

INSTRUCTIONS AND GUIDANCE FOR “ENVIRONMENTAL COMPLIANCE INFORMATION”

Introduction:

Detailed information, including statutes and guidelines on the California Environmental Quality Act (CEQA), can be obtained at <http://ceres.ca.gov/ceqa>. A CEQA Process Flowchart that shows interaction points between lead and responsible agencies can be found at http://ceres.ca.gov/topic/env_law/ceqa/flowchart/index.html. In addition, State Water Board environmental staff is available to answer questions about the CEQA process. Please contact your assigned Project Manager to be directed to an appropriate environmental staff person for further clarification.

CEQA Checklist:

All projects coming to the State Water Board for funding are considered “projects” under CEQA because the State Water Board is providing discretionary approval for that funding.

The types of CEQA documents that might apply to an applicant’s project include one of the following: 1. Notice of Exemption; 2. Initial Study/Negative Declaration (or Mitigated Negative Declaration with a Mitigation Monitoring and Reporting Program [MMRP]); or 3. Environmental Impact Report (EIR) with an MMRP. The applicant must determine the appropriate document for its project and submit the additional supporting information listed under the applicable section of the CEQA Checklist. Please submit two copies of all documents. If the applicant is using a CEQA document that is older than five years, the applicant must re-evaluate environmental and project conditions, and develop and submit an updated document based on the results of that re-evaluation.

The applicant must ensure the CEQA document is specific to the project for which funding is being requested. Tier I CEQA documents, such as Program or Master Plan EIRs, may not be suitable for satisfying State Water Board requirements if these documents are not project-specific. Instead, the applicant should be submitting a Tier II CEQA document that is project-specific. If this Tier II CEQA document references pertinent environmental and mitigation information contained in the Tier I CEQA document, then the applicant must submit both documents. *[NOTE: Tier I and Tier II documents refer to documents as defined under CEQA. Although the same terminology is used, these documents do not relate to the Tier I and Tier II level of reviews under the CWSRF Program.]*

Each applicant, if it is a public agency, is responsible for approving the CEQA documents it uses regardless of whether or not it is a lead agency under CEQA. Non-profit organizations, however, shall only be responsible for approving the applicable project mitigation measures identified in the MMRP. For purposes of State Water Board funding, all public agencies applying for this funding shall file either a Notice of Exemption or a Notice of Determination with the Governor’s Office of Planning and Research (State Clearinghouse). Stamped copies of these notices shall be submitted with the rest of the environmental documents.

If the CEQA document is linked to a National Environmental Policy Act (NEPA) document (such as an Environmental Assessment or an Environmental Impact Statement), then the applicant shall submit the additional corresponding NEPA items with either a Finding of No Significant Impact, or a Record of Decision made by the lead agency under NEPA.

Note that additional information may be requested from the applicant after review of all the environmental documents to ensure the State Water Board can complete its own CEQA compliance.

Federal Information:

CEQA requires full disclosure of all aspects of the project, including impacts and mitigation measures that are not only regulated by state agencies, but also by federal agencies. Early consultation with state and federal agencies in the CEQA process will assist in minimizing changes to the project when funding is being requested from the State Water Board. For the items that follow the CEQA Checklist, the applicant shall provide the information and/or reference any applicable sections from the documents being submitted to assist with environmental staff's CEQA review, as well as to provide applicant guidance on any potential concerns, and to assist with federal coordination as needed.

1. Federal Endangered Species Act (ESA), Section 7:

For further information on the federal ESA relating to law, regulation, policy, and notices, go to <http://www.fws.gov/endangered/policy/index.html> and <http://www.nmfs.noaa.gov/pr/laws/esa/>. Note that compliance with both state and federal ESA is required of projects having the potential to impact special status species. Although overlap exists between the federal and state ESAs, there might be additional or more restrictive state requirements. For further information on the state ESA, go to <http://www.dfg.ca.gov/habcon/cesa/>.

2. National Historic Preservation Act, Section 106:

The NHPA focuses on federal compliance. In addition, CEQA requires that impacts to cultural and historic resources be analyzed. The "CEQA and Archeological Resources" section from the Governor's Office of Planning and Research CEQA Technical Advice Series states that the lead agency obtains a current records search from the appropriate California Historical Resources File System Information Center. In addition, the Native American Heritage Commission (NAHC) will provide a list of Native American tribes to be contacted and that are culturally affiliated with a project area.

The NAHC can be contacted at:

915 Capitol Mall, Room 364
Sacramento, CA 95814
(916) 653-4082

3. Clean Air Act:

For CWSRF financed projects, we recommend including a general conformity section in the CEQA documents so that another public review process will not be needed, should a conformity determination be required. The applicant should check with its air quality management district and review the State Air Resources Board [California air emissions map](#) for information on the State Implementation Plan. For information on the analysis steps involved in evaluating conformity, please contact the environmental staff person through the assigned Project Manager.

4. Coastal Zone Management Act:

For affected areas, refer to <http://coastalmanagement.noaa.gov/mystate/docs/StateCZBoundaries.pdf>. For additional information please refer to <http://www.coastal.ca.gov/ccatc.html> and/or <http://www.bcdc.ca.gov/>.

5. Farmland Protection Policy Act:

The Natural Resources Conservation Service provides information on the Farmland Protection Policy Act at <http://www.nrcs.usda.gov/programs/fppa>. Please see the following website regarding the Williamson Act <http://www.consrv.ca.gov/dlrp/lca>.

6. Floodplain Management - Executive Order 11988:

Each agency shall provide leadership and take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities. Before taking an action, each agency shall determine whether the proposed action will occur in a floodplain. The generally established standard for risk is the flooding level that is expected to occur every 100 years. If an agency has determined to, or proposes to, conduct, support, or allow an action to be located in a floodplain. The agency shall consider alternatives to avoid adverse effects and incompatible development in the floodplains. For further information, please consult the following web link: <http://www.epa.gov/owow/wetlands/regs/eo11988.html>.

7. Migratory Bird Treaty Act (MBTA):

The MBTA, along with subsequent amendments to this Act, provides legal protection for almost all breeding bird species occurring in the United States and must be addressed in CEQA. The MBTA restricts the killing, taking, collecting and selling or purchasing of native bird species or their parts, nests, or eggs. The treaty allows hunting of certain game bird species, for specific periods, as determined by federal and state governments. In the CEQA document, each agency must make a finding that a project will comply with the MBTA. For further information, please consult the following web link: <http://www.fws.gov/laws/lawsdigest/migtrea.html>.

8. Protection of Wetlands – Executive Order 11990:

Projects, regardless of funding, must get approval for any temporary or permanent disturbance to federal and state waters, wetlands, and vernal pools. The permitting process is usually through the

U.S. Army Corps of Engineers (USACOE), can be lengthy and may ultimately require project alterations to avoid wetlands. Applicants must consult with USACOE early in the planning process if any portion of the project site contains wetlands, or other federal waters. The USACOE Wetland Delineation Manual is available at: <http://www.wetlands.com/regs/tlpge02e.htm>. Also note that the Water Boards are involved in providing approvals through a 401 Water Quality Certification and/or Waste Discharge Requirements (http://www.waterboards.ca.gov/water_issues/programs/cwa401/index.shtml).

9. Wild and Scenic Rivers Act:

There are construction restrictions or prohibitions for projects near or on a “wild and scenic river.” A listing of designated “wild and scenic rivers” can be obtained at <http://www.rivers.gov/wildriverslist.html>. Watershed information can be obtained through the “Watershed Browser” at: http://cwp.resources.ca.gov/map_tools.php.

10. Source Water Protection:

For more information, please visit: <http://epa.gov/region09/water/groundwater/ssa.html>.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)
CHECKLIST FOR THE APPLICANT
What to Submit to your State Water Board's Project Manager

If project is covered under a **CEQA Categorical or Statutory Exemption**, submit a copy of the following:

- Notice of Exemption (filed with the Governor's Office of Planning and Research)**
- List of Best Management Practices (BMPs) and their locations, if project implements BMPs**
- Map of the project area**

If project is covered under a **Negative Declaration**, submit a copy of the following:

- Draft and Final Initial Study/Negative Declaration**
(or Mitigated Negative Declaration, if applicable)
 - Comments and Responses to the Draft
 - Mitigation Monitoring and Reporting Program (if using a Mitigated Negative Declaration)
- Resolution approving the CEQA documents**
 - Adopting the Negative Declaration
 - Making CEQA Findings
- Notice of Determination (filed with the Governor's Office of Planning and Research)**

If project is covered under an **Environmental Impact Report (EIR)**, submit a copy of the following:

- Draft and Final EIR**
 - Comments and Responses to the Draft
 - Mitigation Monitoring and Reporting Program (MMRP)
- Resolution approving the CEQA documents**
 - Certifying the EIR and adopting the MMRP
 - Making CEQA Findings
 - Adopting a Statement of Overriding Considerations for any adverse impact(s) that cannot be avoided or fully mitigated if project is implemented
- Notice of Determination (filed with the Governor's Office of Planning and Research)**

If EIR is a joint CEQA/National Environmental Policy Act document (EIR/Environmental Impact Statement or EIR/Environmental Assessment), submit the applicable Record of Decision and/or Finding of No Significant Impact.

State Water Resources Control Board (State Water Board)
Clean Water State Revolving Fund Program

Evaluation Form for Environmental Review and Federal Coordination

1. **Federal Endangered Species Act:**

Does the project involve any direct effects from construction activities, or indirect effects such as growth inducement that may affect federally listed threatened or endangered species that are known, or have a potential, to occur on-site, in the surrounding area, or in the service area?

No. Discuss why the project will not impact any federally listed special status species:

Yes. Include information on federally listed species that could potentially be affected by this project and any proposed avoidance and compensation measures so that the State Water Board can initiate informal/formal consultation with the applicable federally designated agency. Document any previous ESA consultations that may have occurred with the project.

Attach project-level biological surveys, evaluations analyzing the project's direct and indirect effects on special-status species, and a current species list for the project area.

2. **National Historic Preservation Act:**

Identify the Area of Potential Effects (APE), including construction, staging areas, and depth of any excavation. (Note that the APE is three dimensional and includes all areas that may be affected by the project, including the surface area and extending below ground to the depth of any project excavations.)

Attach a current records search with maps showing all sites and surveys drawn in relation to the project area, and records of Native American consultation.

3. Clean Air Act: Is the project subject to a State Implementation Plan (SIP) conformity determination?

No. The project is in an attainment or unclassified area.

Yes. The project is in a nonattainment area or attainment area subject to maintenance plans. Include information to indicate the nonattainment designation (e.g. moderate, serious or severe), if applicable. If estimated emissions (below) are above the federal de minimis levels, but the project is sized to meet only the needs of current population projections that are used in the approved SIP for air quality, then quantitatively indicate how the proposed capacity increase was calculated using population projections.

Air Basin Name: _____

Provide the estimated project construction and operational air emissions (in tons per year) in the chart below, and attach supporting calculations.

Attach any air quality studies that may have been done for the project.

Pollutant	Status (Attainment, Nonattainment or Unclassified)	Threshold of Significance for the Area (if applicable)	Construction Emissions (Tons/Year)	Operation Emissions (Tons/Year)
Carbon Monoxide (CO)				
Ozone (O ₃)				
Oxides of Nitrogen (NO _x)				
Particulate Matter (PM _{2.5})				
Particulate Matter (PM ₁₀)				
Reactive Organic Gases (ROG)				
Sulfur Dioxide (SO ₂)				
Volatile Organic Compounds (VOC)				

4. Coastal Zone Management Act: Is any portion of the project site located within the coastal zone?

No. The project is not within the coastal zone.

Yes. Describe the project location with respect to coastal areas, and the status of the coastal zone permit:

5. Farmland Protection Policy Act:

Is any portion of the project site located on important farmland?

No. The project will not impact farmland.

Yes. Include information on the acreage that would be converted from important farmland to other uses. Indicate if any portion of the project site is located within Williamson Act control and the amount of affected acreage:

6. Flood Plain Management:

Is any portion of the project site located within a 100-year floodplain as depicted on a floodplain map or otherwise designated by the Federal Emergency Management Agency?

No. Provide a description of the project location with respect to streams and potential floodplains:

Yes. Describe the floodplain, and include a floodplain map and a floodplains/wetlands assessment. Describe any measures and/or project design modifications that would minimize or avoid flood damage by the project:

7. Migratory Bird Treaty Act:

Will the project affect protected migratory birds that are known, or have a potential, to occur on-site, in the surrounding area, or in the service area?

No.

Yes. Discuss the impacts (such as noise and vibration impacts, modification of habitat) to migratory birds that may be directly or indirectly affected by the project and mitigation measures to reduce or eliminate these impacts. Include a list of all migratory birds that could occur where the project is located:

8. Protection of Wetlands:

Does any portion of the project area contain areas that should be evaluated for wetland delineation or require a permit from the U.S. Army Corps of Engineers?

No. Provide the basis for such a determination:

Yes. Describe the impacts to wetlands, potential wetland areas, and other surface waters, and the avoidance, minimization, and mitigation measures to reduce such impacts. Provide the status of the permit and information on permit requirements:

9. Wild and Scenic Rivers Act:

Is any portion of the project located within a wild and scenic river?

No. The project will not impact a wild and scenic river.

Yes. Identify the wild and scenic river watershed and project location relative to the affected wild and scenic river:

Identify watershed where the project is located: _____

10. Source Water Protection:

Is the project located in an area designated by the U.S. Environmental Protection Agency, Region 9, as a Sole Source Aquifer?

No. The project is not within the boundaries of a sole source aquifer.

Yes. Identify the aquifer (e.g., Santa Margarita Aquifer, Scott's Valley, the Fresno County Aquifer, the Campo/Cottonwood Creek Aquifer or the Ocotillo-Coyote Wells Aquifer):
