

Quick Guide to Public Noticing and Filing Requirements under CEQA and NEPA

Environmental Management Office

This document is intended to serve as a quick reference guide for noticing and filing requirements under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). Nothing in this document supersedes any information found in the Caltrans Standard Environmental Reference (SER), or any other law, regulation, or policy. This document does not address the distribution requirements for environmental determinations or documents under CEQA or NEPA. Note: For joint CEQA/NEPA documents, the public noticing and filing requirements of both CEQA and NEPA must be met.

Please note that the Governor's Office of Planning and Research, California State Clearinghouse (SCH), no longer accepts notices and documents (including NEPA documents) via regular mail. All notices and documents must be submitted through CEQA Submit, the SCH online database. More information on submittal requirements can be found on the [SCH Environmental Document Submission website](#).

Please also note that the CEQA and NEPA notices referenced below can be found on the [SER Forms and Templates page](#) in the "Notices" section.

CEQA

Online Postings

All CEQA environmental review documents and associated notices must be posted on the lead agency's internet website (in addition to any previous requirements). This includes:

- Draft Environmental Impact Reports
- Final Environmental Impact Reports
- Negative Declarations
- Mitigated Negative Declarations
- Notices for scoping meetings
- Notices of availability for review and comment periods
- Notices of public meetings/hearings
- Notices of Preparation
- Notices of Determination
- Notices of Completion

Categorical/Statutory/Common Sense Exemptions:

- A Notice of Exemption (NOE) must be filed with the SCH following project approval per Caltrans policy.
- When Caltrans is the CEQA lead agency, filing with the county clerk is optional.

For further information on preparing and processing exemptions under CEQA, including any distribution requirements, please see [Chapter 34](#) of the SER.

Negative Declaration/Mitigated Negative Declaration (ND/MND):

- There are no public noticing requirements for the Initial Study (IS).
- When a proposed ND or MND is complete (but unsigned), a Notice of Completion (NOC), along with the proposed ND or MND and accompanying IS, must be filed with the SCH.
- The ND/MND has a required 30-day public review period which is initiated with the Notice of Intent (NOI) to adopt an ND or MND (see Appendix HH of the Caltrans [Project Development Procedures Manual](#) (PDPM) for a sample NOI). As a matter of Caltrans' policy, the NOI must be published at least one time in a local newspaper of general circulation and this notice is usually combined with a Notice of Public Hearing or Notice of Opportunity. The NOI must also specify how the environmental document shall be provided in electronic format. This requirement can easily be satisfied by providing a link in the notice to the website where the draft environmental document is posted.
- The NOI *must* be sent to the county clerk of each county in which the proposed project is located and to responsible and trustee agencies. This requirement can be met by including the county clerk, responsible agencies, and trustee agencies on the distribution list and sending the "draft" IS with the unsigned proposed ND or MND.
- Within five working days of approving a project (signing of the Project Report or equivalent) for which it has approved an ND or MND, Caltrans must file a Notice of Determination (NOD), along with any required California Department of Fish and Wildlife [filing fees](#), with the SCH. Obtaining the filing fee check and mailing it in or dropping it off at the SCH (during limited hours) can take some time. Plan ahead so that this does not affect the project schedule. Filing with the county clerk of each involved county is optional, and please note that California Government Code section 26857 states that "No fee shall be charged by the clerk for service rendered to any municipality or county in the state, or to the state or national government, nor for any service relating thereto."

For further information on preparing and processing an ND/MND under CEQA, including any distribution requirements, please see [Chapter 35](#) of the SER.

Environmental Impact Report (EIR):

- Once the decision has been made to prepare an EIR, a Notice of Preparation (NOP) must be sent directly to the SCH (along with an NOC) and to all responsible and trustee agencies. The NOP shall also be sent to every federal agency involved in approving or funding the project.
- A public open house/scoping meeting is often held in conjunction with the release of the NOP.
- When a draft EIR (DEIR) is complete, it is submitted to the SCH with an NOC.
- The EIR has a required 45-day public review period which is provided by the Notice of Availability (NOA). The NOA must be published at the same time the NOC and DEIR are sent to the SCH. There is no form for the NOA under CEQA. Instead, the NOA (see Appendix HH of the PDPM) and Notice of Public Hearing or Notice of Opportunity are almost always combined into a single notice and published at least once in a newspaper of general circulation in the area affected by the proposed project. The NOA must be published in a prominent location in the newspaper, other than in the legal notices section. The NOA is also required to be mailed to the last known name and address of all organizations and individuals who have previously requested such notice in writing. For more information, see Section 15087 of the CEQA Guidelines. The NOA must also specify how the environmental document shall be provided in electronic format. This requirement can easily be satisfied by providing a link in the notice to the website where the draft environmental document is posted.
- The NOA must be sent to the county clerk of each county in which the proposed project is located. This requirement can be met by sending a copy of the notice for newspaper publication to the county clerk for posting.
- Within five working days of approving a project (signing of the Project Report or equivalent) for which an EIR was prepared, Caltrans must file a NOD, along with any required [filing fees](#), with the SCH (filing with the county clerk of each involved county is optional). Obtaining the filing fee check and mailing it in or dropping it off at the SCH (during limited hours) can take some time. Plan ahead so that this does not affect the project schedule.

For further information on preparing and processing an EIR under CEQA, including any distribution requirements, please see [Chapter 36](#) of the SER.

Additional Noticing Requirements under CEQA:

Cortese Sites

If a project involves a “Cortese Site” the following statement must be included on any published public notices: The proposed work involves a site on a list enumerated under Section 65962.5 of the Government Code pertaining to hazardous wastes.

Assembly Bill 52 (AB 52)

At “Begin Environmental Studies,” the Generalist will notify the Cultural Professionally Qualified Staff (PQS) of CEQA lead agency status and the anticipated environmental document type based on scoping done during the PID phase (if available) and/or the current project description. It is critical that the PQS be notified immediately in order to ensure that consultation is initiated in a timely fashion.

Within 14 days of the “Begin Environmental Studies” date, letters are to be sent to the federally and non-federally recognized tribes who have submitted requests to be notified of projects within their culturally affiliated areas. The Division of Environmental Analysis also recommends that letters be sent to any federally or non-federally recognized tribes that the District knows are interested in a particular region.

The initial consultation letters under AB 52 may be combined with Section 106 consultation letters, but must clearly indicate that Caltrans is consulting under both regulations. In relation to the requirements of AB 52, the initial letter needs to describe the undertaking, provide lead CEQA agency contact information, request that the tribe designate a representative, and notify the tribe that a written response to Caltrans must be received within 30 calendar days. Upon receiving a response from a tribe, Caltrans is required to initiate consultation with the tribe within 30 days.

AB 52 applies when an ND/MND or EIR is prepared for a project. AB 52 does not apply to a CEQA Exemption (CE); however, the PQS needs to use professional judgment as to the project’s potential to affect a tribal cultural resource (TCR) if one should exist, and initiate consultation to confirm. AB 52 requires that tribal consultation take place prior to the final decision to release a CE, ND/MND, or EIR. A tribe may provide information on a TCR that could require the elevation of a CE to an ND/MND or an EIR, or an ND/MND to an EIR. The PQS needs to keep the Generalist, the Project Manager, and the Project Development Team (PDT) informed about the consultation process, and they, in turn, must take under consideration the information provided by the PQS. Failure to follow the provisions of AB 52 will have consequences to the project.

For instruction on noticing and filing requirements for joint NEPA/CEQA documents, please see [Chapter 37](#) of the SER.

NEPA

Categorical Exclusions:

- There are no public noticing requirements for a categorical exclusion under NEPA.

For further information on preparing and processing categorical exclusions under NEPA, including any distribution requirements, please see [Chapter 30](#) of the SER.

Finding of No Significant Impacts (FONSI):

- Federal regulations do not require the *circulation* of the draft Environmental Assessment (EA) or FONSI for public comment; however, the EA must be made available for public review for 30 days prior to making a final determination (i.e., the FONSI) and in practice, Caltrans circulates the draft EA to other public agencies for comments. In order to advise the public of the availability of the draft EA, an NOA (see Appendix HH of the PDPM) is published at least one time in a local newspaper. This notice is usually combined with the Notice of Public Hearing or Notice of Opportunity.
- The “draft” EA, along with an NOA and NOC must be submitted to the SCH. Note that the NOA used for submittal to the SCH is different than the newspaper notice. See the SER for the NOA notice to the SCH.
- If a public hearing is held, the draft EA must be available at the public meeting and for a minimum of 15 days *in advance* of the public hearing.
- Upon completion of a FONSI, an NOA along with an NOC must be sent to the SCH. Note that the NOA used for submittal to the SCH is different than the newspaper notice. See the SER for the NOA notice to the SCH.
- Caltrans may elect to prepare a Statute of Limitations (SOL) Notice for the FONSI for the Federal Highway Administration’s (FHWA’s) publication in the *Federal Register*. If an SOL notice is not published in the *Federal Register*, the normal 6-year period for claims under NEPA, rather than the 150-days established by MAP-21, will apply.

For further information on preparing and processing environmental assessments under NEPA, including any distribution requirements, please see [Chapter 31](#) of the SER.

Environmental Impact Statement (EIS):

- The Notice of Intent (NOI) serves as the official legal notice that a federal agency is commencing to prepare an EIS and must be submitted to FHWA for publication in the *Federal Register*.
- A public open house/scoping meeting is often held in conjunction with the publication of the NOI.
- The draft EIS (DEIS) has a required public review period of not less than 45 days which begins with the publication of the NOA in the *Federal Register*. For projects under NEPA Assignment, Caltrans must transmit the DEIS to U.S. EPA. U.S. EPA will prepare an NOA for publication in the *Federal Register*. All submissions to U.S. EPA must be made electronically via U.S. EPA’s “e-NEPA system.” Each District has designated staff with access to the e-NEPA system for document submittals. Please contact your [HQ Environmental Coordinator](#) for more information. In addition to the e-NEPA submission, two hard copies must be sent to the appropriate U.S. EPA regional office. Distribution of the DEIS must occur no later than the time the document is filed with U.S. EPA for notice of publication in the *Federal Register*. At the time of the *Federal Register* publication, the DEIS, along with an NOC must be sent to the SCH.

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- For DEISs, the Notice of Public Hearing or Notice of Opportunity must be published in a local newspaper at two distinct times. This is also true when one of these notices is combined with an NOA for the DEIS. The first notice should be published when the DEIS is circulated. The second notice should be published approximately one week prior to the hearing or the deadline for requesting a hearing. When an NOA for a DEIS is published more than 45 days prior to the hearing, publication of *two* additional hearing notices is required (PDPM, Chapter 11).
- For a final EIS (FEIS), an NOA must be published in a local newspaper.
- The FEIS must be made available for public review for 30 days prior to taking any action on the project. The review period begins when the NOA is published by U.S. EPA in the *Federal Register*.
- Caltrans must complete and sign a Record of Decision (ROD) no sooner than 30 days after publication of the FEIS notice in the *Federal Register* or 90 days after publication of a notice for the DEIS, whichever is later.
- The ROD is an environmental decision document and must be made publicly available, but its publication in the *Federal Register* is not required by law or regulation. The Council on Environmental Quality (CEQ), however, encourages the publication of the ROD. In most instances, Caltrans will prepare an SOL Notice for FHWA's publication in the *Federal Register*, rather than publishing the ROD. If an SOL notice is not published in the *Federal Register*, the normal 6-year period for claims under NEPA, rather than the 150-days established by MAP-21, will apply. NOTE: Section 1319 of MAP-21 authorized, and the FAST Act reiterated, that to the maximum extent practical, the lead agency should develop a single document that combines an FEIS and ROD. A number of conditions must be met in order to utilize this efficiency, including notification that the FEIS and ROD will be combined at the time the DEIS is circulated. Please contact your HQ Environmental Coordinator if you are considering a combined FEIS/ROD.

For further information on preparing and processing environmental impact statements under NEPA, including any distribution requirements, please see [Chapter 32](#) of the SER.

For instruction on noticing and filing requirements for joint NEPA/CEQA documents, please see [Chapter 37](#) of the SER.

Additional Noticing Requirements under NEPA:

Air Quality Conformity

Public involvement is required when a project-level conformity analysis is made under 23 USC 327 for projects requiring an EA or EIS. This will normally be done as part of the NEPA document public circulation process. The public notice for the *draft and final* environmental document must specifically reference the conformity analysis. [Protocol language](#) for public notices has been developed. Response to public comments addressing the conformity analysis must be documented in the conformity analysis that is submitted to FHWA. A separate public notice is not required for the project-level conformity analysis if a categorical exclusion is prepared.

Section 4(f) De Minimis

In most cases, a separate public review process, with a public notice or opportunity to comment, is not necessary. The information supporting the proposed *de minimis* impact finding will be included in the NEPA document and the public will be afforded an opportunity to comment during the formal NEPA process. However, for those actions that do not usually require public review and comment, such as categorical exclusions, **a separate public notice and opportunity for review and comment will be needed.**

For historic properties, the public notice and review requirement will be met when Caltrans informs the SHPO, in writing, that a non-response for the purposes of a “no adverse effect” or a “no historic properties affected” determination will be treated as the written concurrence for the *de minimis* finding. Including this statement in the letter to SHPO serves as the public notice for the *de minimis* determination for historic properties and nothing else is required.

For additional information, please see [Chapter 20](#) of the SER.

Historic Properties

When a proposed project may or will result in effects to historic properties, any public notices related to the draft environmental document must contain the following:

May Effect

The proposed work may have an effect on historic properties eligible for the National Register of Historic Places. CALTRANS is evaluating alternatives to determine if the project can avoid adversely affecting the property(ies) or, if not, if adequate mitigation measures can be incorporated into the project plans.

OR

Will Effect

The proposed work will have an effect on historic properties eligible for the National Register of Historic Places. CALTRANS has evaluated whether adequate mitigation measures can be incorporated into the project plans.

OR

One or more of the alternatives being evaluated will have an effect on historic properties eligible for the National Register of Historic Places. CALTRANS has evaluated whether adequate mitigation measures can be incorporated into the project plans.

Wetlands and/or a Floodplain

When a proposed project will result in an encroachment upon wetlands and/or the base floodplain, any public notices related to the draft environmental document must contain the following:

The proposed work will encroach upon wetlands [and/or a floodplain]. The project is being evaluated to determine if there are any practical alternatives to avoid this encroachment or, if not, to ensure that all practical measures are taken to minimize harm to the wetlands (and/or floodplain).