



Basics of CEQA

March 2023

Agenda

1. CEQA Overview / What is a “Project”?
2. General 3-Step CEQA Process
3. CEQA Filings
4. Environmental Information Form (DWR)
5. AB 52 Tribal Consultation

CEQA Overview

**→ A look at purpose, authority, and timing
of CEQA documentation**

Basic Purposes of CEQA

- **Inform** governmental decision makers and the public about potential significant environmental effects of proposed activities.
- **Identify** ways environmental impacts can be avoided or significantly reduced.
- **Prevent** significant, avoidable damage to environment by requiring changes in projects through use of alternatives or mitigation measures.
- **Disclose** to public reasons why a governmental agency approved a project if significant environmental effects are involved.

Authorities Granted to Public Agencies by CEQA

- **Authority to Mitigate** Lead Agency has authority to require feasible changes to project in order to lessen or avoid significant effects on environment.
- **Authority to Disapprove** Lead Agency may disapprove a project to avoid one or more significant effects on environment.
- **Authority to Approve Despite Impacts** Public agency may approve a project even though project would cause significant effects on environment if agency makes a fully informed and publicly disclosed decision.

Who can Act as Lead Agency for CEQA?

- Who qualifies as Lead Agency for CEQA process?
 - Public agency which has principal responsibility for carrying out or approving a project.
- Funded entities who are not public agencies cannot be Lead Agency:
 - Non-profits
 - Tribes
 - Private entities
- Who can act as Lead Agency if funded entity cannot?
 - Public agency issuing a permit for project
 - Public agency providing funding for project
 - Public agency providing other approval for project

Timing Considerations

- CEQA documents should be prepared as early as feasible in planning process to enable environmental considerations to influence project program and design, and yet late enough to provide meaningful information for environmental assessment.
- CEQA documents often begin at conceptual design, 35% Preliminary Design, or Basis of Design stage.
- CEQA documents must be adopted/certified before granting any approval of a project subject to CEQA.

What is a “Project”?

→ Is everything subject to CEQA?



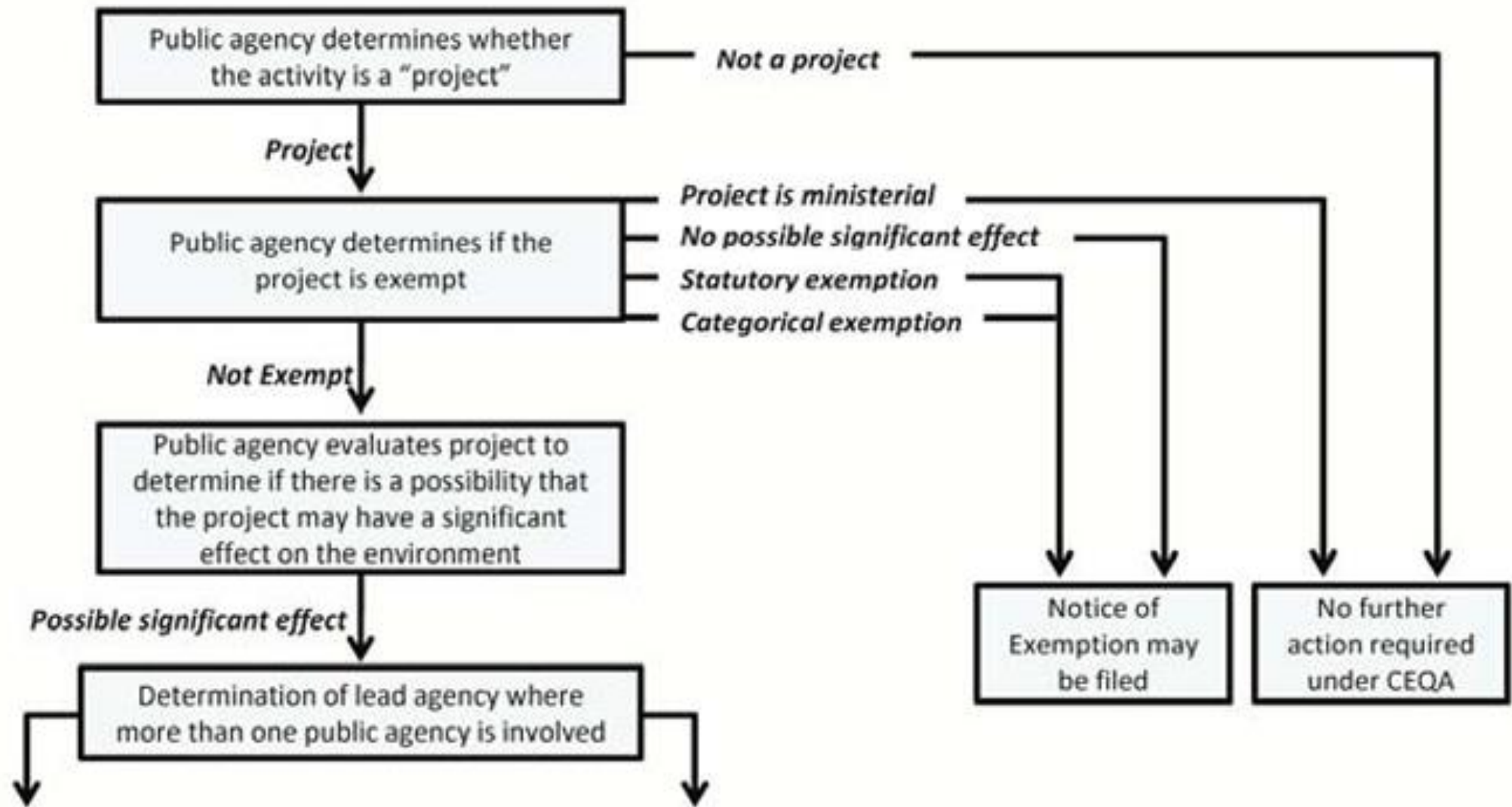
Definition of Project Under CEQA (Section 15378(a))

An activity directly undertaken by a public agency, including construction projects, improvements to existing public structures, enactment of zoning ordinances, and adoption of local General Plans

An activity undertaken which is supported in whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance

An activity involving issuance of a lease, permit, license, certificate, or other entitlement for use by a public agency

APPENDIX A: CEQA PROCESS FLOW CHART



An activity is not subject to CEQA if:

- Activity **does not** involve exercise of discretionary powers by a public agency;
- Activity **will not** result in a direct or reasonable indirect physical change in the environment; or
- Activity **is not** a project as defined in CEQA Guidelines Section 15378(b)
- NOTE: any project receiving public funding is subject to CEQA, including funds from DWR.

Discretionary

CEQA applies in situations where a governmental agency can use its judgement in deciding whether and how to carry out or approve a project. A project subject to such judgmental controls is called a “discretionary project”.

Ministerial

Where law requires governmental agency to act on a project in a set way without allowing the agency to use its own judgement, the project is called “ministerial,” and CEQA does not apply.

Examples of actions typically presumed to be ministerial:

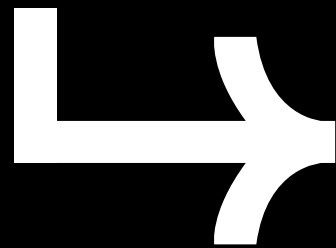
- Issuance of building permits
- Issuance of business licenses
- Approval of final subdivision maps
- Approval on individual utility service connections and disconnections

General 3-Step CEQA Process

→ Deciding which document to prepare for a project subject to CEQA



Step No. 1



**Is Project Exempt or
covered by a prior
CEQA document?**

Determining if Project is Exempt or Covered by Prior CEQA Document

- **Examine** if project is subject to CEQA at all (does it meet the definition of a “project”?)
- **If project is subject to CEQA**, determine whether project qualifies for an exemption from CEQA, or is possibly covered by a previous CEQA document.
- **If project qualifies for an exemption**, lead agency may file a Notice of Exemption.
- **If project is covered by a prior document**, determine if it adequately addressed project as currently proposed.

Project Subject to CEQA may be found exempt from CEQA, if:

- Project is **exempt by statute** (Section 15260)
 - Emergency projects, feasibility/planning studies, establishing rates, air permits, installation of up to 1 mile of new pipeline within ROW, Urban Water Management Plans
- Activity is covered by **common sense exemption** that there is no possibility a significant effect on environment may result (Section 15061(b)(3))
- Project is **exempt pursuant to one of 33 categorical exemptions** (Section 15300)
 - Existing Facilities, Replacement or Reconstruction, New Construction, Accessory Structures, Minor Alterations to Land

Categorical exemption (CE) - Exceptions

CE must not be barred by exceptions set forth in Section 15300.2.

- Location
- Cumulative Impacts
- Significant Effect from Unusual Circumstances
- Scenic Highways
- Hazardous Waste Site
- Historic Resources

Notice of Exemption

- When public agency decides a project is exempt from CEQA, and approves or determines to carry out project, agency may file a Notice of Exemption (NOE).
- NOE does not require a public review period.
- Filing NOE is not mandatory but doing so reduces statute of limitation period on legal challenges from 180 days to 35 days.
- NOE filed with County Clerk (and associated fee) and Office of Planning and Research after project has been approved.

Notice of Exemption Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044
County Clerk
County of: _____

From: (Public Agency): _____

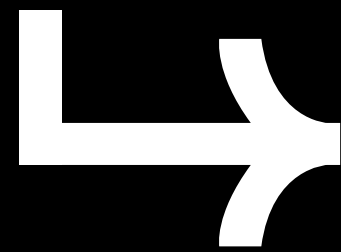
(Address)

Project Title: _____
Project Applicant: _____
Project Location - Specific: _____
Project Location - City: _____ Project Location - County: _____
Description of Nature, Purpose and Beneficiaries of Project:

Name of Public Agency Approving Project: _____
Name of Person or Agency Carrying Out Project: _____
Exempt Status: **(check one)**:
 Ministerial (Sec. 21080(b)(1); 15268);
 Declared Emergency (Sec. 21080(b)(3); 15269(a));
 Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
 Categorical Exemption. State type and section number: _____
 Statutory Exemptions. State code number: _____
Reasons why project is exempt:

Lead Agency
Contact Person: _____ Area Code/Telephone/Extension: _____
If filed by applicant:
1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No
Signature: _____ Date: _____ Title: _____
Signed by Lead Agency Signed by Applicant
Authority cited: Sections 21083 and 21110, Public Resources Code. Date Received for filing at OPR: _____
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Step No. 2



**If Project is not exempt
from CEQA, conduct
Initial Study**

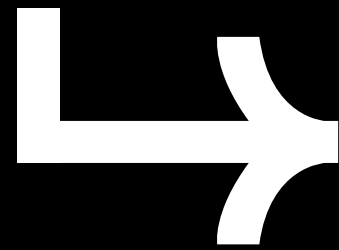
CEQA Initial Study

- Preliminary analysis to determine environmental effects
- Use of CEQA Appendix G checklist covering 20 environmental topics
- Discussion of ways to mitigate significant effects, if any
- 30-day public review period
- 6 to 9-month overall process
- Leads to adoption of Negative Declaration or Mitigated Negative Declaration, or preparation of EIR

CEQA Environmental Checklist Topics

- Aesthetics
- Agriculture & Forestry
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology & Soils
- Greenhouse Gas Emissions
- Hazards & Hazardous Materials
- Hydrology & Water Quality
- Land Use & Planning
- Mineral Resources
- Noise
- Population & Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities & Service Systems
- Wildfire

Step No. 3



If Initial Study shows a potential significant unavoidable effect, prepare an EIR

CEQA Environmental Impact Report

- Greater level of detail for analysis
- Required to include alternatives
- Discussion of ways to mitigate significant effects, if any
- Requires Notice of Preparation and 30-day Scoping Period
- 45-day circulation and review period of Draft EIR
- Requires written responses to comments
- 12 to 18-month overall process

CEQA Filings

→ A look at requirements for filing CEQA documents

State Clearinghouse and County Clerk

- State Clearinghouse is responsible for distributing environmental documents to State agencies, boards, & commissions for review & comment
- Establishes & maintains a database of CEQA notices and documents
- Both receive & post notices including
 - Notice of Preparation
 - Notice of Completion (Clearinghouse Only)
 - Notice of Determination
 - Notice of Exemption

Documenting Environmental Compliance

**→ North Coast Resource Partnership/Department
of Water Resources Specific Requirements**

Environmental Information Form (EIF)

1. CEQA Guidelines - Appendix H
2. DWR has a more tailored EIF to be prepared and submitted within 30 days of execution date of Grant Agreement.
 - Documents whether project qualifies for an exemption or other CEQA compliance.
 - Identifies status of CEQA document, expected date of completion, and estimated cost.
 - Lists all environmental permits that must be obtained to complete the project.

ENVIRONMENTAL INFORMATION FORM - DEPARTMENT OF WATER RESOURCES

Grant Recipients are responsible for complying with all applicable laws and regulations for their projects, including the California Environmental Quality Act (CEQA). Work that is subject to the California Environmental Quality Act (CEQA) shall not proceed under this Agreement until documents that satisfy the CEQA process are received by the Department of Water Resources (DWR) and DWR has completed its CEQA compliance determination. Work that is subject to CEQA shall not proceed until and unless approved by DWR. Such approval is fully discretionary and shall constitute a condition precedent to any work for which it is required. Once CEQA documentation has been completed, DWR will consider the environmental documents and decide whether to continue to fund the project or to require changes, alterations or other mitigation.

Grant Recipient: _____
Agreement #: _____
Project Name: _____
Project Manager: _____
Address: _____
Phone Number: _____

1. List the source of any other grants or funds received from DWR to implement a portion of this project.

2. Is this a project as defined by CEQA? Yes No (if "yes", skip to #3) if "no", please explain below then skip to #8.

3. Is this project exempt from CEQA compliance? Yes No (if "no", skip to #4) if "yes", provide reasons for exemption. Cite the CEQA Article, Section and Title of the CEQA exemption, if appropriate. A partial list of the statutory exemptions is found in Cal. Code Regs., tit.14, art. 18 (sections 15260 – 15285) and a list of categorical exemptions is found in Cal. Code Regs., tit. 14, art. 19 (sections 15300 – 15332). A copy of CEQA and the applicable regulations may be found at: http://resources.ca.gov/ceqa/docs/2016_CEQA_Statutes_and_Guidelines.pdf

Check appropriate box below:
 Lead Agency has already filed a Notice of Exemption (NOE) with the State Clearinghouse and/or County Clerk. Attach copy of NOE and, if applicable, a copy of Board Resolution.
 Lead Agency will file a NOE with the State Clearinghouse and/or County Clerk. Provide estimated date: _____
 Lead Agency will NOT file a NOE with the State Clearinghouse and/or County Clerk.

If Lead Agency chooses not to file a NOE, sufficient documentation and information must be submitted to the DWR Grant Manager, along with this form, to allow DWR to make its own determination that the project is exempt from CEQA.
Reason for exemption: _____

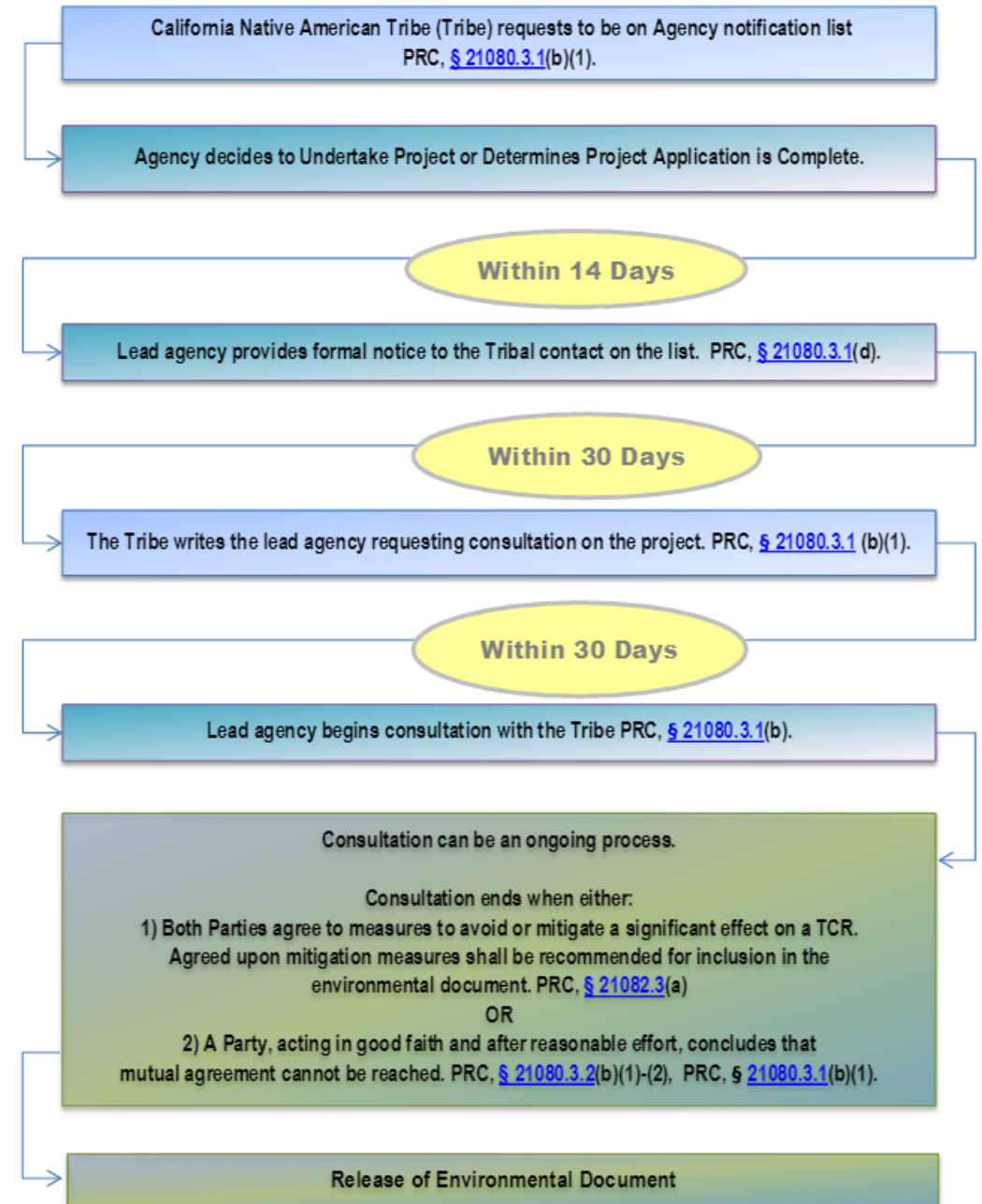
AB 52 Tribal Consultation Requirements

**→ Required Consultation and
Best Practices when not required**

AB 52 Tribal Consultation

- Requires Lead Agency to consult with California Native American tribes that requests consultation and is traditionally and culturally affiliated with geographic area of a proposed project.
- Consultation must be initiated *prior* to release of ND, MND, or EIR for a project (Pub. Res. Code § 21080.3.1)

Compliance Timeline and Consultation Process Flowchart



AB 52 Tribal Consultation cont.

- If AB 52 Notice to Tribes shall include brief project description, location, lead agency contact information, and statement that Tribe has 30 days to request consultation.
- Lead Agency determines a project may cause a substantial adverse change to tribal cultural resources, Lead Agency must consider measures to mitigate impact.
- For more information, see [OPR's technical advisory on AB 52](#)

Tribal Consultation Good Practice

- AB 52 Consultation not triggered for CEQA Exemptions, IS/MND or EIR Addendums, or “within-the-scope” documentation for Programmatic EIRs.
- Good practice to still notify tribes when project:
 - involves ground disturbance.
 - change in project description.

Closing

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