

CEQA

Understanding the Basics

Presented by Michelle Jones
State Water Resources Control Board
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What We Will Cover Today

- What is CEQA?
- Why was CEQA created?
- When does CEQA apply?
- Who is responsible for implementing CEQA?
- The CEQA Process
- Items needed from Grant Managers
- Where can you get more CEQA information?

What is CEQA?

California

Environmental

Quality

Act

CEQA was enacted in 1970 to ensure that state and local agencies consider the environmental impact of their decisions when approving a public or private project.

CEQA vs. NEPA

Some of you might have heard of NEPA, the **National Environmental Policy Act**. NEPA requires the federal level of government to consider the environmental impacts of their decisions.

CEQA is based on NEPA. However, there are two vital differences.

Why is CEQA better?

NEPA is a procedural document.

CEQA is procedural but is also substantive.

- Agencies must avoid or minimize environmental damage *when feasible*
- Agencies must prepare a Statement of Overriding Considerations when approving a project with significant and unavoidable impacts.

Why was CEQA created?

CEQA has several objectives

- Disclose to decision makers and the public the significant environmental effects of proposed activities
- Identify ways to avoid or reduce environmental damage and prevent environmental damage by requiring implementation of feasible alternatives or mitigation measures

CEQA Objectives cont.

- Disclose to the public reasons for agency approval of projects with significant environmental effects
- Foster interagency coordination in the review of projects
- Enhance public participation in the planning process

When does CEQA apply?

A government activity is subject to CEQA when...

- The Agency has discretionary powers,
- The activity has the potential to result in direct or indirect physical changes in the environment, and
- The activity falls within the CEQA definition of a “Project”

What is a Project?

A project, under CEQA, is defined as:

“the whole of an 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 and that include any of the following...”

What is a Project? Cont.

...(1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof...

What is a Project? Cont.

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

What is a Project? Cont.

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

CEQA Applies When...

In Summary. CEQA applies when:

- A State or local agency has discretionary powers
- The action could result in an impact to the environment, and
- The action is considered a project under CEQA

Basically, an activity is considered a project when an agency:

- ~ Builds something~
- ~ Funds an activity~
- ~ Issues a permit for an activity~

Who is responsible for implementing CEQA?

State and local Agencies

including the

State Water Resources Control Board

Agency Responsibility

Three levels of agency responsibility in CEQA:

Lead Agency – Agency with the principal responsibility for carrying out or approving a project. Must complete the CEQA document.

Responsible Agency – Agency that has a legal responsibility for carrying out or approving a project (e.g. issue permit or give funding *State Water Board*).

Trustee Agency – Agency with jurisdiction over certain resources held in trust for the people of California but does not have a legal authority over approving or carrying out the project (e.g. DFG).

As a Responsible Agency

The State Water Board must consider the CEQA document prepared by the Lead Agency before approving any project.

Additionally, we are required to make written “findings” for each significant environmental impact.

What are Findings?

The State Water Board must make one of three findings for each significant environmental impact a project will likely have:

- Changes or alterations have been required that avoid or lessen the significant effect
- Changes or alterations are within the responsibility of another public agency
- Specific economic, legal, social, technological, or other considerations make mitigation measures or alternatives infeasible

After Project Approval

After the State Water Board approves a project, the environmental staff file a Notice of Determination (NOD) with the State Clearinghouse.

Filing the NOD decreases the statute of limitations for the State Water Board from 180 days to 30 days.

The CEQA Process

Next, I will give a brief overview of the CEQA process.

Almost all actions required by CEQA must be completed or initiated by the Lead Agency.

CEQA Process – Steps 1 and 2

1st: Does the activity meet the CEQA definition of a project?

If yes, go to the next step

If no, the agency is done

2nd: Will the project fall under a Categorical or Statutory Exemption?

If yes, the agency may complete a Notice of Exemption

If no, the agency must complete an Initial Study

CEQA Process – Initial Study

The Initial Study is the backbone of the environmental evaluation under CEQA.

Most Agencies use the checklist provided in the CEQA Guidelines.

Example of CEQA Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
<u>I. AESTHETICS</u> -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CEQA Process – After the Initial Study

After completing the Initial Study, the Lead Agency decides whether there are any potentially significant environmental impacts associated with the project.

If yes, they prepare an Environmental Impact Report

If no, the Lead Agency prepares a Negative Declaration (ND)

CEQA Process – Negative Declaration

An ND is the simpler of the two major CEQA documents. It usually consists of the Initial Study combined with location and setting information for the project identified.

An ND can also have mitigation measures incorporated to avoid significant environmental impacts.

CEQA Process – Environmental Impact Report

An Environmental Impact Report (EIR) is necessary when there are likely to be significant environmental impacts due to the project. Usually all impacts are able to be mitigated, but not always.

The EIR includes the Initial study, but also has an in-depth analysis of a variety of environmental issues.

CEQA Process – State Clearinghouse

Regardless of whether the Agency completes an ND or EIR, the document must be circulated through the State Clearinghouse for public review.

This is an opportunity for everyone – the public, interested organizations, and other governmental agencies – to review the document and provide comments.

CEQA Process – Review Time

Negative Declaration – 30 days

Environmental Impact Report – 45 days

Once the review period ends, the State Clearinghouse forwards all the comments they have received and the Lead Agency considers and may respond to those comments.

CEQA Process – Final Document

Once the public review process is complete, the Lead Agency considers comments and decides whether to make updates to their document.

In the case of the EIR, all comments must be responded to in writing. The actual written comments received, along with the Agency's response, will be included in that final document.

Next, the Agency approves a final document, then submits it to the State Clearinghouse for distribution.

CEQA Process – Notice of Determination

Once the environmental document is complete and the Lead Agency has approved moving forward with the project itself, the Lead Agency will file an NOD.

This decreases the statute of limitations for the Lead Agency.

Review of the CEQA Process

1. Is it a project?
2. Is it exempt?
3. Initial Study
4. Decide on ND or EIR
5. Circulate
6. Complete and distribute final document
7. File NOD

CEQA Process – State Water Board

As a Responsible Agency, the State Water Board is involved in several steps of this process.

- During the public review period, we may provide comments.
- When a project comes to us for permitting or review, we review the document and decide if it is sufficient for our purposes.

- We must make findings when we approve a project based on the Lead Agency's environmental document.
- Once we approve the project, we file our own Notice of Determination

Non-profit Organizations

- A non-profit organization cannot be the Lead Agency under CEQA
- If the grantee is a non-profit organization, the State Water Board will be the Lead Agency and file an NOE

Exemptions from CEQA

- There are Statutory and Categorical Exemptions from CEQA
- Exceptions to the Exemptions
- We require that the Lead Agency files an NOE with OPR

List of Items We Need

- Project Description
- Draft and Final CEQA document with the comments and responses to comments
- Resolution
- Mitigation Monitoring and/or Reporting Plan

List of Items We Need (continued)

- Statement of Overriding Considerations (if applicable)
- Date-stamped copy of the NOD filed with the Governor's Office of Planning and Research (OPR)
- Date-stamped copy of the NOE filed with OPR (for exemptions from CEQA)

Conclusion – Review of What We Learned

Today, we covered the following:

- The Who, What, When, Where and Why of CEQA,
- The State Water Board's role in CEQA,
- An overview of the CEQA Process, and
- Items needed from Grant Managers

Finding Additional Information

Internet: <http://ceres.ca.gov/ceqa/>

This website has the Statutes that created CEQA, the CEQA Guidelines that everyone uses to meet CEQA requirements, and any information about updates or amendments to CEQA.

Books: CEQA Deskbook 1999 Edition with 2001 supplement

This book provides a step-by-step guide on how to comply with CEQA and explains information in a little more accessible language than the actual CEQA Guidelines.

People: Regional Programs Unit, DFA

Lauma Jurkevics (916) 341-5498

Michelle L. Jones (916) 341-6983

Lisa Lee (916) 327-9401

Lowell Jarvis (916) 341-5415

Cookie Hirn (916) 341-5690

Jim Hockenberry (916) 341-5686

Questions?

