

CEQA and CEQA-Plus Understanding the Basics

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What We Will Cover Today

- What is CEQA?
- Why was CEQA created?
- When does CEQA apply?
- Who is responsible for implementing CEQA?
- The CEQA process
- Items needed for funded projects
- The CEQA-Plus Process
- Where can you get more CEQA information?

What is CEQA?

California

Environmental

Quality

Act

CEQA was enacted in 1970 to ensure that state and local agencies consider the environmental impact of their decisions when approving a public or private project.

Why was CEQA created?

CEQA has several objectives

- Disclose to decision makers and the public the significant environmental effects of proposed activities
- Identify ways to avoid or reduce environmental damage
- Prevent environmental damage by requiring implementation of feasible alternatives or mitigation measures

CEQA Objectives continued...

- Disclose to the public reasons for agency approval of projects with significant environmental effects
- Foster interagency coordination in the review of projects
- Enhance public participation in the planning process

When does CEQA apply?

An activity is subject to CEQA when...

- The Agency has discretionary approval,
- The activity has the potential to result in direct or indirect physical changes in the environment, and
- The activity falls within the CEQA definition of a “project”

What is a Project?

A project, under CEQA, is defined as:

“the whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and that include any of the following...”

What is a Project? Cont.

...(1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof... ;

What is a Project? Cont.

...(2) An activity undertaken by a person which is supported in whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies... ; and

What is a Project? Cont.

...(3) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

CEQA Applies When...

- A State or local agency has discretionary approval
- The action could result in an impact to the environment,
and
- The action is considered a project under CEQA

An activity is considered a project when an agency:

- ~ Builds something
- ~ Funds an activity
- ~ Issues a permit

**Who is responsible for
implementing CEQA?**

State and local Agencies

including the

State Water Resources Control Board

Agency Responsibility

Three levels of agency responsibility in CEQA:

Lead Agency – Agency with the principal responsibility for carrying out or approving a project. The Lead Agency must complete the CEQA document.

Responsible Agency – Agency that has a legal responsibility for carrying out or approving a project.

Trustee Agency – Agency with jurisdiction over certain resources held in trust for the people of California but does not have a legal authority over approving or carrying out the project.

As a Responsible Agency

The State Water Board must consider the CEQA document prepared by the Lead Agency before the State Water Board approves funding for any project.

Additionally, we are required to make written “findings” for each potential significant environmental impact.

What are Findings?

The State Water Board must make one of three findings for each potential significant environmental impact. These are:

- 1) Changes or alterations have been required that avoid or lessen the significant effect.
- 2) Changes or alterations are within the responsibility of another public agency.
- 3) Specific economic, legal, social, technological, or other considerations make mitigation measures or alternatives infeasible

After Project Approval

After the State Water Board approves funding for a project, the environmental staff file a Notice of Determination (NOD) with the State Clearinghouse to notify the public of the State Water Board's decision regarding the project.

Filing the NOD decreases the statute of limitations for the State Water Board from 180 days to 30 days.

The CEQA Process

Next, I will give a brief overview of the CEQA process.

Almost all actions required by CEQA must be completed or initiated by the Lead Agency.

CEQA Process – Steps 1 and 2

1st: Does the activity meet the CEQA definition of a project?

If yes, go to the next step

If no, the agency is done

2nd: Will the project fall under a Categorical or Statutory Exemption?

If yes, the agency may complete a Notice of Exemption

If no, the agency must complete an Initial Study

If the Project falls under a Categorical or Statutory Exemption from CEQA

- Statutory Exemptions—are exemptions from CEQA granted by the Legislature. These exemptions take several forms. Some statutory exemptions are complete exemptions from CEQA. Other statutory exemptions apply to only part of the requirements of CEQA, and still others apply only to the timing of CEQA compliance.
- Categorical Exemptions—are exemptions from CEQA for a class of projects based on a finding by the Secretary for Resources that the class of projects does not have a significant effect on the environment.

If the Project falls under a Categorical or Statutory Exemption from CEQA

- A Notice of Exemption (NOE) may be filed if a project is either statutorily or categorically exempt from CEQA
- We require that the Lead Agency files an NOE with the State Clearinghouse

CEQA Process – Initial Study

The Initial Study is the backbone of the environmental evaluation under CEQA.

Most Agencies use the checklist provided in the CEQA Guidelines.

Example of CEQA Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
<u>I. AESTHETICS</u> -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CEQA Process – After the Initial Study

After completing the Initial Study, the Lead Agency decides whether there are any potentially significant environmental impacts associated with the project.

If yes, they prepare an Environmental Impact Report (EIR)

If no, the Lead Agency may prepare a Negative Declaration (ND)

CEQA Process – Negative Declaration

An ND is the simpler of the two major CEQA documents. It usually consists of the Initial Study combined with location and setting information for the project identified.

A Mitigated Negative Declaration (MND) has mitigation measures incorporated to avoid significant environmental impacts.

CEQA Process – Environmental Impact Report

An EIR is necessary when there are likely to be significant environmental impacts due to the project. Usually all impacts are able to be mitigated, but not always.

The EIR includes the Initial study, but also has an in-depth analysis of a variety of potential environmental issues for a project.

CEQA Process – State Clearinghouse

Regardless of whether the Agency completes an ND or EIR, the document must be circulated through the State Clearinghouse for public review. This is an opportunity for the public, interested organizations, and other governmental agencies to review the CEQA document and provide comments.

CEQA Process – Review Time

Negative Declaration – 30 days

Environmental Impact Report – 45 days

Once the review period ends, the State Clearinghouse forwards all the comments received to the Lead Agency. The Lead Agency must consider these comments and may respond.

CEQA Process – Final Document

Once the public review process is complete, the Lead Agency decides whether to make updates to their CEQA document.

In the case of the EIR, all comments must be responded to in writing. The actual written comments received, along with the Lead Agency's response, will be included in the final CEQA document.

Next, the Lead Agency adopts or certifies the final CEQA document, then submits it to the State Clearinghouse to distribute for the final public review.

CEQA Process – Notice of Determination

Once the final CEQA document is complete and the Lead Agency approves the project, it will file a Notice of Determination (NOD) with the State Clearinghouse.

An NOD is a brief notice to be filed after the Lead Agency approves a project which is subject to the requirements of CEQA.

This decreases the statute of limitations for the Lead Agency from 180 days to 30 days.

Review of the CEQA Process

1. Is it a project?
2. Is the project exempt?
3. Initial Study
4. Decide on ND or EIR
5. Circulate through the State Clearinghouse
6. Complete and distribute final document
7. File NOD

CEQA Process – State Water Board

As a Responsible Agency, the State Water Board is involved in several steps of this process.

- During the public review period, we may provide comments on the draft CEQA document.

- When an applicant requests funds from the State Water Board to finance a project, we review the CEQA document and decide if it is sufficient for our purposes.

- We must also make findings when we approve funding for a project based on the Lead Agency's CEQA document.

- Once we approve funding for the project, we file our own Notice of Determination with the State Clearinghouse

List of Items Needed for Funded Projects

- A copy of the comments received during the public review period and the lead agency's responses to these comments
- Resolution adopting or certifying the CEQA document and approving the project
- A copy of the Mitigation Monitoring and Reporting Plan (for MNDs and EIRs)
- Receipt of filing fees paid to the Department of Fish and Game

List of Items Needed for Funded Projects (continued)

- Statement of Overriding Considerations (if applicable)
- Date-stamped copy of the NOD filed with the State Clearinghouse
- Date-stamped copy of the NOE filed with the State Clearinghouse (if an exemption from CEQA requirements applies to the project)

CEQA-Plus Requirements for State Revolving Fund (SRF) Loans

- SRF loans are partially funded by the U.S. Environmental Protection Agency, and require additional “CEQA-Plus” environmental documentation and review. State Water Board staff is required to consult directly with agencies responsible for implementing federal environmental laws and regulations.
- We require eight copies of the CEQA document to distribute to the applicable federal agencies

CEQA-Plus Requirements for SRF Loans

- Federal Air Quality Act
- Section 7 of the Endangered Species Act
- Section 106 of the National Historic Preservation Act
- Protection of Wetlands
- Coastal Zone Management Act
- Farmland Protection Policy Act
- Floodplain Management
- Wild and Scenic Rivers Act
- Migratory Bird Treaty Act

Conclusion – Review of What We Learned

Today, we covered the following:

- The Who, What, When, Where and Why of CEQA,
- The State Water Board's role in CEQA,
- An overview of the CEQA Process
- Items Needed for Funded Projects
- CEQA-Plus Process

Finding Additional Information

Internet: <http://ceres.ca.gov/ceqa/>

This website has the Statutes that created CEQA, the CEQA Guidelines that everyone uses to meet CEQA requirements, and any information about updates or amendments to CEQA.

Books: CEQA Deskbook 1999 Edition with 2001 supplement

This book provides a step-by-step guide on how to comply with CEQA and explains information in a little more accessible language than the actual CEQA Guidelines.

People: Regional Programs Unit, DFA

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Questions?

