



CEQA Portal Topic Paper

What is CEQA?

History

The impetus for the California Environmental Quality Act (CEQA) can be traced to the passage of the first federal environmental protection statute in 1969, the National Environmental Policy Act (NEPA). In response to this federal law, the California State Assembly created the Assembly Select Committee on Environmental Quality to study the possibility of supplementing NEPA through state law. This legislative committee, in 1970, issued a report entitled *The Environmental Bill of Rights*, which called for a California counterpart to NEPA.

Later that same year, acting on the recommendations of the select committee, the legislature passed, and Governor Reagan signed, the CEQA statute. California was the first state to adopt its own “mini-NEPA” to identify and reduce the environmental impacts of new state projects, attempting to expand the factors balanced in decision-making, to add environmental goals to economic and social goals. While CEQA originally only pertained to projects sponsored or approved by state agencies, CEQA was expanded during the 1970s to include all California development proposals— public or private – that are subject to the discretionary approval of a public agency.

Purpose

CEQA's purpose is to disclose the potential impacts of a project, suggest methods to minimize those impacts, and discuss project alternatives, so that decision-makers will have full information upon which to base their decisions. The State *CEQA Guidelines* (see below for more details) state the following as CEQA's purpose:

“Identify the ways that environmental damage can be avoided or significantly reduced, prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible, and to disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.” (Section 15002(a))



Who Does it Affect?

A public agency must comply with CEQA when it undertakes an activity defined by CEQA as a "project." A project is an activity that may cause either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment, and is undertaken by a public agency, or a private activity which must receive some discretionary approval from a public agency (meaning that the agency has the authority to deny the requested permit or approval or impose conditions on approval). (See also CEQA Triggers Topic Paper).

Most proposals for physical development in California are subject to the provisions of CEQA, as are many governmental decisions that do not immediately result in physical development (such as adoption of a general or community plan). Every development project that requires a discretionary governmental approval will require at least some environmental review pursuant to CEQA, unless an exemption applies.

How is it Implemented?

Public agencies are entrusted with compliance with CEQA. A public agency having authority to approve or disapprove a project is designated the CEQA Lead Agency, and is responsible for complying with CEQA for that project. (See also Lead Agency, Responsible Agencies, and Trustee Agencies Topic Paper).

Compliance with CEQA is usually undertaken in a three-step process. In the first step, the Lead Agency determines if the action being considered is a "project" under CEQA. If the project is deemed to be a project, the Lead Agency then determines if the project is exempt from CEQA (see below under CEQA Guidelines). If the project is not exempt from CEQA, the Lead Agency determines whether the project is likely to result in a significant impact on the environment that cannot be mitigated to a less than significant level (often by completing a CEQA Checklist). If the answer to that question is yes, the Lead Agency must prepare an Environmental Impact Report (EIR). If it is no, they may prepare an Initial Study/Negative Declaration (IS/ND) or Initial Study/Mitigated Negative Declaration (IS/MND).

CEQA is a self-executing statute. Compliance with CEQA is enforced, as necessary, by the public through litigation or the threat of litigation. While the Natural Resources Agency is charged with the adoption of CEQA Guidelines, it is each public agency's duty to determine what is and is not subject to CEQA. As such, the Natural Resources Agency does not review the facts and exercise of discretion by public agencies in individual situations. In sum, the Agency does not enforce CEQA, nor does it review for compliance with CEQA the many state and local agency actions that are subject to CEQA. CEQA's implementation falls largely on state and local governments, and special districts.



Guidance for Compliance with CEQA

There are four principle sources of guidance on how to comply with CEQA:

- The law itself, which is contained in California’s Public Resources Code;
- The CEQA Guidelines prepared and periodically revised by the Natural Resources Agency;
- Rulings on CEQA-related cases by California courts; and
- Locally adopted CEQA procedures.

Each of these is described in more detail below.

CEQA Statute

The original CEQA law and all subsequent revisions to the law by the California Legislature are contained in the California Public Resources Code, starting at Section 21000. These statutes describe the purpose of CEQA, who must comply with the law, and how compliance should be accomplished, including both the process and content-related requirements of the law.

CEQA Guidelines

The Guidelines, most recently updated by OPR on January 4, 2013¹, provide more details than the CEQA Statute regarding how to comply with CEQA. The Guidelines describe how a public agency should make a decision regarding whether an action they must take is a “project” under the definition of CEQA, and for which they must comply with CEQA, what type of CEQA document should be prepared, and how to prepare environmental impact reports, negative declarations, and mitigated negative declarations. The Guidelines also describe the types of projects that are exempt under CEQA, including those specifically exempted by law (statutory exemptions), and those exempted by belonging to specific categories of projects found to be exempt (categorical exemptions).

The fundamental purpose of the Guidelines, (found in the California Code of Regulations, Title 14, Section 15000 and following), is to make the CEQA process understandable to those who administer it, to those subject to it, and to those for whose benefit it exists. To that end, the Guidelines are more than mere regulations that implement CEQA, as they incorporate and interpret both the statutory mandates of CEQA and the principles advanced by judicial decisions.

¹ Note that OPR is currently (2016) in the process of revising the Guidelines.



Court Rulings

CEQA provides that individuals and groups may challenge the adequacy of CEQA-compliance documents in adhering to the intent and specific requirements of the statute. As such, each year, the courts throughout the state make rulings interpreting a wide variety of topics related to both the process and content requirements of CEQA. While some decisions pertain only to their individual cases, cases heard by the California Court of Appeal or Supreme Court may set legal precedence.

Thus, the Courts may periodically clarify how CEQA should be practiced under certain circumstances, or even change aspects of how all CEQA documents should be prepared. Settled case law may be incorporated into the CEQA Guidelines when they are updated, but because the Guidelines are not updated frequently, it should be understood that the Guidelines are not by themselves sufficient for a current understanding of CEQA compliance.

Locally Adopted Procedures

Individual public agencies may also adopt local CEQA procedures, as long as these procedures are consistent with the statutes and court rulings. These local procedures may provide for additional process and content requirements for CEQA compliance, including: mandating additional process-related requirements; specifying thresholds of significance for specific resource topic analyses; requiring the use of specific analytical tools; requiring that specific analyses be conducted; or specifying mitigation requirements for significant impacts related to certain resource types.

Role of the Governor's Office of Planning and Research (OPR)

In addition to developing and updating the CEQA Guidelines, OPR runs the State Clearinghouse, which coordinates state level review of CEQA documents, under certain circumstances designates a lead agency, and provides technical assistance to state and local government agencies, including the development of technical advisories on selected CEQA topics. OPR also runs the State Clearinghouse (SCH) to assist CEQA Lead Agencies in complying with the law.

The Natural Resources Agency, together with the California Environmental Resources Evaluation System (CERES), maintains updated links to the CEQA statute and the CEQA Guidelines. The Natural Resources Agency also provides a link to a searchable format copy of the statute and CEQA Guidelines provided by the Association of Environmental Professionals. Both of these are available on the OPR website (www.opr.ca.gov). In addition, the SCH website, provides the various forms CEQA Lead Agencies are required to complete and submit



to the SCH. The SCH receives and distributes environmental documents submitted by Lead Agencies, and distributes these to appropriate state agencies. It then collect any comments received from state agencies and the public during the CEQA public review period for environmental documents, and provides them to the Lead Agency to consider and/or respond to.

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