

## **NEPA**

### **THE NATIONAL ENVIRONMENTAL PROTECTION ACT**

- Enacted in 1969 to provide review of Federal projects to identify significant impacts.
- NEPA applies to a project that requires discretionary actions by a Federal agency which intends to approve, build or fund the project.
- Each Federal agency adopts its own regulations for implementing NEPA.
- An Environmental Assessment (EA) must be prepared for each project to determine the level of NEPA clearance required.
- The EA must be submitted to the Facilities Planning Division to initiate the NEPA process.

## **CEQA**

### **THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

- Enacted to provide review to identify significant impacts of projects within the State.
- Any project requiring discretionary action by the State or a local municipality/public agency is subject to such review.
- Significant impacts of a project are to be avoided or mitigated and any mitigations imposed must be enforceable.
- Projects requiring discretionary action must be submitted to the Facilities Planning Division for determination of the level of CEQA clearance required and appropriate mitigations.
- A complete project description along with a site and plot plan is required for initial evaluation.

## **Regional / Land-Use Clearances**

### **California Environmental Quality Act (CEQA)**

The California Environmental Quality Act requires that all Projects on LAWA property must receive a final determination in regards to their environmental impact. This determination is required prior to LAWA issuing a Notice-To-Proceed. A brief explanation of the CEQA process is as follows:

#### **What is CEQA?**

CEQA stands for the California Environmental Quality Act. It is a state law that requires government agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts. The State CEQA statutes and guidelines can be viewed at: <http://ceres.ca.gov/ceqa/guidelines/>

The purpose of CEQA is to:

- a) disclose to decision makers and the public the significant environmental effects of proposed activities;
- b) identify ways to avoid or reduce environmental impacts;
- c) require implementation of feasible alternatives or mitigation; and
- d) provide for public input

#### **Who must comply with CEQA?**

All public agencies are subject to the requirements of CEQA. A public agency must comply with CEQA when it undertakes an activity defined by CEQA as a "project". A project is an activity which must receive discretionary approval.

#### **Are certain projects exempt from CEQA?**

Yes, CEQA has determined that certain projects will not cause either a direct or indirect physical change in the environment.

Consistent with state statutes, the Los Angeles City Council on July 31, 2002 adopted new City CEQA Guidelines that identify various projects that could be exempt from CEQA.

A copy of the City CEQA Guidelines can be viewed at:

[http://cityplanning.lacity.org/EIR/CEQA\\_Guidelines/City\\_CEQA\\_Guidelines.pdf](http://cityplanning.lacity.org/EIR/CEQA_Guidelines/City_CEQA_Guidelines.pdf)

A list of exemptions that are commonly used for LAWA projects is included at the end of this section.

### **Are there exceptions when exemptions may be applied?**

Yes, there are exceptions to most exemptions. Exceptions apply depending upon the location, timing and circumstances of the project and its surroundings. All projects are reviewed on a case by case basis and must be viewed as a whole and not a portion of the entire project.

Section 15300.2 of the State CEQA Guidelines provides guidance of certain situations where an exemption may not apply:

#### **15300.2. EXCEPTIONS**

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

### **What happens when a project does not qualify for an exemption?**

Projects that are not exempt from CEQA require environmental review. An initial study is prepared and the results of that study will determine whether a Negative Declaration, Mitigated Negative Declaration or Environmental Impact Report is prepared.

The process for preparing a (Mitigated) Negative Declaration can be found in Article 6 (Sections 15070 to 15075) of the State CEQA Guidelines. It includes a public review period of no less than 20 days.

The process for preparing an Environmental Impact Report can be found in Article 7 (Sections 15080 to 15097) of the State CEQA Guidelines. The process includes sending a Notice of Preparation to the State Clearinghouse and each responsible and trustee agency notifying them that an EIR will be prepared. Responses from agencies and the public at this stage will help determine the scope of the EIR and the significant environmental issues and reasonable alternatives and mitigation measures that will need to be explored in the Draft EIR. Once the Draft EIR has been completed, it is released for public review and comment for a period of no less than 45 days.

The purpose of the public review period for both the (Mitigated) Negative Declaration and the EIR is to ensure the sufficiency of the document in identifying and analyzing possible significant environmental impacts and how they may be avoided or mitigated. Comments are most constructive if they disclose

additional possible impacts, alternatives, or mitigation measures. Responses to the comments are prepared and both the comments and responses are then compiled in the final document for consideration by the decision-maker. The review by other agencies and the public helps to ensure that the document is as complete as possible so that decision-maker can make an informed decision on the project.

After the public review process, LAWA staff will incorporate any comments, LAWA's response to comments and the environmental study into a final document that is presented to the decision-maker to assist them in their decision making. A project cannot be considered for approval unless the decision-maker receives and reviews the document prior to making a decision.

## **Possibly Exempt Projects or Activities (Excerpt from the City of Los Angeles CEQA Guidelines)**

### **General Exemptions**

A. General Exemptions typically are applied to administrative and/or ministerial activities.

#### Article II, Section 2a

Emergency Projects, such as

- 1) Projects undertaken, carried out, or approved by a City agency to maintain, repair, restore, demolish or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area for which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1, Title 2 of the Government Code.
- 2) Emergency repairs to public service facilities necessary to maintain service.
- 3) Specific actions necessary to prevent or mitigated an emergency.

#### Article II, Section 2d

Feasibility and planning studies for possible future action, although such studies shall include consideration of environmental factors.

#### Article II, Section 2f

Continuing administrative, maintenance and personnel-related activities.

*(This subsection should not be construed by City Agencies to exempt their ongoing programs that may have significant impacts on the environment.)*

#### Article II, Section 2i

Any activity (approval of bids, execution of contracts, allocation of funds, etc.) for which the underlying project has previously been evaluated for environmental significance and processed according to the requirements of these Guidelines.

*(This subsection is used when a Negative Declaration or Environmental Impact Report was prepared for the underlying project.)*

### **Categorical Exemptions**

*Categorical Exemptions are based on findings by the Secretary of Resources that an activity falling under a particular class of projects will not have a significant environmental impact. Categorical exemptions, however, cannot be used for projects where such project may have a significant effect on the environment.*

### **Article III, Class 1 Existing Facilities**

*Class 1 consists of the operation, repair, maintenance or minor alteration of existing structures, facilities or equipment, involving negligible or no expansion of use.*

#### **Article III, Class 1 (1)**

Interior or exterior alterations involving remodeling or minor construction where there will be negligible or no expansion of use.

#### **Article III, Class 1 (3)**

Operation, repair, maintenance or minor alteration of existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, storage areas, parking lots, aircraft parking areas, wharves, railroads, runways, taxiways, navigable waterways, bridle trails, service roads, fire lanes and golf-cart paths, except where the activity will involve removal of a scenic resource including but not limited to a stand of trees, a rock outcropping or an historic building.

#### **Article III, Class 1 (4)**

Restoration or rehabilitation of deteriorated or damaged structures, facilities or mechanical equipment and systems to meet current standards of public health, safety and environmental protection.

#### **Article III, Class 1 (5)**

Additions to existing structures provided that the addition will not result in an increase of more than:

- a) 50 percent of the floor area of the structures before the addition or 2,500 square feet, whichever is less; or
- b) 10,000 square feet of:
  - i. The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and
  - ii. The area in which the project is located is not environmentally sensitive.

#### **Article III, Class 1 (6)**

Addition of safety, security, health or environmental protection devices for use during construction of or in conjunction with existing structures, facilities or mechanical equipment, or topographical features (including navigational devices).

#### **Article III, Class 1 (7)**

New copy on existing on and off-premise signs.

#### **Article III, Class 1 (8)**

Maintenance of existing landscaping, native growth, water supply reservoirs; and brush clearance for weed abatement and fire protection (excluding the use of economic poisons as defined in Division 7, Chapter 2, California Agricultural Code).

#### **Article III, Class 1 (11)**

Demolition and removal of individual small structures listed in this subdivision except where the structures are of historical, archaeological or architectural significance:

- a) Single-family residences not in conjunction with the demolition of two or more units;
- b) Motels, apartments, and duplexes designed for not more than four dwelling units not in conjunction with the demolition of two or more such structures;
- c) Stores, offices, and restaurants designed for an occupant load of 20 persons or less, if not in conjunction with the demolition of two or more such structures;
- d) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

Article III, Class 1 (12)

Outdoor lighting and fencing for security and operations.

Article III, Class 1 (18)

Issuance of permits, leases, agreements, berth and space assignments, and renewals, amendments or extensions thereof, or other entitlements granting use of the following existing facilities and land and water use areas involving negligible or no expansion of use and/or alteration or modification of the facilities or its operations beyond that previously existing or permitted:

c) Municipal Airports

Article III, Class 1 (20)

Modernization of an existing highway, street, alley, walk, mall or minor drainage channel by construction of improvements, resurfacing, reconstruction, eliminating jut-outs, widening less than a single lane width, adding shoulders or parking lanes, adding auxiliary lanes for localized purposes (turning, passing, and speed change), correcting substandard curves and intersection, bottleneck bridge widenings not to exceed the width of the adjacent existing roadway approaches, and other bridge widenings less than an additional lane on the bridge. This exemption shall not be used where extensive tree removal will be involved.

Article III, Class 1 (24)

Relocation of an existing use within a publicly owned facility.

Article III, Class 1 (31)

Establishment or modification of any rate, fee or charge for the use of existing municipal facilities and services involving negligible or no expansion of use.

Article III, Class 1 (32)

Installation, maintenance or modification of mechanical equipment and public convenience devices and facilities which are accessory to the use of the existing structures or facilities and involve the negligible or no expansion of use.

Article III, Class 1 (35)

Minor extensions of, and connections between, existing taxiways which permit alternative aircraft ground maneuvering operations and involve negligible or no expansion of use.

**Article III, Class 2 Replacement or Reconstruction**

*Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.*

Article III, Class 2 (2)

Replacement of a commercial or industrial structure with a new structure of substantially the same size, purpose and capacity.

Article III, Class 2 (6)

Replacement or reconstruction of existing heating and air-conditioning systems.

Article III, Class 2 (7)

Replacement of existing pedestrian stairways, including such additional rights of way as needed to bring the stairways up to current standards of length and width, providing that the project does not impact cultural resources or remove mature trees.

### **Article III, Class 3 New Construction of Small Structures**

*Class 3 consists of construction and location of limited numbers of new, small facilities or structures, installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable within a two year period.*

#### Article III, Class 3 (4)

Installation of new equipment and/or industrial facilities involving negligible or no expansion of use if required for safety, health, the public convenience, or environmental control.

#### Article III, Class 3 (17)

Projects involving less than 35 dwelling units or 15,000 square feet of commercial, industrial, governmental or institutional floor space where, as determined by the appropriate City department, the project is not in a designated hillside ("H") area or in an officially mapped area of severe geologic hazard, conforms with or is less intensive than the adopted plan, is not in an officially designated Paleontological, Historical, Archaeological or Seismic Study Area, and, if residential, is more than 1,000 feet from a freeway, railway, or airport, except where the mitigation of potentially significant noise and air quality impacts to an insignificant level is ensured. If any grading is required in connection with such projects, this Categorical Exemption shall not apply unless the grading is also exempted by Subsection d of Subsection 1 of this Article.

### **Article III, Class 5 Alterations in Land Use Limitations**

*Class 5 consists of minor alterations in land use limitations in areas with less than a 20% slope which do not result in any changes in land use or density.*

#### Article III, Class 5 (30)

Granting easements to other local agencies, utilities or private persons to accomplish activities that are categorically exempted by these Guidelines.

### **Article III, Class 6 Information Collection**

*Class 6 consists of basic data collection, research, experimental management and resource evaluation activities which do not result in a serious major disturbance to an environmental resource. These may be for strictly information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded.*

#### Article III, Class 6 (1)

Permits for test holes in public areas which will be used for engineering evaluations for street, sewer, storm drain, buildings or utility installations.

#### Article III, Class 6 (2)

Basic data collection, field testing, research, experimental management and resource activities of City Departments, bureaus, divisions, sections, offices or officers which do not result in serious or major disturbances to an environmental resource.

### **Article III, Class 11 Accessory Structures**

*Class 11 consists of construction or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities.*

#### Article III, Class 11 (1)

On-premise signs.

Article III, Class 11 (2)

Parking lots under 110 spaces where no decking or undergrounding is involved.

Article III, Class 11 (5)

Signs located on City property managed by a City department which has a sign policy adopted by the City Council or, in the case of a proprietary department, by its Board of Commissioners.

Article III, Class 11 (6)

Construction or placement of minor structures accessory to (appurtenant to) existing commercial, industrial or institutional facilities.

Article III, Class 11 (7)

Construction or placement of buildings, or additions to buildings, involving the addition of less than 15,000 square feet, which additions are accessory to existing commercial, industrial or institutional facilities.

Article III, Class 11 (8)

Authorizations by the Department of Airports for the installation, maintenance, relocation, replacement and/or removal of: structures, lighting, fencing and security facilities; noise and environmental monitoring systems and facilities; mechanical and electrical equipment; and, other facilities which are accessory to the use of existing or approved airport structures, facilities, or operations, and involve negligible or no expansion of airport operations beyond that previously existing or permitted.

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