

MEMORANDUM

Governor's Office of Planning and Research State Clearinghouse

Date: February 2, 2004

To: All CEQA Lead Agencies

From: Terry Roberts, Director, State Clearinghouse
Scott Morgan, Senior Planner, State Clearinghouse

Re: Mandatory Filing of Notices of Exemption with OPR (AB 677)

Assembly Bill 677 (Firebaugh), which took effect on January 1, 2004, added section 21152.1 to the Public Resources Code (PRC). It requires local agencies to file Notices of Exemption (NOEs) with the Office of Planning and Research (OPR) when relying on three specified statutory exemptions.

Although the filing of NOEs is generally not required, AB 677 creates a mandate to file NOEs with OPR under limited circumstances. When a local agency approves or determines to carry out a project based on any of the following statutory exemptions¹, the local agency must file a notice of that determination with OPR:

1. PRC Section 21159.22: Exemption for Agricultural Employee Housing.
2. PRC Section 21159.23: Exemption for Affordable Low-Income Housing.
3. PRC Section 21159.24: Exemption for Certain Residential Housing Projects.

If you are not a local agency, AB 677 does not apply to you. If you are a local agency, you are required to file an NOE with OPR only when relying upon one of the three exemptions above. All other procedures for the filing of NOEs remain the same. When filing notices with OPR, please send them to the State Clearinghouse Unit.

Some local agencies have been confused by the language in AB 677 which states that a local agency "shall file *notice of the determination* with the Office of Planning and Research." The italicized phrase does not mean Notices of Determination. The phrase "*notice of the determination*" refers to the notice of the determination that the project is exempt from CEQA; in other words, the NOE.

For further information or assistance please contact the State Clearinghouse at (916) 445-0613 or state.clearinghouse@opr.ca.gov.

¹ These statutory exemptions were created by Senate Bill 1925 (Sher) which was signed in 2002 and took effect on January 1, 2003.