



# CEQA 101



## What is CEQA?

The California Environmental Quality Act (CEQA) requires government agencies to consider the environmental consequences of their actions before approving plans and policies or committing to a course of action on a project.



## What is the purpose of CEQA?

This process is intended to: (1) inform government decision-makers and the public about the potential environmental effects of proposed activities; (2) identify the ways that environmental damage can be avoided or significantly reduced; (3) prevent significant, avoidable environmental damage by requiring changes in projects, either by the adoption of alternatives or imposition of mitigation measures; and (4) disclose to the public why a project was approved if that project has significant environmental impacts that cannot be mitigated to a less than significant level.

## What is a "Project"?

A "project" is defined as a "whole action" subject to a public agency's discretionary funding or approval that has the potential to either (1) cause a direct physical change in the environment or (2) cause a reasonably foreseeable indirect physical change in the environment. "Projects" include discretionary activity by a public agency, a private activity that receives any public funding, or activities that involve the public agency's issuance of a discretionary approval and is not statutorily or categorically exempt from CEQA. (Pub. Res. Code § 21065.)



## The CEQA Process

If an agency determines that a proposed activity is a project under CEQA, it will usually take the following three steps:

- (1) determine whether the project falls under a statutory or categorical exemption from CEQA;
- (2) if the project is not exempt, prepare an initial study to determine whether the project might result in significant environmental effects; and
- (3) prepare a negative declaration, mitigated negative declaration, or EIR, depending on the initial study.

## Step 1: Do Any Exemptions Apply?

There are two types of CEQA exemptions:  
(1) statutory exemptions and (2) categorical exemptions.

### **Statutory Exemptions**

Statutory exemptions are created by the Legislature. A project that falls within a statutory exemption generally is not subject to CEQA even if it has the potential to significantly affect the environment.

### **Categorical Exemptions**

The categorical exemptions are created through the regulatory process and are found in CEQA Guidelines §§ 15300-15333. A categorical exemption generally will not apply if (1) there is a reasonable possibility of a significant effect on the environment due to unusual circumstances; (2) significant cumulative impacts from projects of the same type will result; or (3) the project will have impacts on a uniquely sensitive environment. (Guidelines § 15300.2.) For other exceptions, see Guidelines § 15300.2.

### **Notice of Exemption (NOE)**

A NOE contains several elements: a brief project description; the location of a project; a finding that the project is exempt from CEQA, including a citation to the appropriate exemption; and a brief statement of the reasons to support the finding that the project is exempt. (Guidelines § 15062(a).)


If a NOE is filed after project approval, it will trigger a 35-day statute of limitations for challenging the agency's decision that the project is exempt from CEQA. (Pub. Res. Code § 21167(d); Guidelines § 15062(d).) If the NOE is not filed, the time period for challenging the action under CEQA is normally 180 days following the agency's approval. (Pub. Res. Code § 21167(d); Guidelines § 15062(d).)



## Step 2: Initial Study

If the project does not fall under an exemption, the public agency usually undertakes an "initial study." An initial study is a preliminary analysis prepared by the lead agency (usually the city or the county having primary jurisdiction over the project, but may also be state agencies) to determine whether an environmental impact report (EIR) or negative declaration (ND) must be prepared. (Guidelines §§ 15063, 15365; Pub. Res. Code §§ 21080.1, 21080.3.)

The purpose of the initial study is to determine whether there may be a significant environmental impact. (Pub. Res. Code § 21080(c); Guidelines §§ 15063–15065.)



## Step 3: Appropriate Level of Review

Depending on the Initial Study, a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report may be required.

### **Negative Declaration**

If the initial study concludes that the project will not cause a significant effect on the environment, the agency can prepare a negative declaration. (Pub. Res. Code § 21080(c); Guidelines § 15070 et seq. (negative declaration process).) A negative declaration is a written statement that an EIR is not required because a project will not have a significant adverse impact on the environment. (Pub. Res. Code §§ 21064, 21080(c).)

### **Mitigated Negative Declaration**

An agency may attach conditions to a negative declaration for the purpose of mitigating potential environmental effects. This is referred to as a “mitigated negative declaration.” (Guidelines § 15070(b); Pub. Res. Code § 21064.5.) A mitigated negative declaration states that revisions in the project made or agreed to by the applicant would avoid the potentially significant adverse impacts, and that there is no substantial evidence that the revised project will have a significant effect on the environment. (Pub. Res. Code § 21064.5; Guidelines § 15070(b) (2).)



## Environmental Impact Report (EIR)

If the agency determines that the project may have a significant effect on the environment, an EIR must be prepared. (Pub. Res. Code §§ 21002.1, 21061, 21080, 21080.1 *et seq.*; Guidelines §§ 15080–15081.5.)

### **Scoping**

The first step in preparing an EIR is to determine the scope of the EIR in consultation with agencies, the public, and the applicant. (Guidelines §§ 15082, 15083.)

### **Draft EIR**

Following the scoping process, either the agency must prepare a draft EIR or the applicant’s consultant can prepare the CEQA documents, as long as the agency independently reviews, evaluates, and exercises judgment over the document and the issues it raises and addresses. The draft EIR must be released for public comment for at least 30 days but no more than 60 days, unless there are unusual circumstances. (Guidelines § 15105.)



## Contents

An EIR must contain:

- A project description;
- An environmental baseline;
- Evaluation of environmental impacts;
- Thresholds of significance, which can sometimes be measured in terms of historic and cultural significance;
- Evaluation of short-term and long-term water supply needs;
  - Climate change;
  - Energy;
  - Cumulative impacts;
  - Mitigation measures; and
- Project alternatives, which are a meaningful discussion of project alternatives that would reduce adverse environmental impacts.

## Final EIR

The final EIR consist of: (1) the draft EIR; (2) comments and recommendations received on the draft EIR; (3) the responses of the lead agency to the significant environmental points raised in the review and consultation process; (4) a list of persons and agencies commenting on the draft EIR; and (5) any other information added by the lead agency. (Guidelines § 15132.)

## Approval

After the final EIR is complete, the agency determines whether to approve the project or an alternative to the project.

## Program and Master EIRs

CEQA provides several optional tools for streamlining environmental review when there is a series of projects or activities the agency is considering. Master EIRs are designed to provide for analysis of broad policy issues, such as cumulative and growth-inducing impacts, to limit the environmental review of subsequent projects. (Pub. Res. Code § 21156.)

Program EIRs generally can be used for the same types of actions as master EIRs, though this streamlining device is reserved for related actions that can be characterized as one large project. (Guidelines § 15168.)





## **EIR Notices**

A minimum of three notices must be prepared and properly filed in connection with the EIR.

(1) Notice of preparation of EIR. (Pub. Res. Code § 21080.4; Guidelines § 15082.)

(2) Notice of completion of EIR. (Pub. Res. Code § 21161; Guidelines § 15085.)

(3) Notice of approval or determination, which is filed and posted after the project is approved. (Pub. Res. Code § 21152; Guidelines § 15094.)



## **Mitigation Monitoring**

When an agency makes CEQA findings for any project that is approved subject to mitigation measures in an EIR, or when an agency adopts a mitigated negative declaration, the agency must impose a mitigation monitoring or reporting program to ensure implementation of the mitigation measures and project revisions that are required by the agency. (Pub. Res. Code § 21081.6.)



## **Subsequent Review**

Ordinarily, only one EIR or negative declaration is prepared for a project. A supplemental or subsequent EIR (SEIR) may be required if another discretionary approval is being considered and:

(a) there are substantial changes to the project;

(b) there are substantial changes in the project's circumstances; or

(c) new information that could not have been known at the time the EIR was certified becomes available and such changes or new information require major revisions to the previous EIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects. (Pub. Res. Code § 21166; Guidelines § 15162(a).)

### **Project changes**

Project changes standing alone normally will not trigger requirements for further CEQA review. However, the lead agency must provide a reasoned basis supporting its conclusion that project changes would not result in new or substantially more severe significant impacts. (*American Canyon Cmty United for Responsible Growth v. City of American Canyon* (2006) 154 Cal.App.4th 1062.)

### **New information**

New information can trigger an SEIR or subsequent negative declaration only if the information was not known and could not have been known at the time the EIR was certified as complete, shows new or substantially more severe significant impacts, or demonstrates the feasibility of mitigation measures or alternatives previously found infeasible, and is of substantial importance to the project. (Pub. Res. Code § 21166(c); Guidelines § 15162(a)(3).)

### **Use of Addenda**

If none of the three triggers for an SEIR exist, then an agency may use an addendum to make changes or additions to the prior EIR or negative declaration. (Guidelines §§ 15164(a), (b).) The addendum does not need to be circulated for public review. (Guidelines §§ 15164(c), (d).) A brief explanation of the decision not to prepare an SEIR should be included in the addendum, the findings, or elsewhere in the record. (Guidelines § 15164(e).)

**For more information about the CEQA process,  
please visit [opr.ca.gov/ceqa](http://opr.ca.gov/ceqa)**

