POLICIES & PROCEDURES

CHAPTER 7
ENVIRONMENTAL REVIEW

Section 1. Introduction

1.1 Legislative Intent and Statutory Authority

From the Introduction to the Guide to the California Environmental Quality Act, (hereinafter "Guidelines") by Remy, Thomas, Moose, and Yeates, 1994:

> "The Legislature enacted the California Environmental Quality Act (hereinafter "CEQA") in 1970, one year after Congress enacted its predecessor statute, the National Environmental Policy Act, or "NEPA". Like the Federal act, CEQA was conceived primarily as a means to force public agency decision makers to document and consider the environmental implications of their actions."

CEQA, the Guidelines, and the Public Resources Code (hereinafter "PRC") apply to all governmental agencies at all levels in California, including local agencies, regional agencies and state agencies, boards and commissions. This includes Local Agency Formation Commissions (hereinafter "Shasta LAFCO", "LAFCO", or "Commission"), acting either as "Lead Agency" where it undertakes primary responsibility for environmental review, or as a "Responsible Agency" where its CEQA role is limited to a review of the environmental document prepared by another public agency.

1.2 Chapter Purpose and Limitation

The purpose of this chapter is to set for the general policies and specific procedures Shasta LAFCO will apply to compliance with the requirements of CEQA, the CEQA Guidelines, and the PRC.

The policies and procedures presented hereafter are not to be considered all-inclusive; rather, this chapter presents the policy and procedural framework for implementing the specific statutory requirements. In all cases, CEQA, the CEQA Guidelines, and the PRC are the prevailing documents.

Section 2. Definitions

The definitions hereunder were selected from but do not include all of the definitions found in the CEQA Guidelines. Unless the provision or context otherwise requires, the definitions hereafter govern the construction of this chapter.

2.1 Applicant: An agency or an individual who proposes to carry out a project that requires the action and/or approval of a public agency. In the LAFCO context, "applicant" is an agency or a

person who submits a proposal to the Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

2.2 CEQA: The California Environmental Quality Act, California Public Resources Code Sections 21000 et seq.

2.3 Categorical Exemption: An exemption from CEQA for a class of projects based on a finding that the class of projects does not have a significant effect on the environment.

2.4 Cumulative Impacts: Two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The cumulative impact from several projects is the change in the environment that results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

2.5 Discretionary Project: A project which requires the exercise of judgment or deliberation when the agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.

2.6 Effects: "Effects" and "impacts" are synonymous, and as analyzed under CEQA must be related to physical change. Effects include (1) direct or primary effects which are caused by the project and occur at the same time and place, and (2) indirect or secondary effects which are caused by the project and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect or secondary effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems.

2.7 Environment: The physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. The area involved shall be the area in which significant effects would occur either directly or indirectly as a result of the project. The "environment" includes both natural and man-made conditions.

2.8 Environmental Documents: Initial Studies, Negative Declarations, draft and final EIRs, documents prepared as substitutes for EIRS and Negative Declarations under a program certified pursuant to PRC Section 21080.5, and documents prepared under NEPA and used by a state or local agency in the place of an Initial Study, Negative Declaration, or an EIR.

2.9 Environmental Impact Report or EIR: A detailed statement prepared under CEQA describing and analyzing the significant environmental effects of a project and discussing ways to mitigate or avoid the effects. The term "EIR" may mean either a draft or a final EIR depending on the context.

2.10 Feasible: Capable of being successfully accomplished within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

2.11 Impacts: See Effects.

2.12 Initial Study: A preliminary analysis prepared by the Lead Agency to determine whether an EIR or a Negative Declaration must be prepared or to identify the significant environmental effects to be analyzed in an EIR.

2.13 Lead Agency: The public agency with the principal responsibility for carrying out a project. The Lead Agency will decide whether an EIR or Negative Declaration will be required for the project and will cause the document to be prepared.

2.14 Local Agency: Local agency includes but is not limited to cities, counties, charter cities and counties, districts, school districts, special districts, redevelopment agencies, local agency formation commissions, and any board commission, or organizational subdivision of a local agency when so designated by order or resolution of the governing legislative body of the local agency.

2.15 Ministerial: Describes a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision.

2.16 Mitigation: Includes (a) avoiding the impact altogether by not taking a certain action or parts of an action, (b) minimizing impacts by limiting the degree or magnitude of the action and its implementation, c) rectifying the impact by repairing, rehabilitating, or restoring the impacted environment, (d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, (e) compensating for the impact by replacing or providing substitute resources or environments.

2.17 Negative Declaration: A written statement by the Lead Agency briefly describing the reasons that a proposed project will not have a significant effect on the environment and therefore does not require preparation of an EIR.

2.18 Notice of Completion: A brief notice filed with the State Office of Planning and Research (OPR) by a Lead Agency as soon as it has completed a draft EIR.

2.19 Notice of Determination: A brief notice to be filed by a public agency after it approves or determines to carry out a project which is subject to the requirements of CEQA

2.20 Notice of Exemption: A brief notice which may be filed by a public agency after it has decided to carry out or approve a project and has determined that the project is exempt from CEQA as being ministerial, categorically exempt, an emergency, or subject to another exemption from CEQA.

2.21 Notice of Preparation: A brief notice sent by a Lead Agency to notify the Responsible Agencies, Trustee Agencies, and involved federal agencies that the Lead Agency plans to prepare an EIR for the project.

2.22 Project: The whole of an action, which has the potential to result in a physical change in the environment, directly or ultimately, and that is any of the following: (1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and adoption and amendment of local General Plans or elements thereof; (2) An activity undertaken by a person which is supported in

whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies; (3) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies. "Project" refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term "project" does not mean each separate governmental approval.

2.23 Public Agency: Includes any state agency, board, or commission and any local or regional agency, as defined in the CEQA guidelines. It does not include the courts of the state or the agencies of the federal government.

2.24 Responsible Agency: A public agency that proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purposes of CEQA, the term "Responsible Agency" includes all public agencies other than the Lead Agency that have discretionary approval power over the project.

2.25 Significant Effect on the Environment: A substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.

2.26 Trustee Agency: A state agency having jurisdiction by law over natural resources that are held in trust for the people of the State of California. Trustee Agencies include the State Department of Fish and Game, the State Lands Commission, the State Department of Parks and Recreation, and the University of California with regard to sites within the Natural Land and Water Reserves System.

2.27 Urbanized Area: A central city or group of contiguous cities with a population of 50,000 or more, together with adjacent densely populated areas having a population of at least 1,000 persons per square mile. A Lead Agency shall determine whether a particular area meets the criteria for an "urbanized area" designation by examining the area or by reference to a U.S. Bureau of Census map which designates the area as urbanized.

Section 3. Policies

Shasta LAFCO's adopted policies pertaining to environmental review have not been amended or updated since they were adopted in October 1986. The policies set forth hereafter are intended to supersede the October 1986 document.

3.1 General Legislative Policies

Shasta LAFCO endorses and incorporates into this chapter those general policies that motivated the Legislature to enact the California Environmental Quality Act, as taken from the CEQA Guidelines:

> "The CEQA statute sets forth the specific policies that motivated the Legislature to enact it. Among them are the following:
>
> 1. Maintain a quality environment for the people of California;

2. Provide an environment that is healthful and pleasing to the senses;

3. Understand the relationship between a high quality environment and the general welfare of the people of California;

4. Identify critical thresholds for the health and safety of the people of California;

5. Demonstrate that every citizen has a responsibility to contribute to the preservation of the environment;

6. Encourage systematic and concerted efforts between the private and public sectors for the interrelationship of policies and practices for management of natural resources and waste disposal;

7. Require all agencies that regulate activities to give major consideration to preventing environmental damage while providing a decent home and satisfying living environment for every Californian;

8. Take all action necessary to protect, rehabilitate, and enhance the environmental quality of California;

9. Provide the people of the State with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise;

10. Prevent the elimination of fish and wildlife species due to man's activities, ensure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California history;

11. Ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions;

12. Create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations;

13. Require governmental agencies at all levels to develop standards and procedures necessary to protect environmental quality; and,

14. Require governmental agencies at all levels to consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-term benefits and costs and to consider alternatives to proposed actions affecting the environment."

3.2 Purpose of Environmental Review

From the policy perspective, an environmental impact document is an informational document. When prepared in accordance with CEQA, the PRC, the CEQA Guidelines, and the procedures set forth under Section 3 of this chapter, it will inform the Commission and the general public of the environmental effects of a project subject to LAFCO approval.

The environmental document will enable the Commission to evaluate a project to determine whether it may have a significant effect on the environment, to examine and institute methods of reducing adverse impacts, and to consider alternatives to the project as proposed. These things must be undertaken prior to making a determination on the project.

An environmental document is not an instrument to rationalize approval of a project, nor do indications of adverse impacts required that a proposal be disapproved. Shasta LAFCO retains authority to balance environmental objectives with economic, social, or other objectives, including the need for the development of orderly governmental boundaries.

3.3 Early Preparation

It is the position of Shasta LAFCO that environmental documents should be prepared early in the planning process to enable environmental considerations to influence project location and/or design. Further, public agencies with whom LAFCO interacts should integrate the requirements of CEQA with planning and other procedures required by law or by administrative practice so that all such procedures, to the maximum feasible extent, run concurrently rather than consecutively.

3.4 Agency Consultation

Shasta LAFCO encourages early and on-going consultation between the Lead Agency and LAFCO regarding preparation of the environmental document that will be used by LAFCO in its role as Responsible Agency. Procedures for consultation are set forth further down in this chapter.

3.5 Public Participation

It shall be a policy of Shasta LAFCO to encourage public participation in the CEQA process. Toward that end, Shasta LAFCO will endeavor to include provisions in its procedures for wide public involvement, formal and informal, consistent with its existing activities, in order to receive and evaluate public reactions to environmental issues related to LAFCO's activities.

Section 4. Procedures

Shasta LAFCO's adopted procedures pertaining to environmental review have not been amended or updated since they were adopted in October 1986. The procedures set forth hereafter are intended to supersede the October 1986 document.

4.1 LAFCO As A Responsible Agency

For public agency (county, city, special district) applications to LAFCO, the public agency shall act as Lead Agency for CEQA compliance. LAFCO would act as a Responsible Agency, as defined in CEQA.

4.1.1 LAFCO Comments: The Lead Agency shall comply with the CEQA Guidelines requirements for distributing draft environmental review documents to LAFCO and other designated Responsible Agencies. The Executive Officer will transmit written comments to the Lead Agency within the noticed public review period. The Executive Officer's comments shall address the adequacy of the proposed environmental document, including any specific areas of concern or disagreement. The Executive Officer's comments shall also identify, in writing, any significant environmental effects that it believes could result from the project. The Executive Officer's comments will generally be limited to LAFCO's scope and responsibilities for review of the project, and will generally be framed around the issues that are particularly important for an environmental document that is being prepared for a subsequent LAFCO action, including but not limited to the following:

(A) Cumulative and regional impacts;

(B) Impacts to public services, including but not limited to police protection; fire protection; streets and traffic circulation; water supply, treatment, and distribution; wastewater collection, treatment and disposal; power generation and distribution, solid waste collection and disposal, storm water drainage and land use planning;

(C) Conversion of prime agricultural lands to urban uses and protection and preservation of prime agricultural lands and resources;

(D) Consistency of General and Specific Plans.

4.1.2 Lead Agency Response/LAFCO Application: The Lead Agency must, as a result of any comments received by LAFCO, prepare final environmental documents in a manner that would permit their use by LAFCO in considering a subsequent application by the Lead Agency for a change of organization or reorganization or sphere of influence amendment concurrent with or separate from the proposed change of organization or reorganization. Upon completion of the CEQA process, the documentation to be included in the application to LAFCO shall be in accordance with Chapter 4, Section 4.4 of Shasta LAFCO's adopted Procedures Pertaining to Changes of Organization and Reorganization.

4.1.3 LAFCO Use of Lead Agency Environmental Document: LAFCO shall, in making determinations on a proposed change of organization or reorganization or sphere of influence amendment concurrent with or separate from the proposed change of organization or reorganization, utilize the environmental document prepared by the Lead Agency. The Commission shall certify that it has reviewed and considered the information contained in the environmental document and take one of the following actions in its resolution of approval of the proposal:

4.1.3.1 Ratification: When the Lead Agency has made a determination that the project proposed to LAFCO is subject to an Exemption or Negative Declaration, and if LAFCO concurs with that determination, the Commission shall, in the resolution approving the project, include a clause in said resolution which ratifies the Lead Agency determination.

4.1.3.2 Findings of Significant Effects: When the Lead Agency's environmental document determines that there are significant environmental effects associated with the project proposed to LAFCO, the Commission shall, when utilizing the Lead Agency's environmental document, in the resolution approving the project make or incorporate by reference, findings required by CEQA for each significant effect of the project.

4.1.3.3 Statement of Overriding Considerations: When the Lead Agency has prepared an EIR for a project proposed to LAFCO, the Commission shall, in its resolution of approval of the project, adopt a Statement of Overriding Considerations by incorporating the Lead Agency's Statement by reference.

When an EIR has been prepared, LAFCO shall not approve the project as proposed if it finds feasible alternatives or feasible mitigation measures within its powers that would substantially lessen any significant effect the project would have on the environment.

Shasta LAFCO reserves the right, as permitted under CEQA, to require an applicant to prepare a subsequent environmental document, including a supplemental EIR or addendum to an EIR. Additionally, pursuant to the CEQA Guidelines, LAFCO may, if required or appropriate, assume the role of Lead Agency.

4.2 LAFCO As Lead Agency

Shasta LAFCO shall act as Lead Agency in the following instances:

(1) Application solely by landowner petition;

(2) Incorporation of a new city;

(3) Formation of a new independent special district;

(4) Adoption of a new sphere of influence for an agency or a LAFCO-initiated general revision of an agency sphere not associated with a concurrent change of organization or reorganization;

(5) Preparation of a municipal services review;

(6) A LAFCO-initiated dissolution, consolidation or reorganization of districts or cities;

(7) Another public agency was the appropriate Lead Agency but pursuant to CEQA Guidelines Section 15052, a shift in the Lead Agency designation is required or determined appropriate by LAFCO.

In the case of projects (1), (2), (3), and (7) above, where LAFCO is serving as the Lead Agency on behalf of petitioning landowners or another public agency, the full costs of preparing all environmental documents, including the preparation of the Initial Study and either a Negative Declaration, Mitigated Negative Declaration, or an Environmental Impact Report shall be the responsibility of the petitioners or public agency involved. The petitioners or public agency will be required to submit a deposit fee and a reimbursement agreement committing to payment of

the entire costs for preparation of all environmental documents prior to the preparation of the Initial Study.

4.3 Use of Consultants

When Shasta LAFCO is the Lead Agency, LAFCO will be responsible to ensure that the environmental review process is carried out according to CEQA and the CEQA Guidelines. The Executive Officer will be responsible to make an initial determination as to whether the environmental review documents should be prepared in-house or prepared by an independent consultant. In the case of the latter, the Executive Officer shall obtain Commission approval to solicit proposals for contract services, and the Commission shall award the final contract.

4.4 Initial Study

Whether prepared by LAFCO staff or by a consultant, the following rules and procedures shall apply to the preparation of the Initial Study which will determine whether a Negative Declaration or EIR must be prepared:

4.4.1 Timely Fashion: The Initial Study shall be completed in a timely fashion and within the time limits required by law.

4.4.2 Consultation: Responsible Agencies, Trustee Agencies, and Affected Agencies shall be consulted as required by statute, and advice and recommendations may be solicited from other public agencies, persons, or organizations.

4.4.3 Initial Study Checklist: The Initial Study Checklist (a.k.a. Environmental Checklist) available in the CEQA Guidelines will be utilized.

4.4.4 Initial Considerations: The Initial Study shall take into consideration all aspects and phases of the project, the purposes, policies, rules, regulations and standards set forth in CEQA, the CEQA Guidelines, Shasta LAFCO's environmental review policies and procedures, and the plans and policies of the County of Shasta and/or affected cities and/or special districts, as appropriate.

4.5 Determination of Appropriate Environmental Document

Based on a completed Initial Study, the Executive Officer shall determine which of the following shall be prepared:

4.5.1 Negative Declaration: The Executive Officer shall prepare or cause to be prepared a Negative Declaration or Mitigated Negative Declaration for those projects that have been found to have no significant effect on the environment pursuant to State CEQA guidelines Sections 15070 through 15075.

4.5.2 Environmental Impact Report: The Executive Officer shall prepare or cause to be prepared an Environmental Impact Report (EIR) for those projects that may have a significant effect on the environment pursuant to State CEQA Guidelines Sections 15080 – 15179.5.

4.6 Public Review and Notice

The Executive Officer shall provide, or cause to be provided, public notification and shall make Negative Declarations, Mitigated Negative Declarations, and EIRs available for public review pursuant to State CEQA Guidelines Section 15073, et. seq. (for Negative Declarations/Mitigated negative Declarations) or Sections 15087-15088.5 (EIRs).

4.7 Adoption and Use of Environmental Documents:

The Negative Declaration, Mitigated Negative Declaration, or EIR prepared by LAFCO, as Lead Agency, for a proposed project which is subject to LAFCO approval shall be presented to the Commission for one of the following actions prior to its action on the proposed project:

4.7.1 Document Adoption: When LAFCO, as Lead Agency, has determined that the project is subject to an Exemption or Negative Declaration, the Commission shall, either in the resolution approving the project or in a separate resolution, approve and adopt the Notice of Exemption or Negative Declaration.

4.7.2 Findings of Significant Effects: When LAFCO, as Lead Agency, has determined that there are significant environmental effects associated with the project that is subject to LAFCO approval, the Commission shall, either in the resolution approving the project or in a separate resolution, make or incorporate by reference, findings required by CEQA for each significant effect of the project.

4.7.3 Statement of Overriding Considerations: When LAFCO, as Lead Agency, has prepared an EIR for a project proposed that is subject to LAFCO approval, the Commission shall, either in the resolution approving the project or in a separate resolution, adopt a Statement of Overriding Considerations by incorporating the Lead Agency's Statement by reference.

When an EIR has been prepared, LAFCO shall not approve the project as proposed if it finds feasible alternatives or feasible mitigation measures within its powers that would substantially lessen any significant effect the project would have on the environment.

Shasta LAFCO reserves the right, as permitted under CEQA, to require preparation of a subsequent environmental document, including a supplemental EIR or addendum to an EIR.

Section 5. Periodic Review and Update

5.1 Commission Review

The policies and procedures pertaining to environmental review, as set forth in the sections above, shall be subject to periodic review by the Commission. Based upon the review, the Commission may direct changes and additions to the policy and procedural statements.

5.2 Statutory Update

The policies and procedures presented in this chapter shall also be subject to immediate change in the event of statutory changes which would have the effect of rending Shasta LAFCO's policies

and procedures pertaining to environmental review inconsistent or out of compliance with CEQA and the CEQA Guidelines.

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