

CEQA

The California Environmental Quality Act

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

Article 2. General Responsibilities

Sections 15020 to 15025

15020. General

Each public agency is responsible for complying with CEQA and these Guidelines. A public agency must meet its own responsibilities under CEQA and shall not rely on comments from other public agencies or private citizens as a substitute for work CEQA requires the Lead Agency to accomplish. For example, a Lead Agency is responsible for the adequacy of its environmental documents. The Lead Agency shall not knowingly release a deficient document hoping that public comments will correct defects in the document.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21082 and 21082.1, Public Resources Code; *Russian Hill Improvement Association v. Board of Permit Appeals*, (1975) 44 Cal. App. 3d 158.

Discussion: This section makes the point that an agency is responsible for its own compliance with CEQA.

15021. Duty to Minimize Environmental Damage and Balance Competing Public Objectives

(a) CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.

(1) In regulating public or private activities, agencies are required to give major consideration to preventing environmental damage.

(2) A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.

(b) In deciding whether changes in a project are feasible, an agency may consider specific economic, environmental, legal, social, and technological factors.

(c) The duty to prevent or minimize environmental damage is implemented through the findings required by Section 15091.

(d) CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations as described in Section 15093 to reflect the ultimate balancing of competing public objectives when

the agency decides to approve a project that will cause one or more significant effects on the environment.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Public Resources Code Sections 21000, 21001, 21002, 21002.1, and 21081; *San Francisco Ecology Center v. City and County of San Francisco*, (1975) 48 Cal. App. 3d 584; *Laurel Hills Homeowners Association v. City Council*, (1978) 83 Cal. App. 3d 515.

Discussion: Section 15021 brings together the many separate elements that apply to the duty to minimize environmental damage. These duties appear in the policy sections of CEQA, in the findings requirement in Section 21081, and in a number of court decisions that have built up a body of case law that is not immediately reflected in the statutory language. This section is also necessary to provide one place to explain how the ultimate balancing of the merits of the project relates to the search for feasible alternatives or mitigation measures to avoid or reduce the environmental damage.

The placement of this section early in the article on general responsibilities helps highlight this duty to prevent environmental damage. This section is an effort to provide a careful statement of the duty with its limitations and its relationship to other essential public goals.

15022. Public Agency Implementing Procedures

(a) Each public agency shall adopt objectives, criteria, and specific procedures consistent with CEQA and these Guidelines for administering its responsibilities under CEQA, including the orderly evaluation of projects and preparation of environmental documents. The implementing procedures should contain at least provisions for:

- (1) Identifying the activities that are exempt from CEQA. These procedures should contain:
 - (A) Provisions for evaluating a proposed activity to determine if there is no possibility that the activity may have a significant effect on the environment.
 - (B) A list of projects or permits over which the public agency has only ministerial authority.
 - (C) A list of specific activities which the public agency has found to be within the categorical exemptions established by these Guidelines.
- (2) Conducting Initial Studies.
- (3) Preparing Negative Declarations.
- (4) Preparing draft and final EIRs.
- (5) Consulting with and obtaining comments from other public agencies and members of the public with regard to the environmental effects of projects.
- (6) Assuring adequate opportunity and time for public review and comment on the Draft EIR or Negative Declaration.
- (7) Evaluating and responding to comments received on environmental documents.
- (8) Assigning responsibility for determining the adequacy of an EIR or Negative Declaration.
- (9) Reviewing and considering environmental documents by the person or decision-making body who will approve or disapprove a project.
- (10) Filing documents required or authorized by CEQA and these Guidelines.
- (11) Providing adequate comments on environmental documents which are submitted to the public agency for review.

(12) Assigning responsibility for specific functions to particular units of the public agency.

(13) Providing time periods for performing functions under CEQA.

(b) Any district, including a school district, need not adopt objectives, criteria, and procedures of its own if it uses the objectives, criteria, and procedures of another public agency whose boundaries are coterminous with or entirely encompass the district.

(c) Public agencies should revise their implementing procedures to conform to amendments to these Guidelines within 120 days after the effective date of the amendments. During the period while the public agency is revising its procedures, the agency must conform to any statutory changes in the California Environmental Quality Act that have become effective regardless of whether the public agency has revised its formally adopted procedures to conform to the statutory changes.

(d) In adopting procedures to implement CEQA, a public agency may adopt the State CEQA Guidelines through incorporation by reference. The agency may then adopt only those specific procedures or provisions described in subsection (a) which are necessary to tailor the general provisions of the Guidelines to the specific operations of the agency. A public agency may also choose to adopt a complete set of procedures identifying in one document all the necessary requirements.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21082, 21100.2, and 21151.5, Public Resources Code.

Discussion: This section supplements the statutory requirement for every agency to have implementing procedures for CEQA. After identifying the statutory requirement, the section spells out the essential contents for the implementing procedures. Without this list of essential contents, many agencies that only occasionally work with CEQA would find that they had failed to comply with the Act when challenged over their implementing procedures.

Subsection (b) identifies the statutory allowance for a school district to use the implementing procedures of any public agency whose boundaries are coterminous with the district. The regulation then expands this authorization to allow any agency to adopt the procedures of a second agency whose boundaries are coterminous with or entirely encompass those of the first agency. This regulation is necessary to validate the common practice of many counties of having the county planning department often provide the staff work for CEQA compliance of most of the districts within the county, following county procedures.

Subsection (c) answers the often asked question of how soon agencies must bring their implementing procedures into conformance with newly adopted amendments to the Guidelines.

Subsection (d) allows a public agency to use an efficient, short method of bringing its procedures into compliance by adopting the State Guidelines through incorporation by reference. Agencies which have followed this approach have been able to reduce the size of their regulations and reduce the expense of keeping their regulations up-to-date. This section still allows public agencies the option of adopting their own complete set of procedures if they so choose.

15023. Office of Planning and Research (OPR)

(a) From time to time OPR shall review the State CEQA Guidelines and shall make recommendations for amendments to the Secretary for Resources.

(b) OPR shall receive and evaluate proposals for adoption, amendment, or repeal of categorical exemptions and shall make recommendations on the proposals to the Secretary for Resources. People making suggestions concerning categorical exemptions shall submit their recommendations to OPR with supporting information to show that the class of projects in the proposal either will or will not have a significant effect on the environment.

(c) The State Clearinghouse in the Office of Planning and Research shall be responsible for distributing environmental documents to state agencies, departments, boards, and commissions for review and comment.

(d) Upon request of a Lead Agency or a project applicant, OPR shall provide assistance in identifying the various responsible agencies and any federal agencies which have responsibility for carrying out or approving a proposed project.

(e) OPR shall ensure that state Responsible Agencies provide the necessary information to Lead Agencies in response to Notices of Preparation within, at most, 30 days after receiving a Notice of Preparation.

(f) OPR shall resolve disputes as to which agency is the Lead Agency for a project.

(g) OPR shall receive and file all notices of completion, determination, and exemption.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21080.4, 21083, 21086, 21087, 21108, and 21161 Public Resources Code.

Discussion: This section brings together many different requirements which apply to the Office of Planning and Research. Although some of the requirements identified in this section are statutory, others are administrative in origin. The statutory and administrative requirements are combined here to provide a comprehensive view of the OPR responsibility.

15024. Secretary for Resources

(a) The Guidelines shall be adopted by the Secretary for Resources. The Secretary shall make a finding that each class of projects given a categorical exemption will not have a significant effect on the environment.

(b) The Secretary may issue amendments to these Guidelines.

(c) The Secretary shall certify state environmental regulatory programs which meet the standards for certification in Section 21080.5, Public Resources Code.

(d) The Secretary shall receive and file notices required by certified state environmental regulatory programs.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21080.5, 21083, 21084, 21086, 21087, 21088, and 21152, Public Resources Code.

Discussion: This section brings together many different requirements under CEQA which apply to the Secretary for Resources and OPR. The section is included here to provide information to agencies and members of the public who are concerned with the CEQA process.

Subsection (d) has been changed to conform with amendments made to the statute by Chapter 571, Statutes of 1984. These amendments consolidated the filing of Notices of Completion, Determination and Exemption in OPR rather than with the Secretary of Resources, except for notices required for CEQA compliance under certified regulatory programs.

15025. Delegation of Responsibilities

(a) A public agency may assign specific functions to its staff to assist in administering CEQA. Functions which may be delegated include but are not limited to:

(1) Determining whether a project is exempt.

(2) Conducting an Initial Study and deciding whether to prepare a draft EIR or Negative Declaration.

(3) Preparing a Negative Declaration or EIR.

- (4) Determining that a Negative Declaration has been completed within a period of 105 days.
- (5) Preparing responses to comments on environmental documents.
- (6) Filing of notices.

(b) The decision-making body of a public agency shall not delegate the following functions:

- (1) Reviewing and considering a final EIR or approving a Negative Declaration prior to approving a project.
- (2) The making of findings as required by Sections 15091 and 15093.

(c) Where an advisory body such as a planning commission is required to make a recommendation on a project to the decision-making body, the advisory body shall also review and consider the EIR or Negative Declaration in draft or final form.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21082, Public Resources Code; *Kleist v. City of Glendale*, (1976) 56 Cal. App. 3d 770.

Discussion: This section is a recodification of former Section 15055 with one additional feature. The section is necessary in order to identify functions in the CEQA process that a decision-making body can delegate to other parts of the Lead Agency. The agency can operate more efficiently when many functions are delegated to the staff rather than requiring the decision-making body to perform all the functions.

Subsection (b) codifies the holding in *Kleist v. City of Glendale* by identifying the functions that cannot be delegated. The functions of considering the environmental document and making findings in response to significant effects identified in a final EIR are fundamental to the CEQA process. These steps bring together the environmental evaluation and the decision on the project. This section is intended to assure that the environmental analysis of a project is brought to bear on the actual decision on the project. The section also serves to guide agencies away from practices that have been ruled invalid.

Subsection (c) reflects an administrative interpretation which applies the requirements of CEQA to advisory bodies. Such bodies need not and may not certify an EIR, but they should consider the effects of a project in making their recommendations. This section also suggests that advisory bodies may consider a draft EIR.

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