

# THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

(CEQA)

BARBARA J. HIGGINS, ESQ.



# LEGISLATIVE ENACTMENTS

- ◆ State Statute – Public Resources Code (PRC) §§ 21000 – 21177
- ◆ State Guidelines (Implementation) – Title 14, Cal. Code Regulations §§ 15000 – 15387
- ◆ Local Regulations – § 15022 (e.g., *County of Ventura Administrative Supplement to State CEQA Guidelines*)
- ◆ Case Law (Judicial Decisions Interpreting Statute & Regs)
- ◆ CEQA Statute and Regs: <http://www.califaep.org/CEQA2010>

# PUBLIC AGENCY – STATE AND LOCAL

## **LEAD AGENCY**

Primary Discretionary Approval Power (§ 21067; § 15050)

## **RESPONSIBLE AGENCY**

Subsequent Discretionary Approvals (§ 21069; § 15381)

## **TRUSTEE AGENCY**

State Natural Resources (§ 21070; § 15386)



# LEGISLATIVE INTENT

PRC §§ 21000 – 21006

## 💧 15121. INFORMATIONAL DOCUMENT

(a) An EIR is an informational document which will inform public agency decision makers and the public generally of the significant environmental effect of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The public agency shall consider the information in the EIR along with other information which may be presented to the agency.

(b) While the information in the EIR does not control the agency's ultimate discretion on the project, the agency must respond to each significant effect identified in the EIR by making findings under Section 15091 and if necessary by making a statement of overriding consideration under Section 15093.

# WHEN DOES CEQA APPLY?

- ◆ Is the activity a “project”? [§ 21065; § 15378(a)]
  - ◆ Requires approval by a public agency?
  - ◆ Potential for direct or indirect physical change to the environment?
  - ◆ Discretionary decision by the public agency?
- ◆ If it is a “project,” is it subject to an exemption?
  - ◆ Statutory exemption? (§§ 15260 – 15285)
  - ◆ Categorical exemption? (§§ 15300 – 15332)
  - ◆ “Common Sense” exemption (no possibility of significant environmental effect)? [§ 15061(b)(3)]
- ◆ Is there an “exception” to the exemption?
  - ◆ Possibility of significant environmental effect. [§ 15061(b)(3)]

# TYPES OF CEQA DOCUMENTS

Initial Study

Negative Declaration

Mitigated Negative Declaration

Sustainable Communities Environmental Assessment

Environmental Impact Report (EIR)

- Master EIR

- Program EIR

- Tiered EIRs

- Staged EIR

- Focused EIR

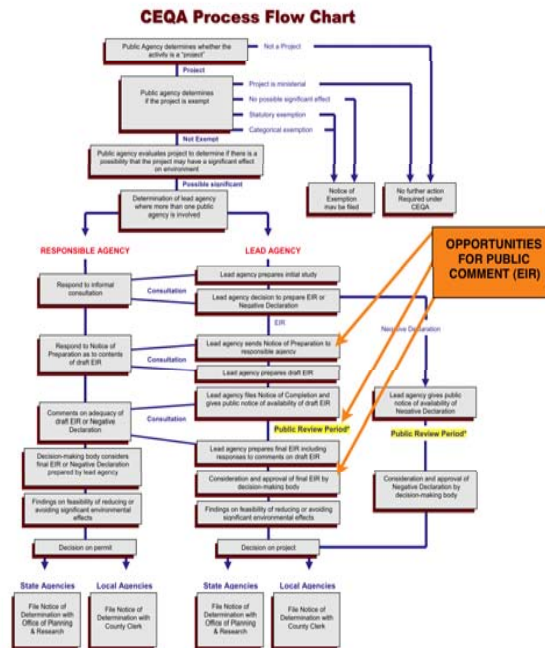
- Supplemental EIR

- Subsequent EIR

- Addendum to EIR

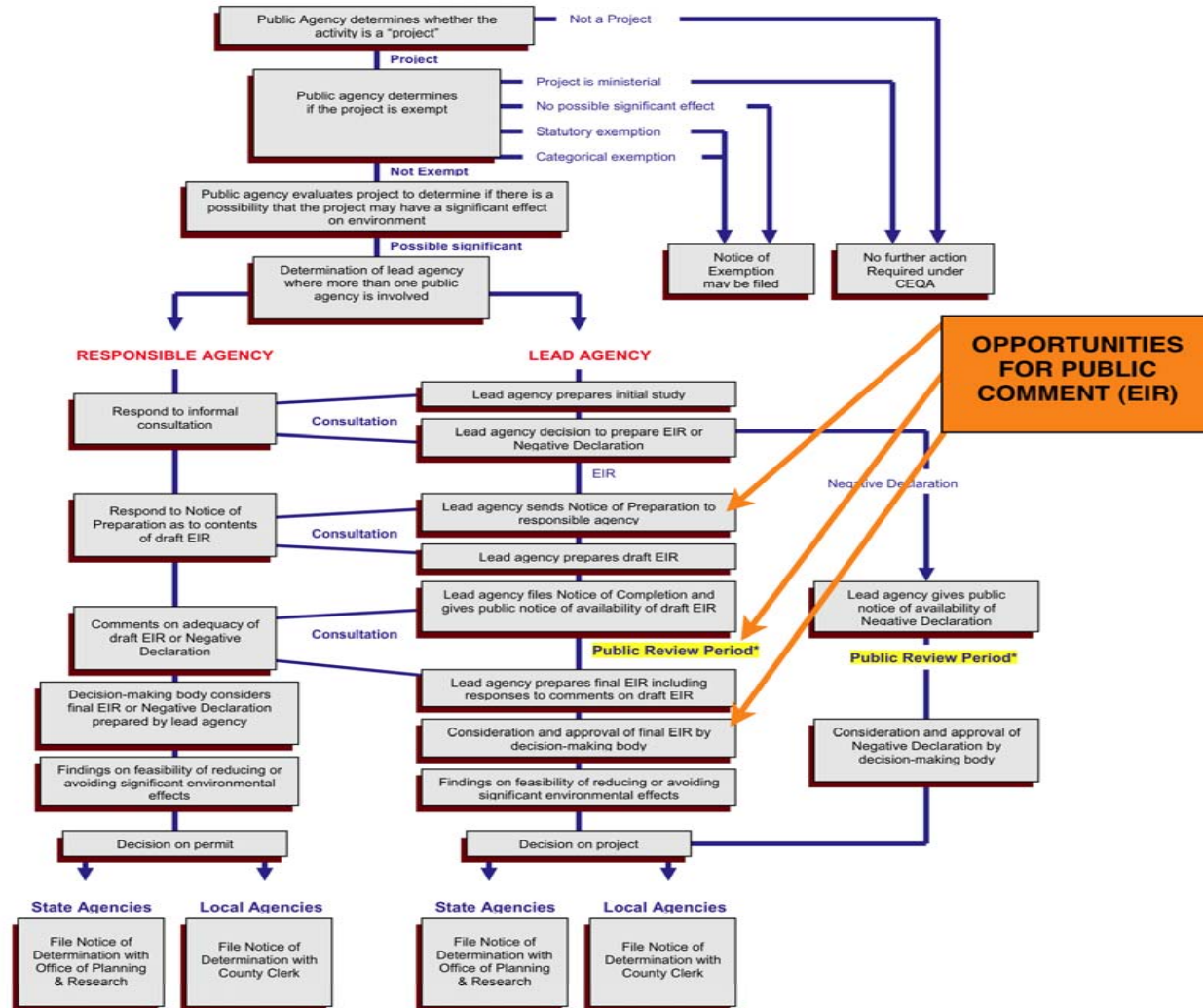


# CEQA PROCESS



Source: California Environmental Resources Evaluation System, <http://cesrs.ca.gov/ceqa/ceqa.html#ceqaflowchart/index.html>  
 \*The public review and comment period shall not be less than 30 days and not should it be longer than 60 days, per the CEQA Guidelines at <http://cesrs.ca.gov/ceqa/ceqa.html#ceqaflowchart/index.html>

## CEQA Process Flow Chart



Source: California Environmental Resources Evaluation System, [http://ceres.ca.gov/topic/env\\_law/ceqa/flowchart/index.html](http://ceres.ca.gov/topic/env_law/ceqa/flowchart/index.html)  
 \*The public review and comment period shall not be less than 30 days and nor should it be longer than 60 days, per the CEQA Guidelines at [http://ceres.ca.gov/topic/env\\_law/ceqa/guidelines/](http://ceres.ca.gov/topic/env_law/ceqa/guidelines/)

# CEQA LITIGATION

💧 *HAVE WE GONE TOO FAR?*

# RECOMMENDED RESOURCES

- ◆ CEQA Statute and Guidelines (free download: <http://www.califaep.org/CEQA2010>)
- ◆ Practice Under the California Environmental Quality Act
- ◆ Guide to CEQA (Remy, Thomas, Moose & Manley; Solano Press, 11th ed., 2006, \$115)  
[www.solano.com](http://www.solano.com)
- ◆ 2010 California Environmental Quality Act and Guidelines
- ◆ 2009 State Clearinghouse Handbook (free download):  
[www.opr.ca.gov/planning/publications/SCH\\_Handbook\\_2009.pdf](http://www.opr.ca.gov/planning/publications/SCH_Handbook_2009.pdf)
- ◆ The Planning Report (subscription & on-line): [www.planningreport.com/](http://www.planningreport.com/)
- ◆ Governor's Office of Planning and Research: <http://www.opr.ca.gov/>
- ◆ California Environmental Resources Evaluation System: <http://ceres.ca.gov/ceqa/>
- ◆ CEQnet Database: <http://www.ceqanet.ca.gov/>

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