

CEQA

City of Sacramento
Community Development Dept.

2018



Environmental Planning Services

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CEQA Law and Regulations

- CEQA: California Environmental Quality Act
- Statute: Public Resources Code Sections 21000 et seq.
- Guidelines: Adopted by the Governor's Office of Planning and Research



Purpose of CEQA

- Identify environmental effects
- Provide information to public agencies
- Provide information to public
- Identify ways to avoid adverse effects
- Identify alternatives



How it Works

- CEQA review proceeds at same time as project review
- Decision on CEQA before project approval
- Public notice and comment
- Written documents



Enforcing CEQA

- Staff responsibility
- Public review and comment
- Hearing body (Planning and Design Commission, City Council)
- Court enforcement



Initial CEQA Process

1. Is it a **project**? If yes:
2. Is it **exempt**? If no:
3. Who is the **Lead Agency**?
4. Lead Agency may prepare an **Initial Study** or identify the environmental document



What is a Project?

- Activity has potential for a direct **physical change** or a reasonably foreseeable indirect physical change in the **environment**.
- Activity involves a **discretionary approval** by a public agency.
 - Requires the exercise of judgment or deliberation
 - Ministerial approvals require little or no judgment by a public official & are not projects.



What is a Project? (cont.)

- Activity is one of the following types of activities:
 - Activities directly undertaken by a public agency.
 - Activities that are supported (in whole or in part) by public agency.
 - An activity involving the issuance of a lease, permit, license, certificate or other entitlement for use by a public agency.



What is a Ministerial Action?

An action is ministerial if it:

“...involves little or no personal judgment by the public official as to the wisdom or manner of carrying out the project.”

Definition of a “ministerial” project.

See CEQA Guidelines §15369



Ministerial Action (cont.)

Examples of Ministerial Permits include:

- Automobile registrations
- Dog licenses
- Marriage licenses

Actions Presumed to be Ministerial include:

- Issuance of building permits
- Issuance of business licenses
- Approval of final subdivision maps
- Approval of individual utility service connections/disconnections

See CEQA Guidelines §15268



When is a project exempt?

Types of Exemptions:

- **Statutory Exemption**

- Statutory exemption: types of projects for which the California Legislature has provided a blanket exemption from CEQA procedures & policies.
- Statutory exemptions are found in various places in the California Code
- Section 15282 of the CEQA Guidelines lists current statutory exemptions.



When is a project Exempt? (cont.)

- **Categorical Exemptions**
 - Descriptions of types of projects which the Secretary of the Resources Agency has determined do not have a significant effect on the environment.
 - Examples: repair or maintenance of existing facilities, new gardening or landscaping
 - Article 19 of the CEQA Guidelines.



When is a project Exempt? (cont.)

Categorical Exemptions:

- Unlike statutory exemptions, categorical exemptions are not absolute. There are exceptions to the exemptions depending on the nature or location of the project.
- No exemption for project with cumulative impacts, or reasonable possibility of having significant impact. (Section 15300.2 Guidelines)



Categorical Exemptions

Commonly used exemptions for private projects*:

- Class 1, Section **15301** — Existing facilities
- Class 2, Section **15302** — Replacement or Reconstruction
- Class 3, Section **15303** — New Construction or Conversion
- Class 5, Section **15305** — Minor Alteration in Land Use Limitations
- Class 11, Section **15311** — Accessory Structures
- Class 15, Section **15315** — Minor Land Divisions
- Class 31, Section **15331** — Historical Resource Restoration/Rehabilitation
- Class 32, Section **15332** — Infill

*Projects with unusual circumstances and/or characteristics should be carefully reviewed for issues that may be cause for additional or more extensive review.



Basic Impact Analysis (SIMC)

- Setting (physical and regulatory)
- Impact (project effects compared to threshold of significance)
- Mitigation (feasible)
- Conclusion



Setting

- Physical setting: Provides the “baseline” for changes that the project would have on the physical environment.
- Regulatory: Describes the federal, state and local statutes, regulations and rules that apply to the project.



Impact

- Key Words:
 - Threshold of significance
 - Mitigation
 - Mitigated to a less-than-significant level
 - Negative Declaration
 - Mitigated Negative Declaration (MND)
 - Environmental Impact Report (EIR)
 - Mitigation Monitoring Plan (MMP)



Impact: Project Description

- Describes each of the actions to be taken that would affect the physical environment
- Establishes the basis for the review of potential impacts
- Identifies agency approvals that would be required to implement the proposed project



Impact

Can all significant effects be mitigated to a less than significant level?

- If yes: Negative Declaration
Mitigated Negative Declaration
- If no: Prepare Environmental Impact Report (EIR)



Impact

Does the EIR mitigate all significant impacts to a less than significant level?

- If yes: EIR must be certified prior to any project approval.
- If no: Lead agency must adopt a statement of overriding considerations (economic, legal, social, technological and other benefits) & certify the EIR for project approval.



Mitigation

- Mitigation of a significant impact:
 - Avoids the impact altogether
 - Minimizes the impact
 - Rectifies the impact by repairing or restoring
 - Reduces the impact over time by preservation and maintenance during the project
 - Compensates by replacing or providing substitute resources or environments



Mitigation

- Public agencies should not approve projects if there are **feasible alternatives or mitigation** measures
- “Feasible”: Capable of being accomplished in a **successful** manner within a **reasonable period of time**, taking into account **economic, environmental, social and technological factors**



Conclusion: CEQA Documents

- Negative Declaration: No significant impacts shown in Initial Study
- Mitigated Negative Declaration: All impacts can be mitigated to a less-than-significant level.
- EIR: Analysis of impacts is required because it is not clear that a MND is appropriate.



Environmental Impact Report (EIR)

- Key Words:
 - Draft EIR
 - Alternatives to the project
 - No project alternative
 - Environmentally superior alternative
 - Public Comment Period
 - Response to Comments
 - Final EIR



EIR Procedure

- Key Words:
 - NOP: Notice of Preparation
 - NOA: Notice of Availability
 - Statement of Overriding Considerations
 - Findings
 - Mitigation Monitoring Plan
 - NOD: Notice of Determination (NOD)



Time Estimate: ND or MND

- Mitigated Negative Declaration
 - Initial Study: 2-6 weeks
 - Studies (e.g., noise): 6 weeks
 - Public Review: 20 or 30 days
 - Total: 2 to weeks to 3 months
 - Cost: \$25-30,000



Time Estimate: EIR

- Environmental Impact Report
 - Studies: 2 to 3 months
 - Notice of Preparation: 30 days
 - Notice of Availability: 45 days
 - Responses to agencies: 10 days
 - Absolute minimum: 85 days
 - Usual: 4 to 8 months
 - Cost: \$100,000 +



Documenting CEQA Review

- Findings: Establish the factual basis for analysis.
- Findings: Document public review.
- Notice of Exemption (NOE): Reduces period for challenging CEQA action.
- Notice of Determination (NOD): same as NOE
- County Clerk and State Clearinghouse.



NOD/NOE Procedure

- Planner: Obtain check from applicant payable to County Clerk

Amount (fees typically change each new year):

- \$40 for NOE (or NOD with Dept of Fish and Wildlife No Effect Determination (NED*);
- \$2,320.75** NOD with ND or MND or
- \$3,208.00** (NOD with EIR)
- Deliver check to EPS
- .pdf of stamped copy with receipt to project directory

* Fish & Wildlife NED can be requested from CA Dept. of Fish & Wildlife if no impacts to fish or game will occur. CDFW must approve and issue form to waive fees.

** Amount includes the Sacramento County filing fee of \$40.00.



Historical Resources

- Any project, any structure: take care re: historical resources! (Not just those 50 years or older)
- Carson Anderson, Preservation Director
- CEQA uses California Register of Historical Resources criteria
- Generally: 50 years old, six feet deep*

* In sensitive areas Native American groups may have concerns at shallower depths.



Native American Issues

- Tribal cultural resources (AB 52)
- Required notice from City to tribes
- Consultation with tribes regarding tribal resources, investigation, impacts and mitigation
- General plan amendment: notice to all tribes on NAHC list
- MND/EIR: notice to requesting tribes



Traffic Impacts

- LOS: Level of service
 - Traditional analysis
 - Delay
 - Driver expectations
- VMT: Vehicle Miles Traveled
 - Focus on land use planning
 - Reduction in CO2 emissions
 - Regional and City-wide comparison



QUESTIONS

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