

AMENDED IN SENATE MAY 13, 2025

AMENDED IN SENATE MAY 1, 2025

AMENDED IN SENATE MARCH 24, 2025

**SENATE BILL**

**No. 607**

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**Introduced by Senator Wiener**

(Principal coauthor: Assembly Member Wicks)

(Coauthor: Assembly Member Ahrens)

February 20, 2025

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An act to amend Sections 21064, 21064.5, 21080, 21080.1, 21082.2, 21083, 21167.6, and 21168.9 of, and to add Sections 21060.4, 21064.1, 21064.8, 21067.5, 21080.085, and 21083.03 to, the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 607, as amended, Wiener. California Environmental Quality Act: categorical exemptions: infill projects.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. Existing law defines “negative declaration” and “mitigated negative declaration” for these purposes.

This bill would revise the definition of negative declaration to mean a written statement briefly describing the reasons the lead agency has determined, based upon substantial evidence in the record, that the proposed project will not have a significant effect on the environment, as specified. The bill would require a negative declaration to be prepared for a proposed project if the lead agency determines, based upon substantial evidence, in light of the whole record before the agency, that the project will not have a significant effect on the environment or when an initial study identifies potentially significant effects on the environment but revisions in the project plans would avoid the effects or mitigate the effects, as provided, and the lead agency has determined, based upon substantial evidence, in light of the whole record before the lead agency, that the project, as revised, will not have a significant effect on the environment. The bill would also revise the definition of mitigated negative declaration to mean that revisions would avoid or mitigate the effects on the environment, as determined by the lead agency based upon substantial evidence in the record, as specified, and that the lead agency has determined, based upon substantial evidence in the record, that the project, as revised, will not have a significant effect on the environment, as provided. The bill would require an EIR to be prepared if the lead agency determines, based upon substantial evidence, in light of the whole record before the agency, that it is more likely than not that the project will have a significant effect on the environment.

Existing law requires the lead agency to determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record, as provided.

This bill would instead require a lead agency to determine whether a project is more likely than not to have a significant effect on the environment based on substantial evidence in light of the whole record, and would require an EIR to be prepared if the lead agency determines that it is more likely than not that a project will have a significant effect on the environment, as specified.

CEQA requires the Office of Land Use and Climate Innovation to prepare and develop proposed guidelines for the implementation of CEQA by public agencies and requires the Secretary of the Natural Resources Agency to certify and adopt those proposed guidelines. CEQA requires those adopted guidelines to include a list of classes of projects that have been determined not to have a significant effect on the environment and exempts those classes of projects from CEQA, commonly known as categorical exemptions. CEQA requires the

guidelines to include criteria for public agencies to follow in determining whether or not a proposed project may have a significant effect on the environment, and requires the criteria to require a finding that a project may have a significant effect on the environment if one or more of specified conditions exist.

This bill would instead require those criteria to require that finding if the lead agency determines, based upon substantial evidence in the record, that one or more of those specified conditions exist. The bill would, for the approval of a proposed project that would otherwise be exempt from CEQA pursuant to a statutory or categorical exemption adopted before January 1, 2026, but for a single condition, as defined, limit the application of CEQA to the effects upon the environment that are caused solely by that single condition. For these projects, the bill would only require the initial study or EIR to examine those effects that the lead agency determines, based upon substantial evidence in the record, are caused solely by the single condition that makes the proposed project ineligible for the exemption, as provided. The bill would provide that these provisions do not apply to, among other things, a project that includes a distribution center, as defined, oil and gas infrastructure, as defined, or a project located on natural and protected lands, as defined. The bill would exempt from the requirements of CEQA, except as provided, a rezoning that implements *the schedule of actions contained in an approved housing element*. ~~element~~. *element, as specified*. Because the bill would require a lead agency to determine the applicability of this exemption, the bill would impose a state-mandated local program.

This bill would require the office, on or before July 1, 2026, to map the eligible urban infill sites within every urbanized area or urban cluster in the state, as provided. The bill would require the office, on or before July 1, 2026, to prepare, develop, and transmit to the agency for certification and adoption an amendment to the infill development project categorical exemption that establishes an alternative means of compliance with the requirements of that categorical exemption, as provided. The bill would provide that specified regulations related to the significant effect exception to the use of a categorical exemption do not apply to an infill project that meets all conditions of the infill development project categorical exemption. The bill, for a proposed project that meets specified elements of the infill development project categorical exemption that is otherwise ineligible for the categorical exemption due to one or more conditions, as defined, would limit the application of CEQA to the effects upon the environment that are caused

solely by those conditions that make the project ineligible for the categorical exemption. The bill would provide that these provisions do not apply to a project that includes a distribution center or oil and gas infrastructure.

CEQA requires an action or proceeding to attack, review, set aside, void, or annul certain acts or decisions of a public agency to be commenced according to specified processes, including that at the time that the action or proceeding is filed, the plaintiff or petitioner is required to file a request that the respondent public agency prepare the record of proceedings relating to the subject of the action or proceeding, and requires the record of proceedings to include specified items and materials, including, among other things, all internal agency communications, including staff notes and memoranda related to the project or to compliance with CEQA, but excluding communications that are of a logistical nature, as specified.

This bill would, except for a project that includes a distribution center or oil and gas infrastructure, exclude staff notes and electronic internal agency communications, including emails, that were not presented to the final decisionmaking body, from the record of proceedings, as provided.

CEQA requires a court to enter an order that includes a mandate necessary to achieve compliance with CEQA, as specified, when a court finds, as a result of a trial, hearing, or remand from an appellate court, that any determination, finding, or decision of a public agency has been made without compliance with CEQA.

This bill would require that order to be subject to specified limitations for a determination of a public agency that a project is eligible for a statutory exemption or categorical exemption that is found to violate CEQA.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 21060.4 is added to the Public Resources  
2 Code, to read:

3 21060.4. “Distribution center” means a warehouse distribution  
4 center, as defined in Section 2100 of the Labor Code, that is 50,000  
5 square feet or larger.

6 SEC. 2. Section 21064 of the Public Resources Code is  
7 amended to read:

8 21064. “Negative declaration” means a written statement briefly  
9 describing the reasons the lead agency has determined, based upon  
10 substantial evidence in the record, that the proposed project will  
11 not have a significant effect on the environment and does not  
12 require the preparation of an environmental impact report.

13 SEC. 3. Section 21064.1 is added to the Public Resources Code,  
14 to read:

15 21064.1. “May have a significant effect on the environment”  
16 means that the public agency has determined, based upon  
17 substantial evidence in the record, that the proposed project is more  
18 likely than not to have a significant effect on the environment.

19 SEC. 4. Section 21064.5 of the Public Resources Code is  
20 amended to read:

21 21064.5. “Mitigated negative declaration” means a negative  
22 declaration prepared for a project when the initial study has  
23 identified potentially significant effects on the environment, but  
24 (1) revisions in the project plans or proposals made by, or agreed  
25 to by, the applicant before the proposed negative declaration and  
26 initial study are released for public review would avoid the effects  
27 or mitigate the effects to a point where no significant effect on the  
28 environment would occur, as determined by the lead agency based  
29 upon substantial evidence in the record, and (2) the lead agency  
30 has determined, based upon substantial evidence in the record, that  
31 the project, as revised, will not have a significant effect on the  
32 environment.

33 SEC. 5. Section 21064.8 is added to the Public Resources Code,  
34 to read:

35 21064.8. “Oil and gas infrastructure” means a facility used for  
36 the production, processing, transmission, storage, or distribution  
37 of petroleum or natural gas.

1 SEC. 6. Section 21067.5 is added to the Public Resources Code,  
2 to read:

3 21067.5. “Natural and protected lands” means sites located  
4 within any of the following locations:

5 (a) The state park system, as described in Article 1 (commencing  
6 with Section 5001) of Chapter 1 of Division 5.

7 (b) A wilderness area, as defined in Section 5093.32.

8 (c) A marine protected area, as defined in Section 2852 of the  
9 Fish and Game Code.

10 (d) The national park system, as defined in Section 100102 of  
11 Title 54 of the United States Code.

12 (e) A national recreation area.

13 (f) A national monument.

14 (g) The national wild and scenic rivers system, as defined in  
15 Section 1273 of Title 16 of the United States Code.

16 (h) Any ecological reserve or wildlife management area acquired  
17 and managed by the Department of Fish and Wildlife pursuant to  
18 Article 2 (commencing with Section 1525) or Article 4  
19 (commencing with Section 1580) of Chapter 5 of Division 2 of  
20 the Fish and Game Code.

21 (i) A hazardous waste site that is listed pursuant to Section  
22 65962.5 of the Government Code or a hazardous waste site  
23 designated by the Department of Toxic Substances Control  
24 pursuant to Section 25356 of the Health and Safety Code, unless  
25 either of the following apply:

26 (1) The site is an underground storage tank site that received a  
27 uniform closure letter issued pursuant to subdivision (g) of Section  
28 25296.10 of the Health and Safety Code based on closure criteria  
29 established by the State Water Resources Control Board for the  
30 use proposed by the project. This paragraph does not alter or  
31 change the conditions to remove a site from the list of hazardous  
32 waste sites listed pursuant to Section 65962.5 of the Government  
33 Code.

34 (2) The State Department of Public Health, State Water  
35 Resources Control Board, Department of Toxic Substances Control,  
36 or a local agency making a determination pursuant to subdivision  
37 (c) of Section 25296.10 of the Health and Safety Code has  
38 otherwise determined that the site is suitable for the use proposed  
39 by the project.

1 (j) Within a regulatory floodway as determined by the Federal  
2 Emergency Management Agency in any official maps published  
3 by the Federal Emergency Management Agency, unless the  
4 development has received a no-rise certification in accordance  
5 with Section 60.3(d)(3) of Title 44 of the Code of Federal  
6 Regulations.

7 (k) Lands under conservation easement.

8 (l) On, or within a 100-foot radius of, a wetland, as defined in  
9 the United States Fish and Wildlife Service Manual, Part 660 FW  
10 2 (June 21, 1993).

11 (m) An environmentally sensitive area within the coastal zone,  
12 as defined in Section 30107.5.

13 (n) Lands protected as preserve areas or reserve lands pursuant  
14 to an adopted natural community conservation plan pursuant to  
15 the Natural Community Conservation Planning Act (Chapter 10  
16 (commencing with Section 2800) of Division 3 of the Fish and  
17 Game Code) or habitat conservation plan pursuant to the federal  
18 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).

19 SEC. 7. Section 21080 of the Public Resources Code is  
20 amended to read:

21 21080. (a) Except as otherwise provided in this division, this  
22 division shall apply to discretionary projects proposed to be carried  
23 out or approved by public agencies, including, but not limited to,  
24 the enactment and amendment of zoning ordinances, the issuance  
25 of zoning variances, the issuance of conditional use permits, and  
26 the approval of tentative subdivision maps unless the project is  
27 exempt from this division.

28 (b) This division does not apply to any of the following  
29 activities:

30 (1) Ministerial projects proposed to be carried out or approved  
31 by public agencies.

32 (2) Emergency repairs to public service facilities necessary to  
33 maintain service.

34 (3) Projects undertaken, carried out, or approved by a public  
35 agency to maintain, repair, restore, demolish, or replace property  
36 or facilities damaged or destroyed as a result of a disaster in a  
37 disaster-stricken area in which a state of emergency has been  
38 proclaimed by the Governor pursuant to Chapter 7 (commencing  
39 with Section 8550) of Division 1 of Title 2 of the Government  
40 Code.

1 (4) Specific actions necessary to prevent or mitigate an  
2 emergency.

3 (5) Projects that a public agency rejects or disapproves.

4 (6) Actions undertaken by a public agency relating to any  
5 thermal powerplant site or facility, including the expenditure,  
6 obligation, or encumbrance of funds by a public agency for  
7 planning, engineering, or design purposes, or for the conditional  
8 sale or purchase of equipment, fuel, water (except groundwater),  
9 steam, or power for a thermal powerplant, if the powerplant site  
10 and related facility will be the subject of an environmental impact  
11 report, negative declaration, or other document, prepared pursuant  
12 to a regulatory program certified pursuant to Section 21080.5,  
13 which will be prepared by the State Energy Resources Conservation  
14 and Development Commission, by the Public Utilities Commission,  
15 or by the city or county in which the powerplant and related facility  
16 would be located if the environmental impact report, negative  
17 declaration, or document includes the environmental impact, if  
18 any, of the action described in this paragraph.

19 (7) Activities or approvals necessary to the bidding for, hosting  
20 or staging of, and funding or carrying out of, an Olympic Games  
21 under the authority of the International Olympic Committee, except  
22 for the construction of facilities necessary for the Olympic Games.

23 (8) The establishment, modification, structuring, restructuring,  
24 or approval of rates, tolls, fares, or other charges by public agencies  
25 that the public agency finds are for the purpose of: (A) meeting  
26 operating expenses, including employee wage rates and fringe  
27 benefits; (B) purchasing or leasing supplies, equipment, or  
28 materials; (C) meeting financial reserve needs and requirements;  
29 (D) obtaining funds for capital projects necessary to maintain  
30 service within existing service areas; or (E) obtaining funds  
31 necessary to maintain those intracity transfers as are authorized  
32 by city charter. The public agency shall incorporate written findings  
33 in the record of any proceeding in which an exemption under this  
34 paragraph is claimed setting forth with specificity the basis for the  
35 claim of exemption.

36 (9) All classes of projects designated pursuant to Section 21084.

37 (10) A project for the institution or increase of passenger or  
38 commuter services on rail or highway rights-of-way already in  
39 use, including modernization of existing stations and parking

1 facilities. For purposes of this paragraph, “highway” has the same  
2 meaning as defined in Section 360 of the Vehicle Code.

3 (11) A project for the institution or increase of passenger or  
4 commuter service on high-occupancy vehicle lanes already in use,  
5 including the modernization of existing stations and parking  
6 facilities.

7 (12) Facility extensions not to exceed four miles in length that  
8 are required for the transfer of passengers from or to exclusive  
9 public mass transit guideway or busway public transit services.

10 (13) A project for the development of a regional transportation  
11 improvement program, the state transportation improvement  
12 program, or a congestion management program prepared pursuant  
13 to Section 65089 of the Government Code.

14 (14) A project or portion of a project located in another state  
15 that will be subject to environmental impact review pursuant to  
16 the National Environmental Policy Act of 1969 (42 U.S.C. Sec.  
17 4321 et seq.) or similar state laws of that state. Any emissions or  
18 discharges that would have a significant effect on the environment  
19 in this state are subject to this division.

20 (15) Projects undertaken by a local agency to implement a rule  
21 or regulation imposed by a state agency, board, or commission  
22 under a certified regulatory program pursuant to Section 21080.5.  
23 Any site-specific effect of the project that was not analyzed as a  
24 significant effect on the environment in the plan or other written  
25 documentation required by Section 21080.5 is subject to this  
26 division.

27 (16) Approval by the Department of Pesticide Regulation of a  
28 pesticide emergency exemption pursuant to Section 136p of Title  
29 7 of the United States Code.

30 (c) (1) If a lead agency determines that a proposed project, not  
31 otherwise exempt from this division, would not have a significant  
32 effect on the environment, the lead agency shall adopt a negative  
33 declaration to that effect. The negative declaration shall be prepared  
34 for the proposed project in either of the following circumstances:

35 (A) The lead agency determines, based upon substantial  
36 evidence, in light of the whole record before the lead agency, that  
37 the project will not have a significant effect on the environment.

38 (B) An initial study identifies potentially significant effects on  
39 the environment, but: (i) revisions in the project plans or proposals  
40 made by, or agreed to by, the applicant before the proposed

1 negative declaration and initial study are released for public review  
2 would avoid the effects or mitigate the effects to a point where no  
3 significant effect on the environment would occur, as determined  
4 by the public agency based upon substantial evidence on the record;  
5 and (ii) the lead agency has determined, based upon substantial  
6 evidence, in light of the whole record before the lead agency, that  
7 the project, as revised, will not have a significant effect on the  
8 environment.

9 (2) If the lead agency determines, based upon substantial  
10 evidence, in light of the whole record before the lead agency, that  
11 it is more likely than not that the project will have a significant  
12 effect on the environment, an environmental impact report shall  
13 be prepared.

14 (d) (1) Notwithstanding subdivision (c), an environmental  
15 impact report shall be prepared for a proposed project that includes  
16 a distribution center or oil and gas infrastructure, or that is located  
17 on natural and protected lands as defined pursuant to Section  
18 21067.5, if there is substantial evidence, in light of the whole record  
19 before the lead agency, that the project could have a significant  
20 effect on the environment.

21 (2) The review of a proposed project that includes a distribution  
22 center or oil and gas infrastructure or that is located on natural and  
23 protected lands as defined pursuant to Section 21067.5 shall  
24 continue to be subject to the fair argument standard as it applied  
25 to those projects before January 1, 2026.

26 (e) (1) For purposes of this section and this division, substantial  
27 evidence includes fact, a reasonable assumption predicated upon  
28 fact, or expert opinion supported by fact.

29 (2) Substantial evidence is not argument, speculation,  
30 unsubstantiated opinion or narrative, evidence that is clearly  
31 inaccurate or erroneous, or evidence of social or economic impacts  
32 that do not contribute to, or are not caused by, physical impacts  
33 on the environment.

34 (f) As a result of the public review process for a mitigated  
35 negative declaration, including administrative decisions and public  
36 hearings, the lead agency may conclude that certain mitigation  
37 measures identified pursuant to subparagraph (B) of paragraph (1)  
38 of subdivision (c) are infeasible or otherwise undesirable. In those  
39 circumstances, the lead agency, before approving the project, may  
40 delete those mitigation measures and substitute for them other

1 mitigation measures that the lead agency finds, after holding a  
2 public hearing on the matter, are equivalent or more effective in  
3 mitigating significant effects on the environment to a less than  
4 significant level and that do not cause any potentially significant  
5 effect on the environment. If those new mitigation measures are  
6 made conditions of project approval or are otherwise made part  
7 of the project approval, the deletion of the former measures and  
8 the substitution of the new mitigation measures shall not constitute  
9 an action or circumstance requiring recirculation of the mitigated  
10 negative declaration.

11 (g) This section does not preclude a project applicant or any  
12 other person from challenging, in an administrative or judicial  
13 proceeding, the legality of a condition of project approval imposed  
14 by the lead agency. If, however, any condition of project approval  
15 set aside by either an administrative body or court was necessary  
16 to avoid or lessen the likelihood of the occurrence of a significant  
17 effect on the environment, the lead agency's approval of the  
18 negative declaration and project shall be invalid and a new  
19 environmental review process shall be conducted before the project  
20 can be reapproved, unless the lead agency substitutes a new  
21 condition that the lead agency finds, after holding a public hearing  
22 on the matter, is equivalent to, or more effective in, lessening or  
23 avoiding significant effects on the environment and that does not  
24 cause any potentially significant effect on the environment.

25 SEC. 8. Section 21080.085 is added to the Public Resources  
26 Code, to read:

27 21080.085. (a) This division does not apply to a rezoning that  
28 implements *the schedule of actions contained in* an approved  
29 housing ~~element~~. *element pursuant to subdivision (c) of Section*  
30 *65583 of the Government Code.*

31 (b) (1) Subdivision (a) does not apply to either of the following:

32 (A) A rezoning that would allow for the construction of a  
33 distribution center or for oil and gas infrastructure.

34 (B) A rezoning that would allow for construction to occur within  
35 the boundaries of any natural and protected lands as defined  
36 pursuant to Section 21067.5.

37 (2) (A) Subdivision (a) applies to a rezoning that ~~includes~~  
38 *contains* within its boundaries any natural and protected lands as  
39 defined pursuant to Section ~~21067.5~~, ~~or any portion thereof, that~~

1 ~~excludes 21067.5~~ if those natural and protected lands *are excluded*  
2 from the rezoning.

3 (B) The rezoning of any parcel or portions of a parcel that is  
4 excluded from a rezoning under this paragraph shall be a separate  
5 project that is subject to this division.

6 SEC. 9. Section 21080.1 of the Public Resources Code is  
7 amended to read:

8 21080.1. (a) The lead agency shall be responsible for  
9 determining whether an environmental impact report, a negative  
10 declaration, or a mitigated negative declaration shall be required  
11 for any project that is subject to this division. That determination  
12 shall be final and conclusive on all persons, including responsible  
13 agencies, unless challenged as provided in Section 21167.

14 (b) (1) If a proposed project would otherwise be exempt from  
15 this division pursuant to a statutory exemption or a categorical  
16 exemption adopted before January 1, 2026, but for a single  
17 condition, the application of this division to the approval of the  
18 proposed project shall be limited to effects upon the environment  
19 that are caused solely by that single condition.

20 (2) An initial study or environmental impact report prepared  
21 for a project subject to this subdivision is only required to examine  
22 those effects that the lead agency determines, based upon  
23 substantial evidence in the record, are caused solely by the single  
24 condition that makes the proposed project ineligible for the  
25 statutory exemption or categorical exemption.

26 (3) An environmental impact report for a project subject to this  
27 subdivision is not required to include any discussion of alternatives  
28 to the project, cumulative impacts of the project, or the  
29 growth-inducing impacts of the project.

30 (4) This subdivision does not apply to any of the following  
31 projects:

32 (A) A proposed project that is not similar in kind to the projects  
33 listed in the statutory or categorical exemption.

34 (B) A proposed project that is ineligible for the statutory  
35 exemption or categorical exemption due to two or more conditions.

36 (C) A proposed project that is not consistent with applicable  
37 zoning designation and regulations, except for a housing  
38 development project, as defined in Section 65589.5 of the  
39 Government Code, that is proposed on a site identified as suitable  
40 or available for very low, low-, or moderate-income households

1 in the local jurisdiction’s most recent adopted housing element  
2 that has been certified by the Department of Housing and  
3 Community Development to be in compliance with state law.

4 (D) A proposed project that includes a distribution center or oil  
5 and gas infrastructure.

6 (E) A proposed project located on natural and protected lands  
7 as defined pursuant to Section 21067.5.

8 (5) As used in this subdivision, “condition” means a physical  
9 feature of the project or an effect upon the environment caused by  
10 the project.

11 (c) In the case of a project described in subdivision (c) of Section  
12 21065, the lead agency shall, upon the request of a potential  
13 applicant, provide for consultation before the filing of the  
14 application regarding the range of actions, potential alternatives,  
15 mitigation measures, and any potential and significant effects on  
16 the environment of the project.

17 SEC. 10. Section 21082.2 of the Public Resources Code is  
18 amended to read:

19 21082.2. (a) The lead agency shall determine whether a project  
20 is more likely than not to have a significant effect on the  
21 environment based on substantial evidence in light of the whole  
22 record.

23 (b) The existence of public controversy over the environmental  
24 effects of a project shall not require preparation of an  
25 environmental impact report if an environmental impact report  
26 would not otherwise be required by this division.

27 (c) Argument, speculation, unsubstantiated opinion or narrative,  
28 evidence that is clearly inaccurate or erroneous, or evidence of  
29 social or economic impacts that do not contribute to, or are not  
30 caused by, physical impacts on the environment, is not substantial  
31 evidence. Substantial evidence shall include facts, reasonable  
32 assumptions predicated upon facts, and expert opinion supported  
33 by facts.

34 (d) If the lead agency determines, based upon substantial  
35 evidence, in light of the whole record before the lead agency, that  
36 it is more likely than not that a project will have a significant effect  
37 on the environment, an environmental impact report shall be  
38 prepared.

39 (e) Statements in an environmental impact report and comments  
40 with respect to an environmental impact report shall not be deemed

1 determinative of whether the project may have a significant effect  
2 on the environment.

3 SEC. 11. Section 21083 of the Public Resources Code is  
4 amended to read:

5 21083. (a) The Office of Land Use and Climate Innovation  
6 shall prepare and develop proposed guidelines for the  
7 implementation of this division by public agencies. The guidelines  
8 shall include objectives and criteria for the orderly evaluation of  
9 projects and the preparation of environmental impact reports and  
10 negative declarations in a manner consistent with this division.

11 (b) The guidelines shall specifically include criteria for public  
12 agencies to follow in determining whether or not a proposed project  
13 may have a “significant effect on the environment.” The criteria  
14 shall require a finding that a project may have a “significant effect  
15 on the environment” if the lead agency determines, based upon  
16 substantial evidence in the record, that one or more of the following  
17 conditions exists:

18 (1) A proposed project has the potential to degrade the quality  
19 of the environment, curtail the range of the environment, or to  
20 achieve short-term, to the disadvantage of long-term, environmental  
21 goals.

22 (2) The possible effects of a project are individually limited but  
23 cumulatively considerable. As used in this paragraph,  
24 “cumulatively considerable” means that the incremental effects of  
25 an individual project are considerable when viewed in connection  
26 with the effects of past projects, the effects of other current projects,  
27 and the effects of probable future projects.

28 (3) The environmental effects of a project will cause substantial  
29 adverse effects on human beings, either directly or indirectly.

30 (c) The guidelines shall include procedures for determining the  
31 lead agency pursuant to Section 21165.

32 (d) The guidelines shall include criteria for public agencies to  
33 use in determining when a proposed project is of sufficient  
34 statewide, regional, or areawide environmental significance that  
35 a draft environmental impact report, a proposed negative  
36 declaration, or a proposed mitigated negative declaration shall be  
37 submitted to appropriate state agencies, through the State  
38 Clearinghouse, for review and comment prior to completion of the  
39 environmental impact report, negative declaration, or mitigated  
40 negative declaration.

1 (e) The Office of Land Use and Climate Innovation shall develop  
2 and prepare the proposed guidelines as soon as possible and shall  
3 transmit them immediately to the Secretary of the Natural  
4 Resources Agency. The Secretary of the Natural Resources Agency  
5 shall certify and adopt the guidelines pursuant to Chapter 3.5  
6 (commencing with Section 11340) of Part 1 of Division 3 of Title  
7 2 of the Government Code, which shall become effective upon the  
8 filing thereof. However, the guidelines shall not be adopted without  
9 compliance with Sections 11346.4, 11346.5, and 11346.8 of the  
10 Government Code.

11 (f) The Office of Land Use and Climate Innovation shall, at  
12 least once every two years, review the guidelines adopted pursuant  
13 to this section and shall recommend proposed changes or  
14 amendments to the Secretary of the Natural Resources Agency.  
15 The Secretary of the Natural Resources Agency shall certify and  
16 adopt guidelines, and any amendments thereto, at least once every  
17 two years, pursuant to Chapter 3.5 (commencing with Section  
18 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
19 which shall become effective upon the filing thereof. However,  
20 guidelines may not be adopted or amended without compliance  
21 with Sections 11346.4, 11346.5, and 11346.8 of the Government  
22 Code.

23 SEC. 12. Section 21083.03 is added to the Public Resources  
24 Code, to read:

25 21083.03. (a) On or before July 1, 2026, the Office of Land  
26 Use and Climate Innovation shall prepare, develop, and transmit  
27 to the Natural Resources Agency for certification and adoption an  
28 amendment to the Class 32 categorical exemption set forth in  
29 Section 15332 of Title 14 of the California Code of Regulations  
30 that establishes an alternative means of compliance with the  
31 requirements of that categorical exemption as follows:

32 (1) A housing development project, as defined in Section  
33 65589.5 of the Government Code, that is not consistent with the  
34 applicable general plan designation, applicable general plan  
35 policies, or applicable zoning designation and regulations shall be  
36 in compliance with subdivision (a) of Section 15332 of Title 14  
37 of the California Code of Regulations if the project is proposed  
38 on a site identified as suitable or available for very low, low-, or  
39 moderate-income households in the local jurisdiction's most recent  
40 adopted housing element that has been certified by the Department

1 of Housing and Community Development to be in compliance  
2 with state ~~law~~. *law and the project meets either of the following*  
3 *conditions:*

4 (A) *The project is consistent with the objective general plan*  
5 *standards and criteria but the zoning for the project site is*  
6 *inconsistent with the general plan.*

7 (B) *The project is consistent with the density specified in the*  
8 *most recently updated and adopted housing element, and that is*  
9 *inconsistent with both the jurisdiction's zoning ordinance and*  
10 *general plan land use designation on the date the application was*  
11 *deemed complete.*

12 (2) A project that does not occur within city limits on a project  
13 site of no more than five acres substantially surrounded by urban  
14 uses shall be in compliance with subdivision (b) of Section 15332  
15 of Title 14 of the California Code of Regulations if the project  
16 occurs in either of the following locations:

17 (A) Within an urbanized area or urban cluster on a project site  
18 of no more than five acres substantially surrounded by urban uses.

19 (B) Within an area that the Office of Land Use and Climate  
20 Innovation has determined to be an eligible urban infill site  
21 pursuant to subdivision (c).

22 (3) (A) The amendment shall establish objective and measurable  
23 safe harbor thresholds that a lead agency may elect to use when  
24 making the determinations required under subdivisions (c), (d),  
25 and (e) of Section 15332 of Title 14 of the California Code of  
26 Regulations.

27 (B) A lead agency shall not be in violation of this division if  
28 the determinations required under subdivisions (c), (d), and (e) of  
29 Section 15332 of Title 14 of the California Code of Regulations  
30 were made in substantial compliance with thresholds adopted  
31 pursuant to this subdivision.

32 (C) The safe harbor thresholds adopted pursuant to this  
33 paragraph shall not be applicable to the review and consideration  
34 of a proposed project, and shall not be considered in an action or  
35 proceeding to attack, review, set aside, void, or annul a  
36 determination or decision related to a proposed project on the  
37 grounds of noncompliance with this division, unless the lead  
38 agency has expressly elected to use the safe harbor threshold for  
39 that project.

1 (4) The alternative means of compliance set forth in this  
2 subdivision shall not apply to a proposed project that includes a  
3 distribution center or oil and gas infrastructure.

4 (b) An amendment to Section 15332 of Title 14 of the California  
5 Code of Regulations adopted pursuant to this section shall not  
6 revise the requirements for exemption set forth in that section,  
7 except as provided in subdivision (a). A project that would be  
8 eligible for the Class 32 categorical exemption set forth in Section  
9 15332 of Title 14 of the California Code of Regulations as it read  
10 on December 31, 2024, shall not be ineligible as the result of any  
11 amendment adopted pursuant to this section.

12 (c) On or before July 1, 2026, the Office of Land Use and  
13 Climate Innovation shall map the eligible urban infill sites within  
14 every urbanized area or urban cluster in the state where,  
15 notwithstanding that an area may or may not be substantially  
16 surrounded by urban uses, the local jurisdiction's most recent  
17 general plan or most recently adopted housing element that has  
18 been certified by the Department of Housing and Community  
19 Development to be in compliance with state law has a zoning  
20 designation that is consistent with ~~infill development~~ *development*  
21 *and development on the parcel promotes compact development in*  
22 *order to accomplish one or more of the following goals:*

23 (1) *Reduce greenhouse gas emissions and improve regional air*  
24 *quality by reducing the distance people need to travel.*

25 (2) *Reduce conversion of agricultural land, sensitive habitat,*  
26 *and open space for new development.*

27 (3) *Facilitate healthy and environmentally-friendly active*  
28 *transportation.*

29 (4) *Reduce storm-water runoff resulting in flooding and*  
30 *pollution of waterways.*

31 (5) *Bring vibrancy, community, and social connection to*  
32 *neighborhoods.*

33 (d) Subdivision (c) of Section 15300.2 of Title 14 of the  
34 California Code of Regulations does not apply to Section 15332  
35 of Title 14 of the California Code of Regulations.

36 (e) (1) If a proposed project that is in compliance with  
37 subdivisions (a) and (b) of Section 15332 of Title 14 of the  
38 California Code of Regulations is otherwise ineligible for that  
39 categorical exemption due to one or more conditions, the  
40 application of this division to the approval of the proposed project

1 shall be limited to the effects upon the environment that are caused  
2 solely by those conditions that make the project ineligible for the  
3 categorical exemption.

4 (2) For purposes of this subdivision, “condition” has the same  
5 meaning as in subdivision (b) of Section 21080.1.

6 (f) For purposes of this section, the following definitions apply:

7 (1) “Urbanized area” means an urbanized area designated by  
8 the United States Census Bureau, as published in the Federal  
9 Register, Volume 77, Number 59, on March 27, 2012.

10 (2) “Urban cluster” means an urban cluster designated by the  
11 United States Census Bureau, as published in the Federal Register,  
12 Volume 77, Number 59, on March 27, 2012.

13 (g) This section does not apply to a project that includes a  
14 distribution center or oil and gas infrastructure.

15 SEC. 13. Section 21167.6 of the Public Resources Code is  
16 amended to read:

17 21167.6. Notwithstanding any other law, in all actions or  
18 proceedings brought pursuant to Section 21167, except as provided  
19 in Section 21167.6.2 or those involving the Public Utilities  
20 Commission, all of the following shall apply:

21 (a) At the time that the action or proceeding is filed, the plaintiff  
22 or petitioner shall file a request that the respondent public agency  
23 prepare the record of proceedings relating to the subject of the  
24 action or proceeding. The request, together with the complaint or  
25 petition, shall be served personally upon the public agency not  
26 later than 10 business days from the date that the action or  
27 proceeding was filed.

28 (b) (1) (A) The public agency shall prepare and certify the  
29 record of proceedings not later than 60 days from the date that the  
30 request specified in subdivision (a) was served upon the public  
31 agency. Upon certification, the public agency shall lodge an  
32 electronic copy of the record of proceedings with the court and  
33 shall serve on the parties notice that the record of proceedings has  
34 been certified and lodged with the court. The parties shall pay any  
35 reasonable costs or fees imposed for the preparation of the record  
36 of proceedings in conformance with any law or rule of court.

37 (B) The court shall schedule a case management conference  
38 within 30 days of the filing of the complaint or petition pursuant  
39 to this division to review the scope, timing, and cost of the record  
40 of proceedings. The parties may stipulate to a partial record of

1 proceedings that does not contain all the documents listed in  
2 subdivision (e) if approved by the court.

3 (2) The plaintiff or petitioner may elect to prepare the record  
4 of proceedings by providing a notice of the election to the public  
5 agency, or the parties may agree to an alternative method of  
6 preparation of the record of proceedings, subject to certification  
7 of its accuracy by the public agency, within the 60-day time limit  
8 specified in this subdivision.

9 (3) Notwithstanding paragraph (2), the public agency, within  
10 five business days of the receipt of the notice specified in paragraph  
11 (2), may deny the request of the plaintiff or petitioner to prepare  
12 the record of proceedings, in which case the public agency or the  
13 real party in interest shall bear the costs of preparation and  
14 certification of the record of proceedings, and those costs shall not  
15 be recoverable from the plaintiff or petitioner.

16 (c) The time limit established by subdivision (b) may be  
17 extended only upon the stipulation of all parties who have been  
18 properly served in the action or proceeding or upon order of the  
19 court. Extensions shall be liberally granted by the court when the  
20 size of the record of proceedings renders infeasible compliance  
21 with that time limit. There is no limit on the number of extensions  
22 that may be granted by the court, but no single extension shall  
23 exceed 60 days unless the court determines that a longer extension  
24 is in the public interest.

25 (d) If the public agency fails to prepare and certify the record  
26 of proceedings within the time limit established in paragraph (1)  
27 of subdivision (b), or any continuances of that time limit, the  
28 plaintiff or petitioner may move for sanctions, and the court may,  
29 upon that motion, grant appropriate sanctions.

30 (e) The record of proceedings shall include, but is not limited  
31 to, all of the following items:

32 (1) All project application materials.

33 (2) All staff reports and related documents prepared by the  
34 respondent public agency with respect to its compliance with the  
35 substantive and procedural requirements of this division and with  
36 respect to the action on the project.

37 (3) All staff reports and related documents prepared by the  
38 respondent public agency and written testimony or documents  
39 submitted by any person relevant to any findings or statement of

1 overriding considerations adopted by the respondent agency  
2 pursuant to this division.

3 (4) Any transcript or minutes of the proceedings at which the  
4 decisionmaking body of the respondent public agency heard  
5 testimony on, or considered any environmental document on, the  
6 project, and any transcript or minutes of proceedings before any  
7 advisory body to the respondent public agency that were presented  
8 to the decisionmaking body before action on the environmental  
9 documents or on the project.

10 (5) All notices issued by the respondent public agency to comply  
11 with this division or with any other law governing the processing  
12 and approval of the project.

13 (6) All written comments received in response to, or in  
14 connection with, environmental documents prepared for the project,  
15 including responses to the notice of preparation.

16 (7) All written evidence or correspondence submitted to, or  
17 transferred from, the respondent public agency with respect to  
18 compliance with this division or with respect to the project.

19 (8) Any proposed decisions or findings submitted to the  
20 decisionmaking body of the respondent public agency by its staff,  
21 or the project proponent, project opponents, or other persons.

22 (9) The documentation of the final public agency decision,  
23 including the final environmental impact report, mitigated negative  
24 declaration, or negative declaration, and all documents, in addition  
25 to those referenced in paragraph (3), cited or relied on in the  
26 findings or in a statement of overriding considerations adopted  
27 pursuant to this division.

28 (10) (A) (i) Any other written materials relevant to the  
29 respondent public agency's compliance with this division or to its  
30 decision on the merits of the project, including the initial study,  
31 any drafts of any environmental document or portions of the initial  
32 study or drafts that have been released for public review, and copies  
33 of studies or other documents relied upon in any environmental  
34 document prepared for the project and either made available to the  
35 public during the public review period or included in the respondent  
36 public agency's files on the project, and all internal agency  
37 communications, including staff notes and memoranda related to  
38 the project or to compliance with this division, but not including  
39 communications that are of a logistical nature, such as meeting  
40 invitations and scheduling communications, except that any

1 material that is subject to privileges contained in the Evidence  
2 Code, or exemptions contained in the California Public Records  
3 Act (Division 10 (commencing with Section 7920.000) of Title 1  
4 of the Government Code), shall not be included in the record of  
5 proceedings under this paragraph, consistent with existing law.

6 (ii) This subparagraph applies to a project that includes a  
7 distribution center or oil and gas infrastructure.

8 (B) (i) Any other written materials relevant to the respondent  
9 public agency's compliance with this division or to its decision on  
10 the merits of the project, including the initial study, any drafts of  
11 any environmental document, or portions of the initial study or  
12 drafts, that have been released for public review, and copies of  
13 studies or other documents relied upon in any environmental  
14 document prepared for the project and either made available to the  
15 public during the public review period or included in the respondent  
16 public agency's files on the project, and all internal agency  
17 communications, including memoranda related to the project or  
18 to compliance with this division, but not including communications  
19 that are of a logistical nature, such as meeting invitations and  
20 scheduling communications, except that any material that is subject  
21 to privileges contained in the Evidence Code, or exemptions  
22 contained in the California Public Records Act (Division 10  
23 (commencing with Section 7920.000) of Title 1 of the Government  
24 Code), shall not be included in the record of proceedings under  
25 this paragraph, consistent with existing law.

26 (ii) This subparagraph applies to any project that is not subject  
27 to subparagraph (A).

28 (iii) For purposes of this subparagraph, internal agency  
29 communications does not include electronic internal agency  
30 communications, including emails, that were not presented to the  
31 final decisionmaking body. The public agency may, but is not  
32 required to, include any documents in the record of proceedings  
33 that are not specifically set forth in this subparagraph.

34 (11) The full written record before any inferior administrative  
35 decisionmaking body whose decision was appealed to a superior  
36 administrative decisionmaking body before the filing of litigation.

37 (f) In preparing the record of proceedings, the party preparing  
38 the record of proceedings shall strive to do so at reasonable cost  
39 in light of the scope of the record of proceedings.

1 (g) The clerk of the superior court shall prepare and certify the  
2 clerk's transcript on appeal not later than 60 days from the date  
3 that the notice designating the papers or records to be included in  
4 the clerk's transcript was filed with the superior court, if the party  
5 or parties pay any costs or fees for the preparation of the clerk's  
6 transcript imposed in conformance with any law or rules of court.  
7 Nothing in this subdivision precludes an election to proceed by  
8 appendix, as provided in Rule 8.124 of the California Rules of  
9 Court.

10 (h) Extensions of the period for the filing of any brief on appeal  
11 may be allowed only by stipulation of the parties or by order of  
12 the court for good cause shown. Extensions for the filing of a brief  
13 on appeal shall be limited to one 30-day extension for the  
14 preparation of an opening brief and one 30-day extension for the  
15 preparation of a responding brief, except that the court may grant  
16 a longer extension or additional extensions if it determines that  
17 there is a substantial likelihood of settlement that would avoid the  
18 necessity of completing the appeal.

19 (i) At the completion of the filing of briefs on appeal, the  
20 appellant shall notify the court of the completion of the filing of  
21 briefs, whereupon the clerk of the reviewing court shall set the  
22 appeal for hearing on the first available calendar date.

23 SEC. 14. Section 21168.9 of the Public Resources Code is  
24 amended to read:

25 21168.9. (a) If a court finds, as a result of a trial, hearing, or  
26 remand from an appellate court, that any determination, finding,  
27 or decision of a public agency has been made without compliance  
28 with this division, the court shall enter an order that includes one  
29 or more of the following:

30 (1) A mandate that the determination, finding, or decision be  
31 voided by the public agency, in whole or in part.

32 (2) If the court finds that a specific project activity or activities  
33 will prejudice the consideration or implementation of particular  
34 mitigation measures or alternatives to the project, a mandate that  
35 the public agency and any real parties in interest suspend any or  
36 all specific project activity or activities, pursuant to the  
37 determination, finding, or decision, that could result in an adverse  
38 change or alteration to the physical environment, until the public  
39 agency has taken any actions that may be necessary to bring the

1 determination, finding, or decision into compliance with this  
2 division.

3 (3) A mandate that the public agency take specific action as  
4 may be necessary to bring the determination, finding, or decision  
5 into compliance with this division.

6 (b) (1) Any order pursuant to subdivision (a) shall include only  
7 those mandates that are necessary to achieve compliance with this  
8 division and only those specific project activities in noncompliance  
9 with this division. The order shall be made by the issuance of a  
10 peremptory writ of mandate specifying what action by the public  
11 agency is necessary to comply with this division. However, the  
12 order shall be limited to that portion of a determination, finding,  
13 or decision or the specific project activity or activities found to be  
14 in noncompliance only if a court finds that (A) the portion or  
15 specific project activity or activities are severable, (B) severance  
16 will not prejudice complete and full compliance with this division,  
17 and (C) the court has not found the remainder of the project to be  
18 in noncompliance with this division. The trial court shall retain  
19 jurisdiction over the public agency's proceedings by way of a  
20 return to the peremptory writ until the court has determined that  
21 the public agency has complied with this division.

22 (2) If the determination of a public agency that a project that is  
23 eligible for a statutory exemption or categorical exemption is found  
24 to violate this division, the order pursuant to subdivision (a) shall  
25 be subject to the limitations set forth in subdivision (c) of Section  
26 21080.1 or Section 21083.03, as applicable.

27 (c) Nothing in this section authorizes a court to direct any public  
28 agency to exercise its discretion in any particular way. Except as  
29 expressly provided in this section, nothing in this section is  
30 intended to limit the equitable powers of the court.

31 SEC. 15. No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution because  
33 a local agency or school district has the authority to levy service  
34 charges, fees, or assessments sufficient to pay for the program or  
35 level of service mandated by this act, within the meaning of Section  
36 17556 of the Government Code.

O