



LOCAL AGENCY FORMATION COMMISSION OF SANTA CRUZ COUNTY

ENVIRONMENTAL REVIEW POLICY

Adopted on September 6, 2000 (Resolution No.2000-5)
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1. OVERVIEW

This policy outlines the specific procedures used by LAFCO to tailor the general provisions of the California Environmental Quality Act (“CEQA”) Guidelines (California Code of Regulations, Title 14, sections 15000 et seq.) (“State CEQA Guidelines”) to LAFCO’s specific functions as both a “Responsible” and a “Lead” agency under CEQA. This version of LAFCO’s environmental review guidelines incorporates changes in the State CEQA Guidelines through 2019.

These provisions and procedures incorporate by reference (and are to be utilized in conjunction with) the State CEQA Guidelines, a copy of which is available on LAFCO’s website. These procedures will be revised as necessary to conform to amendments to the State CEQA Guidelines, within 120 days after the effective date of such amendments. However, LAFCO will implement any such statutory changes that the California Legislature makes to CEQA regulations as soon as those statutory changes become effective, even if not expressly stated herein.

2. PUBLIC AGENCIES’ RESPONSIBILITIES

A public agency must meet its own responsibilities under CEQA and shall not rely on comments from other public agencies or private citizens as a substitute for work that CEQA requires the Lead Agency to accomplish. For example, a Lead Agency is responsible for the adequacy of its environmental documents. The Lead Agency shall not knowingly release a deficient document hoping that public comments will correct defects in the document. When making decisions that trigger some type of CEQA review, LAFCO’s duty is to minimize the environmental damage that may result from those decisions and to balance the competing public objectives as outlined in the State CEQA Guidelines, section 15021.

3. LAFCO’S ENVIRONMENTAL RESPONSIBILITIES

LAFCO’s role as a regulatory agency involves “the discouragement of urban sprawl, the encouragement of the orderly formation, and development of local agencies.” A few of its duties require minimal environmental review, especially those involving the commissioning of studies, the hearing of protests, and consolidations, reorganizations and mergers of cities or districts. Most of these duties only constitute jurisdictional changes with no potential for land use changes or for significant effects on the physical environment.

LAFCO's more prominent roles include, but are not limited to, creation of spheres of influence, formation of new districts, incorporation of new cities, and annexations/reorganizations to cities or special districts. These types of LAFCO actions generally require more in-depth analysis, especially if they result in the direct or indirect physical change in the environment, like facilitation of growth and/or land use alterations. Factors that must be assessed in these cases involve land area and use, all aspects of the physical and human environment, geographical features, population growth and density, social and economic changes, availability of infrastructure and government services, conformity with city or county land use plans, and creation of unincorporated "islands," etc.

4. LAFCO'S ROLE AS AN "INTERESTED" AGENCY

In situations where LAFCO is not a "Responsible Agency" but has an interest in reviewing a project to ensure that LAFCO related information is correctly identified, LAFCO plays a more limited role in the CEQA process. In those instances, the Executive Officer will review, and, if necessary, comment on all environmental documents submitted by a Lead Agency involving projects/decisions relating to and/or affecting LAFCO projects or policies.

5. LAFCO'S ROLE AS AN "RESPONSIBLE" AGENCY

"Responsible" Agency status occurs when LAFCO is not the "Lead" Agency, but nevertheless has discretionary approval authority over a project or some aspect of a project, in tandem with, or separate from that of the Lead Agency in accordance with Section 15096 of the State CEQA Guidelines. Examples of situations where LAFCO may be a Responsible Agency include, but are not limited to:

- A city approving an annexation request to LAFCO, only after pre-zoning the area in question. When a city has pre-zoned an area, the city serves as the Lead Agency for any subsequent annexation of the area and should prepare the environmental documents at the time of pre-zoning or other land use decision; or
- When a special district has conducted an environmental review and prepared an environmental determination for a plan to serve an area proposed for annexation to the district.

LAFCO shall use the environmental document prepared by the Lead Agency for LAFCO's environmental determinations if the Executive Officer deems it adequate for such use pursuant to State CEQA Guidelines, Section 15096. Procedures for determining the adequacy of the lead agency's CEQA document are summarized in the following sub-sections.

4.1 Consultation

Pre-Application Discussion: Regardless of whether LAFCO is a Responsible Agency, each Lead Agency carrying out any project within LAFCO's jurisdiction and function shall inform LAFCO in writing of its intent and process for that project at the beginning of the Lead Agency's CEQA review process, and the Lead Agency shall provide LAFCO with copies of any project applications.

CEQA Determination: The Lead Agency shall consult with LAFCO regarding the preparation of its environmental documents/determinations (Statutory Exemptions, Categorical Exemptions, Initial Studies/Negative Declarations, Environmental Impact Reports (“EIR”), etc.), which must also be used by LAFCO in its role as a Responsible Agency; consultation can be written or verbal and LAFCO’s input shall be incorporated/addressed in the Lead Agency’s analysis, documentation and determinations.

LAFCO Initial Comments: The Executive Officer shall, as soon as practical but within 30 days of notification, comment as to the appropriate environmental determination from LAFCO’s perspective as well as issues of concern to be addressed in any environmental document. The requirement for written notification from the Lead Agency can be waived at the Executive Officer’s discretion.

Where LAFCO disagrees with the Lead Agency’s proposed environmental determination (such as a Negative Declaration), LAFCO will identify the specific environmental effects which it believes could result from the project and recommend the project be mitigated with measures to reduce the potential impacts to less than “significant” (when feasible) or that an EIR be prepared to properly characterize potentially significant impacts.

Notice of Preparation: When it intends to prepare an EIR, the Lead Agency shall send a Notice of Preparation by certified mail to LAFCO to solicit input in accordance with Section 15082 of the State CEQA Guidelines.

LAFCO shall respond to any Notice of Preparation submitted to LAFCO in accordance with subsection (A)(5) above in writing within 30 days, specifying the scope and content of the environmental data and analysis germane to LAFCO’s statutory responsibilities for the proposed project. LAFCO shall also provide the Lead Agency with input regarding environmental issues and the minimum content of the analysis needed to meet a standard of adequacy for use of the environmental document/determination by LAFCO as a CEQA Responsible Agency.

4.2 Preparation of Environmental Documents by a Lead Agency

The Lead Agency shall include information in the Statutory Exemption, Categorical Exemption, Initial Study/Negative Declaration/EIR to allow its subsequent use by LAFCO for its considerations; referencing on the title page and in the project description any boundary changes, changes of organization or reorganization, or other proposed actions requiring subsequent discretionary action by LAFCO to fully implement the project.

The Lead Agency shall send the draft document to LAFCO as part of the public review process required by the CEQA and applicable guidelines (sections 15072 and 15082 of the State CEQA Guidelines). The Executive Officer will, within the established review period, send comments to the Lead Agency in writing (which can be transmitted either via U.S. mail or overnight delivery, or electronically by email or other messaging system), all of which LAFCO expects to be incorporated and assessed in the final document. LAFCO’s comments on a draft CEQA document submitted to LAFCO by a lead agency should focus on the appropriateness of the CEQA document chosen, the

adequacy of the environmental document's content, in the case of an EIR -- additional alternatives or mitigation measures, etc., that are germane to environmental impacts that could result from LAFCO's subsequent discretionary action or to the adequacy of the document for use by LAFCO as a CEQA Responsible Agency.

A final EIR prepared by a Lead Agency or a Negative Declaration adopted by a Lead Agency shall be conclusively presumed to comply with CEQA for purposes of use by Responsible Agencies which were consulted pursuant to Sections 15072 or 15082, unless one of the following conditions occurs:

- The EIR or Negative Declaration is finally adjudged in a legal proceeding not to comply with the requirements of CEQA; or
- A subsequent EIR is made necessary by Section 15162 of the State CEQA Guidelines.

4.3 LAFCO Requirement of Environmental Documents/Determinations

Applications filed by Lead Agencies with LAFCO shall include copies of one of the following environmental documents as specified in LAFCO's filing requirements and all applicable findings for an EIR per Sections 15091, 15092 and 15093 of the State CEQA Guidelines.

- Exemptions: Certification of Categorical or Statutory Exemption;
- Negative Declaration: Notice of Intent to Adopt a Negative Declaration and a Final Negative Declaration (including copy of Initial Study) or a Final Negative Declaration with mitigation measures (including copy of Initial Study), all technical appendices, and Mitigation Monitoring/Reporting Plan;
- Environmental Impact Report: Notice of Subsequent Use of an Existing EIR (which was previously available or has been made available to LAFCO), Notice of Preparation of a Draft EIR, Notice of Availability/Notice of Completion of Draft EIR (including copy of Draft EIR), Final EIR, Statements of Findings/Overriding Considerations, and Mitigation Monitoring/Reporting Plan;
- California Department of Fish and Wildlife: copy of environmental filing fee receipt including, if applicable, a CEQA Filing Fee No Effect Determination Form; and/or
- Other Appropriate CEQA Documents: copy of any other environmental document/determination not listed in this policy.

4.4 LAFCO's Use of Lead Agency's Environmental Documents

In making its determinations on boundary change proposals, changes of organization or reorganization, or other proposed actions requiring discretionary action by LAFCO, LAFCO will generally use the environmental document prepared by the Lead Agency if the procedures regarding consultation and preparation of environmental documents by a Lead Agency outlined above have been followed.

Prior to project approval, the Commission will certify that it has reviewed and considered the information contained in the Lead Agency's document. LAFCO may request the Lead Agency furnish additional information or findings as required to support a legally adequate Responsible Agency environmental determination in accordance with Section 15096 of the State CEQA Guidelines.

When a Lead Agency's EIR identifies significant environmental effects, LAFCO will incorporate the Lead Agency's findings or formulate its own, for each significant effect, or otherwise make findings in accordance with State CEQA Guidelines, Section 15091 for each significant environmental effect that is identified in a Lead Agency's EIR.

LAFCO may take any of the following actions to conform to CEQA requirements when rendering a decision on an application:

- LAFCO will not approve a proposed project with significant impacts if it can adopt feasible alternatives or mitigation measures within its powers that would substantially lessen the magnitude of such effects, unless it adopts a Statement of Overriding Considerations (State CEQA Guidelines, section 15093);
- If LAFCO mitigates impacts listed in the EIR to a less than significant level via the adoption of boundary alternatives or conditions of approval (negotiated with the local agency), such findings shall be reinforced by adequate rationale and inserted in the record; or
- If the environmental impacts of the LAFCO decision cannot be mitigated to a less than significant level, LAFCO will adopt a Statement of Overriding Considerations per State CEQA Guidelines, Sections 15093 and 15096.

Upon project approval, LAFCO shall file a Notice of Determination in a like manner as a Responsible Agency in accordance with Section 15096(i) of the State CEQA Guidelines. The Notice of Determination shall be filed with the Santa Cruz County Clerk of the Board.

6. LAFCO'S ROLE AS AN "LEAD" AGENCY

LAFCO will be the Lead Agency responsible for performing CEQA mandated environmental review when its discretion for approval or denying a project involves general governmental powers. This is in contrast with a Responsible Agency role which only has single, limited powers over the project, normally subsequent and secondary to LAFCO's function, such as pre-zoning for the property of interest. Examples of projects requiring LAFCO to act as a Lead Agency include but are not limited to the following:

- Establishment of spheres of influence for cities and special districts;
- Adoption of studies or municipal service reviews; and
- Special District activation or divestiture of a function or class of service.

6.1 Delegation of Responsibilities by the Commission to the Executive Officer

The following quotations from Section 15025 of the State CEQA Guidelines indicate those functions that can and cannot be delegated to the Executive Officer by the Commission:

A public agency (the Commission) may assign specific functions to its staff (Executive Officer) to assist in administering CEQA. Functions which may be delegated include but are not limited to:

- Determining whether a project is exempt;
- Conducting an Initial Study and deciding whether to prepare a draft EIR or Negative Declaration (refer to Section IV, F. 2. of these guidelines for a discussion of the appeal process when an EIR is required.);
- Preparing a Negative Declaration or EIR;
- Determining that a Negative Declaration has been completed within a period of 180 days (see Section 21100.2 of CEQA);
- Preparing responses to comments on environmental documents; and
- Filing of notices.

The decision-making body of a public agency (the Commission) shall not delegate the following functions:

- Reviewing and considering a final EIR or approving a Negative Declaration prior to approving a project before the Commission; and
- The making of findings as required by Sections 15091 and 15093.

7. LAFCO'S LEAD AGENCY PROCEDURES

The following process and procedures, specific to LAFCO's function, summarize or supplement the State CEQA Guidelines and are to be used to process all accepted applications.

7.1 Statutory Exemptions (CEQA Guidelines, Sections 15260-15285)

Statutorily exempt projects defined by the Legislature that could apply to a LAFCO project include the following:

- Disapproved Projects: CEQA does not apply to projects that LAFCO rejects or disapproves. This statutory exemption is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where LAFCO can determine that the project cannot be approved. This statutory exemption shall not relieve an applicant from paying

the costs for an EIR or negative declaration prepared for the project prior to the lead agency's disapproval of the project after normal evaluation and processing.

- **Feasibility and Planning Studies:** A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or Negative Declaration but does require consideration of environmental factors. This section does not apply to the adoption of a plan that will have a legally binding effect on later activities.
- **Ministerial Projects:** Actions or Ministerial Projects involve the application of fixed standards without the option of exercising personal or subjective judgment (discretion) by the Executive Officer or the Commission. Examples include but are not limited to the following: (1) Consolidation/reorganization of special districts where the district boards adopt similar resolutions of applications for said consolidation/reorganization into a single agency (pursuant to Government Code Section 56853), and (2) Certain island annexations (pursuant to Government Code Section 56375) where approval is mandated if the annexation meets certain specific findings.

7.2 Categorical Exemptions (CEQA Guidelines, Section 15300)

The following classes of projects, specifically pertaining to LAFCO's activities, have been identified in the State CEQA Guidelines as not having the potential to cause significant environmental effects, and may be categorically exempt from the requirements of CEQA if certain specified criteria are satisfied (Note: A categorical exemption shall not be used for these activities where there is substantial evidence to support that one of the exceptions to the categorical exemptions in State CEQA Guidelines, section 15300.2 is present.):

- **Construction or Conversion of New, Small Structures (Class 3):** Included within this category are extraterritorial or out-of-agency service contracts/agreements involving the extension of water, sewer, and/or other utility services by a city or district outside its boundaries but lying within its respective sphere of influence.
- **Annexations of Existing Facilities and Lots for Exempt Facilities (Class 19):** Included within this category are: (1) Annexations to special districts where the district's services would be provided even without annexation and construction has been initiated prior to the issuance of a Certificate of Filing, (2) Annexations of areas containing existing public or private structures developed to the density allowed by current zoning or pre-zoning, whichever is more restrictive, (provided, however, that the extension of utility services within the annexed area would have a capacity to serve only those existing facilities), (3) Detachments from cities where the land being detached is committed, by virtue of an adopted land-use plan, to remain in agricultural use or open space; or where the land is presently developed and no change in land-use can be reasonably anticipated, and (4) Detachments from special districts which will not result in any change in zoning or land use.

- Changes in Organization of Local Agencies (Class 20): Included within this category are changes in the organization or reorganization of local agencies where the changes do not modify the geographic area in which previously existing powers are exercised. Examples include but are not limited to: (1) Establishment of a subsidiary district, (2) Consolidation of two or more districts having identical boundaries, (3) Merger with a city of a district lying entirely within the boundaries of the city, or (4) Reorganization of agencies consisting of annexations or detachments providing similar services.

7.3 Recordation of Notice of Exemptions

When a LAFCO project qualifies for an exemption, LAFCO staff may develop and record with the Santa Cruz County Clerk of the Board a “Notice of Exemption” form, to include: (1) A brief project description, (2) The project location with supporting map, (3) The specific exemption including the finding and citation of the CEQA Guidelines section or statute under which it is found to be exempt, and (4) The rationale for its selection, including a brief statement of reasons to support the findings.

7.4 Initial Studies

A project for which LAFCO is the Lead Agency and which is not exempt will require the preparation of an Initial Study to determine if the project has the potential for causing a significant environmental effect. The Initial Study assessment shall consider all phases of the project; the purposes, policies, rules, regulations and standards set forth in CEQA and its State CEQA Guidelines; these procedures and the adopted plans and policies of cities, the County, and LAFCO. An Initial Study need not be prepared if the Executive Officer determines at the beginning stages of review that a full-scope EIR will be required, but will be used to document the significance of specific impacts requiring a focused EIR, i.e. the Initial Study shall document the rationale for narrowing the scope of issues to be addressed in an EIR.

- Process: The Initial Study will be prepared on a State CEQA Guidelines Standard Initial Study Environmental Checklist Form using the project application, environmental description forms, appropriate literature, etc. A site visit may be necessary. Individual findings for environmental issues will be documented with sufficient technical data to substantiate conclusions regarding the potential for significant adverse impact. Insufficiency of available information will be noted on the form if it affects the ability to reach a conclusion.

The preparer shall consult with all Responsible Agencies and other public agencies/persons/organizations affected by or knowledgeable of the project and its issues. Under appropriate circumstances such review could also involve use of the County’s or a city’s Environmental Review Committee and its public forum to more fully assess the physical, social and infrastructural implications of complex projects. The Initial Study will be the supporting document for findings of “significance” and “non-significance” (whether to prepare a Negative Declaration or EIR). It is a tool for modifying projects and/or identifying mitigation measures to allow a finding of “non-significance.” It can also be used to focus the EIR on effects determined to be potentially significant or to determine whether a previously prepared EIR could be used/modified for the project, etc.

The Initial Study shall contain: (1) A project description and location; (2) Environmental setting; (3) Identification of all environmental impacts using the most recent version of the State CEQA Guidelines environmental checklist form (Appendix G) and substantial evidence to support environmental impact findings, including ways to mitigate (avoid, minimize, compensate or otherwise reduce) a significant impact to a less than significant level; and (4) Examination of project consistency with zoning and land-use plans, etc. Section 15063 of the State CEQA Guidelines contains a detailed description of the content of and uses for the Initial Study and it is hereby incorporated by reference. Funding for the preparation of an Initial Study shall be borne by the applicant for the LAFCO action pursuant to Commission policy.

- Executive Officer's Determinations/Findings: After review of the Initial Study and all supporting information, the Executive Officer shall determine the appropriate environmental determination based on one of the following findings:
 - 1) The project will not have a significant environmental effect. Prepare a Negative Declaration and a Notice of Determination and publish a Notice of Intent to Adopt a Negative Declaration. After an appropriate public review period consistent with the applicable State CEQA Guideline's requirements, the documentation will be finalized and forwarded to the Commission with a recommendation for adoption;
 - 2) The project, as proposed, would have a significant environmental effect, but with alterations, stipulations, or mitigation measures, all adverse impacts can be mitigated to a less than significant level. Prepare a Mitigated Negative Declaration and a Notice of Determination and publish a Notice of Intent to Adopt a Negative Declaration. After appropriate public review period consistent with State CEQA Guideline's requirements, the documentation will be forwarded to the Commission with a recommendation for adoption;
 - 3) The project will have a significant environmental effect, but all such impacts have been adequately assessed in a final EIR previously reviewed by LAFCO and mitigated to the extent feasible. Submit the EIR to the Commission with appropriate findings for certification;
 - 4) The project will have a significant environmental effect. An EIR will be prepared and submitted to the Commission with appropriate findings; or
 - 5) The project will have a significant environmental effect and an EIR has been prepared. However, new information or changed conditions affecting the project or the site warrant additional analysis. Prepare a supplemental EIR or addendum to the original EIR focusing on these changes. Submit to the Commission with appropriate findings for certification.

7.5 Negative Declaration or Mitigated Negative Declaration

A Negative Declaration (finding of non-significant effect) or a Mitigated Negative Declaration (finding of non-significant effect with project changes/mitigation measures/conditions of approval) will be prepared on the State CEQA Guidelines Initial Study Environmental Checklist Form by staff per the findings of the Initial Study based on substantiating evidence.

The Negative Declaration or Mitigated Negative Declaration's contents will include a brief project description, location (i.e., vicinity map), name of applicant, the finding of non-significance, attached Initial Study with any applicable technical reports, data or other information constituting the substantial evidence supporting the environmental analysis, and a list of mitigation measures (if any, in the context of a Mitigated Negative Declaration). A determination of the Initial Study's adequacy and the preparation of the accompanying Negative Declaration or Mitigated Negative Declaration initially rests with the Executive Officer. The formal adoption of the Negative Declaration or Mitigated Negative Declaration rests ultimately with the Commission.

- **Notice Requirements:** The document will be available at the LAFCO office for public review and comment for a minimum of 21 days prior to LAFCO action on the project. Recommended Negative Declarations and Mitigated Negative Declaration (in the form of a Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration) will be noticed at least once in a newspaper of general circulation in the project area; noticed in the "local" newspaper of the affected area (if any); mailed to all Responsible Agencies and public agencies with jurisdiction within the project area; mailed to those individuals and organizations who have requested such notices.

Where one or more state agencies will be a Responsible or Trustee Agency or will exercise jurisdiction over natural resources affected by the project, LAFCO shall send copies of the Negative Declaration or Mitigated Negative Declaration to the State Clearinghouse for distribution to these state agencies. Review by state agency(ies) will require a 30-day period unless reduced by prior approval of the State Clearinghouse. Pursuant to adopted Commission policy, costs associated with the Notice and distribution requirements shall be funded by the applicant for the LAFCO action.

- **LAFCO Consideration:** The Commission will consider the proposed Negative Declaration or Mitigated Negative Declaration and any public and agency comments prior to approving a project, and will approve the Negative Declaration or Mitigated Negative Declaration if it finds there is no substantial evidence in the whole of the administrative record that the project will have a significant environmental effect. Where mitigation is included as a condition of the Mitigated Negative Declaration, the mitigation monitoring and reporting program (MMRP) shall assign responsibility for implementing the mitigation measure(s) when the Mitigated Negative Declaration is approved by the Commission.

- **Notice of Determination:** After the Commission's approval of a project for which a Negative Declaration or Mitigated Negative Declaration has been adopted, the Executive Officer shall file a Notice of Determination. The Notice of Determination's content shall include: (1) Project description, identification and location; (2) Date project approved by LAFCO; (3) Determination of "non-significant" effect, or determination that mitigation measures were imposed and made conditions of approval for the project to reduce impacts to less than significant levels; (4) Statement that a Negative Declaration or Mitigated Negative Declaration has been prepared and approved; and (5) Address of LAFCO office where a copy of Negative Declaration or Mitigated Negative Declaration is filed.

The Notice shall be filed with the Santa Cruz County Clerk of the Board. If the project requires a discretionary approval from any state agency, the Notice shall also be filed with the State Office of Planning and Research, State Clearinghouse. Fees for filing a Notice of Determination for a Negative Declaration or Mitigated Negative Declaration shall be funded by the applicant for the LAFCO action.

7.6 Environmental Impact Report

If the Executive Officer or the Commission finds, based on substantial evidence in the record or contained in the Initial Study and public comments, that a project may have a significant environmental effect, the Executive Officer will initiate the preparation of an Environmental Impact Report ("EIR").

- **Purpose:** An EIR is an informational document; a major tool in the decision-making process, informing Commissioners and all parties involved of the environmental consequences of project decisions before they are made. An EIR's primary functions are to identify and mitigate significant adverse impacts and to provide alternative project and boundary options that may reduce potentially significant impacts of the proposed project.
- An EIR is not an instrument to rationalize approval or denial of a project; nor do indications of adverse impacts require automatic denial. LAFCO has the authority to balance environmental, economic, social or other objectives as part of its mandate to develop orderly governmental boundaries (Sections 15091, 15092 and 15093, State CEQA Guidelines). An EIR should be prepared early in the application process to facilitate the integration of environmental considerations in project or boundary design. The applicant is responsible for submitting all necessary project data for the EIR per the Executive Officer's request or funding the preparation of required project data for the EIR.
- **Appeals:** The Executive Officer's determination to require an EIR is appealable to the Commission within 10 working days of the issuance of the decision to prepare an EIR. Such appeal must be filed, on LAFCO forms, with the Executive Officer and must include specific substantiation for the appeal, directly related to environmental issues. The appeal shall be heard on the next regularly scheduled Commission agenda that permits adequate public notification. The Commission's decision shall be final. The only legal remedy available to appeal the Commission's final action is to file a petition for writ of mandate in the superior court under California Code of Civil Procedure Section 1085.

- Notice of Preparation: At the earliest feasible date following the Executive Officer's/Commission's formal decision to prepare an EIR (based on the administrative record or an Initial Study), a Notice of Preparation ("NOP") will be mailed to all responsible and affected agencies (including the State Clearinghouse and affected state agencies, if any) and any parties requesting notification. State review of an EIR will result in the issuance of an identification number (State Clearinghouse Number) which shall be used on all subsequent documentation and correspondence.

The NOP shall include sufficient information on the project and its anticipated impacts to facilitate meaningful responses on the environmental issues that may cause significant adverse impacts. Such content to include: (1) Project description; (2) Mapped location; (3) Probable environmental effects; and (4) A copy of the Initial Study or substantial evidence in the record justifying the preparation of an EIR, etc. The NOP shall be sent to all responsible/trustee agencies or interested parties via certified mail or other method to document its receipt.

Within 30 days after LAFCO's release of the NOP, each Responsible Agency/interested party shall submit to LAFCO specific information directly related to that agency's/party's statutory responsibility for the project; the environmental issues, alternatives, and mitigation measures to be explored; and the agency's/party's role in the project's review, etc. If LAFCO does not receive a response or request to extend the public comment period on the NOP by the end of the 30-day NOP review period, LAFCO may presume that no response will be made from an agency or party that received the NOP.

- Scope of EIR: LAFCO may also convene meetings involving all parties (especially at the request of a Responsible Agency) to further assist in the determination of the EIR's scope and content, no later than 30 days after such request. Early and complete scoping, consultation and negotiation are critical to the preparation of an adequate EIR. LAFCO may request use of the County's or a local agency's Environmental Review Committee in a public meeting forum to aid in the identification and resolution of any technical issues. LAFCO will compile all comments and identify in writing the focus for the EIR. An EIR can be prepared by staff or consultants under contract to LAFCO, coordinated by the Executive Officer or designee. LAFCO may accept data for an EIR from any source subject to independent validation by LAFCO staff. Also, LAFCO may charge an applicant appropriate fees to cover all costs for preparing and processing an EIR.
- EIR Content: Article 9 of the State CEQA Guidelines describes the complete content of all required sections of an EIR, as modified from time to time. However, LAFCO has discretion to narrow the scope of an EIR's content during the scoping process (State CEQA Guidelines, section 15063).
- Consultant EIRs: The Executive Officer shall use a Request for Proposals bidding process to select a consultant to write the EIR. The Executive Officer shall maintain and update as necessary a list of consultants, a minimum of three from which proposals shall be solicited for each consultant prepared EIR. The Executive Officer and the applicant will screen the proposals in an attempt to gain a

consensus on choosing the consultant. However, the Executive Officer is ultimately responsible for final selection of the consultant. The Commission will review the scope of work, consultant qualifications, contract cost, and all other aspects before authorizing a contract.

The applicant will be charged a fee to cover all contract and staff costs, to be deposited into a LAFCO trust fund. (Note: The contract will be between LAFCO and the consultant which will work solely at the Executive Officer's, not the applicant's, direction.) The Executive Officer will disburse the funds to the consultant at stages specified in the contract based on completion and performance. In addition to the contract costs, the fees charged will be based on actual staff time involved in, but not limited to: (1) Consultant selection including bid solicitation and review, submission of information to consultants, etc.; (2) Review of Draft EIR, corrections, additions, legal review by the Commission's legal counsel, etc.; (3) Compiling comments and reviewing responses to comments for preparation of Final EIR; and (4) Meetings with applicant, consultant and public regarding EIR preparation.

- Public Participation (CEQA Guidelines, Section 15201): Public participation is an essential part of the CEQA process. LAFCO includes provisions in its CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issues related to the agency's activities. Such procedures include, whenever possible, making environmental information available in electronic format and on LAFCO's web site.

Interacting with the public is an important CEQA process that allows the public to voice its concerns about environmental issues and the potential effect of a project on the physical environment. Therefore, in order to ensure public involvement in LAFCO's CEQA process, the Commission—in addition to the requirements for public notification on the NOP and/or the Notice of Completion—will provide the public with the opportunity to participate in any meetings related to the EIR, whether through a scoping meeting (optional) to provide verbal or written comments on the content of the EIR and/or through the public hearing (required) on the certification of the Final EIR.

- Completion Notice (CEQA Guidelines, Section 15085): Because most LAFCO EIRs will require circulation through the State Clearinghouse, the default procedure is that as soon as the draft EIR is completed, a Notice of Completion ("NOC") must be filed with the California Governor's Office of Planning and Research, denoting the project's description and location, address where EIR copies are available, and the period which comments can be submitted.
- Agency/Public Review: At the time the NOC is sent, the Executive Officer shall provide public notice of the draft EIR's availability to all organizations, agencies and individuals who previously requested such notice; as well as publication in The Santa Cruz Sentinel (newspaper of general circulation) and/or local newspapers. The Executive Officer shall also distribute copies of the draft EIRs and requests for comments to all public agencies with jurisdiction within the project area; to

persons or organizations previously requesting such copies; to public libraries in the affected areas; as well as maintaining copies in the LAFCO and any Responsible Agency's offices (upon request). The Executive Officer may consult with any person who has special expertise in any environmental issue involved.

Review periods are not to be less than 30 days nor longer than 60 days from the date of the NOC except in unusual situations, per the Executive Officer's discretion. The review period for draft EIRs submitted to state agencies via the State Clearinghouse will be a minimum of 45 days. The last date for comment submittal shall be specified in the request for comments. A lack of response by that date constitutes a non-objection or "no-comment" by that particular party.

The sufficiency of the EIR per State CEQA Guidelines is the only issue to be addressed during this review. Questions/issues regarding the feasibility or desirability of the project itself shall only be considered by the Commission at the appropriate hearing, not integrated into the environmental review process. In instances where complex technical issues or disagreements among experts arise in the context of an EIR, the Executive Officer can convene a meeting of the County's or a local agency's Environmental Review Committee to provide a forum for a more thorough review of the EIR's adequacy.

- Adequacy: The Executive Officer will make preliminary (not appealable) determinations of the EIR's adequacy, utilizing all aspects of the public record; in turn making specific recommendations on adequacy to the Commission, for its findings, at the time the project is heard.
- Response to Comments on an EIR (CEQA Guidelines, Section 15088): The Executive Officer shall prepare a written response to all comments received during the comment period (and MAY respond to those received after the period): describing the disposition of issues, opinions or facts raised, project revisions or mitigation measures resulting from these comments, reasons for not accepting recommendations, all substantiated by factual information. The response to comments may be in the form of revisions to the EIR text, a separate section in the final EIR or as notes typed in the margins of the comment letters, depending on the event of the resulting revisions.
- Preparation of Final EIR (CEQA Guidelines, Sections 15089 and 15132): The Executive Officer/consultant will prepare a final EIR before the Commission makes a decision on the project. Project denial does not require certification of the Final EIR. Final EIR contents include: (1) The draft EIR and any revisions made to it in response to comments; (2) Comments and recommendations received on the draft EIR verbatim; (3) A list of persons, organizations and agencies commenting on the draft EIR; (4) LAFCO's responses to significant points raised during review and consultation; (5) Plus any other pertinent information. Final EIRs shall be available a minimum of 10 days prior to the Commission hearing on a project and shall be provided to any commenting parties 10 days prior to a Commission hearing on a project. The final EIR shall be submitted to the Commission with the project application and a mitigation measure monitoring plan/program (if necessary) for certification prior to the decision.

- Certification of Final EIR (CEQA Guidelines, Section 15090): Prior to approving a project for which an EIR has been prepared, the Commission shall certify that: (1) The final EIR has been completed in compliance with CEQA; (2) The final EIR was presented to the Commission which reviewed and considered it prior to approving the project; and, (3) The final EIR reflects the lead agency's independent judgment and analysis. If the Commission, through testimony or its own review of the data, finds that the environmental review is incomplete or the EIR does not adequately assess the full range of project impacts, it can refer it back to staff for revisions; deferring approval of the project until it can certify the amended final EIR. Under such circumstances, the Commission shall instruct staff to recirculate/not recirculate the amended EIR in accordance with the extent of requested revisions and as required by CEQA Guidelines, section 15088.5.
- Findings (CEQA Guidelines, Section 15091): The Commission cannot approve or carry out a project for which an EIR identifies one or more significant environmental effects, unless it makes one or more written findings for each significant effect, each reinforced by substantial evidence in the record. Such findings include: (1) Changes have been incorporated into the project which avoid or substantially reduce the significant environmental effect(s) identified in the final EIR, (2) Such changes are not within LAFCO's jurisdiction, but are within the responsibility and jurisdiction of another agency which has adopted such changes, or which can and should adopt such changes, or (3) Specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.
- Approval (CEQA Guidelines, Section 15092): LAFCO shall not approve or carry out a project for which an EIR was prepared unless either: (1) The project, as approved, will not have a significant environmental effect, or (2) LAFCO has eliminated or substantially reduced all significant effects where feasible per State CEQA Guidelines, section 15091, and determined that any remaining significant effects found to be unavoidable per State CEQA Guidelines, section 15091, are acceptable due to overriding concerns described in CEQA Guidelines, section 15093.
- Statement of Overriding Considerations (CEQA Guidelines, Section 15093): When LAFCO approves a project that will have a significant effect on the environment that cannot be avoided or mitigated to a less than significant level, LAFCO shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The Commission shall balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable". The statement of overriding considerations shall be supported by substantial evidence in the record. The Commission's statement of overriding considerations should be included in the record of the project approval and so stated in the Notice of Determination.

- Notice of Determination (CEQA Guidelines, Section 15094): The Executive Officer shall file a Notice of Determination following each project approval for which an EIR was certified. The notice shall include: (1) The final EIR has been completed in compliance with CEQA; (2) The final EIR was presented to the Commission which reviewed and considered it prior to approving the project; (3) The final EIR reflects the lead agency's independent judgment and analysis; (4) Determination of any significant environmental effects; (5) Statement that an EIR was prepared and certified pursuant to CEQA; (6) Whether mitigation measures were made conditions of the project; (7) Whether findings were made per State CEQA Guidelines, section 15091; (8) Whether a statement of overriding considerations was adopted; (9) The address of the location of a copy of the final EIR and the project record; and (10) If different from the applicant, the identity of the person undertaking the project which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies or the identity of the person receiving a lease, permit, licenser, certificate, and other entitlement for use from one or more public agencies. The notice shall be filed with the Clerk of the County Board. If the project requires discretionary approval from a state agency, the notice shall also be filed with OPR State Clearinghouse.
- Disposition of Final EIR (CEQA Guidelines, Section 15095): The Executive Officer shall: (1) File a copy of the Final EIR with the Santa Cruz County Planning Department and the city, if applicable, where significant environmental effects may occur; (2) Include the Final EIR in all subsequent project administration; (3) Maintain a copy of the Final EIR as a permanent public record for the project; and (4) Require the applicant to provide a copy of the certified, final EIR to each Responsible Agency. Pursuant to adopted Commission policy, funding for the preparation of an EIR, fees for filing a Notice of Determination, and other related fees (i.e. notice and distribution requirements), are the responsibility of the applicant for the LAFCO action.