



What is CEQA

Objective - be able to define CEQA and identify CAL FIRE's roles and responsibilities to comply with CEQA.





California Environmental Quality Act (CEQA)





WHY ARE WE HERE??

Provide guidance to Department personnel on how to comply with the California Environmental Quality Act (CEQA) and navigate the CEQA process with the variety of Department programs.

Vegetation Management

VMP, VTP, Fire Plan

Technical Services

New Fire Stations and infrastructure



What is CEQA?

California Environmental Quality Act (CEQA) signed into law in 1970

California's most important environmental law

Requires state, local, and other public agencies in California to evaluate and disclose the environmental implications of their actions





Purpose of CEQA

- Full Disclosure
- Inform the government and the public about the potential environmentally damaging effects of its actions.
- Required conclusion of possible or potential impacts to the environment.
- Identify ways to avoid or reduce environmental damage.
- Allow for public comment
- PRC § 21002, 14 CCR § 15002(a)



CEQA Foundations

CEQA Statute - Public Resources Code 21000-21177

CEQA Guidelines - CCR Title 14, § 15000 et seq.

Case Law - Court decisions interpreting and applying statute and guidelines to specific cases

Public Agency Implementation

Attorney General

Comments/Lawsuits/Settlements



CEQA Applies To?

CEQA applies to all **discretionary** activities proposed to be carried out or approved by California public agencies

CEQA applies to private activities that require **discretionary** government approvals.

“Discretionary”. Requires some exercise of judgment, not ministerial action, not a checklist situation.....



CEQA Basics



Authority

California Environmental Quality Act

Public Resources Code

Division 13. Environmental Quality

§§ 21000 – 21189

CEQA Guidelines

California Code of Regulations

Title 14, Chapter 3

§§ 15000 - 15387



Summary

- California's premiere environmental law.
- It is a process, not a permit.
 - No prescriptive standards.
 - Generates **information**.
- Requires reasonable disclosure of project impacts.
- Must address direct and indirect impacts.
- Must mitigate impacts when feasible.
- Lead agency is responsible for compliance.
- Multi-disciplinary scope.



Key Terms

- Project
- Lead agency
- Responsible agency
- Trustee agency
- Environment
- Significant effect
- Mitigation
- Avoidance



Project

- Discretionary for ministerial
 - Determining whether there has been conformity with applicable statutes, ordinances, or regulations (i.e. building permit).
- The whole of an action.
- Activities that may physically change the environment.
- Activities carried out, supported or approved by a public agency.
- Subject to public agency discretion.
- 14 CCR §§ 15002(i), 15378



Project

CEQA applies to activities that are considered/defined as “Projects”.

“Project” CEQA Guidelines § 15378

- The “whole of an action”
- Potential for resulting in a direct physical change in the environment or,
- Reasonably foreseeable indirect physical change in the environment



Project (continued)

Activity directly undertaken by a public agency is a Project

CAL FIRE Examples include:

- Constructing, improving and maintaining facilities.
- Carrying out fuel reduction treatments.
- Conducting training exercises.
- Awarding grants for fuel reduction and forestry activities.
- Approving timber harvesting plans.



Project (continued)

An activity which is supported through contracts, grants, subsidies, loans or other forms of assistance from one or more public agencies.

An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

Examples:

Fuel reduction, research, training exercises, road repair



Roles in CEQA

Lead Agency

Responsible Agencies

Trustee Agencies



Lead Agency

- The public agency that has the principal responsibility for carrying out, supporting or approving a project.
- The lead agency:
 - Performs the environmental review and determines the appropriate CEQA document.
 - Ensures that all project impacts are identified and mitigated.
 - Consults with other agencies and the public.
 - Completes the CEQA process and files environmental documents
- 14 CCR §§ 15050, 15367



Who is the Lead Agency?

A public agency is the lead agency for its own projects.

Private Projects Requiring Gov't Approvals

- Agency with the most overall discretionary approval is the lead agency. An agency with general government powers (city/county) usually prevails over an agency with a single or limited purpose.
- Agreement: Agencies with substantial claim to be the lead agency may designate a lead by agreement
- Cooperative lead agencies are possible
- Office of Planning and Research Designation



Responsible Agency

Public agency which proposes to carry out or approve a project for which a Lead Agency is preparing or prepared, an EIR or Negative Declaration.

Agencies other than the lead agency with discretionary approval power over the project.

Examples: Caltrans, AQMD, Fish & Game, Coastal Commission, others



Trustee Agency

- State agency with jurisdiction over resources held in trust for the people of California.
- Trustee agencies listed in Guidelines § 15386 :
 - Fish and Game
 - State Lands Commission
 - Parks and Recreation
 - University of California
- Others (Conservancies)
- Trustee agency may not necessarily have discretionary approval power over a project.



Environment

- The environment includes:
- The physical conditions within the area affected by the project.
- The area where direct or indirect significant effects may occur as a result of the project.
- Both natural and built conditions.

- PRC § 21060.5, 14 CCR § 15360



Significant Effect

- Significant impact
- Unavoidable impact
- Determination of effect



Significant Effect

Significant effect means:

- a substantial, or
- potentially substantial, adverse change in any of the physical conditions within the area affected by the project...

PRC § 21068, 14 CCR §§ 15002(g),
15382





Determining Significance

- **Substantial Evidence:** If there is substantial evidence that a project may have a significant effect on the environment, the agency shall prepare an EIR (PRC § 21080).
 - Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.
- **Fair Argument Standard:** If there is a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR.
 - *No Oil, Inc. v. City of Los Angeles (1974) 13 Cal. 3d 68*
- **Thresholds of Significance:** Used in determining the significance of environmental effect. Agencies are encouraged to adopt thresholds of significance.



Significant Effect

- It is the lead agency's responsibility to determine if their actions may have the potential to cause a significant effect.
- They can rely upon:
 - Their own expertise
 - The expertise of others
 - Published materials (lists, maps, surveys)
 - New information (provided by public, agencies)



Mitigation

Dictionary definition:

Making a condition less severe.

CEQA definition:

- Avoiding (not doing all or part) vs **design** of the project.
- Minimizing (limiting).
- Rectifying (repairing, rehabilitating, or restoring).
- Reducing or eliminating (conserving).
- Compensating (replacing or substituting).

14 CCR § 15370

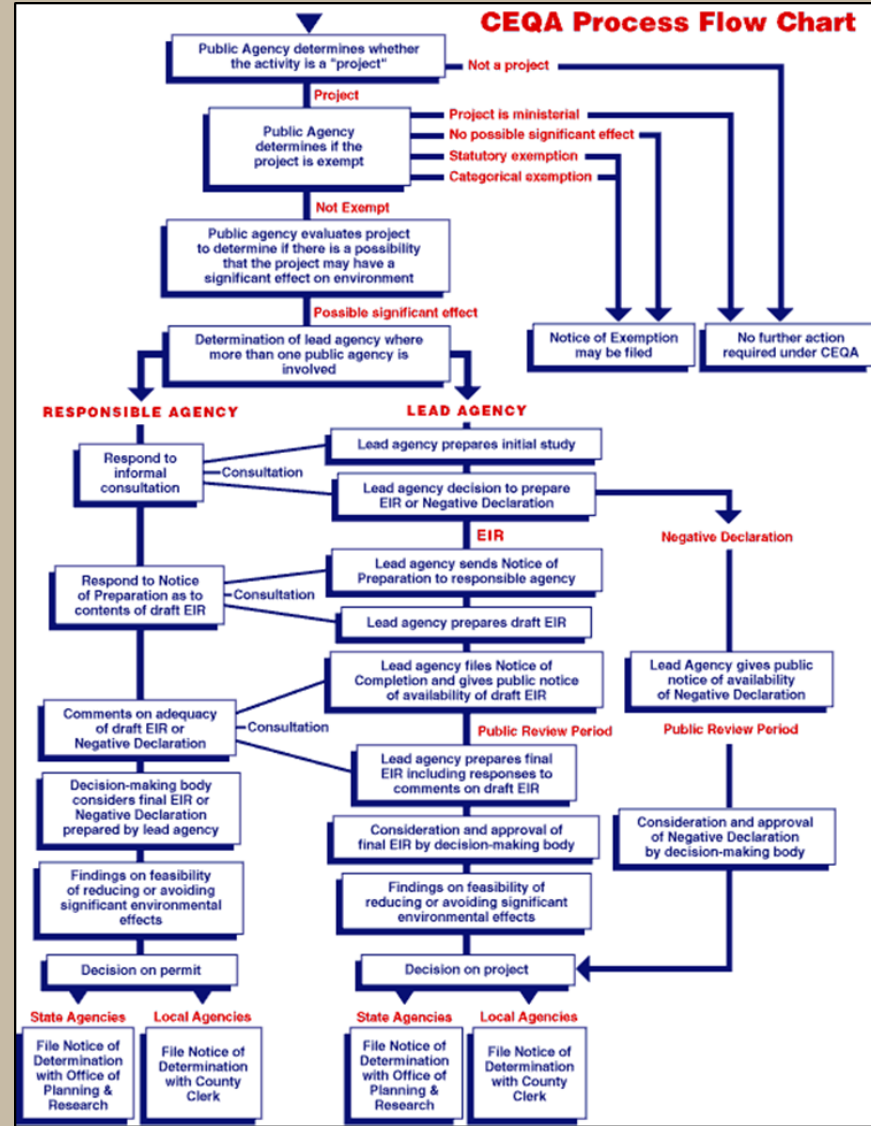


Avoidance

- Most CAL FIRE projects rely upon avoidance for projects.
 - Relocating or moving the project
 - Widening the buffers
 - Changing the timing
 - Relying on different access routes
 - Reusing or transferring historic buildings



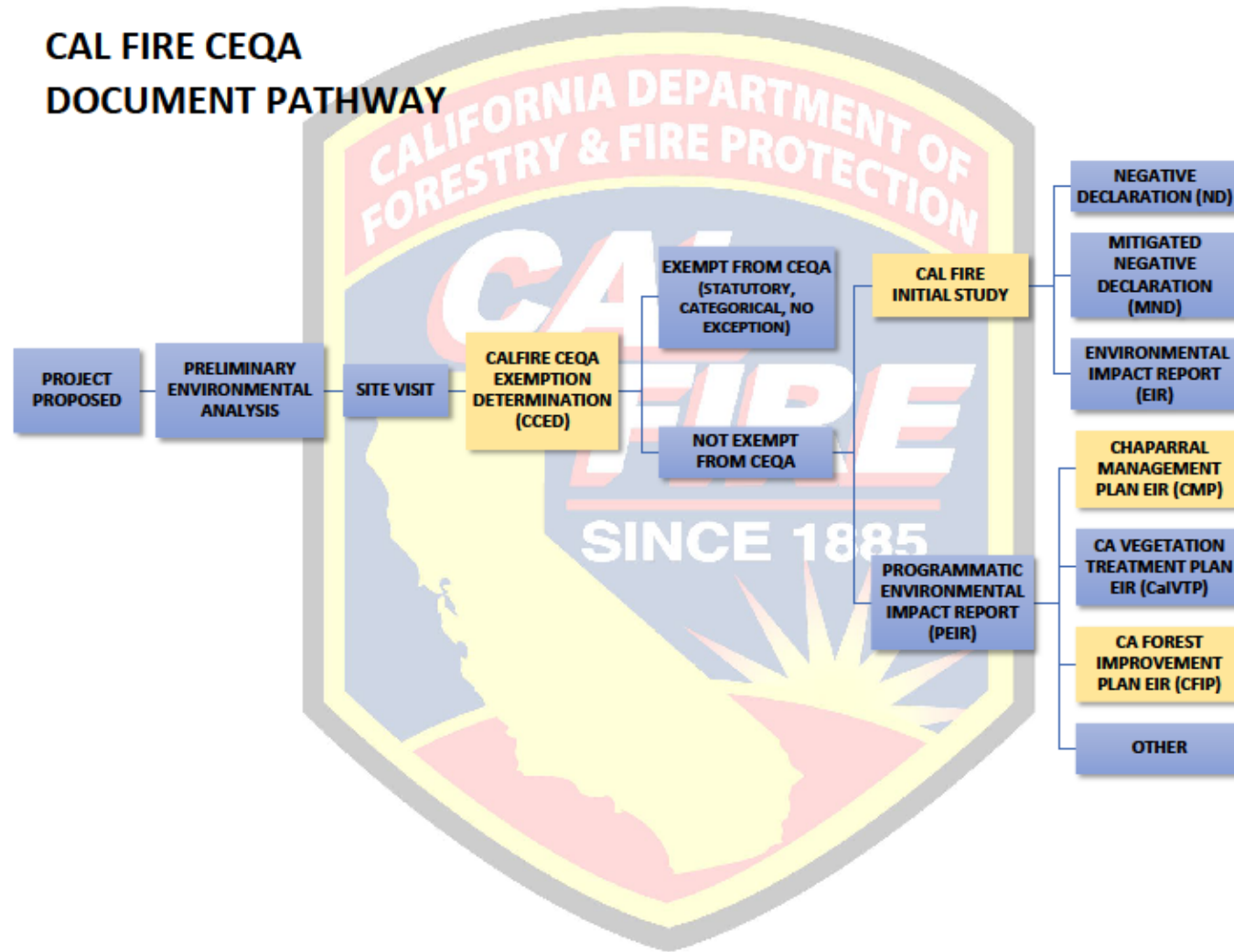
Process





CEQA Flow Chart

CAL FIRE CEQA DOCUMENT PATHWAY





Other Agency CEQA Roles

- Authority – Permits required to complete projects
 - WQ Waiver
 - CARB – PFIRS
 - DFW 1600
- Other Agency can be Responsible or Trustee
 - Role of other agency is to review and provide feedback on topics under purview of their authority.



Enforcements

- Enforced by litigation
 - Usually by public complaints
- Statute of limitations
 - Approval of project (CEQA.net)





Discussion/Questions

- Who is responsible for CEQA and how is it enforced?