

TITLE 23. WATERS
DIVISION 3. STATE WATER RESOURCES CONTROL BOARD AND
REGIONAL WATER QUALITY CONTROL BOARDS
CHAPTER 27. REGULATIONS FOR IMPLEMENTATION OF THE
ENVIRONMENTAL QUALITY ACT OF 1970
ARTICLE 1. GENERAL

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§ 3720. Purpose.

- (a) The purpose of ~~these regulations~~this Chapter is to specify the objectives, criteria and procedures to be followed by the state board and the regional boards in implementing the California Environmental Quality Act. (~~Division 13, Public Resources Code, commencing with Section 21000.~~)CEQA. (Pub. Resources Code, div. 13, (commencing with § 21000).)
- (b) This Chapter does not apply if the board determines that the activity is not subject to CEQA.
- (c) (1) The State CEQA Guidelines (~~Title 14, California Administrative Code, Division 6, Chapter 3~~Cal. Code Regs., tit. 14, div. 6, ch. 3 (commencing with § 15000)), including all subsequent amendments thereto, are hereby incorporated by reference as if fully set forth in this ~~subchapter~~Chapter. Except as provided in paragraph (2), to the extent that there are any direct conflicts between this Chapter and the State CEQA Guidelines, the State CEQA Guidelines prevail. (2) Article 6 of this Chapter contains the exclusive procedural requirements for the implementation of the boards' regulatory programs that have been certified by the Secretary for Natural Resources as meeting the requirements of section 21080.5 of the Public Resources Code.
- (d) Nothing in this Chapter limits the boards' authority to protect water resources under other provisions of law.

~~Note: Authority cited: Section 21082, Public~~(Pub. Resources Code;~~14 Cal. Admin. Code 15005. , § 21082.~~)

Reference: ~~Sections 21000-21175, Public~~(Pub. Resources Code., §§ 21000-21177.)

§ 3721. Definitions.

~~(a) "Board" means any Regional Water Quality Control Board, the State Water Resources Control Board, or the staff of such boards when acting pursuant to a delegation of authority. "Board," "state board," and "regional board" have the same meaning as set forth in section 640 of Title 23.~~

~~(b) "Environmental documents" means draft and final Environmental Impact Reports (EIRs), initial studies, Notices of Preparation, draft and final Negative Declarations, Notices of Completion, and Notices of Determination.~~

~~(e**b**) "Notice of Decision" means a brief notice to be filed by the board with the Secretary for Natural Resources after it has issued, adopted or prescribed a lease, permit, license, certificate or other entitlement for use, or adopted or approved a standard, rule, regulation, or plan, or related project in accordance with an exempt regulatory program. A ~~copy~~sample of this notice appears in Appendix B.~~

~~(d**c**) "Notice of Filing" means a brief notice of availability to be ~~filed by the board with the Secretary for Resources~~posted on the board's website, and provided to any person who requests it in writing, upon completion of the written documentation prepared for a proposed activity in accordance with an exempt regulatory program. A ~~copy~~sample of this notice appears in Appendix C.~~

~~(e) "Regional board" means a California Regional Water Quality Control Board and the staff of such board when acting pursuant to a delegation of authority from the regional board.~~

~~(f) "State board" means the State Water Resources Control Board and staff of such board when acting pursuant to a delegation of authority.~~

~~Note: Authority cited: Sections 175, 13200, 13201 and 13223, Water Code; Sections 21080.5 and 21082, Public Resources Code; and 14 Cal. Adm. Code 15026.5 and 15055. Reference: Sections 21080.5, 21100 and Division 13, Public Resources Code.~~

~~Authority cited: (Pub. Resources Code, § 21082.)~~

~~Reference: (Pub. Resources Code, § 21080.5; Wat. Code, § 13050.)~~

§ 3722. Compliance with ~~Time Limitations~~ Permit Streamlining Act.

The board shall complete review and take action with regard to development projects ~~within~~ subject to the Permit Streamlining Act (Chapter 4.5 (commencing with section 65920) of Division 1 of Title 7 of the Government Code) within the time limits set forth in ~~Section 65950 of the Government Code if the board is lead agency or within the time limits set forth in Section 65952 of the Government Code if the board is a responsible agency, except where federal statutes or regulations require different time limits, where a combined EIR-EIS is being prepared, where an application to appropriate water has been protested, or where the project applicant and the board have agreed to extend the time limits for a period not to exceed 90 days. In the event the board fails to approve or disapprove a development project within the time limits set forth in Sections 65950 or 65952 of the Government Code, as applicable, the project shall be deemed approved pursuant to Section 65956 of the Government Code.~~ Article 5 (commencing with section 65950) of the Permit Streamlining Act in accordance with these regulations, except as provided by Water Code section 13264.

~~Note: Authority cited: Sections 21082 and 21100.2, Public Resources Code; Sections 65950-65957, Government Code; 14 Cal. Admin. Code 15054, 15054.2, 15085.5. Reference: Section 21100.2, Public Resources Code.~~

Authority cited: (Pub. Resources Code, §§ 21082, 21100.2.)

Reference: (Gov. Code, §§ 65950-65957; Wat. Code, § 13264.)

§ 3723. Master Environmental Assessment.

For purposes of section ~~15069.6~~[15169](#) of the State ~~EIR~~[CEQA](#) Guidelines, the following documents have been prepared and designated by the state board as a master environmental assessment for the particular hydrographic area under consideration:

(a) All water quality control plans, and amendments and supplements to such plans, adopted by the regional boards and approved by the state board pursuant to Article 3, Chapter 4 of Division 7 of the Water Code.

(b) All water quality control plans adopted by the state board pursuant to Water Code section 13170.

~~Note:~~ Authority cited: ~~Section 21082, Public~~[\(Pub. Resources Code-, § 21082.\)](#)
Reference: ~~Division 13, Public~~ [\(Pub. Resources Code-, § 21003.\)](#)

ARTICLE 2. EXEMPTIONS

§ 3730. Ministerial Project Exemption.

Ministerial projects are exempt from the requirements of CEQA and do not require the preparation of environmental documents. Generally, in the absence of special circumstances, the following activities have been determined to be ministerial projects:

(a) Issuance of certifications pursuant to section 169 of the Internal Revenue Code of 1954, as amended.

(b) Issuance of licenses to appropriate water pursuant to Water Code Sections 1600-1611.

(c) Issuance of permits to appropriate water pursuant to a decision or order of the state board.

(d) Issuance of certificates pursuant to Health and Safety Code section ~~39615.~~[44533.](#)

(e) Issuance of ~~certificates for~~[registrations for small domestic and livestock](#) stockpond ~~water rights~~[uses](#) pursuant to Article ~~2.5~~[2.7 \(commencing with section 1228\)](#) of Chapter 1 of Part 2 of Division 2 of the Water Code.

~~(f) Issuance of a certification to the California Pollution Control Financing Authority Act pursuant to Division 27 of the Health and Safety Code.~~

~~(g) Issuance of a license or exemption of any oil spill cleanup agent pursuant to Water Code Section 13169.~~

~~Note: Authority cited: Sections 21080(b)(1) and 21082, Public (Pub. Resources Code; 14 Cal. Admin. Code 15032., § 21082.)~~

~~Reference: Section 21080(b), Public (Pub. Resources Code; 14 Cal. Admin. Code 15073., § 21080, subd. (b).)~~

§ 3733. Waste Discharge Requirements ~~Under~~Adopted Pursuant to Water Code Division 7, Chapter 5.5.

~~Environmental documents are not~~In accordance with Water Code section 13389, the boards shall not be required ~~for~~to comply with CEQA prior to the adoption of waste discharge requirements ~~under Chapter 5.5, Division 7 of the Water Code;~~that serve as a National Pollutant Discharge Elimination System (NPDES) permit pursuant to Water Code section 13377, except requirements for new sources as defined in ~~the Federal Water Pollution Control Act. This exemption is in accordance with Water Code Section 13389 which does not apply to the policy provisions of Chapter 1 of CEQA.~~Title 40, Code of Federal Regulations, sections 122.2 and 122.29.

~~Note: Authority cited: Section 21082, Public (Pub. Resources Code; Section 13389, Water Code; 14 Cal. Admin. Code 15037(b)(1). Reference: Division 13, Public Resources Code., § 21082.)~~

~~Reference: (Wat. Code, § 13389; County of Los Angeles v. California State Water Resources Control Bd. (2006) 143 Cal.App.4th 985.)~~

ARTICLE 3. APPLICATIONS FOR WASTE DISCHARGE, WATER
~~RECLAMATION~~[RECYCLING](#) REQUIREMENTS, OR OTHER ENTITLEMENTS FOR USE

§ 3740. Submission of Information.

Whenever any person applies to the board for waste discharge requirements, water ~~reclamation~~[recycling](#) requirements, or other entitlement for use, the board may require that person to submit data and information necessary to enable the board to determine whether the project proposed may have a significant effect on the environment.

~~Note:~~ Authority cited: ~~Sections 21082 and 21082.1, Public~~[\(Pub. Resources Code, § 21082.\)](#)
[Reference: \(Pub. Resources Code, § 21082.1.\)](#)

§ 3741. Additional Information Requirements.

(a) In addition to the information requested under section 3740, the person applying for waste discharge requirements, water ~~reclamation~~recycling requirements, or other entitlement for use, shall complete the Environmental Information Form contained in Appendix H of the State CEQA Guidelines if the conditions specified in subsections (1), (2), (3) and (4) of this subsection are met:

- (1) The project is subject to the requirements of CEQA;
- (2) The project does not qualify for an exemption under Article 2 of this ~~subchapter;~~ and Chapter or Article 18 or 19 of the State CEQA Guidelines;
- (3) The project is to be carried out by a person other than a public agency; and
- (4) No other agency is lead agency for the project.

(b) In addition to the information requested under section 3740, the person applying for waste discharge requirements, water ~~reclamation~~recycling requirements, or other entitlement for use shall ~~assure~~ensure that the board receives copies of the environmental documents or Notice of Exemption if the following conditions are met:

- (1) The project is subject to CEQA;
- (2) The project is to be carried out by a person other than the board; and
- (3) A public agency other than the board is lead agency.

~~Note:~~ Authority cited: ~~Section 21082, Public~~(Pub. Resources Code, § 21082.)
Reference: ~~Division 13, Public~~(Pub. Resources Code, §§ 21000-21177.)

§ 3742. Denial or Limitation of Waste Discharge Requirements, Water Recycling Requirements, or Other Entitlement for Use.

(a) The board, when acting as a responsible agency, may prohibit, postpone, or condition the discharge of waste and may deny, postpone, or condition water recycling requirements or other entitlement for use for any project subject to CEQA to protect against environmental damage to water resources, to minimize adverse environmental impacts on water resources, or to ensure long-term protection of water resources, or if the information required pursuant to sections 3740 and 3741 has not been timely submitted to the board. The board's authority under this subdivision is limited to the protection of water resources within its purview.

(b) The board ~~may prohibit~~, when acting as lead agency, may prohibit, postpone, or condition the discharge of waste and may ~~condition water reclamation requirements in order~~ deny, postpone, or condition water recycling requirements or other entitlements for use for any project to protect against environmental damage, ~~minimize adverse environmental impacts, or to prevent nuisance, to minimize adverse environmental impacts, or to~~ ensure long-term protection of the environment, ~~or if the information required pursuant to sections 3740 and 3741 has not been~~ timely submitted to the board.

~~Note:~~ Authority cited: ~~Sections 21002.1, 21081, and 21082, Public~~ (Pub. Resources Code-, § 21082.)

Reference: ~~Section 21002, Public~~ (Pub. Resources Code-, §§ 21002, 21002.1.)

ARTICLE 4. APPLICATIONS FOR FUNDING

§ 3750. Submission of Information.

(a) Whenever any ~~municipality~~public agency applies to the state board for discretionary ~~grant~~financial assistance from ~~both~~ the state board ~~and the Federal Environmental Protection Agency~~ for a project to be undertaken by such ~~municipality~~public agency, the application shall be supported by: ~~(1) An Environmental Assessment as required by the National Environmental Policy Act. (2) An an Initial Study and an adopted Negative Declaration, or a Final~~ Environmental Impact Report, ~~or Negative Declaration~~ as required by CEQA, or the public agency shall provide documentation to support the basis for a statutory or categorical exemption from CEQA.

(b) Whenever any person that is not a public agency ~~applies to the state board for any other discretionary financial assistance for a project to be undertaken by such public agency, the application shall be supported by either an Initial Study and a Negative Declaration or an EIR.~~
(c) ~~Whenever any person, other than a public agency,~~ applies to the state board for any form of discretionary financial assistance for a project to be undertaken by such person, the application shall be submitted with sufficient information and data to determine whether the project may have a significant effect on the environment. If the supplied information and data indicate that the project will have a significant effect on the environment, then such person shall submit with the application sufficient information and data to determine feasible changes in the project ~~which~~that mitigate or avoid the substantial adverse changes in the environment. This information may be supplied in the form of a draft EIR or an Initial Study and Negative Declaration. However, regardless of the format used, the state board shall not use the information or documents as its own without an independent evaluation and analysis of such information or documents.

~~Note: Authority cited: Sections 21082 and 21160, Public (Pub. Resources Code; 14 Cal. Admin. Code 15061, 15082., § 21082.)~~

Reference: ~~Section 21104, Public (Pub. Resources Code., §§ 21000-21177.)~~

§ 3751. Limitation of Funding

(a) The state board, acting as a responsible agency, may deny, postpone or condition discretionary financial assistance for any project subject to CEQA ~~which~~that is to be undertaken by any person where the state board determines that such action is necessary to protect against environmental damage to water resources, to prevent nuisance, to minimize adverse environmental impact on water resources, or to ensure long-term protection of water resources, or if the information required pursuant to section 3750 has not been timely submitted to the state board. The state board's authority under this subdivision is limited to the protection of water resources within its purview.

(b) The state board, acting as lead agency, may deny, postpone, or condition discretionary financial assistance for any project ~~which~~that is undertaken by any person where the state board determines that such action is necessary to protect against environmental damage, to prevent nuisance, to minimize adverse environmental impacts, or to ensure long-term protection of the environment, or if the information required pursuant to section 3750 has not been timely submitted to the state board.

~~(c) When a project is subject to CEQA and NEPA, special conditions placed on the project to ensure compliance with NEPA will be binding conditions of state discretionary financial assistance.~~

~~Note:~~ Authority cited: ~~Sections 21002.1, 21081, and 21082, Public~~(Pub. Resources Code-, § 21082.)

Reference: ~~Division 13, Public~~(Pub. Resources Code-, §§ 21002, 21002.1.)

ARTICLE 5. PROCESSING OF ENVIRONMENTAL DOCUMENTS

~~§ 3760. Time Limits in Action by Responsible Agency.~~

~~Any action or approval for a project must be taken by the board within the following time periods, whichever period is later:~~

~~(a) Within 180 days after the lead agency approves the project, or~~

~~(b) Within 180 days after the board finds the application for the project to be complete.~~

~~Note: Authority cited: Section 21082, Public Resources Code; 14 Cal. Admin. Code 15085.5.
Reference: Division 13, Public Resources Code.~~

~~§ 3761. Determination As to Completeness of Application.~~

~~(a) Within 30 days after receiving an application for a development project as defined in Section 65928 of the Government Code, and the board is determined to be a responsible agency, the board shall notify the applicant, in writing, whether the application is complete.~~

~~(b) If the board finds the application is incomplete, it shall notify the applicant in writing and specify the parts of the application which are incomplete and indicate how the application can be made complete.~~

~~Note: Authority cited: Section 21082, Public Resources Code; Sections 62928 and 65943, Government Code. Reference: Division 13, Public Resources Code.~~

§ 3762. Availability of Environmental Documents.

Environmental documents ~~which~~that have been prepared by the board, or ~~which~~that will be considered by the board prior to approval of a project, shall be available for public inspection upon request during normal working hours at the appropriate board office. ~~Copies shall be made available to the general public pursuant to provisions of the California Public Records Act for actual reproduction costs.~~

~~Note:~~ Authority cited: ~~Section 21082, Public~~(Pub. Resources Code; ~~Chapter 6.5, Division 7, Title 1, Government Code, commencing with Section 6250-, § 21082.~~)

Reference: ~~Section 21105, Public~~(Pub. Resources Code-, § 21105; Gov. Code, §§ 6250-6276.48.)

§ 3763. Public Participation and Hearings.

The board shall take appropriate action to encourage public participation and comment in the preparation and review of environmental documents. Such action may include a public hearing, a workshop or a board meeting when such is deemed necessary by the board for proper evaluation of the ~~activity~~ project involved.

~~Note: Authority cited: Section 21082, Public (Pub. Resources Code; 14 Cal. Admin. Code 15164, 15165., § 21082.)~~

~~Reference: Division 13, Public (Pub. Resources Code., §§ 21000-21177.)~~

§ 3764. Charges for Preparation of Environmental Documents.

(a) The ~~state board and the regional~~ boards may charge and collect a reasonable fee from any person proposing a project subject to CEQA for any costs incurred by the boards in preparing ~~an EIR or causing an EIR to be prepared.~~environmental documents for the project.

(b) The board will estimate the cost of ~~preparing an EIR~~ complying with CEQA for the project, including the cost of preparing a negative declaration or an EIR, and will send a statement of the estimated cost to the person proposing such project. The estimated cost shall be paid to the board in total prior to preparation of the ~~EIR~~ environmental document, or in four installments in advance of specific stages of the ~~EIR~~ environmental document's preparation. After the ~~EIR~~ environmental document has been completed, the board shall determine the actual cost of preparation. If the amount of the fee paid is in excess of the actual cost, such excess shall be refunded to the proper person. If the amount of the fee paid is inadequate, the remaining amount shall be due and payable to the board upon request.

~~Note:~~ Authority cited: ~~Section 21082, Public~~(Pub. Resources Code; 14 Cal. Admin. Code 15053. , § 21082.)

Reference: ~~Section 21089, Public~~(Pub. Resources Code, § 21089.)

ARTICLE 6. EXEMPT REGULATORY PROGRAMS

§ 3775. Applicability.

~~(a)~~ This article applies only to those regulatory programs or portions thereof ~~which~~that are administered by the ~~state~~ board and ~~each regional board and which~~that have been certified as an exempt regulatory program by the Secretary for Natural Resources in accordance with subdivision (c) of Public Resources Code section 21080.5. ~~(b) For the regulatory program so certified by the Secretary for Resources, compliance with the provisions of this article shall be in lieu of the provisions of other articles in this subchapter. Such programs include the Water Quality Control (Basin)/208 Planning Program of the state board and regional boards, and includes all water quality control plans, state policies for water quality control, and all components of California's water quality management plan as defined in Code of Federal Regulations, title 40, sections 130.2(k) and 130.6. This article contains the exclusive procedural requirements for those certified regulatory programs.~~

~~Note:~~ Authority cited: ~~Section 21082, Public~~(Pub. Resources Code. ~~Reference: Section 21080.5, Public Resources Code., § 21082.)~~ Reference: (Pub. Resources Code, § 21080.5.)

§ 3775.5. Early Public Consultation.

(a) Prior to circulating the draft Substitute Environmental Documentation described in section 3777, the board shall seek early public consultation. Early public consultation may include one or more scoping meetings.

(b) The purpose of a scoping meeting is to seek input from public agencies and members of the public on the range of project actions, alternatives, reasonably foreseeable means of compliance, significant impacts to be analyzed, cumulative impacts if any, and mitigation measures that will reduce impacts to a less than significant level; and to eliminate from detailed study issues found not to be important. Scoping may also assist in resolving concerns of affected federal, state, and local agencies, the proponent of the action, and other interested persons.

(c) Scoping meetings should be held in the watershed or general vicinity of where the project is to take place, if practicable. The board shall give notice of the time and location of the scoping meeting at least 10 days in advance of the meeting. Notice of a scoping meeting shall be posted on the board's website and should be provided to all of the following:

- (1) Any county or city where the project is located;
- (2) Any public agency that has jurisdiction by law with respect to the project; and
- (3) Any organization or individual who has filed a written request for the notice.

Authority Cited: (Pub. Resources Code, § 21082.)

Reference: (Pub. Resources Code, §§ 21080.5, 21082.1.)

~~§ 3776. Documentation Required for Issuance of a Permit, License, Certificate, or Other Entitlement for Use.~~ Roles of State Board and Regional Boards.

~~(a) The applicant for an entitlement for use which is issued, adopted, or prescribed pursuant to a certified regulatory program shall include, with the existing application form, the completed Environmental Information Form contained in Appendix H to the State CEQA Guidelines. Upon completion of the application form and the Environmental Information Form, the application shall be considered complete. The state board shall be the lead agency with respect to its adoption or revision of any state policy for water quality control or other plans, policies, or regulations that it adopts or revises.~~

~~(b) Upon receipt of a complete application, the board shall complete the Environmental Checklist contained in Appendix A to this subchapter and prepare a written report containing the following:~~

- ~~(1) A brief description of the proposed activity;~~
- ~~(2) Reasonable alternatives to the proposed activity; and~~
- ~~(3) Mitigation measures to minimize any significant adverse environmental impacts of the proposed activity.~~

~~The regional board shall be the lead agency with respect to adoption or amendment of any of its regional water quality control plans or guidelines, as described in Water Code sections 13240 through 13244 and 13245.5. Substitute environmental documentation adopted or approved by the regional board is final upon such adoption or approval, subject to subdivision (c), below. The Notice of Decision shall be filed upon approval by the state board, and if applicable, the Office of Administrative Law.~~

~~(c) Upon completion of the written report, the board shall provide a Notice of Filing of the report to the public and to any person who requests, in writing, such notification. The board shall not take action on the proposed activity until 45 days after the Notice of Filing contained in Appendix C to this subchapter has been provided.~~

~~Pursuant to its approval authority under Water Code sections 13245 through 13246, the state board shall review the substitute environmental documentation of the regional board, and consider the regional board's findings under section 3777 subdivisions (d), (e), and (f). The state board may make its own findings, or may incorporate by reference the regional board's findings.~~

~~(d) Notwithstanding subdivision (c), above, the state board shall become the lead agency if, following resubmission of a regional water quality control plan or revision thereof that it has previously returned to the regional board for reconsideration, the state board revises and approves such plan pursuant to Water Code section 13245. In such event, the state board need not duplicate the CEQA processes performed by the regional board, and need not recirculate the substitute environmental documentation prepared by the regional board unless recirculation would be required pursuant to California Code of Regulations, title 14, section 15088.5.~~

~~Note:~~ Authority cited: ~~Section 21082, Public~~(Pub. Resources Code-, § 21082.)

Reference: ~~Division 13, Public~~(Pub. Resources Code-, §§ 21000-21177; Wat. Code, §§ 13140-13147, 13240-13247.)

§ 3777. Substitute Environmental Documentation ~~Required: Requirements~~ for Adoption or Approval of ~~Standards, Rules, Regulations, or Plans~~ or Policies.

(a) ~~Any standard, rule, regulation, or plan~~ Any water quality control plan, state policy for water quality control, and any components of California's water quality management plan as defined in Code of Federal Regulations, title 40 sections 130.2(k) and 130.6, proposed for board approval or adoption must include or be accompanied by ~~a completed Environmental Checklist contained in Appendix A to this subchapter or such other completed checklist as may be prescribed by the board, and a~~ Substitute Environmental Documentation (SED) and supported by substantial evidence in the administrative record. The Draft SED must be circulated prior to board action approving or adopting a project, as specified in sections 3778 and 3779. The Draft SED shall consist of:

- (1) ~~A brief description of the proposed activity~~ written report prepared for the board, containing an environmental analysis of the project;
- (2) ~~Reasonable alternatives to the proposed activity~~ A completed Environmental Checklist, a sample of which is contained in Appendix A to this Chapter. The sample Environmental Checklist may be modified as appropriate to meet the particular circumstances of a project. The issues identified in the Environmental Checklist must be evaluated in the checklist or elsewhere in the SED; and
- (3) ~~Mitigation measures to minimize any significant adverse environmental impacts of the proposed activity~~ Such other documents as the board may designate.

(b) ~~Upon completion of the written report, the board shall provide a Notice of Filing of the report to the public and to any person who requests, in writing, such notification.~~ The Draft SED shall contain the following:

- (1) A brief description of the proposed project;
- (2) An identification of any significant or potentially significant adverse environmental impacts of the proposed project;
- (3) An analysis of reasonable alternatives to the project and mitigation measures to avoid or reduce any significant or potentially significant adverse environmental impacts;
- (4) An identification of the reasonably foreseeable means of compliance with the project;
- (5) An analysis of any reasonably foreseeable significant adverse environmental impacts associated with those means of compliance;
- (6) An analysis of reasonably foreseeable alternative means of compliance that would have less significant adverse environmental impacts; and

(7) An analysis of reasonably foreseeable mitigation measures that would minimize any unavoidable significant adverse environmental impacts of the reasonably foreseeable means of compliance.

~~The board shall not take action on the proposed activity until 45 days after the Notice of Filing contained in Appendix C to this subchapter has been provided.~~

(c) In the preparation of the analysis contained in subdivisions (b)(4) to (b)(7), the board may utilize numerical ranges or averages where specific data are not available; however, the board shall not be required to engage in speculation or conjecture. The environmental analysis shall take into account a reasonable range of environmental, economic, and technical factors, population and geographic areas, and specific sites, but the board shall not be required to conduct a site-specific project level analysis of the means of compliance, which CEQA may otherwise require of those agencies who are responsible for complying with the plan or policy when they determine the manner in which they will comply.

(d) As to each impact identified in subdivisions (b)(2) and (b)(5), the SED shall contain findings as described in State CEQA Guidelines section 15091, and if applicable, a statement described in section 15093.

(e) If the board determines that no fair argument exists that the project could result in any reasonably foreseeable significant adverse environmental impacts, the SED shall include a finding to that effect in lieu of the analysis described in subdivision (b)(3).

(f) If the board determines that no fair argument exists that the reasonably foreseeable means of compliance with the project could result in any reasonably foreseeable significant adverse environmental impacts, the SED shall include a finding to that effect in lieu of the analysis described in subdivisions (b)(6) and (b)(7).

~~Note:~~ Authority cited: ~~Section 21082, Public~~(Pub. Resources Code-, § 21082.)

Reference: ~~Division 13, Public~~(Pub. Resources Code-, §§ 21080.5, 21159.)

§ 3778. Consultation.

Upon completion of the ~~written report~~[Draft SED](#), the board shall consult with other public agencies having jurisdiction by law with respect to the proposed ~~activity~~[project](#) and ~~should~~[may](#) consult with persons having special expertise with regard to the [potential](#) environmental effects involved in the proposed ~~activity~~[project](#). The board may consult with such persons by transmitting a copy of the written report or by other appropriate means.

~~Note:~~ Authority cited: ~~Section 21082, Public~~[\(Pub. Resources Code-, § 21082.\)](#)

Reference: ~~Division 13, Public~~[\(Pub. Resources Code-, § 21080.5.\)](#)

§ 3779. ~~Response to~~ Notice of Filing of Draft SED; Public Comments.

~~(a) The board shall prepare written responses to the comments containing significant environmental points raised during the evaluation process, if such comments are received at least fifteen days before the date the board intends to take action on the proposed activity. Copies of such written responses shall be available at the board meeting for any person to review. Upon completion of the Draft SED, the board shall post on its website a Notice of Filing in a format similar to the one contained in Appendix C and shall provide a copy to any person who requests it in writing. The Notice of Filing shall indicate the applicable written comment period and date of the public hearing on the adequacy of the Draft SED. The written comment period and the public hearing on the adequacy of the Draft SED may, but need not, be held contemporaneously with the comment period and the public hearing for the project.~~

~~(b) If the board receives written comments on the proposed activity less than fifteen days before the date the board intends to take action on the proposed activity, the board should, to the extent feasible, prepare written responses to the significant environmental points raised in such comment. For those late comments for which the board is not able to prepare written responses before the board meeting, and for those oral comments on the proposal which are made at the board meeting, the board shall orally respond to the significant environmental points raised and the substance of such responses shall be recorded in the minutes of the board meeting. Following the conclusion of the comments and the responses thereto, the board may take action on the proposed activity. The comments received, and the responses thereto, shall be included in the record of the board action on the proposed activity. Written Comments: The board shall prescribe a written comment period on the adequacy of the Draft SED. The written comment period shall be for a period of not less than 45 days, which may be shortened to 30 days in exceptional circumstances as determined by the board, or if the board makes the determinations specified in subdivisions (e) and (f) of section 3777. The board may allow a longer written comment period. The board may refuse to accept written comments received after the noticed deadline. The board is not required to consider any written comment that is received after the deadline.~~

~~(c) Oral Comments: The board shall conduct a public hearing for the receipt of oral comments either during or after the written comment period. If the public hearing is conducted during the written comment period, it shall be at least 30 days after posting of the notice described in subdivision (a). The board is not required to consider any oral comment that is received after the public hearing.~~

~~(d) The board shall prepare written responses to the significant environmental issues raised in the comments received during the written comment period. The board shall respond in writing or orally to significant environmental issues raised at the public hearing. The board may respond to comments received after the comment period, but is not required to respond. Copies of written responses shall be available for any person to review prior to the board's approval of the SED. Copies of written responses to public agency comments shall be provided to those agencies at least 10 days prior to the board's approval of the SED.~~

(e) At the close of the public hearing, the board may either take action or defer action to a subsequent meeting of the board. If the board defers action, the board must allow additional public comment on the Draft SED only if recirculation would be required for an environmental impact report pursuant to California Code of Regulations, title 14, section 15088.5, in which case the board may limit any additional public comment to the significant new information contained in the recirculated Draft SED. If the board defers action and recirculation would not be required, the board may consider the responses to comments, approve the SED, and adopt the project at a subsequent board meeting without accepting any additional public comment.

(f) The state board, when considering approval of a regional board's adoption of an amendment to its water quality control plan or guideline, shall prescribe a comment period of not less than 30 days. The state board may refuse to accept any comments received after the noticed deadline. All comments submitted to the state board must be specifically related to the final amendment adopted by the regional board. If the regional board previously responded to the comment, the commenter must explain why it believes that the regional board's response was inadequate. The commenter must include either a statement that each of the comments was timely raised before the regional board, or an explanation of why the commenter was unable to raise the specific comment before the regional board. The state board may refuse to accept any comments that do not include such a statement. The state board is not required to consider any comment that is not in compliance with this section.

~~Note: Authority cited: Section 21082, Public Resources Code. Reference: Division 13, Public Resources Code.~~

Authority cited: (Pub. Resources Code, § 21082.)

Reference: (Pub. Resources Code, § 21080.5.)

§ 3779.5. Final Substitute Environmental Documentation (SED).

(a) Prior to approving or adopting a project, the board shall consider the materials generated pursuant to sections 3777 through 3779. The board may approve the SED prior to, or at the same time, as it approves or adopts the project. Upon adoption of the resolution approving the project, the SED shall become final.

(b) The Final SED must include:

(1) The materials described in section 3777;

(2) Comments and Responses to Comments, pursuant to section 3779;

(3) The board resolution approving the project; and

(4) Other documentation as the board may prescribe.

(c) For each significant impact identified in subdivisions (b)(2) and (b)(5) of section 3777, the board shall adopt findings as described in State CEQA Guidelines section 15091 for significant environmental effects identified in an environmental impact report, and if the project as adopted will result in the occurrence of significant effects that are not avoided or substantially lessened, the board shall adopt a statement described in State CEQA Guidelines section 15093 for similar significant effects identified in an environmental impact report.

Authority cited: (Pub. Resources Code, § 21082.)

Reference: (Pub. Resources Code, § 21080.5.)

§ 3780. Approval.

(a) The board shall not approve a ~~proposed activity~~ project that would cause significant adverse impacts if there are feasible alternatives or feasible mitigation measures available ~~which~~ that would substantially lessen any significant adverse impact ~~which~~ that the proposed activity may have on the environment.

(b) If the board makes a finding as described in State CEQA Guidelines section 15091, subdivision (a)(1), it shall also adopt a program for monitoring or reporting as described in State CEQA Guidelines section 15097 for mitigated negative declarations and environmental impact reports.

~~Note:~~ Authority cited: ~~Section 21082, Public~~ (Pub. Resources Code, § 21082.)

Reference: ~~Section 21081, Public~~ (Pub. Resources Code, § 21080.5.)

§ 3781. Notice of Decision.

- (a) ~~After~~Upon final adoption ~~or approval of a proposed activity, the~~of a project subject to this Article, and upon approval by the Office of Administrative Law, if required, the state board shall file a Notice of Decision ~~contained~~in a format similar to the one in Appendix B to this ~~subchapter~~Chapter with the Secretary for Natural Resources ~~where it will be posted for public inspection for a period of not less than 30 days.~~
- (b) When a regional board adopts or amends a water quality control plan or guideline, the Notice of Decision shall be filed with the Secretary for Natural Resources upon approval by the state board, and, if required, the Office of Administrative Law.

~~Note: Authority cited: Section 21082, Public Resources Code. Reference: Division 13, Public Resources Code.~~

Authority cited: (Pub. Resources Code, § 21082.)

Reference: (Pub. Resources Code, § 21080.5.)

~~§ 3782. Exempt Regulatory Programs.~~

~~The following programs of the state board and regional boards have been certified by the Secretary for Resources as meeting the requirements of Public Resources Code Section 21080.5: The Water Quality Control (Basin)/208 Planning Program.~~

~~Note: Authority cited: Section 21082, Public Resources Code. Reference: Section 21080.5, Public Resources Code.~~

Appendix A

Environmental Checklist Form
(To Be Completed By Lead Agency)

Appendix to the State Water Board's CEQA regulations
Cal. Code. Regs., tit. 23, div. 3, ch. 27 §§ 3720-3781

~~I. BACKGROUND~~

THE PROJECT

1. ~~Name of Proponent~~ Project title:

2. ~~Address and Phone Number of Proponent~~ Lead agency name and address:

3. ~~Date of Checklist Submitted~~ Contact person and phone number:

4. ~~Agency Requiring Checklist~~ Project location:

5. ~~Name of Proposal, if applicable.~~ Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)

EVALUATION OF THE ENVIRONMENTAL IMPACTS IN THE CHECKLIST

1. The board must complete an environmental checklist prior to the adoption of plans or policies for the Basin/208 Planning program as certified by the Secretary for Natural Resources. The checklist becomes a part of the Substitute Environmental Documentation (SED).
2. For each environmental category in the checklist, the board must determine whether the project will cause any adverse impact. If there are potential impacts that are not included in the sample checklist, those impacts should be added to the checklist.

3. If the board determines that a particular adverse impact may occur as a result of the project, then the checklist boxes must indicate whether the impact is “Potentially Significant,” “Less than Significant with Mitigation Incorporated,” or “Less than Significant.”
 - a. “Potentially Significant Impact” applies if there is substantial evidence that an impact may be significant. If there are one or more “Potentially Significant Impact” entries on the checklist, the SED must include an examination of feasible alternatives and mitigation measures for each such impact, similar to the requirements for preparing an environmental impact report.
 - b. “Less than Significant with Mitigation Incorporated” applies if the board or another agency incorporates mitigation measures into the SED that will reduce an impact that is “Potentially Significant” to a “Less than Significant Impact.” If the board does not require the specific mitigation measures itself, then the board must be certain that the other agency will in fact incorporate those measures.
 - c. “Less than Significant” applies if the impact will not be significant, and mitigation is therefore not required.
 - d. If there will be no impact, check the box under “No Impact.”
4. The board must provide a brief explanation for each “Potentially Significant,” “Less than Significant with Mitigation Incorporated,” “Less than Significant,” or “No Impact” determination in the checklist. The explanation may be included in the written report described in section 3777(a)(1) or in the checklist itself. The explanation of each issue should identify: (a) the significance criteria or threshold, if any, used to evaluate each question; and (b) the specific mitigation measure(s) identified, if any, to reduce the impact to less than significant. The board may determine the significance of the impact by considering factual evidence, agency standards, or thresholds. If the “No Impact” box is checked, the board should briefly provide the basis for that answer. If there are types of impacts that are not listed in the checklist, those impacts should be added to the checklist.
5. The board must include mandatory findings of significance if required by CEQA Guidelines section 15065.
6. The board should provide references used to identify potential impacts, including a list of information sources and individuals contacted.

****Due to substantial changes in format, the actual checklist will not appear here.****

Appendix C
Notice of Filing

TO: Any Interested Person

FROM: _____
: _____
: _____

SUBJECT: Notice of Filing submitted under ~~Section 21080.5 of the Public Resources Code~~
California Code of Regulations, Title 23, Section 3779.

~~Project Proponent~~ Name of Board: _____

Project Title: _____

Contact Person: _____ Telephone No.: _____

Project Location: _____

Project Description: _____

This is to advise that the ~~project proponent~~ [name of board] ~~has filed a report of waste discharge for waste discharge requirements in connection with the above project. Action on this report of waste discharge will be taken~~ is proposing to adopt or amend the [name of plan or policy] in accordance with a regulatory program exempt under Section 21080.5 of the Public Resources Code from the requirement to prepare an environmental impact report under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) and with other applicable laws and regulations.

The [name of board] will accept written comments as set forth in the notice published. Written comments must be submitted to the [name of board] by [date] at [time], and shall be submitted to [name and address]. A public hearing for the receipt of oral comments is scheduled for [date] at [time].

Date: _____

Signature of Person Transmitting Notice

Title

~~Note: Authority cited: Section 21082, Public Resources Code. Reference: Division 13, Public Resources Code.~~ Authority cited: (Pub. Resources Code, § 21082.)
Reference: (Pub. Resources Code, § 21080.5.)