

CEQA Guidelines Update

Introduction

This Fact Sheet summarizes the major changes made to the California Environmental Quality Act (CEQA) Guidelines (Guidelines) that are contained at Title 14 of the California Code of Regulations, beginning with Section (§) 15000. On December 28th, 2018, the California Office of Administrative Law completed the rulemaking process and approved amendments and additions to the Guidelines. The revisions to the Guidelines are prospective and new requirements will apply to steps in the CEQA process not yet undertaken by the effective date of the revisions (the 120th day after the effective date of the Guideline amendments, § 15007)¹. For projects where Caltrans is the CEQA lead agency, exemptions and environmental documents shall adhere to the following:

- A draft environmental impact report or proposed negative declaration/mitigated negative declaration that has circulated prior to April 27, 2019 does not need to comply with the updated Guidelines when the document is finalized, however, planners are encouraged to incorporate changes as feasible. Note: If a draft document must be recirculated after April 27, 2019, then it must comply with the updated Guidelines.
- Any drafts not circulated before April 27, 2019, must comply with the updated Guidelines.
- Exemptions signed before April 27, 2019 do not need not comply with the updated Guidelines. Exemptions signed after April 27, 2019 must comply.

The Standard Environmental Reference (SER) chapters and forms and templates, including the Annotated Outlines, will be updated to reflect these changes.

Appendix G (CEQA Checklist)

The CEQA Checklist, located in Appendix G of the Guidelines, has been extensively updated. Numerous questions were consolidated or deleted. In addition, new questions were added for energy and wildfire.

Energy

Section 15126.2(b) was added to the Guidelines to capture the requirements in Appendix F (Energy Conservation). The section requires an analysis of a project's energy use to determine if the project will result in significant effects due to wasteful, inefficient, or unnecessary use of energy. This analysis should include the project's energy use for all project phases and components, including transportation-related energy, during construction and operation. Relevant considerations may include, among others, the project's size, location, orientation, equipment use, and any renewable energy features that could be incorporated into the project. This analysis is subject to the rule of reason and shall focus on energy use that is caused by the project—a full "lifecycle" analysis that would account for energy used in building materials and consumer products will generally not be required. A new question was also added to the CEQA Checklist related to use of energy resources and potential conflicts with state or local plans for renewable energy or energy efficiency.

¹ Note that the revisions to § 15064.3 do not take effect until July 1, 2020.

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Wildfire

The CEQA Checklist was updated to include questions related to fire hazard impacts for projects located in or near state responsibility areas or lands classified as very high fire hazard severity zones. Planners can determine if their projects are located in these areas by examining maps on the CAL FIRE website:

http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_statewide.

Project benefits

Project descriptions may discuss project benefits (§ 15124(b)).

Deferral of mitigation details

Although the formulation of mitigation measures shall not be deferred until some future time, the specific details of a mitigation measure may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review. The lead agency must (1) commit itself to the mitigation, (2) adopt specific performance standards the mitigation will achieve, and (3) identify the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure. Compliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards (§15126.4(a)(1)(B)). For example, measures to revegetate can include replanting ratios, types of vegetation, and contingency plans if the replanting is not successful, but need not specify exact details of the revegetation plan.

Conservations easements as mitigation

The definition for mitigation has been updated to include conservation easements (§ 15370(e)).

Baseline

Section 15125 was updated to provide additional information about determining the appropriate baseline for projects. Normally, the baseline is the physical conditions as they exist at the time of the Notice of Preparation. However, it is important to choose the baseline that most meaningfully informs decision-makers and the public of the project's possible impacts.

Where existing conditions change or fluctuate over time, and where necessary to provide the most accurate picture practically possible of the project's impacts, a lead agency may define existing conditions by referencing historic conditions, or conditions expected when the project becomes operational, or both, that are supported with substantial evidence. In addition, a lead agency may also use baselines consisting of both existing conditions and projected future conditions that are supported by reliable projections based on substantial evidence in the record.

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A lead agency may use projected future conditions (beyond the date of project operations) baseline as the sole baseline for analysis only if it demonstrates with substantial evidence that use of existing conditions would be either misleading or without informative value to decision-makers and the public. Use of projected future conditions as the only baseline must be supported by reliable projections based on substantial evidence in the record.

An existing conditions baseline shall not include hypothetical conditions, such as those that might be allowed, but have never actually occurred, under existing permits or plans, as the baseline.

Transportation

Section 15064.3 was added to the Guidelines and describes the specific considerations for evaluating a project's transportation impacts. This section focuses on using vehicle miles traveled (VMT) as a measure for transportation impacts.

While public agencies may immediately apply Section 15064.3 of the updated Guidelines, statewide application is not required until July 1, 2020. In addition, uniform statewide guidance for Caltrans projects is still under development. The project development team may determine the appropriate metric to use to analyze traffic impacts pursuant to section 15064.3(b). Projects for which a Notice of Preparation will be issued any time after December 28th, 2018 should consider including an analysis of VMT/induced demand if the project has the potential to increase VMT (see page 20 of Office of Planning and Research's updated [Technical Advisory on Evaluating Transportation Impacts in CEQA \(December 2018\)](#)), particularly if the project will be approved after July 2020.

Greenhouse gas emissions

Section 15064.4 was updated to clarify that agencies shall make a significance determination regarding a project's greenhouse gas emissions. Guidance for greenhouse gas emissions will be provided soon.

Exemptions

The "General Rule" Exemption has been changed to the "Common Sense" Exemption (§ 15061(b)(3)). In addition, the Class 1 Categorical Exemption, Existing Facilities, has been updated to include the addition of bicycle facilities and transit improvements that involve negligible or no expansion of existing or former use and do not create additional automobile lanes (§ 15301(c)).

Notice of Preparation to county clerk

The Notice of Preparation must now be filed with the county clerk of each county in which the proposed project is located. This is in addition to sending to the Office of Planning and Research, responsible agencies, to every federal agency involved in approving or funding the project, and to each trustee agency responsible for natural resources affected by the project (§ 15082).

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Public comments

When circulating draft documents for public review, the notices must state the manner in which Caltrans will receive comments (§ 15087(c)(2)). Planners should specifically state how comments will be received (e.g., formal written comments, email, social media, etc.) in the public notices and on the General Information page in environmental documents.

Referenced documents

Updates were provided in sections 15072(g)(4) and 15087(c)(5) to clarify that public notices shall include the address where copies of the EIR and all documents “incorporated by reference” in the EIR will be available for public review. Documents that are “incorporated by reference” provide a portion of the document’s overall analysis (e.g. technical reports). Other referenced documents that only provide supplementary information may be contained in project files or research libraries and the address for these items does not need to be listed on the public notices.

Consultation with transit agencies

When providing a Notice of Intent to adopt a negative declaration or mitigated negative declaration and when consulting with and requesting comments on a draft environmental impact report, lead agencies should consult with public transit agencies with facilities within one-half mile of the proposed project (§ 15072(e), § 15086(a)(5)).

Notice of Determination

When filing a Notice of Determination, include the identity of the person undertaking the project (if different from the applicant) which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies or the identity of the person receiving a lease, permit, license, certificate, or other entitlement for use from one or more public agencies (§ 15075(b)(8), 15094(b)(10)).

For example, if Caltrans is issuing an encroachment permit and is serving as lead agency for the encroachment, the Notice of Determination must also include the identity of the person receiving the permit.