



**RCD Interim Policy: CEQA-2**  
**Guidelines for the Implementation of the**  
**California Environmental Quality Act**  
**(CEQA)**

*Adopted by the US-LT RCD Board of Directors*

*September 27, 2018*



NOTE:

This document is updated on a periodic basis in order to include amendments adopted by the Board of Directors. Recently adopted amendments may not yet be incorporated into this copy. Please check with Upper Salinas – Las Tablas Resource Conservation District Staff in our office for information on amendments approved subsequent to the date shown on the front of this publication.



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## **ARTICLE I – PURPOSE**

The purpose of these Guidelines is to provide definitions, procedures, criteria and objectives for the implementation of the California Environmental Quality Act (Public Resources Code Section 21000 et. seq., CEQA).

These Guidelines are intended to facilitate agency compliance with CEQA and standardize procedures for the evaluation of projects and the preparation of environmental documents when the Upper-Salinas – Las Tablas Resource Conservation District is the Lead, Responsible, or Reviewing agency under CEQA. The following guidelines are for interim use on pressing projects the US-LT RCD are currently processing, and final (amended) guidelines will be adopted by the organization by May 23, 2013.

## **ARTICLE II - INCORPORATION OF STATE CEQA GUIDELINES**

The full text of the State Guidelines for the implementation of the California Environmental Quality Act (14 Cal. Admin. Code Section 15000 and following), as they may be amended from time to time, is incorporated by reference into this Article of the RCD Guidelines as if fully set out, and shall supersede any inconsistent provisions of these Guidelines.

## **ARTICLE III – PUBLIC PARTICIPATION**

The RCD shall take prudent action necessary to ensure that the environmental review process for all projects is open to public participation. Upon request, RCD staff will meet and confer with any person to discuss the status and progress of the environmental review process for any project. During the environmental review process any person may submit information, of an environmental nature which is germane to the project under review, for consideration by staff.

## **ARTICLE IV – INITIAL EVALUATION OF PROJECTS**

Any project undertaken or to be approved by the RCD which may be subject to CEQA shall first be reviewed by staff to determine whether:

- (a) It is not a project;
- (b) It is a project statutorily or categorically exempt from CEQA, or:
- (c) It is a project where it can be seen with certainty that there is no possibility that it may have a significant effect on the environment.

Statutory exemptions are defined in Article 18 of the State CEQA Guidelines. Categorical exemptions are those listed in Article 19 of the State CEQA Guidelines. General Rule Exemptions are defined in section 15061(b)(3) of the State CEQA Guidelines. If it is determined



the activity is exempt, RCD staff shall file a notice of exemption. A notice of exemption may be filed with the County Clerk by the RCD.

If it is determined the activity is not exempt, RCD staff shall request, and the applicant shall supply, data and information sufficient to conduct an Initial Study pursuant to the State CEQA Guidelines.

Based upon the Initial Study, the RCD shall take one of the following actions:

- (a) If there is no substantial evidence that a project, not otherwise exempt, may have a significant effect on the environment, or if revisions in a project have been made by or agreed to by the applicant to a point where clearly no significant effects on the environment would occur and there is no substantial evidence that the project as revised may have a significant effect on the environment, a proposed Negative Declaration shall be issued.
- (b) As an alternative to the procedure in (a) above, the RCD may forward to the Board of Directors a recommendation for issuance of a proposed Negative Declaration for a highly controversial project.
- (c) If the Initial Study indicates additional in-depth or more detailed information is necessary to clarify a project's potential environmental impacts the project may be referred back to the County of San Luis Obispo for processing, in accordance with County Municipal Code Requirements for Alternative Review Projects (County code section 22.52.080).
- (d) If the Initial Study reveals substantial evidence that any aspect of a project, either individually or cumulatively, may cause a significant effect on the environment, the project must be referred back to the County of San Luis Obispo for processing, in accordance with County Municipal Code Requirements for Alternative Review Projects (County code section 22.52.080).

Initial Study determinations as to whether a project may have a significant impact on the environment shall be based on substantial evidence in light of the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. The existence of public controversy over the environmental effects of a project shall not require preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the lead agency that the project may have a



significant effect on the environment. Initial Studies shall provide brief explanations of evidence supporting identified environmental impact levels.

## **ARTICLE V – NEGATIVE DECLARATIONS / MITIGATED NEGATIVE DECLARATIONS**

When a proposed Negative Declaration is to be prepared, the following procedures and those procedures which are mandatory in CEQA and Article 6 of the State CEQA Guidelines shall be followed.

- (a) A proposed Negative Declaration shall be prepared by RCD staff, or by a consultant under contract to the RCD.
- (b) Where the identification of mitigation measures enables an applicant to modify a project during the Initial Study to mitigate all potentially significant impacts, a Negative Declaration incorporating those mitigation measures into the project description shall be prepared.
- (c) All mitigation measures forming the basis of a finding of no significant impact must be accepted by the applicant and incorporated into the project description before a proposed Negative Declaration is prepared and issued.
- (d) No final action shall be taken on a project until expiration of the public review period.
- (e) Upon request, any person or agency shall be sent a copy of the proposed Environmental Determination. RCD staff may charge a fee which is reasonably related to the costs of providing this service, the amount of which will be set by the RCD Board of Directors.
- (f) Any person may submit comments, in writing, in response to a proposed Negative Declaration or Mitigated Negative Declaration. RCD staff shall respond to all written comments provided that:
  - i. The comments raise environmental issues, and;
  - ii. Sufficient time to prepare adequate responses and include them in the project staff report(s) is available prior to the scheduled public hearing or date of approval of the permit or project. When no public hearing is required for the project, staff's written responses shall be forwarded to the person submitting the comments, the applicant, and the project decision maker(s) as applicable.
- (g) If RCD staff determines that the facts or basis of written or oral comments raise important environmental issues which have not been appropriately addressed in the proposed Negative Declaration, staff shall do any or all of the following, as necessary:



- i. Identify feasible mitigation measures or project changes that would mitigate any new significant environmental impacts identified in the comments;
  - ii. Revise the proposed Negative Declaration to respond to the comments;
  - iii. Withdraw the proposed Negative Declaration;
  - iv. Refer the project back to the County of San Luis Obispo for processing per the requirements of County code section 22.52.080.
- (h) Prior to making a decision to carry out or approve a project for which a proposed Negative Declaration has been prepared, the decision maker(s) shall consider the proposed Negative Declaration together with any comments received during the public review process. The decision maker(s) shall approve the Negative Declaration if it is found, on the basis of the Initial Study and all comments received during the public comment period, that there is no substantial evidence that the project will have a significant effect on the environment.
- (i) RCD staff shall provide the decision-maker(s) with recommended findings pursuant to CEQA and the State CEQA Guidelines. Prior to approval of the project, the decision maker(s) shall adopt findings required by CEQA and the State CEQA Guidelines.

## **ARTICLE VI – EXPANDED INITIAL STUDIES / ENVIRONMENTAL IMPACT REPORTS**

Whenever RCD staff determines there is substantial evidence any aspect of a project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial, staff shall notify the project applicant and return the project back to the County of San Luis Obispo for processing. This may be done at any time in the process and does not conclude whether or not a significant impact exists, but rather, indicates that there is a high possibility that a substantial impact may exist and thus, may disqualify the project from ARP review.

## **ARTICLE VII – RIGHT TO APPEAL**

If the proposed project requires approval in a public hearing by the RCD Board of Directors, that decision shall be final and may not be appealed to any other board or body.

If the project does not require a public hearing, an applicant may appeal an environmental determination or decision to send the project back to the County for processing by filing an appeal within fifteen (15) days of the date of the Notice of Termination, using the form provided by the Executive Director in addition to any other supporting materials that the applicant may wish to furnish. If the applicant files an appeal, the Executive Director will prepare a report and schedule the matter for consideration before the RCD Board of Directors at its next available



meeting after completion of the report. At the hearing, the applicant may present information and testimony. The Board of Directors may affirm, affirm in part, or reverse the decision of the Executive Director.

If the Board of Directors affirms in part or reverses the decision of the Executive Director, such determination shall be binding on the Executive Director only to the extent the project description, environmental setting, and evidence in record remain consistent with that presented to the Board at the previous public hearing. If such description, setting, or evidence changes, the Executive Director shall exercise the discretion required by CEQA, the State CEQA Guidelines, and these Guidelines to reevaluate the project.

In the event new information becomes available, a decision by the Board of Directors to direct that a project be processed by the RCD or be processed with modified or eliminated mitigation measures shall not be binding on any subsequent decision maker(s). Such decision maker(s) shall exercise independent judgment as to the adequacy of any proposed Environmental Determination.

#### **ARTICLE VIII – NOTICING**

RCD staff shall post public notice of all proposed actions requiring such notice to be given as required by CEQA and the State CEQA Guidelines. After a decision to adopt a Negative Declaration for a project has been made, RCD staff may file a notice of determination on behalf of the lead agency pursuant to the State CEQA Guidelines.

#### **ARTICLE VIII – REQUEST FOR REVIEW**

A Request for Review is a process which affords the public the opportunity to focus additional scrutiny on proposed Negative Declarations. This process supplements the opportunities of the public to comment on proposed Negative Declarations that is afforded by CEQA, the State CEQA Guidelines, and these Guidelines.

- (a) Any person may file a Request for Review of a proposed Negative Declaration. Such requests must be in writing, stating the basis for the filing, and must be received by the RCD within 14 days of the posting of the announcement, specified in Article VIII above, of a proposed Negative Declaration. The RCD may charge a fee for the review, the amount of which shall be set by the RCD Board of Directors.
- (b) The absence of a Request for Review shall not preclude the RCD from considering oral or written comments received on a proposed Negative Declaration. The failure of any person to file a timely Request for Review shall not diminish the weight or significance of any comments that any person may make on a proposed Negative Declaration.





- (c) A Request for Review of a proposed Negative Declaration shall be heard and considered at the time of the Board meeting on the question of approval or denial of the project. The project staff report shall include a complete copy of the RCD's report responding to the issues raised in the Request for Review.
- (d) Where no public hearing to consider approval or denial of a project is normally scheduled, a Request for Review of a proposed Negative Declaration for such projects shall be forwarded to the Executive Director for consideration. The Executive Director shall schedule ~~and hold~~ a public hearing with the Board of Directors to consider the Request for Review, together with consideration of the approval or denial of the proposed project.
- (e) If a Request for Review of a proposed Negative Declaration is made pursuant to these Guidelines, the RCD shall forward a copy of the Request for Review to the project applicant.
- (f) In order to clarify a Request for Review, RCD staff may seek additional information and supporting evidence from the person filing the Request.
- (g) If RCD Staff determines that the facts or basis of a Request for Review raise important environmental issues which have not been appropriately addressed in the proposed Negative Declaration, the RCD shall do any or all of the following, as necessary:
  - i. Identify feasible mitigation measures or project changes that would mitigate any new significant environmental impacts identified in the Request for Review;
  - ii. Revise the proposed Negative Declaration to respond to the issues of the Request for Review;
  - iii. Withdraw the proposed Negative Declaration;
  - iv. Recommend the project be sent back to the County for processing based on the potential for the project to result in a significant environmental impact.
- (h) If RCD staff determines that the facts or basis of a Request for Review do not raise new important environmental issues, staff shall prepare a report that responds to the issues raised in the Request and presents the evidence supporting the proposed Negative Declaration. The report shall also include any other information staff deems necessary to fully inform the decision-maker(s) about the project, the project's potential environmental impacts, and any specific or unique aspects of CEQA or other statutes or regulations which will be of importance to the decision-maker(s).
- (i) No final action on any project for which a Request for Review of the proposed Negative Declaration has been filed shall be taken until the Request for Review has been heard and concluded.



- (j) If a Request for Review of a proposed Negative Declaration is received after the 14 day period has expired the Executive Director shall consider the Request for Review to be written comments, and shall respond as identified in these Guidelines

#### **ARTICLE IX – MITIGATION MONITORING**

The RCD or its designated consultants shall conduct mitigation monitoring and reporting pursuant to CEQA and the State CEQA Guidelines. Costs incurred by the RCD for mitigation monitoring shall be included in the fees required of the applicant, the amount of which shall be set by the RCD Board of Directors. Additional fees beyond the original amount shall be required if additional monitoring is determined to be necessary by the RCD.

#### **ARTICLE X - TIME LIMITS**

The RCD shall carry out its responsibilities for preparing and reviewing environmental documents as expeditiously as possible to avoid unnecessary delays in the processing of applications for permits and other instruments for use.

- (a) **Negative Declarations.** Negative Declarations must be completed and adopted within 180 days from the date the application was deemed complete for processing by the lead agency.
- (b) **Provisions for time extensions.** In the event that compelling circumstances justify additional time and the project applicant consents, a reasonable extension of the time periods specified in Sections 1 above may be applied by the RCD.
- (c) **Consultant contracts.** If a CEQA document is prepared under contract to the RCD, the contract shall be executed within 45 days from the date on which a notice of preparation is sent out by the RCD.

If the project has expired based on processing time limits established by the RCD Board of Directors the RCD reserves the right to initiate a new CEQA process for the project. This decision may apply in the following cases.

- (a) If the project description and/or scope has been modified, or
- (b) If new information has become available related to the environmental impacts of a proposed project.

#### **ARTICLE XI – SEVERABILITY**

If any portion of these Guidelines is held unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions.



## ARTICLE XIV – DEFINITIONS AND ACRONYMS

The following words and phrases, where not defined in the State CEQA Guidelines, shall have the meaning ascribed to them in these definitions. These definitions are intended to clarify the RCD process by supplementing definitions used in the State CEQA Guidelines:

"Act" or "CEQA" shall mean the California Environmental Quality Act, found in Public Resources Code Sections 21000 et seq..

"Applicant" shall mean the person, entity, or public agency that proposes a project.

"Board" shall refer to the Upper Salinas-Las Tablas Resource Conservation District Board of Directors.

"County" shall mean County of San Luis Obispo within the context of this document.

"Decision-maker(s)" shall mean any board, commission, hearing body, or individual responsible for taking action to approve, deny or modify a project.

"Environmental Impact Report" or "EIR" shall mean an Environmental Impact Report as defined in Article 20 of the State CEQA Guidelines, and unless otherwise specified, shall also mean an Addendum to an EIR, Supplement to an EIR, a Program EIR, Subsequent EIR, or Master EIR.

"Expanded Initial Study" shall mean an in-depth analysis of specific environmental issues, conducted by qualified and recognized experts in the field(s) of study, for the purpose of determining whether a proposed project qualifies for a Negative Declaration or should be subject to the preparation of an Environmental Impact Report.

The "next available Board of Director's meeting" shall be the first Board of Director's meeting which has available space on the agenda and which allows for sufficient time for RCD staff to analyze the issues, prepare the appropriate reports and exhibits, and publish and give the notices required by these Guidelines.

"Notice of Termination" shall mean any notice terminating the RCD's contractual agreement with the applicant or landowner to process a project through the Alternative Review Process.

"RCD" shall mean the Upper Salinas – Las Tablas Resource Conservation District in the context of this document.



"State CEQA Guidelines" shall mean California Code of Regulations, Title 14. Natural Resources, Section 15000 et seq..

The following acronyms are commonly used and shall be understood to have the following meaning:

CE: Categorical Exemption

CEQA: California Environmental Quality Act (Public Resources Code Section 21000 et seq.)

EIR: Environmental Impact Report

ExIS: Expanded Initial Study

GRE: General Rule Exemption

IS: Initial Study

ND: Negative Declaration

RCD: Resource Conservation District

US-LT: Upper Salinas – Las Tablas