

**Governor's Office of Planning and Research,  
State Clearinghouse**

CEQA Technical Advisory

# Submitting CEQA Documents to the State Clearinghouse

July 2021

This technical advisory is intended to offer CEQA practitioners, particularly at the local level, information about the procedural requirements of the California Environmental Quality Act (CEQA). OPR's technical advisories are part of its public education and training program for planners, developers and others. This advice supplements, but does not amend or revise, the CEQA statute or state CEQA Guidelines.

## I. Purpose

Public agencies are responsible for preparing CEQA environmental documents for proposed projects and making those documents available for public review or posting as a matter of public record. These public agencies are called lead agencies. This advisory is intended to clarify the circumstances under which lead agencies must submit their environmental documents to the State Clearinghouse (SCH) for state level review.

## II. Background

The State Clearinghouse (SCH) within the Governor's Office of Planning and Research (OPR) is responsible for managing the State's environmental review process under CEQA (Public Resources Code 21000 et seq.). CEQA and the state CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3) require lead agencies to file or submit many types of environmental documents to OPR (the State Clearinghouse) under certain circumstances. These documents include:

- Notices of Exemption (NOE)
- Notices of Preparation (NOP)
- Notices of Completion (NOC)
- Notices of Determination (NOD)
- Draft Environmental Impact Reports (EIR)
- Proposed Negative Declarations and Mitigated Negative Declarations (Neg Dec and MND)
- Other Environmental Documents (i.e. Sustainable Communities Environmental Assessment (SCEA))

Some lead agencies misunderstand or misinterpret the requirements for submitting CEQA documents to the SCH. Procedural errors by lead agencies can needlessly delay a project's review and approval process and may even draw CEQA legal challenges. The following information is provided to minimize procedural errors by lead agencies and reduce the potential for delays or legal challenges.

### III. What to Submit to the State Clearinghouse

The following is a brief summary of the circumstances under which CEQA documents must be submitted to the SCH. All code references are to the Public Resources Code (PRC) or to the California Code of Regulations (CCR).

#### Notice of Exemption

When a lead agency determines that a project is exempt from CEQA, the lead agency may file a Notice of Exemption (NOE). Filing a NOE is voluntary. If a state agency files a NOE, it must be filed with OPR. If a local agency files a NOE, it must be filed with the County Clerk (PRC 21108(b) and 21152(b)). Although filing of NOEs is generally voluntary, the statute requires lead agencies to file their NOEs with the SCH when explicitly required by the statutory exemption. For example, when the statutory exemptions contained in PRC Sections 22159.22, 21159.23, or 21159.24 are used, a NOE must be filed pursuant to PRC 21152.1. Check the language of the statutory exemption to see if a NOE is required.

#### Notice of Preparation

Whenever a lead agency determines that an EIR is required for a project, the lead agency must send a copy of the Notice of Preparation (NOP) to all responsible agencies, trustee agencies, and OPR. Copies of all NOPs must be sent to OPR (PRC 21080.4(a)).

#### Notice of Completion

Whenever a lead agency completes a draft Environmental Impact Report (EIR), it must file a Notice of Completion (NOC) with OPR; the NOC briefly describes the project and states that an EIR has been prepared (PRC 21161). The NOC is also an Environmental Document Transmittal form that accompanies all environmental documents circulated through the SCH (CCR 15023).

#### Notice of Determination

When a lead agency approves a project for which an EIR or Negative Declaration (or other Environmental Document) was prepared, the lead agency must file a Notice of Determination (NOD) within 5 working days of the project approval (CCR 15075(a); 15094(a); 15096(I)). When a state agency files a NOD, it must be filed with OPR (PRC 21108(a)). When a local agency files a NOD, it must be filed with the County (PRC 21152(a)). If the project requires discretionary approval from any State agency, the local lead agency shall also, within five working days of this approval, file a copy of the notice of determination with OPR. Filing of the NOD begins a 30-day statute of limitations on legal challenges. If a NOD is not filed, the statute of limitations becomes 180 days, by operation of law (CCR 15112).

#### Draft Environmental Impact Reports and Negative Declarations (or Other Environmental Documents)

Lead agencies must submit their Draft Environmental Impact Reports (EIRs), Neg Decs, and other environmental documents to the SCH when any of the following is true (PRC 21082.1; CCR 15205 and 15206):

- When the lead agency is a State agency.
- When there is a State responsible agency. The definition and role of a responsible agency is discussed in Section IV.
- When there is a State trustee agency. The definition and role of a trustee agency is discussed in Section IV.

- When the project meets the criteria for “statewide, regional, or areawide significance.” A project qualifies as a project of “statewide, regional, or areawide significance” if it meets any of the criteria set forth in CCR 15206. These criteria are specific with respect to project size, location, type, and nature of impact. Examples include residential developments with over 500 dwelling units, projects within the Lake Tahoe Basin, and projects that would substantially affect sensitive wildlife habitats such as wetlands.
- When a State agency otherwise has jurisdiction by law with respect to the project.

This means State agencies must submit all of their EIRs and Neg Decs (this applies to other environmental documents as well) to the SCH. Local agencies must submit an environmental document to the SCH if (a) the project involves a State responsible or trustee agency, or (b) the project meets certain criteria based on project type, size, or location.

Where any of the above conditions exist (i.e., a State lead agency, a State responsible or trustee agency, or a project with statewide, regional or areawide significance) the EIR or Neg Dec must be submitted to the SCH. Please refer to the [State Clearinghouse Website](#) for more information on how to submit your CEQA documents.

#### IV. Identifying and Working with Responsible and Trustee Agencies

Responsible agencies are those which have discretionary approval power over a project, such as the granting of a permit, lease or other approval, or approval of funding. Responsible agencies may also be involved in carrying out some aspect of the project (CCR 15381). The responsible agency’s power is more limited than that of the lead agency, but it may require changes in a project to lessen or avoid the environmental effects of that part of the project which the responsible agency will be called on to carry out or approve (CCR 15041(b); 15042; 15096(g)). There are potentially dozens of State responsible agencies having regulatory or funding authority over private and local development projects.

Trustee agencies are State agencies that, while they do not have discretionary approval over a project, have jurisdiction by law over natural resources affected by a project that are held in trust for the people of California (CCR 15386). There are four trustee agencies defined in CEQA; the Department of Fish and Wildlife (formally Department of Fish and Game), Department of Parks and Recreation, the State Lands Commission, and the University of California (CCR 15386). A trustee agency has an important role in the CEQA process. A trustee agency may, for example, propose mitigation measures or project revisions for incorporation into a project and prepare and submit to the lead or responsible agency a draft monitoring or reporting program for those measures or revisions (CCR 15097(f); 15204(f)).

An agency is a trustee agency by virtue of its jurisdiction over natural resources affected by a project, not based on the extent of a project’s effect on those natural resources (CCR 15386). For example, an EIR or Neg Dec may conclude that a project has no significant impact on fish and wildlife of the state, yet the Department of Fish and Wildlife would still be a trustee agency for that project if the project affects fish or wildlife. In this example, the Department of Fish and Wildlife, as a trustee agency, would be consulted early in the process to assist in determining whether the project may have a significant impact on fish or wildlife resources and in developing appropriate changes in the project or mitigation measures for such impacts if they are significant.

Lead agencies are required to consult with State responsible and trustee agencies before deciding whether a project’s impacts are significant (PRC 21080.3; CCR 15063). This means that responsible and trustee agencies must be consulted prior to determining what type of CEQA document to prepare. Lead

agencies should not confuse determining whether there is a State responsible or trustee agency with determining whether a project may have a significant impact. These are two separate and independent activities. A lead agency should not independently conclude whether impacts to natural resources are significant, without first consulting with appropriate trustee agencies.

Once an EIR or Neg Dec (or other environmental documents) has been prepared, the lead agency must make the document available to the State responsible and trustee agencies through the SCH process (CCR 15023(c); 15073(d); 15087(f); 15204(a)(e)).

OPR can assist lead agencies to determine whether any State responsible or trustee agencies are involved in a project (CCR 15023(d)).

## V. Contact For More Information

For more information on this subject or to review other OPR technical advisories, please contact:

### **State Clearinghouse**

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