative declaration has been submitted to the State Clearinghouse for review by state agencies, the public review period shall be at least as long as the review period established by the State Clearinghouse. The public review period and the state agency review period may, but are not required to, begin and end at the same time. Day one of the state review period shall be the date that the State Clearinghouse distributes the document to state agencies.