



ENVIRONMENTAL DOCUMENT PREPARATION PROCEDURES

Preparation of Environmental Reviews When LAFCo is the Lead Agency

Applications and Procedures

1. The procedures in this article shall govern the preparation and processing of environmental documents for the following projects:
 - a. Changes of organization or reorganizations initiated by LAFCo pursuant to the Cortese-Knox-Hertzberg Act Section 56375;
 - b. Sphere of Influence Plans, Municipal Service Reviews, and Amendments
 - c. Sphere of Influence boundary adjustments;
 - d. Incorporations;
 - e. Special District boundary adjustments and consolidations, detachments, dissolutions and district formations; and
 - f. Annexations.

Application Submittal

Applications shall be submitted to LAFCo and processed as follows:

1. To facilitate and streamline processing, the applicant shall consult with the Commission to discuss the information required to process the application.
2. LAFCo shall assign a project number.
3. Pursuant to these procedures and CEQA Guidelines Section 15060, LAFCo shall determine whether the application is complete.
4. The application will not receive a certificate of filing until the provisions of CEQA have been met.
 - a. A determination shall be made within 30 days from receipt of the application.
 - b. Accepting an application as complete does not prohibit LAFCo from requesting additional information necessary for an adequate environmental review.

Determination of Exemption

1. Once the application is deemed complete, LAFCo shall determine if the project is exempt from the preparation of additional environmental documents (CEQA Guidelines Section 15061).
2. If an Exemption is determined appropriate, LAFCo shall prepare a Notice of Exemption (NOE) as per CEQA Guidelines Section 15062. If the project is approved, the NOE shall be filed and posted with the County Recorder-Clerk.



Initial Study (IS)

The following steps shall be followed when preparing an IS:

1. If LAFCo determines that a project is not exempt, an IS, including completion of an Initial Study Checklist (Exhibits A and B), shall be conducted, as per CEQA Guidelines Section 15063.
 - a. The project proponent shall provide all information necessary to complete the IS.
 - b. Failure to respond within 30 days will terminate the application process. All timelines are extended while waiting for a response.
 - c. All responses shall be in writing.
2. The Initial Study Checklist for Annexations (Exhibit A) shall be used for projects which may physically alter the environment. The Initial Study Checklist for Sphere of Influences and Special Districts (Exhibit B) shall be used when changes to political and service boundaries or district re-organizations are proposed, but physical changes are not proposed.
3. If a project application is received which is subject to approval by one or more Responsible Agencies, or may affect public lands under the jurisdiction of trustee or other public agencies, LAFCo shall consult with such agency or agencies.

Environmental Determination

1. Based on the IS and any consultations, LAFCo shall determine which environmental document to prepare and shall inform the project applicant.

Appeal Process

1. Upon notice of a requirement to prepare an EIR, the applicant has 10 days to appeal.
2. The appeal shall be in writing to LAFCo and shall include a statement of justification.
3. LAFCo shall base its decision upon facts relating to the appropriateness of the environmental determination, and not upon the merits or lack of merits of the project.

Negative Declaration (ND) and Mitigated Negative Declaration (MND)

The following steps shall be followed when preparing and processing a ND or MND:

1. A ND or MND shall be prepared by LAFCo when the IS shows that:
 - a. There is no substantial evidence that the project may have a significant environmental effect;



- b. The IS identified potentially significant effects but changes in the project proposal were made that eliminated such effects;
 - c. Changes to the project have been proposed for adoption by LAFCo that would eliminate adverse effects, or render them less than significant or
 - d. There is no substantial evidence that the project, as revised, may have significant effects on the environment
 2. The following processing steps and format shall be used:
 - a. The ND or MND shall conform substantially to Exhibits C-1 and C-2;
 - b. The IS shall be attached to the ND or MND;
 - c. LAFCo shall consult with and seek comment from each Responsible Agency and Trustee Agency;
 - d. LAFCo may also consult with persons having special expertise regarding specific impacts;
 - e. The ND or MND shall be made available to the public and interested parties at least 21 days before the project is heard by LAFCo.
 - f. If the project has statewide, regional or area-wide significance, the ND or MND must be submitted to the State Clearinghouse for review.
 3. When a proposed ND or MND and IS are submitted to the State Clearinghouse for review, the public review period shall be no less than 30 days, unless a shorter period is approved by the State Clearinghouse.
 4. If a public agency comments upon the ND or MND, that agency will be provided notice of a public hearing, as per CEQA Guidelines Section 21092.
 5. Prior to approval of the project, the Commission shall verify that the ND or MND is adequate and complete and that the project will not have a significant effect on the environment. In the case of a MND, any modification(s) will be a condition of project approval.
 6. If LAFCo decides not to adopt mitigation measures or revisions that remediate potential adverse environmental impacts to a less than significant level, and considers approving the project, an Environmental Impact Report (EIR) shall be prepared.
 7. If mitigation measures are adopted by LAFCo, a mitigation monitoring program (MMP) shall also be adopted pursuant to CEQA Guidelines Section 21081.6.
 8. If LAFCo determines to carry out or approve the project, it shall prepare a Notice of Determination (NOD) in the form prescribed in Exhibit D.
 - a. The NOD shall be filed with the County Recorder-Clerk within five days, posted within 24 hours of receipt, and remain posted for 30 days.
 - b. If the project requires the discretionary approval of a state agency, the NOD shall also be filed with the State's Office of Planning and Research (OPR).

Draft Environmental Impact Report (DEIR)

1. If the Initial Study indicates that an EIR is required, the applicant shall submit to LAFCo any information required to prepare the DEIR. The DEIR will not be prepared until all required information has been received.
2. After determining that an EIR is required, LAFCo shall send a Notice of Preparation (NOP), prescribed in Exhibit E, stating that an EIR will be prepared pursuant to CEQA Guidelines Section 15082. The NOP will be sent to each known Responsible Agency, Trustee Agency and the State Clearinghouse, if applicable, describing the project and its potential environmental effects.
3. The NOP shall include:
 - a. A description of the project;
 - b. The location of the project indicated on an attached map;
 - c. The possible environmental effects of the project; and
 - d. A copy of the IS.
4. LAFCo shall consult with affected agencies, technical experts, or interested persons and groups to maximize the quality of the EIR.
5. The DEIR may be prepared by LAFCo, by supplemental technical staff, or by a qualified consultant retained for a specific environmental review process.
6. As per CEQA Guidelines Section 15085, once the DEIR is complete, LAFCo shall file a Notice of Completion (NOC), as prescribed in Exhibit F, with the OPR.
7. Concurrent with filing the NOC, LAFCo shall distribute and provide notice of the DEIR, as per CEQA Guidelines Section 15087. The public review period for the DEIR shall be between 30 and 90 days, at LAFCo's discretion.
8. If LAFCo is the Lead Agency for a project over which a state agency has legal jurisdiction, LAFCo shall submit the DEIR to the State Clearinghouse. The review period shall be no less than 45 days, unless a request for a shortened review period is granted.
9. A public hearing is not required on a DEIR. However, at the discretion of LAFCo, one may be scheduled. This is not a public hearing for approval of the project.
10. At the hearing, the Commission shall consider the contents of the DEIR, written comments, and any oral testimony.
11. If the content of the DEIR is questioned or if testimony received requires response, LAFCo shall incorporate such response into a Final EIR (FEIR).



12. If at the initial hearing, no questions are raised regarding the content or adequacy of the DEIR, LAFCo may certify the DEIR as a FEIR.
13. If questions are raised that require response, or at the discretion of the Commission, the DEIR will not be certified until the public hearing for approval of the project.

Final Environmental Impact Report (FEIR)

1. As a result of questions regarding the DEIR, the project applicant may be required to submit additional information for preparation of the FEIR.
2. A FEIR shall contain:
 - a. The Draft or revised DEIR
 - b. Comments and recommendations received on the DEIR.
 - c. A list of persons, agencies and organizations commenting on the DEIR.
 - d. Responses to concerns that arose during the review and consultation processes.
 - e. Any information added by the Lead Agency [CEQA Guidelines Section 15132].
3. The FEIR shall be distributed to the agencies and persons who commented on the DEIR.
 - a. Written responses to agency comments will be provided 10 days prior to the LAFCo hearing for certification of the FEIR.
4. At the public hearing, the Commission shall consider the FEIR; hear testimony relative to the EIR; certify the FEIR, and adopt any findings as required.
 - a. LAFCo may fail to certify the FEIR if additional information is necessary.
 - b. The FEIR shall be certified prior to action upon the project.
 - c. No project will be approved without certification of the EIR.
5. To certify an EIR the following must be true:
 - a. The FEIR has been completed in compliance with CEQA.
 - b. The FEIR was reviewed and considered by LAFCo prior to project approval.
 - c. The FEIR reflects the independent judgment and analysis of the Commission.
6. If LAFCo intends to approve a project for which the FEIR identifies one or more significant environmental effects, the project proponent may be required to submit evidence that substantiates approval of the project notwithstanding such effects.
7. Where one or more significant environmental effects are identified, LAFCo must make findings, supported by explanations, after EIR certification, but prior to project approval [CEQA Guidelines Section 15091].
 - a. Written findings shall be prepared for each significantly affected area.
 - b. Oral findings may be approved by LAFCo as part of the hearing process, provided they are transcribed and placed in the project file.
 - c. Each finding shall be supported by substantial evidence in the record.
 - d. No action on a project shall be considered final until findings are adopted.



8. LAFCo may continue any hearing on a project to allow a reasonable period to draft proposed findings, provided that time limits established by the Cortese Knox-Hertzberg Local Government Reorganization Act of 2000 are not exceeded.
 - a. Any public hearing continued for the preparation of proposed findings shall be deemed a closed hearing and additional evidence and testimony shall not be received, unless otherwise ordered by the Commission.

9. Possible findings are as follows:
 - a. Alterations have been required or incorporated into the project that mitigate or avoid the significant environmental effects identified in the FEIR.
 - b. Overriding economic, legal, social, technological or other benefits of the project outweigh any significant environmental effects and the proposed mitigation measures or project alternatives identified in the FEIR are considered infeasible. Specific reasons for rejecting mitigation measures and project alternatives shall be given.

10. If LAFCo adopts mitigation measures for the purpose of reducing the environmental impacts of a project, a mitigation monitoring and reporting program shall be prepared and adopted pursuant to CEQA Guidelines Section 21081.6.

11. A Notice of Determination (Exhibit E) shall be filed with the County Clerk within five days of project approval and shall be posted within 24 hours of receipt for a minimum of 30 days.
 - a. If the project requires discretionary approval by a state agency, the NOD shall be filed with the OPR.
 - b. California Department of Fish and Game (CDFG) fees are due at this time unless a Certificate of Fee Exemptions is filed.

California Environmental Quality Act (CEQA)

1. As to matters not specifically covered by these procedures, the procedures and provisions established by the CEQA shall apply to, govern and control all matters.

Review by State Agencies

1. EIRs, NDs and MNDs shall be submitted to the State for review as per CEQA Guidelines Section 15205.

2. Agency review of projects of statewide, regional, or area-wide significance will proceed according to the following provisions:
 - a. EIRs, NDs and MNDs shall be submitted to the State Clearinghouse, as per CEQA Guidelines Section 15206.



3. If the State Clearinghouse distribution list indicates that a project has been reviewed by the CDFG, the project will not be deemed as de minimis.
4. The project will be subject to CDFG fees pursuant to Public Resources Code Section 21089 and CDFG Code Section 711.4. The project proponent shall be notified of the need to collect such fees.
5. A project for which an EIR, ND or MND has been prepared that is not de minimis shall not be approved until CDFG fees have been collected.
6. Pursuant to the Cortese/Knox-Hertzberg Local Government Reorganization Act of 2000, LAFCo may continue any hearing on a project so that the applicant can remit required fees. Unless LAFCo instructs otherwise, any public hearing continued solely for the purpose of collecting fees shall be deemed as a closed hearing and additional evidence and testimony shall not be taken.
7. Pursuant to CEQA Guidelines Section 21089, if a project is not de minimis and CDFG fees have been collected, it shall be noted in the public record.
 - a. Proof of payment shall be maintained in the project file.
 - b. The NOD shall include the final approving body's findings and a record of payment.
 - c. Fees will be deposited with the County Recorder-Clerk.

Public Notice and Public Review Period

1. The following process shall be used to provide public notice:
 - a. A Notice of Intent (NOI) to adopt or consider an ND or MND shall be made public no less than 21 days prior to the hearing and shall be posted with the County Recorder-Clerk for a minimum of 21 days.
 - b. Notice shall be mailed to any person who filed a written request for such notice and shall be published at least once in a newspaper of general circulation in the affected project area.
2. A public notice of availability (NOA) shall be provided when the DEIR is available for review, which shall occur no less than 30 days prior to the hearing. Such notice shall be posted with the County Recorder-Clerk for a minimum of 30 consecutive days. A NOA shall be mailed to the last known name and address of all organizations and individuals having previously requested such notice in writing, as well as published at least once in a newspaper of general circulation in the affected project area.
3. Notice that a FEIR will be considered by LAFCo shall be provided to the public no less than 30 days prior to the hearing. Notice shall be mailed to any person who filed a written request for such notice and shall also be published at least once in a newspaper of general circulation in the affected project area.



4. The following public review process shall be used:
 - a. The review period for an ND or MND shall be no less than 21 days. When the ND or MND is submitted to the State Clearinghouse for review, the review period shall be a minimum of 30 days.
 - b. A request for a shorter review period must be submitted, in writing, to the State Clearinghouse. The shortened review period shall be no less than 20 days.
5. The public review period for a DEIR shall be no less than 30 days. When a DEIR is submitted to the State Clearinghouse for review, the review period shall be a minimum of 45 days.
 - a. A request for a shorter review period must be submitted, in writing, to the State Clearinghouse. The shortened review period shall be no less than 30 days.

Mitigation Monitoring Program (MMP)

1. Subject to a MND or an EIR, a MMP may be required prior to project approval.
2. The MMP shall include:
 - a. A list of mitigation measures as adopted by LAFCo;
 - b. For each mitigation measure, a list of actions that need to be taken by the project proponent, other public agencies, and/or LAFCo;
 - c. For each mitigation measure, a timetable for implementation;
 - d. For each mitigation measure, a section where field notes, status information and problem resolution data can be recorded; and
 - e. For each mitigation measure, a location for which LAFCo can describe and verify implementation of the measure.