

ABOUT THE ENVIRONMENTAL REVIEW PROCESS (Also Called "the CEQA Process")

Cities and counties weigh a variety of factors when deciding whether to approve a proposed land use or other project. One such factor is what kind of effect a project would have on the environment.

The California Environmental Quality Act guides the process of gathering such information. A nickname for this law is "CEQA" (pronounced "See-Kwa"). The process is quite complex and technical. This sheet provides an overview of some basic concepts though.

The term "environment" includes natural and man-made elements of our surroundings. This includes land, air, water, minerals, plants, animals and noise. It also includes things like historic buildings.

Determining the Level of Environmental Review

In some cases, state-level decision-makers have decided that no environmental review is necessary. Some kinds of projects are exempt from the environmental review process. There are two sources of exemptions. One source is the CEQA statute (these are known as "statutory exemptions"). The Legislature makes this decision. The other source of exemptions is the CEQA Guidelines. These are adopted by the state's Resources Agency to provide guidance on implementing CEQA. These are known as "categorical exemptions."

The "Initial Study"

If a project is not exempt, the next step is to prepare an initial study. Such a study asks the question "are there facts that indicate that a project could have a significant effect on the environment?"

"Negative Declarations"

If the answer is "no," then a "negative declaration" occurs. When an agency uses a negative declaration, it is saying two things. It is reaching a conclusion (or making a "declaration") that an environmental impact report is not necessary (the "negative"). An environmental impact report is a more detailed analysis of a project's effects on the environment.

There are two situations in which a "negative declaration" is used. One is when decision-makers conclude that a project will not have a significant effect on the environment. The other is when the project has potentially significant effects, but they can be reduced or avoided by imposing certain conditions on the project. This type of negative declaration is known as a "mitigated negative declaration."

Evaluating Information in the CEQA Process

Decision-makers receive lots of information through the CEQA process. Some of this information can also be technical. Reasonable people can disagree about how much weight to give to pieces of information. Indeed even experts can disagree.

What if it is not clear whether a project will have an effect on the environment? If there is a "fair argument" that a project may have a significant effect, decision-makers will usually direct that an environmental impact report be prepared.

There can be other points in the environmental review process when reasonable people can disagree about how information should be evaluated. Recognizing this, the law gives decision-makers a fair amount of latitude in determining what information is the most persuasive.

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"Environmental Impact Reports"

If the initial study shows that the project may have a significant effect on the environment, the next step is to prepare the more extensive environmental impact report. Such reports are often referred to by the initials "EIR."

Such reports contain a number of items. It describes the proposed project. It identifies and analyzes each significant environmental impact expected to result from the proposed project. The report also recommends steps to avoid or minimize those impacts. These actions are called "mitigation measures." Possible alternative projects are considered too, including the option of no project.

Impact on the Decision-Making Process

The information from the environmental review process helps decision-makers decide whether to approve a project. The report also helps them decide whether putting conditions on a project's approval helps. But the ultimate decision on whether to approve a project is up to decision-makers (after complying with CEQA).

Thinking Ahead When It Comes to Environmental Review

The process of evaluating environmental effects on a project-by-project basis can be both time-consuming and expensive. The California Environmental Quality Act gives decision-makers a number of options to address this.

For example, "master" and "program" environmental impact reports can consider the environmental impacts of major policy decisions (for example, the decision to adopt a general plan). When projects come along that are consistent with these policies, the need for further environmental review and analysis is reduced or eliminated.

CEQA also allows agencies to build upon prior environmental reviews. This avoids unnecessarily repeating analysis which has already occurred and is still current. This is called "tiering" off of earlier reviews. It enables the agency to focus the current environmental review on issues that were not analyzed in the earlier review.

If the project approval includes mitigation measures, the agency must adopt a reporting or monitoring program to assure those measures occur.

To Learn More

- State of California website on California Environmental Quality Act:
<http://ceres.ca.gov/ceqa/>
- *The Planning Commissioner's Handbook*, League of California Cities, 2005, Chapter 4: The Planning Framework (www.ca-ilg.org/pch4)
- California Public Resources Code Section 21000 and following (accessible from www.leginfo.ca.gov/calaw)
- Solano Press (www.solano.com) has a number of land use-related publications, including one on the California Environmental Quality Act, available for purchase