

CEQA

The California Environmental Quality Act

Title 14. California Code of Regulations
Chapter 3. Guidelines for Implementation of the
California Environmental Quality Act

Article 1. General

Sections 15000 to 15007

15000. Authority

The regulations contained in this chapter are prescribed by the Secretary for Resources to be followed by all state and local agencies in California in the implementation of the California Environmental Quality Act. These Guidelines have been developed by the Office of Planning and Research for adoption by the Secretary for Resources in accordance with Section 21083. Additional information may be obtained by writing:

Secretary for Resources
1416 Ninth Street, Room 1311
Sacramento, CA 95814

These Guidelines are binding on all public agencies in California.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21082, 21083 and 21087, Public Resources Code; *City of Santa Ana v. City of Garden Grove*, (1979) 100 Cal. App. 3d 521.

Discussion: This section specifies that these regulations are binding on all state and local agencies when implementing CEQA. The section also provides the address where people can write to obtain additional information about the Guidelines.

Section 21082 of CEQA and the court decision cited in the note show that agencies must comply with the Guidelines. The regulations are labeled "Guidelines" because they contain many advisory and permissive interpretations in addition to mandatory requirements. When the Legislature called for the Guidelines to be adopted, it seemed to envision this guidance role in addition to a purely regulatory role.

15001. Short Title

These Guidelines may be cited as the "State CEQA Guidelines." Existing references to the "State EIR Guidelines" shall be construed to be references to the State CEQA Guidelines.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21083 and 21087, Public Resources Code.

15002. General Concepts

(a) Basic Purposes of CEQA. The basic purposes of CEQA are to:

(1) Inform governmental decision-makers and the public about the potential, significant environmental effects of proposed activities.

(2) Identify the ways that environmental damage can be avoided or significantly reduced.

(3) 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.

(4) 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.

(b) Governmental Action. CEQA applies to governmental action. This action may involve:

(1) Activities directly undertaken by a governmental agency,

(2) Activities financed in whole or in part by a governmental agency, or

(3) Private activities which require approval from a governmental agency.

(c) Private Action. Private action is not subject to CEQA unless the action involves governmental participation, financing, or approval.

(d) Project. A "project" is an activity subject to CEQA. The term "project" has been interpreted to mean far more than the ordinary dictionary definition of the term. (See: Section 15378.)

(e) Time for Compliance. A governmental agency is required to comply with CEQA procedures when the agency proposes to carry out or approve the activity. (See: Section 15004.)

(f) Environmental Impact Reports and Negative Declarations. An Environmental Impact Report (EIR) is the public document used by the governmental agency to analyze the significant environmental effects of a proposed project, to identify alternatives, and to disclose possible ways to reduce or avoid the possible environmental damage.

(1) An EIR is prepared when the public agency finds substantial evidence that the project may have a significant effect on the environment. (See: Section 15064(a)(1).)

(2) When the agency finds that there is no substantial evidence that a project may have a significant environmental effect, the agency will prepare a "Negative Declaration" instead of an EIR. (See: Section 15070.)

(g) Significant Effect on the Environment. A significant effect on the environment is defined as a substantial adverse change in the physical conditions which exist in the area affected by the proposed project. (See: Section 15382.) Further, when an EIR identifies a significant effect, the government agency approving the project must make findings on whether the adverse environmental effects have been substantially reduced or if not, why not. (See: Section 15091.)

(h) Methods for Protecting the Environment. CEQA requires more than merely preparing environmental documents. The EIR by itself does not control the way in which a project can be built or carried out. Rather, when an EIR shows that a project would cause substantial adverse changes in the environment, the governmental agency must respond to the information by one or more of the following methods:

(1) Changing a proposed project

(2) Imposing conditions on the approval of the project;

(3) Adopting plans or ordinances to control a broader class of projects to avoid the adverse changes;

- (4) Choosing an alternative way of meeting the same need;
- (5) Disapproving the project;
- (6) Finding that changing or altering the project is not feasible;
- (7) Finding that the unavoidable significant environmental damage is acceptable as provided in Section 15093.

(i) Discretionary Action. CEQA applies in situations where a governmental agency can use its judgment in deciding whether and how to carry out or approve a project. A project subject to such judgmental controls is called a "discretionary project." (See: Section 15357.)

(1) Where the law requires a governmental agency to act on a project in a set way without allowing the agency to use its own judgment, the project is called "ministerial," and CEQA does not apply. (See: Section 15369.)

(2) Whether an agency has discretionary or ministerial controls over a project depends on the authority granted by the law providing the controls over the activity. Similar projects may be subject to discretionary controls in one city or county and only ministerial controls in another. (See: Section 15268.)

(j) Public Involvement. Under CEQA, an agency must solicit and respond to comments from the public and other agencies concerned with the project. (See: Sections 15073, 15086, 15087, and 15088.)

(k) Three Step Process. An agency will normally take up to three separate steps in deciding which document to prepare for a project subject to CEQA.

(1) In the first step the Lead Agency examines the project to determine whether the project is subject to CEQA at all. If the project is exempt, the process does not need to proceed any farther. The agency may prepare a Notice of Exemption. (See: Sections 15061 and 15062.)

(2) If the project is not exempt, the Lead Agency takes the second step and conducts an Initial Study (Section 15063) to determine whether the project may have a significant effect on the environment. If the Initial Study shows that there is no substantial evidence that the project may have a significant effect, the Lead Agency prepares a Negative Declaration. (See: Sections 15070 et seq.)

(3) If the Initial Study shows that the project may have a significant effect, the Lead Agency takes the third step and prepares an EIR. (See: Sections 15080 et seq.)

(l) Certified Equivalent Programs. A number of environmental regulatory programs have been certified by the Secretary of the Resources Agency as involving essentially the same consideration of environmental issues as is provided by use of EIRs and Negative Declarations. Certified programs are exempt from preparing EIRs and Negative Declarations but use other documents instead. Certified programs are discussed in Article 17 and are listed in Section 15251.

(m) This section is intended to present the general concepts of CEQA in a simplified and introductory manner. If there are any conflicts between the short statement of a concept in this section and the provisions of other sections of these Guidelines, the other sections shall prevail.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21000-21177, Public Resources Code; *No Oil, Inc. v. City of Los Angeles*, (1974) 13 Cal. 3d 68; *Running Fence Corp. v. Superior Court*, (1975) 51 Cal. App. 3d 400.

Discussion: This section is intended to serve as a short introduction to CEQA for people who are unfamiliar with the Act. This section provides a simple outline of the basic concepts, purposes, documents, and processes used in CEQA.

15003. Policies

In addition to the policies declared by the Legislature concerning environmental protection and administration of CEQA in Sections 21000, 21001, 21002, and 21002.1 of the Public Resources Code, the courts of this state have declared the following policies to be implicit in CEQA:

- (a) The EIR requirement is the heart of CEQA. (*County of Inyo v. Yorty*, 32 Cal. App. 3d 795.)
- (b) The EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected. (*County of Inyo v. Yorty*, 32 Cal. App. 3d 795.)
- (c) The EIR is to inform other governmental agencies and the public generally of the environmental impact of a proposed project. (*No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68.)
- (d) The EIR is to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action. (*People ex rel. Department of Public Works v. Bosio*, 47 Cal. App. 3d 495.)
- (e) The EIR process will enable the public to determine the environmental and economic values of their elected and appointed officials thus allowing for appropriate action come election day should a majority of the voters disagree. (*People v. County of Kern*, 39 Cal. App. 3d 830.)
- (f) CEQA was intended to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. (*Friends of Mammoth v. Board of Supervisors*, 8 Cal. 3d 247.)
- (g) The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind. (*Bozung v. LAFCO* (1975) 13 Cal.3d 263)
- (h) The lead agency must consider the whole of an action, not simply its constituent parts, when determining whether it will have a significant environmental effect. (*Citizens Assoc. For Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151)
- (i) CEQA does not require technical perfection in an EIR, but rather adequacy, completeness, and a good-faith effort at full disclosure. A court does not pass upon the correctness of an EIR's environmental conclusions, but only determines if the EIR is sufficient as an informational document. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692)
- (j) CEQA requires that decisions be informed and balanced. It must not be subverted into an instrument for the oppression and delay of social, economic, or recreational development or advancement. (*Laurel Heights Improvement Assoc. v. Regents of U.C.* (1993) 6 Cal.4th 1112 and *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553)

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21000-21177, Public Resources Code.

Discussion: This section highlights court cases that illustrate several essential principles in the application of CEQA. Each of these court opinions has been cited in numerous subsequent holdings. This section cannot reiterate all CEQA principles and should be read in conjunction with the entirety of the statute and Guidelines.

15004. Time of Preparation

- (a) Before granting any approval of a project subject to CEQA, every Lead Agency or Responsible Agency shall consider a final EIR or Negative Declaration or another document authorized by these Guidelines to be used in the place of an EIR or Negative Declaration. (See: The definition of "approval" in Section 15352.)
- (b) Choosing the precise time for CEQA compliance involves a balancing of competing factors. EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide

meaningful information for environmental assessment.

(1) With public projects, at the earliest feasible time, project sponsors shall incorporate environmental considerations into project conceptualization, design, and planning. CEQA compliance should be completed prior to acquisition of a site for a public project.

(2) To implement the above principles, public agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance. For example, agencies shall not:

(A) Formally make a decision to proceed with the use of a site for facilities which would require CEQA review, regardless of whether the agency has made any final purchase of the site for these facilities, except that agencies may designate a preferred site for CEQA review and may enter into land acquisition agreements when the agency has conditioned the agency's future use of the site on CEQA compliance.

(B) Otherwise take any action which gives impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.

(3) With private projects, the lead agency shall encourage the project proponent to incorporate environmental considerations into project conceptualization, design, and planning at the earliest feasible time.

(c) The environmental document preparation and review should be coordinated in a timely fashion with the existing planning, review, and project approval processes being used by each public agency. These procedures, to the maximum extent feasible, are to run concurrently, not consecutively. When the lead agency is a state agency, the environmental document shall be included as part of the regular project report if such a report is used in its existing review and budgetary process.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21003, 21061 and 21105, Public Resources Code; *Friends of Mammoth v. Board of Supervisors*, (1972) 8 Cal.3d 247; *Mount Sutro Defense Committee v. Regents of the University of California*, (1978) 77 Cal.App.3d 20.

Discussion: This section codifies the requirement that EIRs and Negative Declarations be prepared before an agency makes a decision on the project and early enough to help influence the project's plans or design. For EIRs and Negative Declarations to be effective in serving the purposes of CEQA, the preparation of these documents must be coordinated with the planning, review, and approval processes as described in subsection (c). Early preparation is necessary for the legal validity of the process and for the usefulness of the documents. Early preparation enables agencies to make revisions in projects to reduce or avoid adverse environmental effects before the agency has become so committed to a particular approach that it can make changes only with difficulty.

The 1998 amendment clarifies that public agencies must consider the significant effects of a project before taking actions which may limit their choice of potential project alternatives and mitigation measures. This section also provides examples of how far the agency may proceed in its decisionmaking prior to initiating the CEQA process.

15005. Terminology

The following words are used to indicate whether a particular subject in the Guidelines is mandatory, advisory, or permissive:

(a) "Must" or "shall" identifies a mandatory element which all public agencies are required to follow.

(b) "Should" identifies guidance provided by the Secretary for Resources based on policy considerations contained in CEQA, in the legislative history of the statute, or in federal court decisions which California courts can be expected to follow. Public agencies are advised to follow this guidance in the absence of compelling, countervailing considerations.

(c) "May" identifies a permissive element which is left fully to the discretion of the public agencies involved.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21082 and 21083, Public Resources Code.

Discussion: This section explains the terminology used in the Guidelines. The Guidelines contain sections that are clearly mandated, others that are strongly advisory, and still others that are permissive.

The advisory elements are an essential part of the Guidelines. Due to the requirement for state agencies to reimburse local government for any mandates contained in the state regulations, the Guidelines have avoided clear mandates except where they have been required by the CEQA statutes or state court decisions. Nevertheless, as a result of the legislative history of CEQA as interpreted by court decisions such as *Friends of Mammoth v. Board of Supervisors*, 8 Cal. 3d 247, there are many requirements for the Environmental Impact Statement process under the National Environmental Policy Act that the state courts are likely to apply under CEQA. The use of the term "should" identifies many of these requirements in federal case law which state courts have not yet followed. This language advises individual agencies to follow the provision in the Guidelines unless the agency has a compelling reason to take another approach. This advice helps to implement the preventive law function of the State CEQA Guidelines.

The permissive language serves two functions. First, the language identifies elements made permissive by the statute. Second, the language identifies interpretations where the Guidelines provide that certain activities or short cuts are authorized ways to administer the process. The interpretations are intended to provide certainty, showing administrators that particular approaches are legitimate ways to administer the Act.

15006. Reducing Delay and Paperwork

Public agencies should reduce delay and paperwork by:

- (a) Integrating the CEQA process into early planning. (15004(c))
- (b) Ensuring the swift and fair resolution of Lead Agency disputes. (15053)
- (c) Identifying projects which fit within categorical exemptions and are therefore exempt from CEQA processing. (15300.4)
- (d) Using Initial Studies to identify significant environmental issues and to narrow the scope of EIRs. (15063)
- (e) Using a Negative Declaration when a project not otherwise exempt will not have a significant effect on the environment. (15070)
- (f) Using a previously prepared EIR when it adequately addresses the proposed project. (15153)
- (g) Consulting with state and local Responsible Agencies before and during preparation of an Environmental Impact Report so that the document will meet the needs of all the agencies which will use it. (15083)
- (h) Urging applicants, either before or after the filing of an application, to revise projects to eliminate possible significant effects on the environment, thereby enabling the project to qualify for a Negative Declaration rather than an Environmental Impact Report. (15063(c)(2))
- (i) Integrating CEQA requirements with other environmental review and consulting requirements. (Public Resources Code Section 21080.5)
- (j) Eliminating duplication with federal procedures by providing for joint preparation of environmental

documents with federal agencies and by adopting completed federal NEPA documents. (15227)

(k) Emphasizing consultation before an Environmental Impact Report is prepared, rather than submitting adversary comments on a completed document. (15082(b))

(l) Combining environmental documents with other documents such as general plans. (15166)

(m) Eliminating repetitive discussions of the same issues by using Environmental Impact Reports on programs, policies, or plans and tiering from reports of broad scope to those of narrower scope. (15152)

(n) Reducing the length of Environmental Impact Reports by means such as setting appropriate page limits. (15141)

(o) Preparing analytic rather than encyclopedic Environmental Impact Reports. (15142)

(p) Mentioning only briefly issues other than significant ones in EIRs. (15143)

(q) Writing Environmental Impact Reports in plain language. (15140)

(r) Following a clear format for Environmental Impact Reports. (15120)

(s) Emphasizing the portions of the Environmental Impact Report that are useful to decision-makers and the public and reducing emphasis on background material. (15143)

(t) Using incorporation by reference. (15150)

(u) Making comments on Environmental Impact Reports as specific as possible. (15204)

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21003 and 21083, Public Resources Code.

Discussion: This section encourages agencies to reduce the time and expense previously involved in the administration of CEQA. This section highlights many specific provisions of the Guidelines that are designed to reduce both delay and paperwork. This section is designed to reduce the unnecessary delays and paperwork that have added unjustified costs to the CEQA process. Bringing these provisions together should help agencies identify and use efficient ways to administer the Act.

15007. Amendments

(a) These Guidelines will be amended from time to time to match new developments relating to CEQA.

(b) Amendments to the Guidelines apply prospectively only. New requirements in amendments will apply to steps in the CEQA process not yet undertaken by the date when agencies must comply with the amendments.

(c) If a document meets the content requirements in effect when the document is sent out for public review, the document shall not need to be revised to conform to any new content requirements in Guideline amendments taking effect before the document is finally approved.

(d) Public agencies shall comply with new requirements in amendments to the Guidelines beginning with the earlier of the following two dates:

(1) The effective date of the agency's procedures amended to conform to the new Guideline amendments; or

(2) The 120th day after the effective date of the Guideline amendments.

(e) Public agencies may implement any permissive or advisory elements of the Guidelines beginning

with the effective date of the Guideline amendments.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21082-21087, Public Resources Code; *Stevens v. City of Glendale*, 125 Cal. App. 3d 986.

Discussion: Section 15007 is intended to provide a single section that will apply to all past, current, and future amendments. This approach will avoid the need to add a new subsection to the Guidelines to explain the phase-in procedures with every new set of amendments. Subsection (a) recognizes the need to update the Guidelines periodically. Subsection (b) provides the formula for the phase-in of any new requirements.

Section 15007 is intended to provide uniform procedures after the effective date of the new amendments to the Guidelines. If a draft EIR was sent out for public review before the effective date of the amendments and the draft EIR complied with all content requirements at the time, it would not need to be changed even if the contents of a draft EIR were revised in adopted amendments. Any steps taken in processing the draft or final EIR or in making findings after approving the EIR, would have to comply with any new requirements in the Guidelines.

The same principle would apply to a project being processed with a Negative Declaration or with an EIR substitute under a certified program.

Subsection (c) provides an interpretation clarifying the content requirement for documents. It provides expressly that if a document met all content requirements in effect at the time when it was sent out for public review, the contents of the document would not need to be changed even if new amendments altering the content requirements took effect before the document was finally approved. Because the section uses the term "documents," the wording shows that the principle applies to Negative Declarations as well as EIRs.

Section 15007(d) was added to avoid any inconsistency with Section 15022. Section 15007(d) provides that agencies must comply with new amendments to the Guidelines either on the effective date of their own implementing procedures or the 120th day after the effective date of the Guidelines, whichever is earlier. This approach is necessary to provide agencies with enough time to revise their procedures and bring their process into conformity with the revised Guidelines.

Subsection (e) provides that agencies have the option of complying with new amendments to the Guidelines at an earlier time if they so choose. This approach allows agencies to take immediate advantage of any new efficiencies or shortcuts allowed in amendments but does not require compliance with the new amendments until later.

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