

# CEQA Environmental Documents

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## Initial Study

### What is the purpose of an Initial Study?

An initial study is a preliminary analysis conducted by the lead agency to determine if a project may have a significant effect on the environment. The initial study can aid in determining what type of environmental document to prepare. The initial study can also identify if a project's environmental effects have been adequately addressed in another environmental document from an earlier project.

The initial study can aid in the preparation of a document in the following ways:

- Identifies non-significant effects.
- Allows the lead agency to focus on potentially significant effects.
- Explain the reasons for determining why potential environmental effects would not be significant.
- Identifies the appropriate type of environmental document. Additionally, the environmental document may be able to be tiered off of a previous environmental document.

If the initial study determines there is no [substantial evidence](#) that the project may cause a significant effect on the environment, the lead agency shall prepare a Negative Declaration (ND) or Mitigated Negative Declaration (MND).

If it is determined that there are potentially significant effects on the environment that cannot be mitigated, the lead agency shall do one of the following:

- Prepare an Environmental Impact Report (EIR).
- Use a previously prepared EIR that adequately analyzes the new project.
- Determine if another type of EIR or another appropriate process is applicable. The lead agency shall then determine which effects, if any should be analyzed in a later EIR or ND.

Based on the [findings](#) of the initial study, the applicant or lead agency may modify a project, mitigating potentially significant impacts, thereby qualifying the project for a ND or MND.

### Initial Study Consultation

The [lead agency](#) shall consult informally with all [responsible agencies](#) and all [trustee agencies](#) to obtain their recommendations as to whether to prepare an EIR or ND.

When preparing the Initial Study, the lead agency should consider the following:

- Have all stakeholders been identified and included in consultation and review?
- Does the initial study clearly communicate the entirety of the project and its effects?
- Are there changes to the project, which could reduce or eliminate potentially significant and adverse effects?

During or immediately after the preparation of an initial study for a private project, the lead agency may consult with the applicant to determine if the applicant is willing to modify the project to reduce or avoid the significant effects identified in the initial study.

Sample forms for an applicant's project description and a review form for use by the lead agency can be found in Appendices G and H of the CEQA Guidelines. These forms are only suggested, and public agencies are free to develop their own format.

## Initial Study Contents

### Description of the Project

- Clearly communicate the entirety of the project.
- Identify the project location.

### Environmental Setting

- Describe the surrounding land use.
- Discuss landforms, natural, cultural, and archeological resources.

### Identify Potential Environmental Effects

- The format is flexible; it can be in the form of a matrix, initial study, [initial study checklist](#) or other method.
- The [lead agency](#) should rely upon input from [responsible agencies](#), [trustee agencies](#), technical experts and consultants.
- Potential environmental effects should consider substantial evidence in light of the whole record.
- Analysis should use the "fair argument" standard.
- Existing regulatory controls can be used to demonstrate avoidance of adverse effects.

### Mitigation Measures

Discuss the mitigation measures proposed to avoid or reduce adverse effects to less than significant.

### Consistency with Land Use Controls

Examine if the project would be consistent with existing zoning, planning documents and any other land use controls.

## Identify the Initial Study Preparers

The name of the person or persons who prepared or participated in the preparation of the initial study.

## When is an Initial Study not required?

There are several reasons why an initial study may not be required.

- Statutory Exemptions
- Categorical Exemptions
- Mandated EIRs: The State Legislature determined that certain types of projects should always require an EIR. These projects do not require an initial study because an EIR shall be prepared. A list of these types of projects can be found in [14 CCR Section 15081.5](#).
- Predetermined EIRs: If the lead agency can determine that an EIR will clearly be [required](#) for the project, an Initial Study is not required but may be desirable.

## Environmental Impact Report

An EIR is an informational document which inform public agency decision-makers and the public of the significant environmental effect(s) of a project, identifying possible ways to minimize the significant effects, and describe reasonable alternatives to the project.

The [EIR](#) process starts with the decision to prepare an EIR. This decision will be made either during preliminary review, or at the conclusion of an [initial study](#) after applying the standards described in [14 CCR Section 15064](#).

If the lead agency determines during the preliminary review that an EIR will be required, the EIR process can begin right then rather than requiring the project to go through an initial study. Alternatively, the lead agency can conduct the initial study and use the information developed in the initial study to determine whether to prepare an EIR or a ND. This section merely refers to the standards described in [Section 15064](#) for determining whether a project may have a significant effect on the environment. If the lead agency can determine that the project may have a significant effect on the environment, then it is required to prepare an EIR for the project.

## Types of EIRs

### Project EIR

The most common type of EIR examines the environmental impacts of a specific development project. This type of EIR should focus primarily on the changes in the environment that would result from the development project. The EIR shall examine all phases of the project including planning, construction, and operation.

## Subsequent EIR

When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, based on substantial evidence in the light of the whole record, one or more of the following:

- Substantial changes are proposed in the project which will require major revisions of the previous EIR or ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the ND was adopted, shows any of the following:
  - The project will have one or more significant effects not discussed in the previous EIR or ND;
  - Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

If changes to a project or its circumstances occur, or new information becomes available after adoption of a ND, the lead agency shall prepare a subsequent EIR if required under [14 CCR Section 15162(a)]. Otherwise, the lead agency shall determine whether to prepare a subsequent negative declaration or an addendum, or no further documentation.

A subsequent EIR or subsequent ND shall be given the same notice and public review as required under CEQA Guidelines [Section 15072](#) or [Section 15087](#). A subsequent EIR or ND shall state where the previous documents are available and may be reviewed.

## Supplement to an EIR

The lead or responsible agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

- Any of the conditions described in [14 CCR Section 15162](#) would require the preparation of a subsequent EIR, and
- Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

The supplement to the EIR need contain only the information necessary to make the previous EIR adequate for the project as revised, shall be given the same kind of notice and public review as is given to a draft EIR under [Section 15087](#), and may be circulated by itself without re-circulating the previous draft or final EIR.

When the agency decides whether to approve the project, the decision-making body shall consider the previous EIR as revised by the supplemental EIR. A finding under [14 CCR Section 15091](#) shall be made for each significant effect shown in the previous EIR as revised.

## Addendum to an EIR or Negative Declaration

The lead or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in [14 CCR Section 15162](#) calling for preparation of a subsequent EIR have occurred. An addendum to an adopted ND may be prepared if only minor technical changes or additions are necessary or none of the conditions described in 14 CCR Section 15162 calling for the preparation of a subsequent EIR or ND have occurred. An addendum need not be circulated for public review, but can be included in or attached to the final EIR or adopted ND. The decision making body shall consider the addendum with the final EIR or adopted ND prior to making a decision on the project. A brief explanation of the decision not to prepare a subsequent EIR pursuant to 14 CCR Section 15162 should be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

## Multiple and Phased Projects

Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the lead agency shall prepare a single program EIR for the ultimate project as described in [14 CCR Section 15168](#). Where an individual project is a necessary precedent for action on a larger project, or commits the lead agency to a larger project, with significant environmental effect, an EIR must address itself to the scope of the larger project. Where one project is one of several similar projects of a public agency, but is not deemed a part of a larger undertaking or a larger project, the agency may prepare one EIR for all projects, or one for each project, but shall in either case comment upon the cumulative effect.



## EIR as Part of a General Plan

The requirements for preparing an EIR on a local general plan, element, or amendment thereof will be satisfied by using the general plan, or element document, as the EIR and no separate EIR will be required, if:

- The general plan addresses all the points required to be in an EIR by Article 9 of the CEQA Guidelines, and
- The document contains a special section or a cover sheet identifying where the general plan document addresses each of the points required.

Where an EIR rather than a ND has been prepared for a general plan, element, or amendment thereto, the EIR shall be forwarded to the State Clearinghouse for review. The requirement shall apply regardless of whether the EIR is prepared as a separate document or as a part of the general plan or element document.

## Staged EIR

Where a large capital project will require a number of discretionary approvals from government agencies and one of the approvals will occur more than two years before construction will begin, a staged EIR may be prepared covering the entire project in a general form. The staged EIR shall evaluate the proposal in light of current and contemplated plans and produce an informed estimate of the environmental consequences of the entire project. The aspect of the project before the public agency for approval shall be discussed with a greater degree of specificity.

When a staged EIR has been prepared, a supplement to the EIR shall be prepared when a later approval is required for the project, and the information available at the time of the later approval would permit consideration of additional environmental impacts, mitigation measures, or reasonable alternatives to the project.

## Program EIR

A program EIR is an EIR that may be prepared on a series of actions that can be characterized as one large project, and are related either:

- Geographically,
- As logical parts in the chain of contemplated actions,
- In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or
- As individual activities carried out under the same authorizing statutory or regulatory authority, and having generally similar environmental effects which can be mitigated in similar ways.

The use of a program EIR can provide the following advantages. The program EIR can:

- Provide an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action,
- Ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis,
- Avoid duplicative reconsideration of basic policy considerations,
- Allow the lead agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts, and
- Allow reduction in paperwork.

A program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible. With a good and detailed analysis of the program, many subsequent activities could be found to be within the scope of the project described in the program EIR, and no further environmental documents would be required.

A program EIR can be used to simplify the task of preparing environmental documents on later parts of the program. The program EIR can:

- Provide the basis in an initial study for determining whether the later activity may have any significant effects.
- Be incorporated by reference to deal with regional influences, secondary effects, cumulative impacts, broad alternatives, and other factors that apply to the program as a whole.
- Focus an EIR on a subsequent project to permit discussion solely of new effects which had not been considered before.

## Determination of the Scope of an EIR

Immediately after deciding that an EIR is required for a [project](#), the lead agency shall send to each [responsible agency](#) and trustee agency a notice of preparation stating that an EIR will be prepared. The notice of preparation shall provide the responsible and trustee agencies with sufficient information describing the project and the potential environmental effects to enable the responsible and trustee agencies to make a meaningful response. At a minimum, the information shall include: description of the project, location of the project indicated on a topographical map, any probable environmental impacts as a result of implementation of the project, address where comments may be sent, and deadline for submitting comments.

When one or more State agencies will be a responsible agency or a trustee agency, the lead agency shall send a notice of preparation to each State responsible agency and each trustee agency with a copy to the [State Clearinghouse in the Office of Planning](#)

[and Research](#). The State Clearinghouse will circulate the environmental documents provided by the lead agency to all state responsible and trustee agencies as well as advising those agencies when responses are due. When the notice of preparation is submitted to the State Clearinghouse, a number will be issued and be the identification number for the NOP and all subsequent environmental documents on the project. The State Clearinghouse number should be referenced on all subsequent correspondence regarding the project, specifically on the title page of the draft and final EIR and on the [notice of determination](#).

Within 30 days of receiving the notice of preparation each responsible and trustee agency shall provide the lead agency with specific detail about the scope and content of the environmental information related to the responsible and trustee agency's area of statutory responsibility that must be included in the draft EIR.

The lead agency may begin work on the draft EIR immediately without awaiting responses to the notice of preparation. The draft EIR in preparation may need to be revised or expanded to conform to responses and comments to the notice of preparation. A lead agency shall not circulate the draft EIR for public review before the time-period for responses to the notice of preparation has expired.

### Early Consultation with Responsible Agencies

The lead agency, a responsible agency, a trustee agency, or a project applicant may request one or more meetings between representatives of the agencies involved to assist the lead agency in determining the scope and content of the environmental information which the responsible agency may require. Such meetings shall be convened by the lead agency as soon as possible, but no later than, 30 days after the meetings were requested. On request, the Office of Planning and Research (State Clearinghouse) will assist in convening meetings that involve State agencies.

During the consultation process, a responsible agency may provide comments regarding whether a project may have a significant effect on the environment. The comment will include substantial evidence for recommending whether a lead agency should prepare an EIR or a ND. If the responsible agency disagrees with the lead agency's decision to prepare only a ND, the lead agency should:

- Identify the significant effects on which it bases its disagreement; and,
- Recommend either that an EIR be prepared or that the project be modified to eliminate any significant effects.

### Early Public Consultation

Prior to completing the draft EIR, the lead agency may also consult directly with any person or organization it believes will be concerned with the environmental effects of the project. Many public agencies have found that early consultation solves many potential

problems that would arise in forms that would arise in more serious form later during the review process. This early consultation is often referred to as “scoping”.

Scoping has been helpful to agencies in identifying the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in an EIR and in eliminating from the detailed study issues of non-importance. Scoping has also been found to be an effective way to bring together and resolve the concerns of affected federal, state, and local agencies, the proponent of the action, and other interested persons including those who might not be in accord with the action on environmental grounds.

## Draft EIR Process

The lead agency may require the project applicant to supply data and information both to determine whether the project may have a significant effect on the environment, and to assist the lead agency in preparing the draft EIR. The requested information should include an identification of other public agencies that will have jurisdiction by law over the project.

Any person, including the applicant, may submit information or comments to the lead agency to assist in the preparation of the draft EIR. The submittal may be presented in any format, including the form of a draft EIR. The lead agency must consider all information and comments received. The information or comments may be included in the draft EIR in whole or in part. The lead agency may choose one of the following arrangements or a combination of them for preparing a draft EIR.

- Preparing the draft EIR directly with its own staff.
- Contracting with another entity, public or private, to prepare the draft EIR.
- Accepting a draft prepared by the applicant, a consultant retained by the applicant, or any other person.
- Executing a third party contract or memorandum of understanding with the applicant to govern the preparation of a draft EIR by an independent contractor.
- Using a previously prepared EIR.

Before using a draft prepared by another person, the lead agency shall subject the draft to the agency’s own review and analysis. The draft EIR that is sent out for public review must reflect the independent judgment of the lead agency. The lead agency is responsible for the adequacy and objectivity of the draft EIR.

## Contents of Environmental Impact Reports

An EIR shall contain at least a table of contents or an index to assist readers in finding the analysis of different subjects and issues.

## Summary

An EIR shall contain a brief summary of the proposed actions and its consequences. The language of the summary should be as clear and simple as reasonably practical, and should normally not exceed 15 pages. The summary shall identify: each significant effect with proposed mitigation measures and alternatives that would reduce or avoid that effect, areas of controversy known to the lead agency including issues raised by agencies and the public; and issues to be resolved including the choice among alternatives and whether each significant impact will be reduced to a less-than-significant level following mitigation.

## Project Description

The [project description](#) is the defining element or starting point for every CEQA environmental document, be it an Environmental Impact Report (EIR) or Negative Declaration (ND). A project description is a brief summary of the proposed project and its consequences in sufficient detail as to describe the project being contemplated and provide the focus for the environmental review. The term “project” means the whole of the action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. It does not mean each separate governmental approval.

The language of the project description should be clear and as simple as is reasonably practical. It is usually prepared by the [lead agency](#) and may be any of the following:

- An activity directly undertaken by any [public agency](#).
- An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from one or more public agencies.

An activity that involves the issuance to a person of a lease, permit, license, certificate or other entitlement for use by one or more public agencies.

### *Elements of a Project Description*

The project description should contain the following information, but should not supply extensive detail beyond that needed for evaluation and review of potential environmental impacts that may result from implementation of the proposed project:

- Precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map.
- A statement of objectives sought by the proposed project.
- A general description of the project’s technical, economic, and environmental characteristics.
- A statement describing the intended use of the environmental document.

- A list of related environmental review and consultation requirements mandated by federal, state or local laws, regulation or policies.

### Environmental Setting

An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The CIWMB has checklists for each type of waste facility that detail what should be covered in an environmental setting description.

CalRecycle Facility Checklists:

- [Landfills/Disposal Facilities](#)
- [Transfer/Processing Stations](#)
- [Composting Facilities](#)

### Environmental Impacts

All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation. The subjects listed below shall be discussed as per [CCR Title 14 Sections 15126.2, 15126.4 and 15126.6](#), preferably in separate sections or paragraphs of the EIR. If they are not discussed separately, the EIR shall include a table showing where each of the subjects is discussed.

### Significant Environmental Impacts

An EIR shall identify and focus on the significant environmental effects of the proposed project. In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area, as they exist at the time the notice of preparation is published. Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects.

Any significant impacts, including those that can be mitigated but not reduced to a level of insignificance should be described. Where there are impacts that cannot be alleviated without imposing an alternative design, their implications and the reasons why the project is being proposed, notwithstanding their effect, should be described.

### Mitigation Measures

An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy (required by CEQA Guidelines Appendix F-Effective March 18, 2010)..

The discussion of mitigation measures shall distinguish between the measures that are proposed by project proponents to be included in the project, and other measures proposed by the lead, responsible or trustee agencies. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design. Mitigation measures are not required for effects that are not found to be significant.

### Alternatives to the Proposed Project

An EIR shall describe a range of reasonable alternatives to the project, including the alternative of “no project”, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project; rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. An EIR is not required to consider alternatives that are not feasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives.

### Discussion of Cumulative Impacts

An EIR shall discuss cumulative impacts of a project when the project’s incremental effect is cumulatively considerable, as defined in [14 CCR Section 15130](#). Where a lead agency is examining a project with an incremental effect that is not “cumulatively considerable,” a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

### Economic and Social Effects

Economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in detail more than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes.

### Other Considerations

#### *Writing*

An EIR shall be written in plain language and use appropriate graphics so that decision-makers and the public can rapidly understand the documents. This is intended to improve the clarity of the EIR.

### *Page Limits*

The text of a draft EIR should normally be no longer than 150 pages and for proposals of unusual scope or complexity should be no longer than 300 pages. The recommended page limits encourage agencies to reduce unneeded bulk in an EIR and to help the documents disclose the key environmental issues to the decision-makers and the public. Further, the page limits match the page limits under the federal system. Adopting the same limits as used in the federal system improves compatibility of the two systems.

### *Interdisciplinary Approach*

An EIR shall be prepared using an interdisciplinary approach, which will ensure the integrated use of the natural, and social sciences, and the consideration of qualitative as well as quantitative factors. The interdisciplinary analysis shall be conducted by competent individuals, but no single discipline shall be designated or required to undertake this evaluation. This is necessary to show that an EIR may use many disciplines in order to find the interrelationships among the various factors in the environmental effects. The requirement for an interdisciplinary is also part of the National Environmental Policy Act (NEPA). Accordingly, this requirement comes from the legislative history of CEQA. This section also makes the essential point that an EIR must consider qualitative factors as well as quantitative, economic, and technical factors.

### *Emphasis*

The EIR shall focus on the significant effects on the environment. The significant effects should be discussed with emphasis in proportion to their severity and probability of occurrence. Effects dismissed in an initial study as clearly insignificant and unlikely to occur need not be discussed further in the EIR unless the lead agency subsequently receives information inconsistent with the finding in the initial study. A copy of the initial study may be attached to the EIR to provide the basis for limiting the impacts discussed.

### *Forecasting*

Drafting an EIR or preparing a ND necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.

### *Speculation*

If, after thorough investigation, a lead agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.

This pertains to the difficulty in forecasting where a thorough investigation is unable to resolve an issue and the answer remains purely speculative. This is necessary to relieve the lead agency from a requirement to engage in idle speculation. Once an agency finds that a particular effect is too speculative for evaluation, discussion of that effect should be terminated.



### *Degree of Specificity*

The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity that is described in the EIR.

As with the range of alternatives, the level of analysis provided in an EIR is subject to the rule of reason. The level of specificity for a given EIR depends upon the type of project. The analysis must be specific enough to permit informed decision making and public participation. The need for thorough discussion and analysis is not to be construed unreasonably, however, to serve as an easy way of defeating projects. What is required is the production of information sufficient to understand the environmental impacts of the proposed project and to permit a reasonable choice of alternatives as far as environmental aspects are concerned.

### *Technical Detail*

The information contained in an EIR shall include summarized technical data, maps, plot plans, diagrams, and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public. Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR. Appendices to the EIR may be prepared in volumes separate from the basic EIR document, but shall be readily available for public examination and shall be submitted to all clearinghouses, which assist in public review.

### *Citation*

Preparation of an EIR is dependent upon information from many sources, including engineering project reports and many scientific documents relating to environmental features. These documents should be cited but not included in the EIR. The EIR shall cite all documents used in its preparation including, where possible, the page and section number of any technical reports that were used as the basis for any statements in the EIR.

Citations are required for accountability and to allow statements to be verifiable. This section is necessary to keep the size of an EIR down to manageable levels and at the same time maintain the accuracy of the information in the document.

### *Use of Registered Professionals in Preparing an EIR*

A number of statutes provide that certain professional services can be provided to the public only by individuals who have been registered by a registration board established under California law. Such statutory restrictions apply to a number of professions including but not limited to engineering, land surveying, forestry, geology, and geophysics.

In its intended usage, an EIR is not a technical document that can be prepared only by a registered professional. The EIR serves as a public disclosure document explaining the effects of the proposed project on the environment, alternatives to the project, and ways to minimize adverse effects and to increase beneficial effects. As a result of

information in the EIR, the lead agency should establish requirements or conditions on project design, construction, or operation in order to protect or enhance the environment. State statutes may provide that only registered professionals can prepare technical studies which will be used in or which will control the detailed design, construction, or operation of the proposed project and which will be prepared in support of an EIR.

#### *Incorporation by Reference*

An EIR or ND may incorporate by reference all or a portion of another document that is a matter of public record or is generally available to the public. Where all or part of another document is incorporated by reference, the incorporated language shall be considered part of the text of the EIR or ND.

Where part of another document is incorporated by reference, such other document shall be made available to the public for inspection at a public place or public building. The EIR or ND shall state where the incorporated documents will be available for inspection. At a minimum, the incorporated document shall be made available to the public in an office of the lead agency in the county where the project would be carried out or in one or more public buildings such as county offices or public libraries if the lead agency does not have an office in the county.

Where an EIR or ND uses incorporation by reference, the incorporated part of the referenced document shall be briefly summarized where possible or briefly described if the data or information cannot be summarized. The relationship between the incorporated part of the referenced document and the EIR shall be described. Where an agency incorporates information from an EIR that has previously been reviewed through the state review system, the state [State Clearinghouse Number](#) of the incorporated document should be included in the EIR.

#### *Standards for Adequacy of an EIR*

An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information that enables them to make a decision, which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

#### *Tiering*

“Tiering” refers to using the analysis of general matters contained in a broader EIR with a later EIR or ND on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR solely on the issues specific to the later project.

Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental effects of the project and does not justify deferring such analysis to a later tier EIR or ND. However, the level of detail contained in a first tier EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed. A later EIR shall be required when the initial study or other analysis finds that the later project may cause significant effects on the environment that were not adequately addressed in the prior EIR.

Where a lead agency determines that a cumulative effect has been adequately addressed in the prior EIR, that effect is not treated as significant for purposes of the later EIR or negative declaration, and need not be discussed in detail. When assessing whether there is a new significant cumulative effect, the lead agency shall consider whether the incremental effects of the project would be considerable when viewed in the context of past, present, and probable future projects. At this point, the question is not whether there is a significant cumulative impact, but whether the effects of the project are cumulatively considerable.

#### *The Use of an EIR from an Earlier Project*

The lead agency may employ a single EIR to describe more than one project, if such projects are essentially the same in terms of environmental impact. Further, the lead agency may use an earlier EIR prepared in connection with an earlier project to apply to a later project, if the circumstances of the projects are essentially the same.

When a lead agency proposes to use an EIR from an earlier project as the EIR for a separate, later project, the lead agency shall use the following procedures:

- The lead agency shall review the proposed project with an initial study, using incorporation by reference if necessary, to determine whether the EIR would adequately describe:
  - The general environmental setting of the project,
  - The significant environmental impacts of the project, and
  - Alternatives and mitigation measures related to each significant effect.

If the lead agency believes that a previous EIR would meet the requirements, it shall provide public review as provided in [Section 15087](#) stating that it plans to use the previously prepared EIR as the draft EIR for this project. The notice shall include as a minimum:

- An identification of the project with a brief description;
- A statement that the agency plans to use a certain EIR prepared for a previous project as the EIR for this project;
- A listing of places where copies of the EIR may be examined; and

- A statement that the key issues involving the EIR are whether the EIR should be used for this project and whether there are any additional, reasonable alternatives or mitigation measures that should be considered as ways of avoiding or reducing the significant effects of the project.

An EIR prepared for an earlier project may also be used as part of an initial study to document a finding that a later project will not have a significant effect. In this situation, a negative declaration will be prepared. An EIR prepared for an earlier project shall not be used as the EIR for a later project, if any of the conditions described in [Section 15162](#) would require preparation of a subsequent or supplemental EIR.

### Notice of Completion

As soon as the draft EIR is completed, a [notice of completion](#) must be filed with the [State Clearinghouse](#) in a printed hard copy or in electronic form on a diskette CD/DVD or by e-mail.

The notice of completion shall include a brief description of the project, the proposed location of the project, address where copies of the draft EIR are available, and the period during which comments will be received on the draft EIR.

Note: Public agencies are encouraged to make copies of notices of completion filed pursuant to this section available on the Internet.

### Consultation Concerning Draft EIR

The lead agency shall consult with and request comments on the Draft EIR from:

- Responsible agencies.
- Trustee agencies with resources affected by the project.
- Any other state, federal, and local agencies which have jurisdiction by law with respect to the project or which exercise authority over resources which may be affected by the project, including water agencies consulted pursuant to [14 CCR Section 15155](#).
- Any city or county, which borders on a city or county within which the project is located.
- For a project of statewide, regional, or area wide significance, the transportation planning agencies and public agencies which have transportation facilities within their jurisdictions which could be affected by the project. "Transportation facilities" includes: major local arterials and public transit within five miles of the project site, and freeways, highways and rail transit service within 10 miles of the project site.

The Lead Agency may consult directly with:

- Any person who has special expertise with respect to any environmental impact involved,
- Any member of the public who has filed a written request for notice with the lead agency or the clerk of the governing body.
- Any person identified by the applicant whom the applicant believes will be concerned with the environmental effects of the project.

### Public Review of Draft EIR

The lead agency shall provide public notice of the availability of a draft EIR at the same time it sends a notice of completion to the State Clearinghouse. This notice shall be given as provided under [Section 15105](#). Notice shall be mailed to the last known name and address of all organizations and individuals who have previously requested such notice in writing, and shall be given by at least one of the following procedures:

- Publication at least one time by the public agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.
- Posting of notice by the public agency on and off the site in the area where the project is to be located.
- Direct mailing to the owners and occupants of property contiguous to the parcel or parcels on which the project is located. Owners of such property shall be identified as shown on the latest equalized assessment roll.

The notice shall disclose the following:

- A brief description of the proposed project and its location.
- The starting and ending dates for the review period during which the lead agency will receive comments. If the review period is shortened, the notice shall disclose that fact.
- The date, time, and place of any scheduled public meetings or hearings to be held by the lead agency on the proposed project when known to the lead agency at the time of notice.
- A list of the significant environmental effects anticipated as a result of the project, to the extent which such effects are known to the lead agency at the time of the notice.
- The address where copies of the EIR and all documents referenced in the EIR will be available for public review. This location shall be readily accessible to the public during the lead agency's normal working hours.

- The presence of the site on any of the lists of sites enumerated under [Government Code Section 65962.5](#) including, but not limited to, lists of hazardous waste facilities, land designated as hazardous waste property, hazardous waste disposal sites and others, and the information in the hazardous waste and substances statement required under subsection (f) of that Section.

In addition, the notice required under this section shall be posted in the Office of the County Clerk of each county in which the project will be located for a period of at least 30 days. The County Clerk shall post such notices within 24 hours of receipt.

In order to provide sufficient time for public review, the review period for a draft EIR shall be as provided in [Section 15105](#). The review period shall be combined with the consultation required under Section 15086. When a draft EIR has been submitted to the State Clearinghouse, the public review period shall be at least as long as the review period established by the [State Clearinghouse](#).

Public agencies shall use the State Clearinghouse to distribute draft EIRs to State agencies for review and should use area wide clearinghouses to distribute the documents to regional and local agencies. Public hearings may be conducted on the environmental documents, either in separate proceedings or in conjunction with other proceedings of the public agency. Public hearings are encouraged, but not required as an element of the CEQA process.

#### Evaluation of and Response to Comments

The lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The lead agency shall respond to comments received during the noticed comment period and any extensions and may respond to late comments. The written response shall describe the disposition of significant environmental issues raised. In particular, major environmental issues raised when the lead agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith reasoned analysis in response. Statements not supported by factual information will not suffice.

The response to comments may take the form of a revision to the draft EIR or may be a separate section in the final EIR. Where the response to comments makes important changes in the information contained in the text of the draft EIR, the lead agency should either:

- Revise the text in the body of the EIR, or
- Include marginal notes showing that the information is revised in the response to comments.

#### Contents of Final Environmental Impact Report

The final EIR shall consist of the following:

- The draft EIR or a revision of the draft
- Comments and recommendations received on the draft EIR, either verbatim or in summary,
- A list of persons, organizations, and public agencies commenting on the draft EIR,
- Responses of the lead agency to significant environmental points raised in the review and consultation process,
- Any other information added by the lead agency.

### Re-Circulation of an EIR Prior to Certification

A lead agency is required to re-circulate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under [14 CCR Section 15087](#), but before certification.

New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project, or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement.

“Significant new information” requiring recirculation include, for example, a disclosure showing that:

- A new significant environmental impact would result from the project or from a new mitigation measure that is proposed to be implemented.
- A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it.
- The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

### Final EIR Process

The lead agency shall prepare a final EIR before approving the project. The contents of a final EIR are specified in [14 CCR Section 15132](#) of the CEQA Guidelines. Lead agencies may provide an opportunity for review of the final EIR by the public or by commenting agencies before approving the project. The review of a final EIR should focus on the responses to comments on the draft EIR.

### Certification of the Final EIR

Prior to approving a project, the lead agency shall certify that:

- The final EIR has been completed in compliance with CEQA;
- The final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project; and
- The final EIR reflects the lead agency's independent judgment and analysis.

When an EIR is certified by a non-elected decision-making body within a local lead agency, that certification may be appealed to the local lead agency's elected decision-making body, if one exists. For example, certification of an EIR for a tentative subdivision map by a city's planning commission may be appealed to the city council. Each local lead agency shall provide for such appeals.

### Findings

No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

### Approval

After considering the final EIR and in conjunction with making findings under [14 CCR Section 15091](#), the lead agency may decide whether or how to approve or carry out the project. A public agency shall not decide to approve or carry out a project for which an EIR was prepared unless either the project as approved will not have a significant effect on the environment, or the agency has:

- Eliminated or substantially lessened all significant effects on the environment where feasible as shown in findings under Section 15091, and
- Determined that any remaining significant effects on the environment found to be unavoidable under [Section 15091](#) are acceptable due to overriding concerns as described in [Section 15093](#).



## Statement of Overriding Considerations

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technical, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technical, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”

When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record. If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to [14 CCR Section 15091](#).

## Notice of Determination

The lead agency shall file a notice of determination (NOD) within 5 working days after approval of the project by the lead agency. The notice shall include:

- An identification of the project including its common name where possible and its location.
- A brief description of the project.
- The date when the agency approved the project.
- The determination of the agency whether the project in its approved form will have a significant effect on the environment.
- A statement that an EIR was prepared and certified pursuant to the provisions of CEQA.
- Whether mitigation measures were made a condition of the approval of the project.
- Whether findings were made pursuant to Section 15091.
- Whether a statement of overriding considerations was adopted for the project.
- The address where a copy of the final EIR and the record of project approval may be examined.
- If a state agency is the lead agency, the NOD shall be filed with the [State Clearinghouse](#).

If a local agency is the lead agency, the NOD shall be filed with the County Clerk of the county or counties in which the project will be located. If the project requires discretionary approval from a state agency, the NOD shall also be filed with the State Clearinghouse. A NOD filed with the State Clearinghouse is available for public inspection and shall be posted for a period of at least 30 days.

A NOD filed with the County Clerk is available for public inspection and shall be posted within 24 hours of receipt for a period of at least 30 days. Thereafter, the clerk shall return the notice to the local lead agency with a notation of the period during which it was posted. The local lead agency shall retain the notice for not less than 12 months. The filing of the NOD and the posting of such notice starts a 30-day statute of limitations on court challenges to the approval under CEQA; failure to file an NOD will allow a 180 day statute of limitations on court challenges.

### Disposition of a Final EIR

The lead agency shall:

- File a copy of the final EIR with the appropriate planning agency of any city, county, or city and county where significant effects on the environment may occur.
- Include the final EIR as part of the regular project report that is used in the existing project review and budgetary process if such a report is used.
- Retain one or more copies of the final EIR as public records for a reasonable period of time.
- Require the applicant to provide a copy of the certified, final EIR to each responsible agency.

### Negative Declaration and Mitigated Negative Declaration

A negative declaration (ND) is a written statement, usually prepared by the [lead agency](#), describing the reasons that a proposed [project](#) will not have a [significant effect](#) on the environment, and does not require the preparation of an [EIR](#). A mitigated negative declaration (MND) is a ND that incorporates revisions and/or mitigation measures in the proposed [project](#) that will avoid or mitigate impacts to a point where clearly no [significant impacts](#) on the environment would occur. And, that there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant impact on the environment.

### Decision to Prepare a ND or MND

A public agency shall prepare, or have prepared, a proposed ND or [MND](#) for a project subject to CEQA when:

- The [initial study](#) shows that the project will have no significant effect on the environment, or

- The initial study identified potentially significant effects, but
- Revisions in the project before the initial study and negative declaration are released for [public review](#), would avoid the effects, or [mitigate](#) the effects to a level of insignificance, and
- There is no substantial evidence that the project as revised may have a significant effect on the environment. (Title 14 CCR §15070 and PRC §§21064.5 – 21065)

## Contents of a ND or MND

A ND or MND should contain, but not be limited to, the following:

- A brief description of the project including a commonly used name for the project;
- The location of the project, shown on a map, and the name of the [project proponent](#);
- A proposed finding that the project will not have a significant effect on the environment;
- An attached copy of the initial study documenting reasons to support the finding; and
- [Mitigation measures](#), if any, included in the project to avoid potentially significant effects.

## Disclosure

The purpose of a ND or MND is to disclose to the public the reasons why a governmental agency approved a project in the manner the agency chose. Preparing a ND or MND necessarily involves some degree of [forecasting](#). While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.

## Incorporation by Reference

A ND or MND may incorporate by reference all or portions of another document that is a matter of public record, or is generally available to the public ([14 CCR Section 15150](#)).

When part of another document is incorporated by reference into a ND, the following conditions must be met:

- The referenced document shall be made available to the public for inspection at a public place or public building. The ND or MND shall state where the incorporated documents will be available for inspection.

- The incorporated part of the referenced document shall be briefly summarized where possible, or briefly described if the data or information cannot be summarized.
- If the referenced document has previously been reviewed through the state review system, the [State Clearinghouse number](#) of the incorporated document should be included in the summary.

Incorporation by reference is most appropriate for including long, descriptive, or technical materials that provide general background but do not contribute directly to the analysis of the problem at hand.

### Notice of Intent to Adopt a Negative Declaration

The [lead agency](#) shall provide [notice of intent](#) to adopt the prepared ND or MND to the following:

- The public
- Responsible agencies
- Trustee agencies; and
- The County Clerk of each county within which the proposed project will be located.

The lead agency shall also give notice of intent to adopt the proposed the ND or MND by at least one of the following procedures:

- publication at least one time in a newspaper of general circulation in the area affected by the proposed project;
- posting of notice on and off site in the area where the proposed project is to be located; and,
- notice by direct mailing to the owners and occupants of property contiguous to the proposed project site.

### Public Review

A proposed ND or MND and Initial Study should be submitted to the [State Clearinghouse](#) for review by state agencies and the public.

The review period shall not be less than 30 days, unless a shorter period is approved by the State Clearinghouse. Where one or more state agencies will be a responsible agency or a trustee agency or will exercise jurisdiction by law over natural resources affected by the proposed project, the lead agency shall send 15 copies of the document to the State Clearinghouse for distribution to the state agencies.

## Re-Circulation Prior to Adoption

A lead agency is required to re-circulate a ND or MND via the State Clearinghouse when the document must be substantially revised after the public review and comment period.

A “substantial revision” means:

- A new, avoidable, significant effect is identified, and mitigation measures or project revisions must be added to reduce the effect to insignificance, or
- The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance, and new measures or revisions must be required.

## Adoption

A responsible agency complies with CEQA by considering the MND or ND prepared by the lead agency and by reaching its own conclusions on whether and how to approve the project involved. The Lead Agency shall:

Consider the proposed document together with any comments received during the [public review process](#).

- The lead agency shall adopt the document only if:
  - It finds that there is no substantial evidence the project will have a significant effect on the environment, and
  - The ND reflects the lead agency’s independent judgment and analysis.

When adopting a MND, the lead agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to mitigate or avoid significant environmental effects.

The lead agency shall specify the location and custodian of the documents or other material, which constitute the record of proceedings upon which its decision is based.

## Mitigation Reporting or Monitoring Program

When adopting a MND, the decision making body shall also adopt a program for reporting on or monitoring the revisions or changes which it has either required in the project and the measures it has imposed or made a condition of approval to mitigate or avoid significant environmental effects. In practice, drafting a good mitigation measure involves clearly explaining its objectives – specifically how it will be implemented, who is responsible for its implementation, where it will occur and when it will occur.

## Impact Identification

[CEQA](#) requires that, for each significant impact identified in the EIR or ND, the environmental document must discuss feasible mitigation measures to avoid or substantially reduce the project's significant environmental effect. In the EIR or ND, the preparer should include all measures that it considers feasible, even though the ultimate determination of feasibility is not made until the decision makers prepare findings later in the project approval process. A measure brought to the attention of the lead agency should not be left out of the EIR or ND unless it is infeasible on its face.

## Distinguishing Mitigation Measures

The EIR or ND must distinguish between the mitigation measures which are proposed by the project proponents to be included in the project from other measures proposed by the lead, responsible or trustee agencies, which are not included but could reasonably be expected to reduce the adverse impacts if required as conditions of approving the project. Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should not be left out of the EIR or ND unless it is infeasible on its face.

## CEQA Guidelines

The [CEQA Guidelines](#) provide, for the significant environmental effect of the proposed project, five categories of mitigation measures that:

- Avoid
- Minimize
- Rectify
- Reduce and Eliminate
- Compensate

To be considered adequate, mitigation measures should be specific, feasible actions that will actually improve adverse environmental conditions. Mitigation measures should be measurable to all monitoring their implementation. Mitigation measures consisting only of further studies or consultation with regulatory agencies that are not tied to a specific action plan may not be adequate and should therefore be avoided.

While a lead agency should attempt to apply mitigation measures consistently, CEQA does not mandate that the same mitigation measures be applied to similar projects.

When drafting mitigation measures, agencies should include only those that are feasible. A mitigation measure is considered feasible if it is capable of being accomplished in a successful manner within a reasonable period of time, taking into consideration economic, environmental, legal, social and technological factors.

## Mitigation Measures

A good mitigation measure involves clearly explaining its objectives—specifically how it will be implemented, who is responsible for its implementation, where it will occur and when it will occur.

This list provides information on how to create a good mitigation measure and includes the questions to ask and a description of the details to provide to address each question.

### Why?

- State the objectives of the mitigation measure and why it is recommended.

### What?

- Explain the specifics of the mitigation measure and how it will be designated and implemented.
- Identify measurable performance standards by which the success of the mitigation can be determined.
- Provide for contingent mitigation if monitoring reveals that the success standards are not satisfied.

### Who?

- Identify the agency, organization or individual responsible for implementing the measure.

### Where?

- Identify the specific location of the mitigation measure.

### When?

- Develop a schedule for implementation.

## Authority to Enforce

The mitigation measures to be monitored or the subject of reporting must be fully enforceable through permit conditions, agreements or other measures.

The overall thrust of these provisions is that mitigation measures should be implemented. The statute and Guidelines refer to three distinct but closely related concepts necessary to carry out this policy:

- Mitigation measures
- Means of implementing and enforcing mitigation measures
- Means of monitoring or reporting on the implementation and enforcement of mitigation measures

CEQA gives a public agency the authority to require feasible changes in any or all activities involved in a project to substantially lessen or avoid significant effects on the

environment. An agency does not have an unlimited authority to impose mitigation measures.

- In practice, the components of a MRMP typically include the following:
- Description of specific performance standards
- Master mitigation checklist
- Identification of project-specific monitoring activities
- Assignment of responsibilities
- Development of schedule
- Specific reporting requirements
- Field visit verification reports

## Addendum

An [addendum](#) to an adopted ND or MND may be prepared if:

- Only minor technical changes or additions are necessary, or none of the conditions described in [14 CCR Section 15162](#), calling for the preparation of a subsequent EIR or ND, have occurred.

An addendum need not be circulated for public review, but can be included in, or attached to, the adopted ND or MND.

The decision-making body shall consider the addendum with the adopted ND or MND prior to approving the project.

## Notice of Determination

After deciding to carry out or approve a project for which a ND or MND has been adopted, the lead agency shall file a notice of determination (NOD). If the lead agency is a state agency, the lead agency shall file the NOD with the State Clearinghouse.

The NOD must include:

- The common name and location of the project and a State Clearinghouse number for MNDs that have undergone state responsible and/or trustee agency review.
- A brief description of the project.
- The date the lead agency approved the project.
- The determination of the agency that the project will not have a significant effect on the environment
- A statement that a MND has been prepared pursuant to the provisions of CEQA.



Note: If the lead agency is a local agency, the local lead agency shall file the NOD with the county clerk of the county or counties in which the project will be located within five working days after approval of the project by the lead agency. If the project requires a discretionary approval from any state responsible or trustee agency, the local lead agency shall also file with the State Clearinghouse.

## Adequacy

If, during the ND or MND process, there is substantial evidence, in light of the whole record, that the project (even with revisions) may have a significant effect on the environment that cannot be mitigated or avoided, the lead agency shall prepare and circulate a draft EIR, and certify a final EIR prior to approving the project.

If new information of substantial importance or substantial changes to a project or its circumstances occur after adoption of a ND or MND, the lead agency shall prepare a subsequent EIR if the change will have a significant effect on the environment or, shall determine whether to prepare a subsequent document, an addendum, or no further documentation is required.

## Exemptions

### Certified State Regulatory Programs

Certification means that a regulatory program of a state agency<sup>7</sup> is exempt from the requirements to prepare an environmental document<sup>4</sup> because the environmental analysis in the program is the functional equivalent of CEQA.

Seventeen programs have been certified by the Secretary for Resources:

- Some activities by Department of Fish and Game
- Some activities by the Air Resources Board/South Coast Air Quality Management District
- Some activities by State Water Resources Control Board (SWRCB)/RWQCB  
Reference: [14 CCR Section 15251](#)

“Functional equivalent document” can be used by responsible agencies in their evaluation of the potentially significant impacts of a project proposal.

### Statutory Exemptions

[Statutory exemptions](#) are those granted by the Legislature. The exemptions may be complete exemptions, partial exemptions or apply only to the timing of CEQA compliance. These types of exemptions can be found in [14 CCR Section 15260](#) et seq.

The court has pointed out that “the self-evident purpose of a [statutory] exemption is to provide an escape from the Environmental Impact Report (EIR) requirement despite a

project's clear, significant impact." This is in contrast to categorical exemptions which are disallowed if the project would otherwise have an environmental impact

## Categorical Exemptions

Categorical exemptions are a class of projects that have been determined by the Secretary for Resources not to have a significant effect on the environment. There are 33 classes of categorical exemptions. These types of exemptions can be found in [14 CCR Section 15300](#) et seq.

## Class Exceptions

### Location

Classes 3, 4, 5, 6, and 11 of [14 CCR Section 15300](#) are qualified by consideration of where the project is to be located. For example, a project that is ordinarily insignificant in its impact on the environment may, in a particularly sensitive environment, be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

### Cumulative Impact

All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type, in the same place, over time is significant (for example, annual additions to an existing building under Class 1).

### Significant Effect

A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

### Scenic Highways

A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted ND or certified EIR.

### Hazardous Waste Sites

A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to [Section 65962.5 of the Government Code](#).

### Historical Resources

A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

## Notice of Exemption

### What an NOE Contains

- A brief description, including location, of the proposed project
- A finding that the project as proposed is exempt from CEQA
- A citation to the applicable exemption in the statute or CEQA Guidelines
- A brief statement of reasons supporting the finding that there is no possibility that the activity in question (project) may have a significant effect on the environment.

### Filing an NOE

- The public agency or the applicant may file an NOE with the county clerk of each county in which the project will be located at time of project approval.
- If state agency(ies) involved in subsequent project approval(s), the state agency files the NOE with the State Clearinghouse.
- The county clerk shall post the NOE within 24 hours.
- The NOE shall remain posted for 30 days.
- The local public agency shall retain the NOE for not less than 12 months.

### Limitations granted by a Notice of Exemption

- Filing and posting of NOE starts a 35-day statute of limitations period on legal challenges to the decision that the project is exempt.
- If an NOE is not filed, a 180-day statute of limitations applies.

## Disclaimer

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