

**American Council of Engineering Companies (ACEC) California
Policy Platform
CEQA Reform**

Approved by the Executive Committee on April 28, 2015

Approved by the Board of Directors on May 11, 2015

Issue

- The California Environmental Quality Act (CEQA) was adopted by the California Legislature in 1970, following the adoption of the National Environmental Policy Act (NEPA). The CEQA Statute contains detailed rules governing the content of environmental documents and the environmental review process by State and local agencies. The CEQA Guidelines provide additional detail regarding the requirements contained in the Statute and also reflect interpretations of the Statute contained in published court decisions. The Guidelines are binding on all public agencies in California. The Governor's Office of Planning and Research and the Natural Resources Agency periodically update the Guidelines to address recent changes in the law. The term CEQA is a reference to both the Statute and Guidelines.
- CEQA was intended to provide for research, full disclosure of findings, and public input regarding the potentially significant environmental impacts of proposed projects. In doing so, it also serves as a process to reduce or mitigate potential impacts to less than significant levels.
- CEQA affects virtually every discretionary project in California that requires permits, approvals, or funding from a local, regional or state agency. Only projects that are either statutorily or categorically exempt can be approved without environmental analysis under CEQA.
- Changes to the CEQA Statute are introduced nearly every legislative session, and numerous revisions to the Statute have occurred over the years as a result of actions by both the State legislature and the courts. However, a comprehensive overhaul of the Statute has never occurred.
- The administration of CEQA by lead agencies throughout California varies, such that a project in one community can be approved following preparation and adoption of a relatively simple Initial Study and Mitigated Negative Declaration (IS/MND), whereas a similar project in another community can require preparation of a more involved Environmental Impact Report (EIR). This can result in widely varying time schedules required to complete the CEQA process and a high degree of uncertainty for the project applicant.
- Much of the CEQA process is determined by an impact being considered Significant or Less than Significant. Many lead agencies do not have adopted thresholds of significance, which are used to determine whether or not there is a potentially significant impact that requires mitigation measures or alternatives to avoid, reduce or offset the potential impact.
- The CEQA process has been used by parties opposed to projects to delay and prevent projects. A commonly employed tactic includes late submittal of lengthy comments; commonly referred to as a "document dump".
- To delay or prevent projects, opponents often file frivolous lawsuits where the motivation is not necessarily environmental protection.

- Delays in achieving CEQA compliance may be in conflict with the Permit Streamlining Act (Government Code Sections 65920-65963.1).
- Compliance with the CEQA process is further complicated when federal funds involved in a proposed project trigger a parallel or concurrent NEPA (National Environmental Policy Act) process and compliance with widely varying requirements and processes of various federal agencies.
- Administrative procedures of public agencies can be an impediment to CEQA compliance.
- The CEQA process, while serving to protect the environment and provide public involvement, can be a substantial impediment to the timely and cost-effective delivery of infrastructure and other community projects.

Policy

ACEC California believes that while CEQA is of critical importance in the protection of California's environment and resources, there is a need to address the issues listed above. As such, ACEC California supports legislation and process changes that would:

- Streamline the CEQA process while preserving public involvement and environmental protection.
- Discourage frivolous CEQA lawsuits.
- Provide litigation cost recovery for victims of frivolous CEQA lawsuits.
- Limit CEQA lawsuits to parties with legitimate environmental concerns.
- Adopt language to limit or prevent document dumps on CEQA documents. Support legislation that specifically excludes document dump items from the public record or directs that lead agencies are not legally required to respond to late information. Support legislation that clarifies or strengthens obligations for project opponents to exhaust administrative remedies through earlier CEQA comment periods prior to submitting comments following the close of the public review period.
- Encourage adoption of environmental thresholds by all lead agencies.
- Reduce conflicts within and between local, state and federal regulatory agencies in the administration of CEQA.
- Consider the inclusion of additional statutory and categorical exemption classifications for infrastructure and other projects, while protecting environmental resources.

Rationale

While maintaining adequate public involvement and appropriate balance between sometimes competing State infrastructure and environmental resource objectives, CEQA reform can and should be implemented to reduce the time, cost and risk in pursuing public and private projects.

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