

Responsibilities of Lead Agency

Pages 7-8 of Training Guide

1. Preliminary review

- a) Determine if activity is a project as described by CEQA
- b) May require additional information for environmental evaluation even after application is deemed complete

2. Pre-application consultation

3. Decides what type of CEQA document is required

4. Review for Exemption

5. Initial Study – determines significant effects, determines if Neg Dec or EIR is required

6. Must produce “comprehensive” environmental document that will be of use to responsible agencies; must consult with responsible and trustee agencies throughout CEQA process by soliciting comments/recommendations on the type of CEQA document to prepare, appropriate mitigation, etc.

7. Lead agency may not refuse to exercise its police power to try to mitigate significant effects simply because another agency has the power to do so

Responsibilities of Responsible Agency

Pages 8-9 of Training Guide

1. Typically has permitting authority or approval power over some aspect of the overall project
2. Must actively participate in the CEQA process and review the environmental document (includes attending scoping meetings, consulting with lead agency, etc.)
3. Comments must address only activities within its area of expertise or that are required to be carried out or approved by the agency
4. Must use the document in its approval process and make own findings regarding the project
5. May assume lead agency role under certain conditions (see Guidelines section 15052)

Purpose for an early consultation

1. Identify if a project under CEQA exists
2. Disclose environmental impacts (Initial Study, Negative Declaration (Neg Dec), Environmental Impact Report (EIR))
2. Identify and prevent environmental impacts - Mitigation measures, Alternatives to projects, Mitigation monitoring
3. Disclose agency decision making – Findings, Statements of overriding consideration
4. Enhance public participation and disclosure - Public notice requirement, Response to comments, Availability of documents, Legal enforcement procedures
5. Foster intergovernmental coordination - Early consultation, Scoping meetings, Notices of preparation (NOP)
6. State clearinghouse review

Also need a project description to begin the CEQA process

“Whole of the Action”

Pages 9-10 of Training Guide

1. Description should include all phases of project
2. Planning, implementations, operations
3. Level of Detail and Scope
 - a) Should be determined by availability of information
 - b) High detail – certainty, locks in maximums, reduced flexibility
 - c) Low detail – flexibility, lack of certainty, permit consistency
4. Segmented Projects – “piecemealing”, breaking a project into parts for evaluation purposes
 - a) When not to segment
 - b) When to segment
 - c) How to segment
5. CEQA Descriptions vs. SWFP Descriptions

How to conduct an initial study

Pages 15-16 of Training Guide

1. Complete initial study checklist Appendix E of TG
2. Consultation with responsible and trustee agencies
3. Decision to prepare EIR or Neg Dec (30 days from acceptance of complete application)
4. Uses of Initial Studies
 - a) Deciding whether to prepare an EIR
 - b) Avoiding unnecessary EIRs through mitigation
 - c) Focusing the EIR on significant effects
 - d) Facilitating early environmental assessment
 - e) Supporting Negative Declarations
 - f) Fostering the reuse of EIRs
 - g) Identifying whether a program EIR, tiering, or similar process can be used

How to conduct an initial study (cont)

5. Tools for Determining Significant Effects
 - a) Initial study
 - b) CEQA's mandatory findings of significance
 - c) Appendix G of the Guidelines
 - d) Consultation with other agencies
 - e) Agency thresholds of significance
6. Options When Initial Study Shows Significant Effect
 - a) Prepare EIR
 - b) Reuse EIR prepared for earlier project
 - 1) Program EIRs
 - 2) Master EIRs – prepared for
 - c) Use tiering to limit scope of EIR
 - 1) Tier 1 – General Plan or Program EIR
 - 2) Tier 2 – Community or Specific Plan EIR
 - 3) Tier 3 – Development Project or Infrastructure EIR

Required Contents of an Initial Study

- 1) Project description
- 2) Environmental setting
- 3) Potential environmental impacts
- 4) Mitigation measures for any significant effect
- 5) Consistency with plans and policies
- 6) Names of preparers

Finding mitigation measures

Page 20 of Training Guide

1. Who identifies what the mitigation measures should be?
2. Objectives of Environmental Monitoring
 - To ensure implementation of mitigation measures during project implementation
 - To provide feedback to agency staff and decision-makers about the effectiveness of their actions
 - To provide learning opportunities for improving mitigation measures on future projects
 - To identify the need for enforcement action before irreversible environmental damage occurs
3. Mitigation Enforcement Mechanisms
 - “Stop Work” orders
 - Denial of building occupancy permits
 - Revocation of project approval (condition of permit)
 - Misdemeanor criminal sanctions (fines, jail)
 - Performance bonds
 - Recording with county recorder

Finding mitigation measures (cont)

4. Mitigation Monitoring Requirements

- Trigger
 - ▶ Agency adopts a Negative Declaration
 - ▶ Agency makes findings after preparing an EIR
- CEQA Requirement
 - ▶ Agency must adopt a “reporting and monitoring” program for changes in the project adopted or made as conditions of approval to mitigate or avoid significant effects
- Provisions for Mitigation Measures
 - ▶ Certain agencies must provide lead agency with performance standards or monitoring programs for impacts they identify
 - ▶ Mitigation measure must be made condition of project approval

Responsibility for enforcing mitigation measures

The LEA is responsible for enforcing those mitigation measures that fall under their jurisdiction.

Process to adopt/certify EIR; make required findings

Pages 11-12 and 18-20 of Training Guide

1. Public notice and review of Draft EIR
 - a) Notice of Draft EIR availability
 - b) Who gets Public Notice
 - County Clerk
 - All responsible and trustee agencies
 - Any person or organization requesting, or who previously requested, a copy
 - c) Methods of Public Notice
 - d) When is State Clearinghouse Review Required
2. Public hearing on Draft EIR (optional) (30-45 days)
3. Written comments received
4. Responses to comments prepared
5. Responses sent to commenting agencies (10 days before decision)

Process to adopt/certify EIR; make required findings (cont)

6. Final EIR certified by Lead Agency (1 year from acceptance)

a) Lead Agency must certify that

- The Final EIR has been completed in compliance with CEQA
- The Final EIR was presented to the decision-making body and was reviewed and considered by the decision-making body prior to approving the project
- The Final EIR reflects the lead agency's independent judgment and analysis

b) In CEQA decision-making, the Agency's decision must be supported by findings and the findings must be supported by substantial evidence on record.

Process to adopt/certify EIR; make required findings (cont)

c) Three Possible Findings

- Project has been changed to avoid or substantially reduce impact magnitude, or
- Changes to project are within another agency's jurisdiction and such changes have been or should be adopted, or
- Specific economic, social, legal, technical, or other considerations make the mitigation measure or alternative feasible

d) Statements of Overriding Considerations

- After EIR is complete
- A loophole
- Balancing environmental damage against social, economic, and other factors
- Lead Agency makes declaration

Process to adopt/certify EIR; make required findings (contd)

Contents of Final EIR

- Draft EIR
 - Copies of comments received during public review of the Draft EIR
 - List of persons or entities commenting on the Draft EIR
 - Lead Agency responses to the comments received on the Draft EIR
7. Lead Agency makes decision on project (6 months from final EIR certification)
 8. Findings written and adopted
 9. Mitigation reporting and monitoring program adopted

Process to adopt/certify EIR; make required findings (cont)

10. Notice of Determination (NOD) filed (5 days from approval)

a) Contents of NOD

- Project name
- Project description
- Date of project approval
- Determination of whether the project will have significant effects
- Statement that EIR was prepared and certified
- Were any mitigation measures made a condition of approval
- Were findings made
- Was a statement of overriding considerations adopted

Process to adopt/certify EIR; make required findings (cont)

NOD Time Periods

- Lead agency files with County Clerk or Office of Planning and Research within 5 days
- County Clerks posts notice within 24 hours
- Posting lasts 30 days
- Notice retained for 9 months
- NOD starts the clock that limits challenging the CEQA document
- After 30 days, CEQA document cannot be challenged

11. NOD posted (24 hours from filing)

12. Responsible Agency makes decision on project (180 days from Lead Agency decision)

Process to adopt/certify ND/MND; make required findings

1. Contract for Negative Declaration (Neg Dec) preparation executed (45 days from decision to prepare a Neg Dec)
2. Mitigation measures identified and agreed to by project proponent
3. Draft Neg Dec prepared
 - a) Required Contents of a Negative Declaration
 - b) Required Contents for “Mitigated Negative Declarations”
 - Mitigation must clearly reduce potentially significant impacts to less-than-significant levels
 - Mitigation must be committed to before public review of “Mitigated Negative Declarations”
 - Equivalent mitigation may be submitted after public review without recirculation, but a public hearing is required

Process to adopt/certify ND/MND; make required findings (cont)

4. Public notice and review (20-30 days)

a) Notice of Intent to adopt a Neg Dec or “Mitigated Neg Dec” must contain

- Brief description of project and location
- Starting and ending dates for public review
- Date, time, and place of any scheduled public meetings or hearings
- Addresses where copies of Neg Dec or “Mitigated Neg Dec” are available for review
- Whether any listed toxic sites are present (Government Code 65962.5)
- Other information required by statute or regulations

5. Responses to Neg Dec received

6. Comments considered

Process to adopt/certify ND/MND; make required findings (cont)

7. Neg Dec completed (180 days from acceptance)
8. Commenting agencies notified of date of hearing on project
9. Neg Dec adopted
10. Mitigation reporting and monitoring program adopted
11. Lead Agency makes determination on project (60 days from Neg Dec adoption)
12. Notice of Determination (NOD) filed (5 days from project approval)
13. NOD posted (24 hours from filing)
14. Responsible Agency makes decision on project (180 days from Lead Agency decision)

What if the permit application does not match environmental review document?

Operator changes application so it matches CEQA document and resubmits.

LEA accepts application package and becomes Lead Agency on CEQA. May assume under certain conditions. (See CEQA Guidelines Section 15052)

Required LEA/EA CEQA Finding

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- 1. Full permit:** the LEA must make the following written finding prior to submittal of a new or revised proposed permit:
"The proposed permit is consistent with, and supported by, existing CEQA analysis." [Title 27, Section 21650.](#)
- 2. Standardized permits:** if evidence of CEQA compliance has not previously been submitted, evidence must be received within 15 days of acceptance of the application. [Title 14, Section 18105.2\(g\), \(h\)](#)

Required LEA/EA CEQA Finding

Example: The LEA CEQA finding should support the proposed permit by including, at a minimum, the following information:

- A statement that the LEA has reviewed the CEQA document(s).
- References to all environmental documents and amendments that support this finding, including: title of environmental document, approving agency, date of approval, and State Clearinghouse number (SCH#).
- Finding language: "The proposed permit is consistent with, and supported by existing CEQA analysis."
- Signed and dated by LEA.