

## Memorandum 98-31

**Environment Code: Division 1 (Rules of Construction and Definitions)**

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**Note:** The proposed Environment Code is intended to reorganize and continue existing environmental statutory law without substantive change.

This memorandum discusses miscellaneous issues relating to Division 1 of the proposed Environment Code.

**CODE HIERARCHY**

The staff found it convenient to use “title” as a hierarchical subdivision in drafting Part 3 (Air Pollution Control Districts) of Division 4 (Air Resources) of the proposed Environment Code. After consulting with the Legislative Counsel’s Office and examining the hierarchical structure of other codes, the staff decided to include titles, as necessary, between parts and chapters. Thus, the code’s hierarchy would be as follows:

Code  
    Division  
        Part  
            **Title**  
                Chapter  
                    Article  
                        Section

In order to add this new hierarchical level, it is necessary to make conforming changes to proposed Sections 5 (effect of headings), and 8 (reference to parts of code), as follows:

**§ 5. Effect of headings in code**

5. Code, division, part, title, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of this code.

**Comment.** Section 5 is a standard type of provision in the codes. See, e.g., Evid. Code § 5; Fam. Code § 5; Prob. Code § 4.

The reference in this section to “code” headings is new. Location of a provision in this code, or relocation from another code, is strictly for organizational purposes and does not imply that the provision should necessarily be construed to give the provision an “environmental” emphasis.

**§ 8. Reference to division, part, title, chapter, article, section, or part of section**

8. Unless otherwise expressly stated:

(a) “Division” means a division of this code.

(b) “Part” means a part of the division in which that term occurs.

(c) “Title” means a title of the part in which that term occurs.

(d) “Chapter” means a chapter of the division ~~or part~~, part, or title, as the case may be, in which that term occurs.

~~(d)~~ (e) “Article” means an article of the chapter in which that term occurs.

~~(e)~~ (f) “Section” means a section of this code.

~~(f)~~ (g) “Subdivision” means a subdivision of the section in which that term occurs.

~~(g)~~ (h) “Paragraph” means a paragraph of the subdivision in which that term occurs.

~~(h)~~ (i) “Subparagraph” means a subparagraph of the paragraph in which that term occurs.

**Comment.** Section 8 is a standard type of provision in the codes. See, e.g., Evid. Code § 7; Fam. Code § 8; Prob. Code § 8.

## DEFINITIONS

Division 1 of the proposed Environment Code includes rules of construction and definitions applicable to the code as a whole. In addition to the provisions already included there, the staff has identified the following common provisions:

### Oath

Of the codes that will have sections relocated to the proposed Environment Code, all but the Food and Agricultural Code contain the following provision: “‘Oath’ includes affirmation.” See Bus. & Prof. Code § 20, Civ. Code § 14 (different phrasing), Fish & Game Code § 60, Gov’t Code § 15, Harb. & Nav. Code § 17, Health & Safety Code § 17, Pub. Res. Code § 16, Veh. Code § 16, Water Code § 16. Of the sections in the Food and Agricultural Code that use the term “oath,” only one is slated for inclusion in the Environment Code, and that one refers to an “oath or affirmation.” See Food & Agric. Code § 11509. For the sake of consistency

between codes, **the staff recommends adding a section to Division 1 of the Environment Code as follows:**

**§ 65. “Oath”**

65. “Oath” includes affirmation.

**Comment.** Section 65 is a standard type of provision in the codes. See, e.g., Health & Safety Code § 17, Water Code § 16.

**Public Agency**

The term “public agency” or “public entity” is likely to be used with some frequency in the Environment Code. For example, the term “public agency” is used throughout the California Environmental Quality Act (CEQA). CEQA defines “public agency” to include “any state agency, board, or commission, any county, city and county, city, regional agency, public district, redevelopment agency, or other political subdivision.” Pub. Res. Code § 21063.

**We would include among the general definitions in the Environment Code a definition of public agency or public entity.** We would start with the CEQA definition and refine or expand it as we develop the other parts of the code.

**§ 75. “Public agency” or “public entity”**

75. “Public agency” or “public entity” includes a state agency, board, or commission, a county, city, regional agency, public district, redevelopment agency, or other political subdivision.

**Comment.** Section 75 is drawn from former Public Resources Code Section 21063 (CEQA). See also Section 60 (“county” includes city and county).

**State**

Of the codes that will have sections relocated to the proposed Environment Code, all but the Civil Code, Food and Agricultural Code, Public Resources Code, and Vehicle Code contain the following provision:

“State” means the State of California, unless applied to the different parts of the United States. In the latter case, it includes the District of Columbia and the territories.

See Bus. & Prof. Code § 21, Fish & Game Code § 83, Gov’t Code § 18, Harb. & Nav. Code § 20, Health & Safety Code § 23, Water Code § 18.

The Civil Code, Food and Agricultural Code, Public Resources Code, and Vehicle Code use the term “state” too often to easily research the effect of applying this constructional rule to provisions drawn from these codes. However,

the rule appears to be generally salutary. **The staff is inclined to add the provision set out below to Division 1 of the proposed Environment Code, but welcomes input on this point:**

**§ 80. “State”**

80. “State” means the State of California, unless applied to the different parts of the United States. In the latter case, it includes the District of Columbia and the territories.

**Comment.** Section 65 is a standard type of provision in the codes. See, e.g., Health & Safety Code § 23, Water Code § 18.

Respectfully submitted,

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