

A GENERAL GUIDE TO CEQA (Kern LAFCo)

BASIC INFORMATION, GENERAL CONCEPTS AND POPULAR TERMINOLOGIES FOR CEQA

What is CEQA?

“CEQA” stands for California Environmental Quality Act. It is a statute that requires public agencies approving projects or lead agencies to evaluate the significant environmental impacts of their discretionary actions prior to approval of the actions.

What is the purpose of CEQA?

- To disclose the potentially significant environmental effects of projects.
- To identify ways that potentially significant environmental effects can be avoided or reduced.
- To avoid or lessen potentially significant environmental effects through feasible mitigation measures or alternatives.

Who is the Lead Agency?

Where a project is to be carried out or approved by more than one public agency, the public agency primarily responsible for land use approval is the lead agency. The lead agency usually prepares the environmental analysis.

Who are the Responsible Agencies?

Where a project is to be carried out or approved by more than one public agency, any public agency responsible for approvals other than the primary approvals of the project are considered responsible agencies. The responsible agencies may not prepare the environmental analysis, but they are responsible for commenting on the adequacy of the analysis as it applies to their area of responsibility.

What is the CEQA process?

There are several steps in the CEQA process. The first step is to assess whether the project is subject to CEQA and to determine if CEQA provides a statutory or categorical exemption for the class of project proposed.

Step 1: Lead Agency determines if the project requires CEQA action:

- A. Is the project a ministerial action?
 - If the project does not require the agency to use its discretion in approving the project, the project may be considered ministerial and is not subject to CEQA. Common examples of typical ministerial actions: issuance of agency permits and licenses.
- B. Is the discretionary action for a type of project that have been determined by statute to be exempt?
 - The CEQA statutes list project types that have been exempted from CEQA by statute.
- C. Is the discretionary action for a project that is within a class of projects that have been determined by statute to be exempt?
 - In addition to the projects exempted by statute, the CEQA Guidelines lists general categories of projects that have been exempted from CEQA by statute.
- If A, B, or C above are true, the lead agency files a Notice of Exemption (NOE). The CEQA process is complete.
- If A, B, or C above are false, the project is determined to be subject to CEQA, the lead agency then moves to **Step 2**.
- **Purpose of NOE** - brief statement of reasons supporting the finding that the project is exempted from CEQA.

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Step 2: If the project is subject to CEQA, an Initial Study is prepared:

- The **Initial Study (IS)** is a tool used to determine if a project will result in significant adverse effects on the environment. It also functions as an evidentiary document containing information which supports conclusions that the project will not have a significant environmental impact (“No Impact”), that the project's impacts are “Less Than Significant” (without mitigation) or that the impacts can be mitigated to a level that is “Less Than Significant”. *Initial Studies may not be required, if the lead agency clearly determines that an EIR will be necessary.
- The IS process provides information that informs the subsequent steps in the CEQA process and formulates an environmental determination.

Step 3: Environmental Determination:

- Based on the conclusions of the IS, the Lead Agency determines the appropriate environmental documents required for the project.
 - **Negative Declaration (ND)** - if it is found that there is no substantial evidence that the project may have a significant effect on the environment, a “Negative Declaration” can be prepared.
 - **Mitigated Negative Declaration (MND)** - if the reasonably foreseeable environmental effects associated with the project can be mitigated through revisions in the project, or by implementing feasible mitigation measures that will reduce the potentially significant impacts to less than significant levels, then a MND can be prepared.
 - **Environmental Impact Report (EIR)** – If after revisions and after implementing all feasible mitigation, the project would still result in significant impacts, an EIR must be prepared. An EIR is a study of all the physical impacts a project would have on the environment. An EIR can conclude that a project would have adverse impacts that cannot be avoided. In approving projects that would have unavoidable adverse impacts, a lead agency must make specific findings that benefits of approving the project outweigh the adverse impacts.

Step 4: The final step is filing notice of the lead agency’s decision called a **Notice of Determination (NOD)**.

A NOD is a brief notice to be filed by a public agency after it approves or determines to carry out a project subject to the requirements of CEQA.

- **Purpose of NOD:**
 - Filing and posting of notice commences running of 30-day statute of limitations for legal challenges to the approval. If NOD is not both filed and posted, a 180-day limitations period applies instead.
- **When Does a Lead Agency File a NOD?**
 - After the lead agency approves a project for which an EIR, ND, or MND has been prepared, the lead agency must file a NOD with the county clerk within 5 days of its approval.
 - If project requires discretionary approval from any state agency, a local lead agency must also file with Office of Planning and Research.
 - Notice of determination must be posted by with the County clerk who must then post the notice within 24 hours of receipt, remain posted for 30 days.
- **Contents of NOD:**
 - Name, locations, and brief description of the project.
 - Date of approval.
 - Local lead agency's conclusion on whether project as approved will have significant effects on the environment.

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- Findings regarding mitigation of significant environmental impacts, any statement of overriding considerations adopted, and any mitigation measures adopted upon which project approval is conditioned.
- Statement that EIR or negative declaration was prepared and certified or adopted pursuant to CEQA.
- Location where final EIR, ND, or MND and record of project approval are available for review.

Selected Statutory References

- A. Definition of a Lead Agency | Public Resources Code §21067
- B. Filing with County Clerk | Public Resources Code §21152
- C. Consultation with Other Agencies | Public Resources Code §21167

Selected Guideline References

- D. Negative Declaration | 14 California Code of Regulations §15075
- E. Findings | 14 California Code of Regulations §15091
- F. Filing Notice of Determination | 14 California Code of Regulations §15094
- G. Statute of Limitations | 14 California Code of Regulations §15112
- H. Definition of NOD | 14 California Code of Regulations §15373
- I. Sample NOD | Appendix D