

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

CEQA HANDBOOK

Prepared on October 5, 2000
by Barbara Graichen, MPA, Graichen Consulting
5010 Sorento Road, Sacramento, California 95835
Phone - 916-991-2177; FAX - 916-991-0906; E-Mail - nnatomas@aol.com

Updated on August 6, 2008

COMMISSIONERS

City Members

Carl Hagen (City of Placerville)

Ted Long (City of South Lake Tahoe)

County Board of Supervisors Members

Ron Briggs

James R. Sweeney

Public Member

Francesca Loftis

Special Districts Members

Ken Humphreys (Rescue FPD)

Harry Norris (EID)

ALTERNATE COMMISSIONERS

Mark Acuna, City

Helen Baumann, County

Norm Rowett, Public

Michael D. Cooper, Special Districts

Staff

José C. Henríquez, Executive Officer

Erica Sanchez, Policy Analyst

Denise Tebaldi, Interim Commission Clerk

Andrew Morris, Counsel

CEQA HANDBOOK

August 6, 2008

TABLE OF CONTENTS

I.	Introduction.....	5
II.	CEQA and NEPA	5
	A. The California Environmental Quality Act (CEQA).....	5
	B. National Environmental Policy Act (NEPA)	7
III.	CEQA Roles and Responsibilities	7
	A. Introduction	7
	B. Public Agency Roles in the CEQA Process	7
	1. The Role of a Lead Agency	8
	2. The Role of a Responsible Agency	9
	3. Strategies for Becoming an Effective Responsible Agency	10
	- Responsible Agency Checklist	11
	C. LAFCO's Role.....	13
	1. Focusing on LAFCO's specific environmental concerns.	13
	2. Mitigation Measures and Reporting or Monitoring Programs.....	14
	3. Findings of Significant Impact.....	15
IV.	Answers to the Most Frequently Asked Questions About CEQA	16
	When does CEQA apply to a proposal?.....	16
	What types of actions are considered projects under CEQA?	16
	What types of proposals don't require CEQA review?	16
	What is an Exemption?	16
	What are CEQA procedures?.....	17
	What is an Initial Study?.....	17
	If a project doesn't have any bad effects, why is it given a Negative Declaration?.....	18
	What is an Environmental Impact Report (EIR)? When is one required?	18
	What if someone believes that LAFCO is incorrectly requiring an EIR?.....	18
	What is a significant adverse environmental effect or impact? How does LAFCO determine if an impact is significant?	18
	What issues aren't evaluated in a CEQA review?	18
	What is a mitigation measure?	19
	What is a mitigation monitoring or reporting program?.....	19
	Doesn't CEQA stop public agencies from approving projects that cause significant environmental damage? Don't they have to adopt the mitigation measures that have been recommended in the EIR?	19
	What happens if a project needs local and federal approvals?	19
	What is the State Clearinghouse? Why does a project take longer to process if it's sent there?	20
	How can a project that causes minimal environmental damage trigger the need for an EIR?	21

	How does El Dorado LAFCO determine CEQA review costs?	21
	Why do I have to pay State Department of Fish and Game (F&G) fees on a LAFCO project?	21
V.	CEQA Timelines Chart	22

I. Introduction

The relationship between the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and the California Environmental Quality Act (CEQA) is often unclear to those who try to understand LAFCO's decision making processes. This Handbook has been written to clarify that relationship. It includes useful information for the general public and project proponents as well as specific technical guidance for staff and the Commission.

Section II of this Handbook provides general information on CEQA, the state law which requires environmental assessments of certain proposed projects. There is also a discussion of the National Environmental Policy Act (NEPA) which applies to federally funded or initiated projects. NEPA is included because it sometimes applies to local or state projects which receive federal funding or trigger the need for federal agency approvals or permits.

Section III provides guidance regarding LAFCO's specific CEQA roles and responsibilities including descriptions of Lead and Responsible Agency roles and functions. Because El Dorado LAFCO most frequently acts as Responsible Agency, a Responsible Agency Checklist is provided to facilitate application processing and CEQA compliance.

Section IV provides answers to the CEQA questions that are most frequently asked by the public, project proponents and public agencies that do business with El Dorado LAFCO.

For more information, contact the El Dorado Local Agency Formation Commission at 1-530-295-2707, or Barbara Graichen at 916-991-2177.

II. CEQA and NEPA

A. The California Environmental Quality Act (CEQA). The 1970 California Environmental Quality Act is the legislated response to the 1960s' environmental movement. That movement was a political expression of concerns regarding the enormous environmental damage being caused by that era's large scale public works and private development projects. CEQA is intended to make the public and decision makers more aware of the nature and magnitude of the environmental effects of public agency actions. CEQA was modeled after the U. S. Government's National Environmental Policy Act (NEPA) and signed into law by Governor Ronald Reagan. Both NEPA and CEQA place environmental review and protection safeguards on certain projects that require public agency approval or funding.

CEQA (Sections 21000 et sequitur of the Government Code) states that "all agencies of the state government, which regulate activities of private individuals, corporations and public agencies which are found to affect the quality of the environment, will regulate such activities so that major consideration is given to preventing environmental damage while providing a decent home and satisfying

living environment for every Californian (§21000(g)).” CEQA requires that a project’s potential environmental damages be assessed, quantified, disclosed, minimized and eliminated whenever possible.

When CEQA was first adopted, it appeared to be written to apply only to public initiated projects. However, in the 1972 Friends of Mammoth case, the California Supreme Court ruled that approval of discretionary, privately initiated projects was as much a governmental action as extending public services into agricultural areas or constructing a water transmission line.

Public agencies must now adopt and use procedures, or plans for assessing a proposed project’s physical impacts. Every agency is now required to provide project maps or descriptions which clearly describe the project in terms that the public can understand. Of most importance under CEQA, consideration and reduction of a project’s harmful physical impacts has become as important as planning, economic and social concerns.

CEQA contains several broad objectives:

To disclose to the public and decision makers the potential environmental effects of proposed actions;

- To identify ways to avoid or reduce environmental damages;
- To foster interagency coordination in the review of projects;
- To enhance public knowledge and participation in planning and decision making;
- To prevent environmental damages, to the extent feasible, by exploring less damaging project alternatives or strategies to reduce or eliminate adverse project related impacts.
- To explain publicly why an agency needs to approve a project that significantly and negatively impacts the environment.

CEQA and the CEQA Guidelines (Sections 15000 et sequitur as prepared by the State Office of Planning and Research), establish the requirements for conducting the environmental review of projects. They also include a description of required studies, what issues must be studied or evaluated, the scope of review, requirements for interagency coordination, the contents of environmental documents, public notice requirements and other important guidance.

CEQA and the CEQA Guidelines set the policy and provide the legal framework necessary to require government agencies to:

- Develop, maintain and enhance a high quality environment;
- Provide California’s residents with clean air and water, and with historical, scenic, natural and pleasing visual amenities;
- Prevent the elimination of fish and wildlife species and communities for present and future generations;

- Provide long term environmental protection plus a decent home and living environment to its citizens;
- Create and maintain harmony between people and nature so that short and long term social and economic benefits can be gained;
- Develop standards and procedures designed to provide environmental protection; and
- Consider short and long term economic and technical costs and benefits when approving development proposals (§21001).

B. National Environmental Policy Act (NEPA). The National Environmental Policy Act was signed into law by Richard Nixon on January 1, 1970. The Act establishes national environmental policy and goals for the protection, enhancement and maintenance of the environment. It also provides a policy for implementing these goals within federal agencies. NEPA requires that the federal government use all practicable means to create and maintain conditions under which people and nature can coexist in harmony. Section 102 requires that federal agencies incorporate environmental considerations into their planning and decision making processes.

Requirements to comply with NEPA can be triggered when projects need both federal and local discretionary actions including requests for federal funding. Examples include Federal Emergency Management Agency grant programs, federally funded flood control projects and federal water projects. Locally, for example, projects affecting certain Folsom Lake water supply or flood control operations may trigger NEPA review by the U. S. Bureau of Reclamation. In these cases, agencies are encouraged to conduct CEQA and NEPA processes as a joint endeavor. State laws, such as CEQA, that were enacted after NEPA, are frequently referred to as “little NEPAs.” Common NEPA review documents include Categorical Exclusions, Environmental Assessments, Findings of No Significant Impact, and Environmental Impact Statements.

III. CEQA Roles and Responsibilities.

A. Introduction. The following discussion includes a generalized description of potential public agency roles in the CEQA process. The purpose of this section is to provide a better understanding of the nature and types of roles that LAFCO may assume. Terms are used and references made which are more fully described in El Dorado LAFCO’s CEQA Procedures. A copy of those Procedures may be obtained at the LAFCO office at 550 Main Street, Suite E, Placerville.

B. Public Agency Roles in the CEQA Process. If LAFCO is required to hear and possibly approve a discretionary project, it is responsible for determining whether that project is subject to the requirements of CEQA and what LAFCO’s role in the CEQA process will be. The Executive Officer, acting as Environmental Coordinator, will make those determinations.

If more than one government agency is involved in project approval, LAFCO will need to work with the other agencies to determine which agency will assume the lead role in CEQA compliance (act as Lead Agency) and which will assume lesser roles (act as Responsible Agencies).

1. The Role of a Lead Agency. A Lead Agency is defined as the California “public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect on the environment (§21067).” The State CEQA Guidelines provide additional guidance for determining the Lead Agency where more than one governmental agency are involved (§15051). It is useful to consider the following questions when identifying the Lead Agency for a project.

- Who will carry out the project?
- Who has the greatest responsibility for supervising and approving the project as a whole?
- Who has the broadest governmental powers (multipurpose versus single purpose agency)?
- Is the project a prezone for an annexation?
- If more than one agency equally meet the criteria, who acts first?
- Is the agency able to adequately prepare a CEQA document (staffing, funding, general expertise)?
- Do public agencies meeting the criteria for a Lead Agency role desire to share responsibilities or designate a specific agency to assume the role?
- Did a Lead Agency already prepare a CEQA document for a larger project but failed to consult with LAFCO or include a LAFCO discretionary action in the project description and environmental review?

Once the Lead Agency is determined, the Lead Agency must prepare, or cause to be prepared, the required CEQA documents and ensure that the project is processed in compliance with applicable CEQA requirements. These requirements include determining whether any other agency may qualify as a Responsible Agency. If Responsible Agencies are identified, the Lead Agency must consult with those agencies consistent with the requirements of CEQA.

Some of the responsibilities of the Lead Agency are:

- Undertaking a preliminary review to determine if the application is complete; that is, if information needed to make environmental determinations, is available;

- Determining what type of environmental review, if any, is required;
- If a review is required, preparing the environmental document; and
- Ensuring that all CEQA requirements are met including consultations, public notice, findings, if applicable, and all filings.

2. The Role of a Responsible Agency. A Responsible Agency is a public agency, other than the Lead Agency, which has responsibility for carrying out or approving a project (§21069). A Responsible Agency complies with CEQA by considering the EIR or Negative Declaration prepared by the Lead Agency and reaching its own conclusions on whether and how to approve the project involved (§15096 (a)).

To make the CEQA process more effective, a Responsible Agency should work closely with the Lead Agency to identify issues stemming from its actions which need to be discussed in the CEQA review. When considering project alternatives or mitigation measures, a Responsible Agency is more limited than a Lead Agency. A Responsible Agency has responsibility for avoiding only the direct or indirect environmental effects of those parts of the project, which it decides to carry out, finance or approve.

When an EIR has been prepared, a Responsible Agency shall not approve the project as proposed if it finds any feasible project alternatives or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment (§15096 (g)(1)).

To fully comply with CEQA, Responsible Agencies shall:

- Designate a representative to attend meetings and respond to consultation requests, including responses to Notices of Preparation, to ensure that a Lead Agency's environmental documents are adequate for its use;
- Explain why a Lead Agency should prepare an EIR or Negative Declaration;
- Review and comment on Negative Declarations and EIRs with a focus on its agency's issues, and recommend mitigation as appropriate;
- Consider the environmental document prepared by the Lead Agency;
- Approve feasible mitigation measures or project alternatives that are intended to avoid only those parts of the project which the Responsible Agency will carry out, finance or approve;

- Make findings regarding each significant effect on the environment, if any;
- File a Notice of Determination; and
- Challenge inadequate CEQA documents that it would be required to use within the required time period.

3. Strategies for Becoming an Effective Responsible Agency. In order for LAFCO, acting as a Responsible Agency, to ensure that a project's CEQA review will adequately address LAFCO's issues, LAFCO needs to assume a proactive role in the Lead Agency's review process. The Lead Agency needs to be aware of discretionary LAFCO actions that may be required as a result of their action, understand how LAFCO wishes to participate in the CEQA process, find out what environmental areas of concern may arise from subsequent LAFCO actions, and be made aware of other agencies or Commissions who may need to supply information or provide comments upon LAFCO's portion of the proposed project.

A first step to facilitating adequate environmental review by agencies, reviewing a project on LAFCO's behalf, is to send an introductory letter to those agencies (cities, county, regional entities, special districts). The letter should include the following:

- A brief statement of LAFCO's legislative purpose including its discretionary authority over certain types of projects;
- A list of LAFCO actions that most typically result from approvals by a Lead Agency (annexations, detachments, sphere of influence amendments);
- A request to be included on distribution lists for proposals which might create a need for LAFCO action;
- A request to be included in scoping sessions or consultations for pertinent CEQA reviews;
- A list of environmental concerns that typically need to be addressed by LAFCO; and
- The name, address and phone number for the designated LAFCO contact.

The second step to ensuring that LAFCO receives an adequate environmental document is to effectively interact with Lead Agencies throughout the CEQA process. The following checklist can be used to assist with the process.

Responsible Agency Checklist

Step	LAFCO Action		Response	
	Yes/No/N/A	Date	Yes/No/N/A	Date
1. PRIOR TO CEQA DETERMINATION				
a. Contact the Lead Agency to schedule consultation or scoping meeting.*				
b. Participate in a consultation. Recommend mitigation measures, or project alternatives that address LAFCO environmental concerns, if known. Recommend the preparation of an EIR or Negative Declaration if adequate information is available. Explain why a particular environmental determination is recommended.				
c. Recommend others who should be consulted regarding LAFCO environmental concerns (e.g., agricultural commission, other service providers).				
d. Ask to review the project description prior to CEQA determinations to ensure that LAFCO actions are included and correctly described, and that the project proponent and public are informed of the need for future LAFCO actions.				
e. Ask to review the Initial Study and any administrative draft of the CEQA document prior to release to the public to ensure that LAFCO related environmental issues are accurately stated and adequately evaluated.				
f1. Follow up with a letter stating LAFCO's understanding of its needs. (Or f2 below)				
f2. Respond to the Lead Agency's Notice of Preparation within 30 days.				
g. Review administrative draft. Provide comments and suggest additional or revised mitigation measures to address LAFCO related environmental impacts, if needed.**				
2. AFTER DOCUMENT IS RELEASED				
a. Review the project description to ensure that it accurately states the actions that LAFCO will consider.				
b. Check to ensure that LAFCO is listed as a Responsible Agency.				

Step	LAFCO Action		Response	
	Yes/No/N/A	Date	Yes/No/N/A	Date
c. Review document with focus on LAFCO environmental issues. Recommend mitigation measures or project changes/alternatives needed to address LAFCO's environmental concerns.				
d. Provide written comments even if only to acknowledge document adequacy within the public review period. Comments should focus on LAFCO's environmental issues.				
e. Review Lead Agency responses to comments, if any, and provide feedback as necessary.				
f. Attend the Lead Agency's public hearing and enter LAFCO's environmental disclosures into the record if they have not been included.***				
3. LAFCO PROCESS				
a. Provide public notice of LAFCO's intent to consider the CEQA review and other actions.				
b. Consider the CEQA document at a noticed public hearing for the project.				
c. Adopt mitigation measures or project alternatives as appropriate.				
d. Adopt a mitigation monitoring program (only if mitigation measures are adopted).				
e. Adopt Findings of Fact and a Statement of Overriding Considerations (EIR with significant unmitigated adverse environmental impacts).				
f. File a Notice of Determination with the County Recorder-Clerk within five days of approval.				

Form by Barbara Graichen, MPA, Graichen Consulting, Sacramento, Ca.; 916-991-2177; nnatomas@aol.com

*If the Lead Agency does not consult with the Responsible Agency during the CEQA review process, the Responsible Agency may prepare its own CEQA document under certain conditions (§15052(a)(3)).

**Comments should be limited to those project activities, which are within LAFCO's area of expertise, are required to be carried out or approved by LAFCO, or which will be subject to the exercise of powers by LAFCO (§15096).

***If the Lead Agency fails to produce a CEQA document which the Responsible Agency believes is adequate, despite diligent LAFCO participation in the CEQA review process, the only recourse is a legal challenge (§15050).

C. LAFCO's Role. LAFCOs must use the criteria provided in CEQA when determining their specific role for a given project. In addition, each project needs to be evaluated based upon its specific characteristics and circumstances. However, LAFCO will typically act as Lead Agency in reviewing:

- Changes of organization or reorganizations initiated by LAFCO pursuant to §56375 of the Cortese-Knox-Hertzberg Act;
- Spheres of Influence Plans and Amendments;
- Incorporations;
- Consolidations, Detachments, Dissolutions and District Formations;
- City annexations where no rezoning has been undertaken by the city prior to LAFCO approval;
- Annexations which are not a part of a larger project for which a city or county acted as Lead Agency, or for which LAFCO is the first to act; and
- When the Lead Agency is unable to undertake, or has failed to undertake, its Lead Agency role.

LAFCO is almost never the Lead Agency when a city annexation includes a concurrent rezone. CEQA specifies that the annexing City should assume that role. However, if the city so desires, LAFCO and the annexing city may develop an agreement permitting LAFCO to assume the Lead Agency role or act jointly with the City.

LAFCO acts as a Responsible Agency in most other situations. Because most LAFCO projects in El Dorado County have been initiated by a land use authority with annexations required as mitigation measures or conditions of land use approvals, or processed with rezones, LAFCO has typically served as Responsible Agency for most annexation proposals.

There may be an occasion when LAFCO must assume a Lead Agency role for a project on which it previously was a Responsible Agency. The latter circumstance is strictly regulated under CEQA and may only occur if the Lead Agency failed to conduct an environmental review, a previously prepared environmental review is outdated, or the Lead Agency failed to consult with LAFCO when it prepared its review.

Focusing on LAFCO's specific environmental concerns. When acting as Lead Agency for a project, LAFCO must consider all areas of concern listed in its Initial Study Checklist. As Responsible Agency, LAFCO is required to focus on areas of impact directly related to its portion of the project. Areas of impact that are most likely to require evaluation and analysis in a LAFCO CEQA document include:

- The physical or growth inducing impacts of projects proposing to add substantial new territory to a city or district before substantial vacant land within the city or district is developed to or near capacity;
- The physical or growth inducing impacts of public service extensions including the construction of transmission lines and other facilities;
- Direct and indirect physical impacts caused if the design or capacity of a public service or facility will be exceeded, the costs of services increased or service levels decreased if the project is approved;
- Cumulative and regional impacts caused by a number of related past, present or reasonably foreseeable projects which, when considered together, cause substantial environmental damage especially loss of important open space and agricultural resources;
- Premature loss of open space and prime agricultural land caused by illogical boundaries or ill-timed expansions;
- Conversion of important open space or agricultural land to urban uses caused by the introduction of incompatible uses or urban amenities into important open space and agricultural areas;
- Air quality impacts derived from additional travel caused by boundary expansions or the creation of illogical boundaries; or
- The physical impacts of lower service levels or reductions in tax bases.

1. Mitigation Measures and Reporting or Monitoring Programs.

The Lead and Responsible Agencies are responsible for developing methods for avoiding, reducing or eliminating a proposed project's significant adverse environmental damage (§21001, §21002.1). Such methods, called mitigation measures, must be adopted by a public agency if feasible (§21002). An agency must also adopt a mitigation monitoring or reporting program which ensures that mitigation measures are actually implemented (§21081.6).

CEQA does not grant LAFCO powers that are not already authorized in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. However, LAFCO may use its discretionary authority in forms not anticipated for CEQA compliance to mitigate or avoid a significant adverse environmental effect (§15040). For example, LAFCO may modify boundaries to avoid sensitive areas or require revenue transfers that ensure that adverse project related physical impacts do not occur.

A Lead Agency has the authority to require changes in any or all portions of a project in order to lessen or avoid environmental damage. A Responsible

Agency must confine itself to adopting mitigation measures that lessen or avoid the direct or indirect environmental effects of that part of the project which it approves or carries out (§21002.1, §15041).

LAFCOs should utilize powers granted pursuant to §56375, §56375.5, §56376, §56376.5, §56377 and other applicable sections of the Cortese-Knox-Hertzberg Act whenever feasible to create a project alternative that lessens or avoids project related environmental damage and approve that alternative. This strategy enables LAFCO to avoid adopting long term mitigation programs by ensuring that the proposed project cannot become effective without LAFCO's mitigation measures being implemented.

If a Lead Agency adopted mitigation measures for which LAFCO is responsible, LAFCO may be required to provide specific performance measures or criteria for ensuring that the mitigation measures are feasible and will be implemented (§21081.6). It is useful for LAFCO to request that the a land use authority that acts as Lead Agency administer the overall mitigation program adopted by that agency.

2. Findings of Significant Impact. LAFCO may not approve or carry out a project which is expected to cause significant adverse environmental effects unless it:

- Makes one or more of the following findings with respect to each significant effect:

Changes or alterations have been required for, or incorporated into, the project which mitigate or avoid the significant environmental effects thereof as identified in the Final EIR; or

Specific overriding economic, legal, social, economic, technological or other benefits of the project outweigh the significant effects on the environment and identified considerations render proposed mitigation measures or project alternatives identified in the Final EIR infeasible. This finding shall describe the specific reasons for rejecting identified mitigation measures and project alternatives;

- And prepares or causes to be prepared written findings in each case where a Final EIR identifies a significant effect on the environment (§21081).

When acting as Responsible Agency, LAFCO may adopt the Findings of Fact and Statement of Overriding Considerations that have been adopted by the Lead Agency or develop its own.

IV. **Answers to the Most Frequently Asked Questions About CEQA.**¹

- 1. When does CEQA apply to a proposal?** CEQA only applies to projects that require discretionary approval by a public agency. A discretionary approval requires use of judgment or subjective criteria on the part of the approving agency. For example, if a project includes a request for an annexation, LAFCO would consider various factors, apply its adopted policies and approve or disapprove the annexation. The project would be discretionary and CEQA would apply (§21080 (a)).

CEQA does not apply to non-discretionary (ministerial) projects. For example, a petition submitted to LAFCO would be evaluated according to specific LAFCO and Registrar of Voters' standards to make certain that it complied with already adopted regulations. This type of action is ministerial and does not require CEQA review (§21080 (b)(1)).

- 2. What types of actions are considered projects under CEQA?** Any proposals, or parts of such proposals, which may result in physical changes to the environment, are considered projects. The term "project" refers to the activity which could directly or indirectly cause the environmental damage. The effect on the environment must be reasonably foreseeable and the effect must be on the physical environment (§21065). Some examples of projects are the extension of sewer infrastructure through agricultural land, the expansion of a sphere of influence into important agricultural or sensitive open space areas; and incorporations which include a substantial amount prime agricultural land not planned for urbanization.
- 3. What types of proposals don't require CEQA review?** Proposals that are specifically listed in CEQA, such as emergency repairs, and actions that do not involve the use of discretion or personal judgment. Examples of the latter include filings with the State Board of Equalization, issuing a Certificate of Sufficiency, and adoption of fees or personnel policies (§21080).
- 4. What is an Exemption?** CEQA permits the exemption from environmental review for certain classes of projects which are not expected to damage the environment (§21084). Some projects (statutory) are specified in CEQA as exempt. Some are included in categories that have been listed as exempt in the State CEQA Guidelines. Public agencies can nominate specific classes of projects which they believe are unlikely to cause environmental damage and are therefore candidates for exemption. The State Secretary of Resources reviews candidate classes and may list them as exempt where appropriate (§21084 (a), §21087).

¹Additional definitions are included in LAFCO's CEQA Procedures.

Some examples of class, or Categorical Exemptions, are: information collection, the establishment of agricultural preserves, renewals of Williamson Act contracts, annexations of areas containing existing structures provided that the facilities only have the capacity to serve those structures, and the consolidation of two or more districts having identical powers. General Rule exemptions are sometimes applied to certain proposals which are not expected to damage the environment and don't fit into a specific class.

Even if a proposal is included in an Exemption class, it will be subject to environmental review if the agency determines that special circumstances exist which could result in environmental damage. An annexation that might be otherwise exempt, for example, could require environmental review if it was determined that extension of facilities to the site destroyed wetlands. Therefore, LAFCO must carefully review a project's characteristics before recommending an exemption from CEQA.

- 5. What are CEQA procedures?** All public agencies are required to adopt specific criteria, objectives and procedures for the evaluation of projects and the preparation of environmental documents (§21082, §15022). Procedures must include a list of the agency's most frequently used Exemptions. The agency must also explain how it makes environmental determinations, processes different types of documents, interacts with other agencies, maintains files, responds to comments upon documents, and discloses actions and issues to the public. Procedures should be amended to reflect changes to State requirements within 120 days of the effective date of such amendments.

Some agencies adopt a version of the State CEQA Guidelines that is tailored to meet their agency's needs. El Dorado LAFCO has adopted its own procedures pursuant to LAFCO Policy 2.23.

- 6. What is an Initial Study?** An Initial Study is a preliminary analysis of a project. Initial Study preparers use an agency's Initial Study guidelines to identify any potential project caused environmental damage, such as loss of important agricultural land or wetlands, and provide a preliminary summary of potential environmental damages in each area. The agency also identifies methods for changing a project with the intent of eliminating or lessening (mitigating) substantial environmental damage. The results of the Initial Study are used to determine what degree of harm may occur and if additional environmental review is required.
- 7. If a project doesn't have any bad effects, why is it given a Negative Declaration?** Receiving a Negative Declaration (ND) after an Initial Study has occurred is similar to receiving negative results on a blood test. It is a positive statement that a project will not create significant environmental harm (ND), or that the expected damage has been mitigated to a less than significant level (Mitigated ND). If a project is approved using an ND or MND, a Notice of Determination will be filed at the El Dorado Recorder-Clerk's Office which states that the project is not expected to cause significant environmental damage.

- 8. What is an Environmental Impact Report (EIR)? When is one required?** An EIR is an informational document intended to be used by the public and decision makers when deciding whether to approve, modify or disapprove a project. It is only required if an Initial Study indicates that a project could cause substantial environmental damage (significant adverse environmental impacts). An EIR includes a list and description of impacts and describes project alternatives or other methods (mitigation measures) for avoiding or lessening impacts.
- 9. What if someone believes that LAFCO is incorrectly requiring an EIR?** The LAFCO Executive Officer is available to discuss any environmental determination or issue with any interested party. If the issue cannot be resolved through discussion, any environmental determination (Exemption, ND, MND, EIR) can be appealed to the Commission. Appeals need to be filed within ten days of receipt of the determination notice and will be heard at the next regularly scheduled public hearing for which adequate notice can be given. The applicant will need to pay any fees applicable to the public hearing on the appeal.
- 10. What is a significant adverse environmental effect or impact? How does LAFCO determine if an impact is significant?** The term “significant adverse environmental impact” means substantial damage to the land, water, air, plants, wildlife, mineral resources, cultural resources or other environmental features. During CEQA review, analysis of the project’s characteristics, consultation with local, state and federal experts, use of scientifically derived thresholds of significance, a review of other similar projects and scientific investigation are some of the methods used to independently conclude that a project may or may not have the potential to cause significant adverse environmental impacts.
- 11. What issues aren’t evaluated in a CEQA review?** CEQA does not require discussion of impacts that do not cause physical changes to the environment. For example, changes in property values, business conditions, and other economic and social issues are not generally discussed. There may be cases where an economic or other impact could cause a physical change. In those cases, issues would be evaluated as part of the CEQA process. For example, if a proposed boundary change shifts service responsibilities in a manner that reduces revenue streams and diminishes service levels to the project site or other areas, a physical impact could occur. In such cases, the CEQA document would explore any potential physical changes that could result.
- 12. What is a mitigation measure?** A mitigation measure is a strategy to avoid, lessen or eliminate a project’s environmental damages. For example, “Amend the proposed boundaries to exclude the areas subject to Land Conservation Contracts.”
- 13. What is a mitigation monitoring or reporting program?** CEQA didn’t originally require that an agency verify that mitigation measures were actually implemented. As a result, some projects which should not have damaged the environment did. CEQA now requires that agencies verify completion of mitigation measures. If mitigation measures are adopted, the agency must prepare and adopt a mitigation monitoring program which ensures that a public

agency check to make certain that mitigation measures are done and done correctly.

- 14. Doesn't CEQA stop public agencies from approving projects that cause significant environmental damage? Don't they have to adopt the mitigation measures that have been recommended in the EIR?** No. When the State legislature passed CEQA, it was aware that some environmental damage would be caused by the growth of cities and counties. CEQA was intended to ensure that decision makers and the public knew how much damage to expect, and that agencies look for feasible mitigation measures or project alternatives that would minimize or avoid the damage. The State expected that agencies would identify and approve the most environmentally sensitive project alternatives whenever possible. However, they are not required to do so.

If an agency does approve projects which cause significant environmental damage, the agency must explain why it considered recommended mitigation measures to be infeasible. The agency must also adopt findings of fact and a statement of overriding considerations which clearly explain the reasons for approving the project despite its adverse impacts. The statement of overriding considerations must include the reasons why a project's benefits outweigh its environmental costs. The need to provide economic growth, jobs, or housing are the most frequently used reasons for approving projects with substantial adverse environmental impacts.

- 15. What happens if a project needs local and federal approvals?** The federal government does not have to comply with CEQA. However, LAFCO projects may be subject to NEPA. If a project is subject to both laws, the best course of actions is for the federal and local agencies to conduct a joint NEPA/CEQA review as encouraged by CEQA. Separate reviews are permitted. However, it is prudent for LAFCO and the project proponent to encourage concurrent processing.
- 16. What is the State Clearinghouse? Why does a project take longer to process if it's sent there?** The State Clearinghouse, located in the State Office of Planning and Research (OPR), is a distribution center for CEQA reviews. A project is sent to the Clearinghouse if it affects natural resources tracked or managed by a state agency, may cause impacts of statewide or regional significance, or needs review by a Trustee Agency. Projects received by the State Clearinghouse are assigned state tracking numbers, mailed to appropriate state agencies, and subject to longer public review periods. The longer review periods are intended to enable state agencies enough time to comment on projects, and suggest feasible mitigation measures and project alternatives. The State Clearinghouse collects all state agency comments and forwards them to the Lead Agency. In El Dorado County, CEQA reviews of projects located within the Tahoe Basin must be sent to the State Clearinghouse.

- 17. How can a project that causes minimal environmental damage trigger the need for an EIR?** Under CEQA, projects must be viewed from the big picture perspective. This means that the harmful effects of past, present and reasonably foreseeable projects must be evaluated cumulatively. If, for example, a proposed project causes a very small amount of prime agricultural land to be converted to urban uses, its harmful environmental impacts may be considered insignificant. However, if several nearby projects also cause similar losses, the accumulated damages may become significantly adverse. In such cases, the preparation of an EIR may be required because of cumulative adverse project related impacts.
- 18. How does El Dorado LAFCO determine CEQA review costs?** LAFCO may charge applicants for the actual environmental review processing costs as permitted by CEQA and the Cortese-Knox-Hertzberg Act. Typical charges may include hourly rates for staff time and charges for printing and other overhead expenses. LAFCO's Executive Officer will meet with the applicant to discuss costs and provide a reasonable estimate of anticipated charges that must be paid before processing will begin. Actual costs will be determined and must be paid prior to the completion of a LAFCO action. Any fees collected in excess of actual costs will be refunded.
- 19. Why do I have to pay State Department of Fish and Game (F&G) fees on a LAFCO project?** CEQA requires that local agencies collect fees to recover F&G costs for reviewing proposed projects that could harm fish and wildlife resources. If a project is found to be "de minimis" pursuant to CEQA, it is not expected cause damage to such resources and is not subject to F&G fees. If a project is sent to F&G because LAFCO's Environmental Coordinator is concerned that harm to wildlife resources could occur, or the State Clearinghouse sends the project to F&G for the same reasons, F&G fees will be assessed. Pursuant to CEQA, no project is deemed vested or approved until a Notice of Determination is filed which states whether a project will impact wildlife resources, and F&G fees have been paid. F&G fees are forwarded to F&G by the County. Fees are \$2,500 for F&G review of an EIR, and \$1,800 for F&G review of an Initial Study/Negative Declaration.

CEQA Timelines Chart
(Code Sections from CEQA and CEQA Guidelines)

Trigger Event	Action Required	Time Period	Code Section
Responsible Agency			
Application received.	Notify applicant of additional information requirements, if necessary. If none, deem application complete.	Within 30 days of receiving application.	§15101
After receiving a consultation or scoping request from a lead agency.	Responsible agency provides contact name, consults with lead agency, explains reasons for a particular environmental determination, identifies issues, attends meetings.	30 days	§15096 (b)(1)
After receiving a Notice of Preparation from a lead agency (EIR).	Responsible agency comments on the scope and content of the review of issues pertinent to its authorities.	As soon as possible but within 30 days of receipt of the Notice.	§15096 (b)(2) §15103
During the public comment period.	Responsible agency reviews the draft EIR / Proposed ND/MND and provides comments on the scope and content of the review of issues pertinent to its authorities.	Within the public comment period.	§15204
NOD filed.	File legal challenges, if any.	30 calendar days from filing date.	§15094
Lead Agency			
Application received.	Notify applicant of additional information requirements, if necessary. If none, deem application complete.	Within 30 days of receiving application.	§15101
As soon as the application is deemed complete.	Determine whether the activity is a project subject to CEQA (Not subject to CEQA if no discretionary approval is needed, no physical change in the environment, not a project as defined by §15378).	Starts clock for environmental review processing time requirements (30 days to conduct Initial Study).	§15060(c)
If the project is determined to be subject to CEQA.	Determine whether the project is exempt from CEQA (check for statutory exemptions – §15260, categorical exemptions – §15300 or general exemptions – §15061)	Starts clock for environmental review processing time requirements (30 days to conduct Initial Study).	§15061
If the project is exempt from CEQA.	File Notice of Exemption with County Recorder-Clerk.	If filed within 5 business days after LAFCO approval, the legal challenge period is 35 days, if not the challenge period is 180 days.	§15062 §15112

Trigger Event	Action Required	Time Period	Code Section
If the project is subject to CEQA and is not exempt.	Conduct an Initial Study to determine which type of environmental review to prepare: ND, MND or EIR (does not require an Initial Study if lead agency determines an EIR is needed §15060(d)).	Within 30 days of accepting complete application (15-day extension possible).	§15063 §15102
As soon as it is determined an Initial Study is needed.	Lead agency informally consults with responsible agencies, affected agencies, and interested parties about scope/type of environmental review.	Before the Initial Study is complete.	§15063(g)
Negative Declaration / Mitigated Negative Declaration			
After the Initial Study is completed.	Prepare a proposed ND / MND.	After the Initial Study, before the Notice of Intent to Adopt document.	§15071
Provide Notice of Intent to adopt ND or MND.	Post, publish and/or mail Notice of Intent, Initial Study and proposed ND/MND to responsible, affected and interested agencies.	Prior to adoption of ND/MND; within the length of the public review period.	§21092 §15072 §15073
Receive comments from a public agency.	Incorporate and respond to received comments as necessary. Notify public agency of hearing on ND for which responses were received.	Satisfied if public hearing notice is provided to agency.	§21092.5(b)
Substantial revision of proposed ND/MND after circulation.	Recirculate document for comments to responsible, affected and interested agencies.	Not less than 20 days (30 if sent to State Clearinghouse).	§15073.5 §15105(b)
After proposed ND/MND is circulated and comments are incorporated.	Prepare and adopt a final Negative Declaration (ND) or Mitigated Negative Declaration (MND).	180 days after the application is accepted as complete.	§15071 §15107
After project approval.	File Notice of Determination (NOD) with County Recorder-Clerk.	If filed within 5 business days after LAFCO approval, the legal challenge period is 30 days, if not the challenge period is 180 days.	§15075 §15112
Environmental Impact Report			
After the Initial Study is completed and immediately after determining an EIR is necessary.	Send a Notice of Preparation to the OPR, responsible, affected, and interested agencies with a description of project and requesting agency responses.	Agency responses are to be received within 30 days.	§15082
After sending out the Notice of Preparation.	The lead agency can begin to prepare the Draft EIR.	The Draft EIR can be started once the Notice of Preparation is sent out,	§15082(a)(4) §15084

Trigger Event	Action Required	Time Period	Code Section
		but cannot be circulated until after the 30-day response period is complete.	
After scoping meeting is requested.	Lead agency will convene a meeting/consultation to discuss information responsible agencies will need in EIR.	Within 30 days of meeting request (can be requested by any interested party).	§15104
Hiring a consultant after environmental determination.	Hire the consultant.	Within 45 days of sending out Notice of Preparation (applicant can consent extension).	§21151.5(b) §15084
After completing a Draft EIR.	File a Notice of Completion with the OPR.	As soon as the Draft EIR is completed.	§15085
After completing a Draft EIR.	Begin public review period.	Between 30 days (minimum) to 60 days (if warranted). Can be more than 60 days if there are "unusual circumstances."	§15105(a)
		Not less than 45 days if sent to State Clearinghouse.**	
Provide public notice of availability of draft EIR.	Post, publish and/or mail notice of public review period to responsible, affected, and interested agencies.	Prior to certifying EIR; within the length of the public review period.	§15086 §15087
Receive comments from a public agency.	Respond to agency comments on a Draft EIR in writing.	At least 10 days before Final EIR is certified.	§21092.5(a) §15088
If significant new information added to draft EIR after circulation.	Recirculate document for comments to responsible, affected and interested agencies.	30 days minimum (to 60 days if warranted (at least 45 if sent to State Clearinghouse)).	§15088.5 §15105(a)
After draft EIR is circulated and comments are incorporated.	Prepare and certify a final Environmental Impact Report (EIR).	1 year after the application is accepted as complete (90-day extension possible).	§15089 §15108
After project approval.	File Notice of Determination (NOD) with County Recorder-Clerk.	If filed within 5 business days after LAFCO approval, the legal challenge period is 35 days, if not the challenge period is 180 days.	§15094 §15112

*The State Clearinghouse can shorten the public review period of a ND/MND to not less than 20 days when requested by a Lead Agency and due to special circumstances (§15106).

**The State Clearinghouse can shorten the public review period of an EIR to not less than 30 days when requested by a Lead Agency and due to special circumstances (§15106).5106).