



SAN FRANCISCO PLANNING DEPARTMENT

Environmental Review Process Summary

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INTRODUCTION

The California Environmental Quality Act (CEQA) was enacted in 1970 in response to the growing awareness that environmental impacts must be carefully considered in order to avoid unanticipated environmental problems resulting from development or planning efforts. The environmental review process provides decision-makers and the general public with an objective analysis of the immediate and long-range specific and cumulative impacts of a proposed project on its surrounding physical environment. In California, environmental review is two-fold in purpose: to disclose the impacts of a project and to ensure public participation.

Environmental review under CEQA is administered for all departments and agencies of the City and County of San Francisco by the Major Environmental Analysis (MEA) division of the Planning Department (the Department). Projects subject to CEQA are those actions that have the potential for resulting in a physical change of some magnitude on the environment and that require a discretionary decision by the City, such as public works construction and related activities, developments requiring permits (which in San Francisco are discretionary and thus not exempt from CEQA), use permits, activities supported by assistance from public agencies, enactment and amendment of zoning ordinances, and adoption or amendment of the General Plan or elements thereof. No action to issue permits, allocate funds, or otherwise implement a discretionary project may be taken until environmental review is complete.

Projects requiring analysis in Environmental Impact Reports (EIRs) are generally complex major public or private development proposals or plans that could potentially have a significant impact on the physical environment.

EXEMPTION FROM ENVIRONMENTAL REVIEW

The environmental review process begins with a determination by the Department as to whether or not a discretionary action by the City falls within a class of projects that are exempt from environmental evaluation pursuant to State Guidelines for Implementation of CEQA. Projects that are exempt generally include small-scale new construction or demolition, some changes of use, some additions, and other generally small-scale projects. These projects are enumerated in the **Categorical Exemptions from the California Environmental Quality Act**, adopted by the San Francisco Planning Commission (the Commission) on August 17, 2000. Emergency repairs are also exempt from CEQA. Projects that do not require a permit may be issued environmental exemptions over the counter at the Planning Information Center (PIC), 1660 Mission Street, First Floor.

For projects requiring a permit, exemptions may be issued over the counter at the PIC by Department staff processing the building permit application or may be referred to MEA staff. In the latter case, the project sponsor (private applicant or government agency) submits an Environmental Exemption Application to the MEA intake planner, along with a fee (see fee schedule).

If the proposed project involves the major alteration or demolition of a property more than 50 years old, the project sponsor will need to file a **Supplemental Information Form for Historical Resource Evaluation** with the Environmental Exemption Application so that Department staff can evaluate whether the proposed project would result in impacts on historical resources.

Project sponsors will also need to submit a **Tree Disclosure Statement** with the Environmental Exemption Application.

Exemption Timeline

A determination of exemption is generally processed in a minimum of two weeks; however, projects that require historical review or other supplemental data may take two months or longer to process, based on factors such as changes in the proposed project, supplemental data requirements, and MEA caseload.

Appeal of Exemption

A determination of exemption may be appealed to the Board of Supervisors (the Board). The procedures for filing an appeal of an exemption determination are available from the Clerk of the Board at City Hall, Room 244, (415) 554-5184.

ENVIRONMENTAL REVIEW

Environmental Evaluation Application

For projects not exempt from environmental evaluation, the project sponsor (private applicant or government agency) files a completed Environmental Evaluation (E) Application by appointment with the assigned MEA application intake planner along with an E fee based on the construction cost of the proposed project. The fee schedule and contact information for the intake planner are available at the PIC, 1660 Mission Street, First Floor, or by calling (415) 558-6377. E applications may be filed prior to or concurrently with building permit applications.

Special Studies

To assist MEA in the environmental evaluation process, the project sponsor may be required to provide supplemental data or studies to the assigned MEA application intake planner to address potential impacts on soils, traffic, biological resources, wind, shadows, noise, or other issue areas. If a **Shadow Study** is required, the project sponsor files a Shadow Study Application along with a fee (see fee schedule; cash not accepted), and Department staff

prepares the shadow fan analysis. If a **Transportation Impact Analysis** is required, the project sponsor submits two fees (cash not accepted): one to the Planning Department (see fee schedule) and one \$400 fee to the Municipal Transportation Agency. Fees are generally non-refundable and are in addition to costs paid by the project sponsor for consultant-prepared reports (see Consultants, below).

Initial Study

After the completed E application has been submitted, an Initial Study is prepared for the proposed project by MEA. Projects are evaluated on the basis of the information supplied in the E application, any additional information required from the applicant, research, and contact with affected public agencies, citizens groups, and concerned individuals, all by or under the direction of MEA. Initial studies for some large or complex projects may need to be prepared by a consultant rather than by MEA.

Negative Declaration or Mitigated Negative Declaration

If during the Initial Study process the Department determines that the proposed project would not have a significant effect on the environment, a Preliminary Negative Declaration (PND) is issued, advertised in a local newspaper, posted at the Department and on the subject site, and mailed to various parties as requested.

If the Initial Study anticipates that the project would result in significant impacts on the environment, the project may be revised to include mitigation measures; an EIR may not be necessary if the project sponsor agrees to mitigate such impacts to a level that is less than significant. In such cases, a Preliminary Mitigated Negative Declaration (PMND) is issued and noticed after the Initial Study process is completed.

Appeal of PND or PMND

During the 20 (or 30 if required by CEQA) calendar days after legal advertisement, concerned parties may comment on the adequacy of the PND or PMND, request revisions or appeal the determination, and/or request preparation of an EIR. Substantive comments related to environmental effects will be incorporated into the Negative Declaration (ND) or the Mitigated Negative Declaration (MND). Appeals must be in the form of a letter to the Environmental Review Officer stating the grounds for the appeal and must include a \$400 appeal fee (cash not accepted). The Commission will decide the appeal at an advertised public hearing, which must be scheduled between 14 and 30 calendar days after the close of the appeal period. The Commission may (1) sustain the ND or MND as written, (2) amend the ND or MND, or (3) require that an EIR be prepared. If there has been no appeal within 20 or 30 calendar days, a Final Negative Declaration (FND) or Final Mitigated Negative Declaration (FMND) is signed by the Environmental Review Officer and issued. Approval decisions may then be made on the project.

Appeal of FND or FMND

FNDs and FMNDs are appealable to the Board. The procedures for filing an appeal of an FND or FMND determination may be obtained from the Clerk of the Board at City Hall, Room 244, (415) 554-5184.

Negative Declaration Timeline

A minimum timetable for the ND or MND process is about six months; the timetable may be six to twelve months or longer based on factors such as changes in the proposed project, MEA caseload, supplemental data requirements, whether the document is appealed, and (where consultant work is required) quality of work.

Environmental Impact Report

Before or during the Initial Study process, the Department may determine that the project could have a significant effect on the environment and that an EIR is required. The determination that an EIR is required is published in a local newspaper, posted at the Department, and mailed to various parties.

Preliminary Draft EIR

If an EIR is required, the project sponsor must have a Preliminary Draft EIR (PDEIR) prepared by a qualified environmental consultant and submitted to MEA. Fees for processing the EIR are billed when MEA advertises the EIR requirement, and are payable upon submittal of the first PDEIR. This first administrative draft is reviewed by MEA in consultation with other relevant Department staff and public agencies. Two or three revisions of the PDEIR are often required for completion of research and verification of accuracy before the material is ready for publication.

Draft EIR Publication and Public Hearing

When MEA determines that the PDEIR is acceptable for publication, the Department assumes authorship, authorizes publication of the Draft EIR (DEIR), and advertises in a local newspaper that the DEIR is available for public review, will be considered by the Commission at a specified public hearing, and what, if any, significant impacts are identified in the DEIR. The public hearing before the Commission generally occurs about five weeks after publication of the DEIR. The purpose of the hearing is to receive testimony related to the accuracy and completeness of the DEIR; written comments are also accepted during the review period, which generally extends at least five days beyond the hearing.

Final EIR Certification

Following the DEIR hearing, a Comments and Responses document is prepared to respond to all substantive issues raised in the written and oral testimony. The document is distributed to the Commission, commentors, and others as requested. After review of the Comments and Responses document, including any revisions to the DEIR and incorporation into the EIR of any further changes requested by the Commission, the Commission certifies

at a public meeting that the Final EIR (FEIR) has been completed in compliance with state law, and determines whether the project would or would not have a significant effect on the environment. It is important to note that certification does not approve or disapprove a project, but rather concludes that the EIR complies with CEQA and provides environmental information regarding the proposed project to serve as one of the elements upon which a reasoned decision is based.

If the Commission determines that the proposed project would have a significant effect on the environment, it may approve a project by one of two ways: (1) require changes in the project to reduce or avoid environmental damage if it finds such changes feasible (generally via alternatives and/or mitigation), or (2) find that changes are infeasible and make a statement of overriding considerations. CEQA requires decision-makers to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. If the benefits of a proposed project would outweigh the unavoidable adverse environmental effects, those adverse effects may be considered “acceptable.” The Commission must, in such cases, state in writing the specific reasons to support its action based on the FEIR and/or other information in the record.

Appeal of EIR

The certification of an FEIR is appealable to the Board. Any person or entity that has submitted comments to the Commission or the Environmental Review Officer may appeal the Commission’s certification of the FEIR to the Board within 20 calendar days after the Commission’s certification of the FEIR. Appeals must be in the form of a letter to the Board stating the ground of the appeal, with submittal of a \$400 fee (cash not accepted).

Upon review by the Department, the appeal fee may be reimbursed for neighborhood organizations that have been in existence for a minimum of 24 months. The Board may reject by motion an appeal that fails to state proper grounds for the appeal. The Board must act on valid appeals at an advertised public hearing, which must be scheduled within 30 calendar days after the Commission’s certification of the FEIR, but may in certain circumstances extend such time period up to 90 calendar days from the date of filing the appeal. The Board may affirm or reverse the certification by the Commission by a majority vote. If the Board affirms the Commission’s certification, the FEIR is considered certified on the date upon which the Commission originally certified the FEIR. If the Board reverses the Commission’s certification, the Board must make specific findings and remand the FEIR to the Commission for further action consistent with the Board’s findings. The Commission must take such action as may be required by the Board and consider recertification of the EIR. Only the new or revised portions of the FEIR may then be appealed again to the Board.

EIR Timeline

A minimum timeline for the EIR process is 18 months; the period is variable, however, based on factors such as changes in the proposed project, MEA caseload, supplemental data

requirements, quality of work submitted to the Department, and whether the FEIR is appealed.

NOTICES OF EXEMPTION/DETERMINATION

For projects that are exempt from environmental evaluation, the project sponsor may request that a Notice of Exemption (NOE) be filed after the project is approved. Though not required, the NOE shortens the statute of limitations for legal challenges under CEQA from 180 calendar days to between 30 and 35 calendar days.

A Notice of Determination (NOD) may be filed upon approval of a project for which a ND, MND, or EIR has been prepared. The filing of a NOD starts a 30-calendar day statute of limitations on court challenges to the approval under CEQA. If no NOD is filed, the statute of limitations is 180 calendar days.

The NOE or NOD must not be filed until after the project is approved but within five working days of project approval. It is possible that several NODs may be needed for one project if the project requires multiple approvals at different times. To file a NOE or NOD, the project sponsor must submit a \$50 check payable to County Clerk. A higher fee established by the State Department of Fish and Game is required for filing a NOD for a project that may result in an adverse impact on sensitive species, sensitive habitat, or wildlife migration.

CONSULTANTS

The project sponsor may retain or be required to retain environmental consultants to prepare an Initial Study, ND, MND, EIR, and other environmental documents or studies. Department staff normally prepare exemptions, NDs, and MNDs, while environmental consulting firms typically prepare EIRs and special studies. The Department scopes, monitors, reviews, and approves all work completed by consultants. The project sponsor pays all costs for preparation of the necessary consultant-prepared documents in addition to the applicable Department fees described above.

FOR MORE INFORMATION

The following reference materials, applications, and forms are currently available at the Planning Information Center, 1660 Mission Street, First Floor, and/or on the Department's website, <http://www.sfgov.org/planning>:

- *Environmental Exemption Application* – Explains what an applicant must do to submit an environmental exemption application.
- *Supplemental Information Form for Historical Resource Evaluation* – May need to be filed with the Environmental Exemption Application.

- *Categorical Exemptions from the California Environmental Quality Act* – Lists the types of projects that are exempt from environmental evaluation.
- *San Francisco Preservation Bulletin No. 16: CEQA and Historical Resources* – Provides direction and guidance for the environmental evaluation of historic resources.
- *Environmental Evaluation Application* – Explains what an applicant must do to submit a complete application for environmental evaluation.
- *Initial Study Checklist* – Provides a template for the Initial Study, and also serves to scope an EIR by determining which topics require more extensive review and which do not.
- *Prop K - Shadow Analysis* – Explains the process to complete a shadow analysis application.
- *Transportation Impact Analysis Guidelines for Environmental Review* – Aids consultants in preparing transportation impact analyses for NDs, MNDs, and EIRs.
- *Schedule of Application Fees* – Lists Department fees, including fees for exemptions, Initial Studies, Environmental Impact Reports, and appeals of environmental determinations. Some fees are based on the construction cost of a proposed project, others are flat fees, and some are based on the cost of time and materials for environmental review processing.

General inquiries regarding environmental review should be directed to MEA at (415) 575-9025. For information regarding a specific project undergoing environmental review, contact the assigned planner (call the Planning Information Center at (415) 558-6377 to request the name and number of the assigned MEA planner).

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