



**ENVIRONMENTAL QUALITY ACT GUIDELINES**

Adopted August 15, 1995

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**ARTICLE 1**

PURPOSE and AUTHORITY

100.00

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).

101.00

These Guidelines are intended to facilitate County compliance with CEQA and standardize procedures for the evaluation of projects and the preparation of environmental documents when the County of San Luis Obispo is the Lead, Responsible, or Reviewing agency under CEQA.

102.00

These Guidelines are adopted by the Board of Supervisors of the County of San Luis Obispo pursuant to Section 21082 of the Public Resources Code. These Guidelines supplement the State CEQA Guidelines (California Code of Regulations, Title 14. Natural Resources, Sections 15000 et seq.). The State CEQA Guidelines, as they may be amended from time to time, including definitions and appendices, are incorporated by reference herein as though set forth in full. Where the State CEQA Guidelines are

more restrictive, the State Guidelines shall supersede any inconsistent provisions of these County Guidelines.

103.00

The County shall comply with all mandatory provisions of the State CEQA Guidelines applicable to local government agencies. Copies of the State CEQA Guidelines and these County Environmental Quality Act Guidelines shall be made available for inspection in the Department of Planning and Building during regular business hours.

## **ARTICLE 2**

### **PUBLIC PARTICIPATION**

200.00

The Environmental Coordinator shall take prudent action necessary to ensure that the County environmental review process for all projects is open to public participation.

201.00

Upon request, the Environmental Coordinator or designee will meet and confer with any person to discuss the status and progress of the environmental review process for any project.

202.00

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 the Environmental Coordinator.

## **ARTICLE 3**

### **INITIAL REVIEW**

300.00

Any project undertaken or to be approved by the County which may be subject to CEQA shall first be reviewed by the Environmental Coordinator 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 that the activity is exempt, the Environmental Coordinator shall prepare and forward to the originating department a statement identifying the proposed activity as exempt. A notice of exemption may be filed by the originating department with the County Clerk.

#### 301.00

Any applicant may waive the determination as to whether there is a potential significant effect on the environment and voluntarily agree to the preparation of an EIR. A written waiver shall accompany a request for preparation of an EIR without an environmental determination.

#### 302.00

If it is determined that the activity is not exempt and the applicant has not waived the right to an environmental determination, the Environmental Coordinator shall request, and the applicant shall supply, data and information sufficient to conduct an Initial Study pursuant to the State CEQA Guidelines. A fee shall be charged for the preparation of the Initial Study, the amount of which will be set by ordinance of the Board of Supervisors. Failure of the applicant to supply sufficient information or fees required is a ground for disapproval of the project.

#### 303.00

Based upon the Initial Study, the Environmental Coordinator 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 Environmental Coordinator may forward to the Board of Supervisors a recommendation for issuance of a proposed Negative Declaration for a highly controversial project. In such a case, the procedures specified in sections 601.00 and 602.00 shall be followed.
- (c) If the Initial Study indicates that additional in-depth or more detailed information is necessary to clarify a project's potential environmental impacts, or if additional analysis would, in the opinion of the Environmental Coordinator, result in the development of feasible mitigation measures for potentially significant impacts posed by the project, an Expanded Initial Study shall be prepared.
- (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, an Environmental Impact Report shall be prepared.

#### 304.00

When an applicant fails to provide the information required pursuant to the State CEQA Guidelines and these guidelines, the Environmental Coordinator may return the project to the originating department for processing without an environmental determination. Written notice of this action by the Environmental Coordinator shall be given to the applicant and any person who requested notice concerning the project.

## ARTICLE 4

### NEGATIVE DECLARATIONS

400.00

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.

401.00

A proposed Negative Declaration shall be prepared by the Environmental Coordinator, or by a consultant under contract to the County.

402.00

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.

403.00

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.

404.00

Upon completion of the proposed Negative Declaration, the document shall be forwarded to the originating department and the project shall be processed on the basis of the proposed Negative Declaration. No final action shall be taken on a project until expiration of the public review period.

405.00

Upon request, each member of the Board of Supervisors and any other person or agency shall be sent a copy of the proposed Negative Declaration. The Environmental

Coordinator may charge a fee which is reasonably related to the costs of providing this service, the amount of which will be set by ordinance of the Board of Supervisors.

406.00

Any person may submit comments, either orally or in writing, in response to a proposed Negative Declaration. All comments on a project which raise environmental issues shall be forwarded to the Environmental Coordinator for review and response. The Environmental Coordinator shall respond to all written comments provided that:

- (a) The comments raise environmental issues, and;
- (b) 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, the Environmental Coordinator's written responses shall be forwarded to the person submitting the comments, the applicant, and the project decision maker(s).

407.00

If the Environmental Coordinator 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, the Environmental Coordinator shall do any or all of the following, as necessary:

- (a) Identify feasible mitigation measures or project changes that would mitigate any new significant environmental impacts identified in the comments;
- (b) Revise the proposed Negative Declaration to respond to the comments;
- (c) Withdraw the proposed Negative Declaration;
- (d) Recommend the preparation of an EIR.

408.00

Prior to making a recommendation to the Board of Supervisors on a project for which a Negative Declaration has been prepared, an advisory body, including the Planning Commission or Subdivision Review Board, shall consider the proposed Negative Declaration, together with any comments received during the public comment period.

409.00

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.

## **ARTICLE 5**

### **EXPANDED INITIAL STUDIES**

500.00

Whenever the Environmental Coordinator determines that the preparation of an Expanded Initial Study is required, the Environmental Coordinator shall notify the project applicant and request that the applicant agree to processing of the Expanded Initial Study pursuant to these guidelines. If the applicant does not agree to process an Expanded Initial Study for the project, the Environmental Coordinator may recommend to the Board of Supervisors that an EIR be required. When an Expanded Initial Study is required, the procedures in this article shall be followed.

501.00

The Environmental Coordinator shall require, and the applicant shall provide, information sufficient to describe the project, the project's purpose and objectives, and the project location. Failure of the applicant to supply sufficient information to process the Expanded Initial Study may require the preparation of an Environmental Impact Report. In addition to information required from the applicant by the Environmental Coordinator, an applicant may submit additional information in any format to aid in the

preparation of the Expanded Initial Study. The Environmental Coordinator shall determine how and to what extent the applicant's information should be used. The Environmental Coordinator shall not endorse any information prepared by or under contract to the applicant without first conducting sufficient analysis to determine that the information is complete, accurate, and can be presented to the public without question as to any actual or perceived conflict of interest on the part of the preparer of the information.

#### 502.00

At the Environmental Coordinator's discretion, an Expanded Initial Study shall be prepared by an outside consultant under contract to the County or directly by the County. The applicant shall be liable for all consultant costs related to the preparation of the Expanded Initial Study.

#### 503.00

When the Expanded Initial Study is to be prepared by a consultant, an estimate for the cost of the preparation of the Expanded Initial Study will be secured by the Environmental Coordinator from consultants determined by the Environmental Coordinator to be qualified. Expanded Initial Study consultant contracts shall not be awarded to consultants that have any other involvement in the same project. The Environmental Coordinator shall be satisfied that any consultant preparing an Expanded Initial Study can provide an independent, objective and unbiased document.

#### 504.00

Costs estimated for the Environmental Coordinator's processing of the Expanded Initial Study shall be included in the fees required of the applicant, the amount of which shall be set by an Ordinance of the Board of Supervisors. Additional fees shall be required if additional information is determined to be necessary by the Environmental Coordinator.

#### 505.00

On all projects undertaken by the County for which an Expanded Initial Study is required, the Environmental Coordinator will determine who should prepare the

Expanded Initial Study, after conferring with the head of the County Department carrying out the project.

506.00

The Environmental Coordinator shall negotiate any contracts or purchase requisitions for the preparation of an Expanded Initial Study. Unless otherwise authorized by purchase requisition, all such contracts shall be approved by the Board of Supervisors.

507.00

Based upon the results of the Expanded Initial Study, the Environmental Coordinator shall take one of the following actions:

- (a) Prepare and issue a proposed Negative Declaration, or;
- (b) Recommend the preparation of an Environmental Impact Report.

## **ARTICLE 6**

### **ENVIRONMENTAL IMPACT REPORTS**

600.00

Whenever the Environmental Coordinator determines that there is substantial evidence that 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, the Environmental Coordinator shall notify the project applicant and request that the applicant agree to processing an EIR pursuant to these Guidelines. If the applicant does not agree to process an EIR for the project, the Environmental Coordinator shall recommend to the Board of Supervisors that an EIR be required.

601.00

To forward a recommendation for an EIR to the Board of Supervisors, the Environmental Coordinator shall place the matter on the next available Board of Supervisors' agenda. The Environmental Coordinator shall prepare and present to the Board of Supervisors a report that summarizes the Initial Study conducted for the project, identifies the scope of the recommended EIR, and presents the evidence supporting the proposed scope. The report shall also include any other information the

Environmental Coordinator deems necessary to fully inform the Board 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 Board's decision.

#### 602.00

Notice of the date of the Board of Supervisors' consideration of the Environmental Coordinator's recommendation shall be given to the applicant and to any person requesting notice concerning the specific project. Notice shall also be given in the manner required by CEQA and the State CEQA Guidelines.

#### 603.00

If the Board of Supervisors determines that the evidence in the record does not warrant the preparation of an EIR, the Board may:

- (a) Refer the project back to the Environmental Coordinator for the preparation of an Expanded Initial Study pursuant to these Guidelines;
- (b) Refer the project back to the Environmental Coordinator for the preparation of a Negative Declaration pursuant to these Guidelines; or
- (c) Find that the activity in question is not a project as defined in CEQA, and is therefore not subject to CEQA.
- (d) Determine that the project will have a minimal chance of approval and refer the project back to the originating department for processing without an environmental determination pursuant to the State CEQA Guidelines. Written notice of this decision by the Board of Supervisors shall be given to the applicant and the project shall be forwarded to the originating department for processing for denial.

#### 604.00

When the Board determines that a project may be processed with a Negative Declaration, such determination shall be binding on the Environmental Coordinator only to the extent that the project description, environmental setting, and evidence in the

record remain consistent with that presented to the Board at the previous public hearing. If such description, setting, or evidence changes, the Environmental Coordinator shall exercise the discretion required by CEQA, the State CEQA Guidelines, and these Guidelines to reevaluate the project.

#### 605.00

In the event new information becomes available, a decision by the Board of Supervisors to direct that a project be processed on the basis of a proposed Negative Declaration shall not be binding on any subsequent decision maker(s). Such decision maker(s) shall exercise independent judgement as to the adequacy of any proposed Negative Declaration.

#### 606.00

When an EIR is required, the procedures in this Article and those procedures which are mandatory in Article 7 of the State CEQA Guidelines shall be followed.

#### 607.00

The Environmental Coordinator shall require, and the applicant shall provide, information sufficient to describe the project, the project's purpose and objectives, and the project location. In addition to information required from the applicant by the Environmental Coordinator, an applicant may submit additional information in any format to aid in the preparation of the draft EIR. The Environmental Coordinator shall determine how and to what extent the applicant's information should be used. The Environmental Coordinator shall not endorse any information prepared by or under contract to the applicant without first conducting sufficient analysis to determine that the information is complete, accurate, and can be presented to the public without question as to any actual or perceived conflict of interest on the part of the preparer of the information.

#### 608.00

At the Environmental Coordinator's discretion, an EIR, EIR Addendum, Supplement or similar document shall be prepared by an outside consultant under contract to the

County or directly by the County. The applicant shall be liable for all consultant costs related to the preparation of the EIR.

609.00

An estimate for the cost of the preparation of the EIR will be secured by the Environmental Coordinator from consultants determined by the Environmental Coordinator to be qualified. EIR consultant contracts shall not be awarded to consultants that have any other involvement in the same project. The Environmental Coordinator shall be satisfied that any consultant preparing an EIR can provide an independent, objective and unbiased document.

610.00

Costs estimated for the Environmental Coordinator's processing of the EIR shall be included in the fees required of the applicant, the amount of which shall be set by ordinance of the Board of Supervisors. Additional fees shall be required if additional information is determined to be necessary by the Environmental Coordinator. Failure of the applicant to supply sufficient information to process the EIR or fees required are grounds for disapproval of the project.

611.00

On all projects undertaken by the County for which an EIR is required, the Environmental Coordinator will determine who should prepare the EIR, after conferring with the head of the County Department carrying out the project.

612.00

The Environmental Coordinator shall negotiate any contracts or purchase requisitions for the preparation of an EIR. Unless otherwise authorized by purchase requisition, all such contracts shall be approved by the Board of Supervisors.

613.00

The content of an EIR shall be governed by the requirements of the State CEQA Guidelines.

614.00

The final EIR shall be presented to the decision-maker(s) at a public hearing. Prior to final approval of the project, the decision-maker(s) shall certify that the final EIR has been completed in compliance with CEQA and the State CEQA Guidelines and that the decision-maker(s) have reviewed and considered the information contained in the final EIR prior to approval of the project.

615.00

The Environmental Coordinator 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 7**

### **NOTICING**

700.00

A weekly announcement, summarizing the official actions of the Environmental Coordinator, shall be posted in a conspicuous location in the Department of Planning and Building. A copy of the announcement shall also be placed as an informational item following the listings on the agenda of the Board of Supervisors. The announcement shall include a list of projects receiving proposed Negative Declarations, may disclose the receipt of appeals of proposed Negative Declarations, may announce the availability of draft and final EIRS, and may include any other information the Environmental Coordinator deems necessary and appropriate.

701.00

The Environmental Coordinator shall cause public notice of all proposed actions requiring such notice to be given as required by CEQA and the State CEQA Guidelines.

702.00

After a decision to adopt a Negative Declaration for a project has been made, the Environmental Coordinator may file a notice of determination on behalf of the lead agency pursuant to the State CEQA Guidelines.

703.00

After a decision to certify a final EIR has been made, the Environmental Coordinator may file a notice of determination with the County Clerk which shall contain the information required in State CEQA Guidelines.

## **ARTICLE 8**

### **REQUEST FOR REVIEW**

800.00

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.

801.00

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 Environmental Coordinator within 14 days of the posting of the announcement, specified in Section 700.00 above, of a proposed Negative Declaration. The Environmental Coordinator may charge a fee for the review, the amount of which shall be set by ordinance of the Board of Supervisors.

802.00

The absence of a Request for Review shall not preclude the County 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.

803.00

A Request for Review of a proposed Negative Declaration shall be heard and considered at the time of the public hearing on the question of approval or denial of the

project. The project staff report shall include a complete copy of the Environmental Coordinator's report responding to the issues raised in the Request for Review.

#### 804.00

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 Planning Director for consideration. The Planning Director shall schedule and hold a public hearing to consider the Request for Review, together with consideration of the approval or denial of the proposed project. The hearing process shall be consistent with the Minor Use Permit procedures as set forth in Section 22.02.033 of the San Luis Obispo County Land Use Ordinance.

#### 805.00

If a Request for Review of a proposed Negative Declaration is made pursuant to these Guidelines, the Environmental Coordinator shall notify the originating department and forward a copy of the Request for Review to the project applicant.

#### 806.00

In order to clarify a Request for Review, the Environmental Coordinator may seek additional information and supporting evidence from the person filing the Request.

#### 807.00

If the Environmental Coordinator 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 Environmental Coordinator shall do any or all of the following, as necessary:

- (a) Identify feasible mitigation measures or project changes that would mitigate any new significant environmental impacts identified in the Request for Review;
- (b) Revise the proposed Negative Declaration to respond to the issues of the Request for Review;
- (c) Withdraw the proposed Negative Declaration;

- (d) Recommend the preparation of an EIR.

808.00

If the Environmental Coordinator determines that the facts or basis of a Request for Review do not raise new important environmental issues, the Environmental Coordinator 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 the Environmental Coordinator 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).

809.00

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.

810.00

If a Request for Review of a proposed Negative Declaration is received after the 14 day period has expired the Environmental Coordinator shall consider the Request for Review to be written comments, and shall respond as identified in these Guidelines.

## **ARTICLE 9**

### **MITIGATION MONITORING**

900.00

The Environmental Coordinator shall conduct mitigation monitoring and reporting pursuant to CEQA and the State CEQA Guidelines.

901.00

Costs incurred by Environmental Coordinator for mitigation monitoring shall be included in the fees required of the applicant, the amount of which shall be set by ordinance of the Board of Supervisors. Additional fees beyond the original amount shall be required

if additional monitoring is determined to be necessary by the Environmental Coordinator.

## **ARTICLE 10**

### **INTERAGENCY REVIEW**

1000.00

From time to time, other agencies may send copies of proposed Negative Declarations or draft EIR's to the County for review and comment. Any agency or County Department subject to these Guidelines shall forward copies of such documents to the Environmental Coordinator immediately upon receipt. The Environmental Coordinator shall determine whether the County is a Responsible or Reviewing agency for the project in question, and shall coordinate the appropriate County response to the proposed Negative Declaration or draft EIR.

## **ARTICLE 11**

### **DEFINITIONS**

1100.00

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 County 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, public agency, or County department that proposes a project.

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

The "Environmental Coordinator" is the person designated by the Board of Supervisors to make environmental determinations and recommendations, manage the

environmental review process and review environmental documents submitted to the County by federal, state, or local agencies.

"Environmental Division" shall mean the branch of the San Luis Obispo County Department of Planning and Building directly responsible for the administration of the California Environmental Quality Act, under the direction of the Environmental Coordinator.

"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 Supervisors meeting" shall be the first Board of Supervisors meeting which has available space on the agenda and which allows for sufficient time for the Environmental Coordinator to analyze the issues, prepare the appropriate reports and exhibits, and publish and give the notices required by these Guidelines.

"Originating Department" shall mean the agency or County department which proposes to carry out the project, the agency or County department with the authority to process or grant permits for the project, or the agency or County department with the greatest responsibility for supervising the project as a whole.

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

1101.00

The following acronyms are commonly used in the jargon of the industry, and shall be understood to have the listed meanings:

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