



Board Policy No. 525

Environmental Evaluations of Transit District Projects

ADOPTED: 7/12/1989

RECENT AMENDMENT: 7/2015

SEE ALSO: ———110, 544

SUBJECT CATEGORY: SECTION 600, PLANNING AND SERVICE DEVELOPMENT

SUBSECTION: ENVIRONMENTAL REVIEW

CONTROL DEPARTMENT: GENERAL COUNSEL'S OFFICE

I. PURPOSE

The Board of Directors hereby adopts these procedures and guidelines for the environmental evaluation of projects which it may undertake. These procedures augment the California Environmental Quality Act (CEQA), Public Resources Code Sections 21000 et seq. and the Regulations of the California Natural Resources Agency Establishing Guidelines for Implementation of the California Environmental Quality Act (Division 6, Title 14, California Code of Regulations [CCR]). The objective of these procedures and guidelines is to provide the District with a means of orderly compliance with the requirements of CEQA, thereby furthering the protection of environmental quality in California.

The Board shall review and consider all final Environmental Impact Reports, Mitigated Negative Declarations, and Negative Declarations prior to approving any project not exempt from the requirements of the California Environmental Quality Act, and shall make such findings as are required by law (Public Resources Code Sections 21000 et seq.; 14 CCR, Sections 15000 et seq).

II. PERSONS AFFECTED

Capital Projects, Planning and Engineering

III. DEFINITIONS

“Statutory Exemptions” are projects that the California Legislature has provided a blanket exemption from CEQA procedures and policies.

~~IV.~~ “Categorical Exemptions” are projects that the Secretary of the Resources Agency for the State of California has determined do not have a significant impact on the environment and are therefore exempt from CEQA procedures and policies. Unlike Statutory Exemptions, Categorical Exemptions are not blanket exemptions and circumstances of the project may call for environmental review despite the presence of a categorical exemption.

V.IV. POLICY

A. Administrative Responsibilities

The General Manager, and staff designated by the General Manager, shall be responsible for ensuring District compliance with the requirements of CEQA and the Guidelines of the Natural Resources Agency, (referred to here as the state CEQA Guidelines, 14 CCR, Sections 15000 et seq.). They shall be responsible for the following functions, which are set forth in detail in the District CEQA Guidelines (Section IV of this Policy):

1. Identification of Projects Which are Exempt From CEQA, Including:

- a. A determination that there is no possibility that the project may have a significant effect on the environment.
- b. A determination that the project is exempt as a ministerial project, including, but not limited to certain projects undertaken in compliance with laws relating to persons with disabilities, and certain transfers of property initiated by voter petition (District CEQA Guidelines 3.1).
- c. A determination that the project is within one of the following classes, further detailed in the District Environmental Quality Handbook, and is therefore categorically exempt (District CEQA Guidelines 3.6)
 - i. Existing facility modification.
 - ii. Replacement or reconstruction of existing structures and facilities on the same site.
 - iii. New projects and equipment construction or conversion of small structures.
 - iv. Minor alterations to land.
 - v. Minor alterations in land use limitations.
 - vi. Information collection
 - vii. Actions by regulatory agencies for protection of natural resources.
 - viii. Actions by regulatory agencies for protection of the environment.
 - ix. Inspections.
 - x. Loans.
 - xi. Construction or placement of minor accessory structures.
 - xii. Surplus government property sales.
 - xiii. Acquisition of land for wildlife conservation purposes.
 - xiv. Minor additions to schools.
 - xv. Minor land divisions.
 - xvi. Transfer of ownership of land in order to create parks.
 - xvii. Open space contracts or easements.
 - xviii. Designation of wilderness areas.
 - xix. Annexation of existing facilities and lots for exempt facilities.
 - xx. Changes in organization of local agencies.
 - xxi. Enforcement actions by regulatory agencies.
 - xxii. Educational or training programs involving no physical changes.

- xxiii. Normal operations of facilities for public gatherings.
- xxiv. Regulations of working conditions.
- xxv. Transfers of ownership of interest in land to preserve existing natural conditions and historical resources.
- xxvi. Acquisition of housing for housing assistance programs.
- xxvii. Sale of surplus government property.
- xxviii. Leasing new facilities.
- xxix. Small hydroelectric projects at existing facilities.
- xxx. Cogeneration projects at existing facilities.
- xxxi. Minor actions to prevent, minimize, stabilize, mitigate or eliminate the release or threat of release of hazardous waste or hazardous substances.
- xxxii. release or threat of release of hazardous waste or hazardous substances.
- xxxiii. Historical Resource Restoration/Rehabilitation
- xxxiv. In-fill development projects.

2. Performance of Initial Studies

3. Preparation of Negative Declarations and Mitigated Negative Declarations

4. Preparation of Environmental Impact Reports

5. Consultation with Appropriate Agencies and Persons

6. Receiving, Evaluating and Responding to Public Comments on Environmental Documents

7. Filing All Necessary Documents and Notices

B. Implementation Procedures

These procedures are designed to be used with the Guidelines contained in Section IV of this Policy. All references in these procedures, unless otherwise noted, are to the Guidelines in Section IV.

1. Determination of District Responsibility for Compliance with CEQA:

- a. If a preliminary review indicates that CEQA applies to a proposed project, the General Manager or his or her designee shall determine whether the District should act as the Lead Agency or as a Responsible Agency (Guidelines 2.1, 2.2, ~~2.3~~). This preliminary review should take place early in the project planning process to allow for timely CEQA documentation and public noticing.
- b. If the District is to be the Lead Agency, these procedures and guidelines shall be followed. If the District is determined to be a Responsible Agency, it shall assist the Lead Agency as required by law (Guidelines 2.~~2~~3.)

- c. Unless the District is the Lead Agency, it is not responsible for the preparation of environmental documents under these procedures.
- d. In the case where an agreement with a private entity is contemplated, the Board may direct the General Manager to include in the terms of the agreement any conditions relating to the protection of environmental quality that the Board may deem appropriate.

2. Exemptions

- a. As part of the preliminary review, the General Manager or his or her designee shall determine whether the proposed project is exempt from CEQA (Guidelines 3.1-3.4).
- b. If the proposed activity is ministerial in nature (Guidelines 3.1), or is undertaken due to an emergency (Guidelines 3.2), or falls within a categorical or statutory exemption or there is no possibility that the activity in question may have a significant effect on the environment (Guidelines 3.4), the General Manager or his or her designee, upon approval of the project by the Board, shall file a Notice of Exemption (Guidelines 3.5; Form 1) with the Alameda and Contra Costa County clerks and the county clerk of any other county affected by the project.

3. Initial Study

- a. If a proposed project is determined to be subject to the requirements of CEQA, does not fall under any exemption, and the District is the sole participating agency or the Lead Agency (Guidelines 2.1, 2.2, 2.3), the General Manager or his or her designee shall conduct an initial study to determine whether the project may have a significant effect on the environment (Guidelines 4.1, 4.2, 4.3, 4.5; Form 2).
- b. If one or more other public agencies will be involved in undertaking or approving the project, the General Manager or his or her designee shall consult with these agencies prior to determining whether a negative declaration, mitigated negative declaration or an environmental impact report is required for the proposed project (14 CCR, Section 15086).
- c. If a proposed project is to be carried out by a private person or organization, the General Manager or his or her designee may require that person or organization to submit an Environmental Information Form to assist the General Manager or his or her designee in preparing the Initial Study (Guidelines 4.4; Form 2). Persons or organizations requested to submit an Environmental Information Form shall have no more than thirty (30) days to submit the information. The period of time may be shorter, but shall not exceed thirty (30) days.

- d. If an Environmental Information Form has been required, the General Manager or his or her designee shall complete the initial study within fifteen (15) days from receipt of a complete Environmental Information Form. The period of time may be extended if the General Manager or his or her designee determines that the potential impacts arising from the proposed project requires additional time to complete the Initial Study. The required time extension will be communicated in writing within 15 days from receipt of the complete Environmental Information Form.

4. Negative Declaration or Mitigated Negative Declaration

- a. If the initial study shows that a proposed project will have no significant effect on the environment, a determination to that effect is made. Then, the General Manager or his or her designee shall prepare a Negative Declaration to be circulated for public review prior to Board consideration of the project (Guidelines 5.1).
- b. If the initial study identifies potentially significant effects on the environment, a determination to that effect is made. The General Manager or his or her designee may recommend such modifications of the proposed project as are necessary to mitigate such effects. If the project is modified in such a way as to mitigate potentially significant effects on the environment to less than significant levels, the General Manager or his or her designee shall prepare a Mitigated Negative Declaration describing the potential effects and the proposed mitigation measures (Guidelines 5.1). (Note: hereafter in this Policy, references to negative declarations include mitigated negative declarations; i.e., the processes and procedures set forth hereafter are the same for both types of negative declarations, those with mitigation measures and those without.)
- c. Notice of the public hearing to consider adoption of a Negative Declaration shall be given in the manner prescribed in the Guidelines, at least ten (10) days prior to a hearing by the Board. The General Manager or his or her designee shall make copies of the Negative Declaration and supporting documents available to the public for review (Guidelines 5.3).
- d. At any duly noticed meeting, held more than thirty (30) days after the notice that the District intends to adopt a Negative Declaration is posted, the Board may conduct a hearing on the proposed Negative Declaration. Both oral and written comments on the Negative Declaration shall be considered at the hearing.
- e. At the conclusion of the hearing, or any continuance thereof, or at its next regular meeting, the Board may adopt the Negative Declaration or direct the General Manager or his or her designee to prepare an Environmental Impact Report.
- f. If the Negative Declaration is adopted and if the project is approved, the ~~District Secretary's Office~~ of the General Counsel shall file a Notice of Determination with the

County Clerk of the Counties of Alameda and Contra Costa and any other county with resources affected by the project (Guidelines 5.6, 5.7).

5. Environmental Impact Report

- a. If the General Manager or his or her designee or the Board determines that a project or activity, not otherwise exempted by law, will have a significant effect on the environment, the project or activity shall not be authorized or undertaken until an Environmental Impact Report has been prepared and certified by the Board.
- b. Immediately after deciding that an environmental impact report is required for the proposed project, the District shall send (by certified mail) a Notice of Preparation to the Office of Planning and Research, to each Responsible Trustee agency, if any, and to each federal agency involved in approving or funding the project (Guidelines 6.1; [Form 4](#)). This Notice will state that an environmental impact report will be prepared and include other project, site and regulatory information as required by the state CEQA Guidelines.
- c. Within ~~ninety~~ one hundred and twenty (120) days of completion of the Initial Study or determination of potential environmental impact, or as soon as practical for more complex projects, a Draft EIR shall be prepared by District staff, outside consultants or both. It shall be an objective and accurate analysis of the environmental consequences of the intended action and shall contain all of the data required by law (Guidelines 6.2.).
- d. Upon completion of the Draft EIR, District staff shall file a Notice of Completion with the Office of Planning and Research and shall prepare and circulate a Notice of Availability of a Draft EIR to the public, including all organizations and individuals who have previously requested such notice in writing, and Responsible, Trustee and other interested agencies as required by the state CEQA Guidelines (14 CCR, sections 15085-15087).
- e. The District shall consult with and request comments on the draft EIR from all Responsible Agencies, Trustee Agencies with resources affected by the project and any other state, federal, and local agencies which have jurisdiction by law over the project or other agencies as required by 14 CCR, Section 15086. Any comments elicited through this process shall be appended to the Draft EIR (Guidelines 6.4).
- f. A public hearing shall be conducted on the Draft EIR. Notice to the public of the completion of the Draft EIR shall be given as prescribed in these Guidelines, at least thirty (30) days before the hearing, and copies of the Draft EIR and supporting documents shall be made available to the public (Guidelines 6.6; [Form 5](#)).

- g. At the hearing, members of the public shall be afforded an opportunity to express their opinions concerning the contents or adequacy of the Draft EIR, either orally or in writing.
- h. The essence of statements regarding the Draft EIR shall be recorded in the minutes of the hearing and included in the Final EIR along with written comments on the Draft EIR received during the public comment period and responses to those comments as described in the Guidelines.
- i. The Final EIR shall be considered by the District before approving or approving with conditions, the project. The Board shall make a statement of findings where required by law to do so. (Guidelines 6.10.)
- j. If a project is approved which would result in significant and unavoidable effects on the environment identified in the EIR, a statement of overriding considerations must be adopted by the Board as part of the required CEQA Findings. (Guidelines 6.11.)
- k. Thereafter, a Notice of Determination shall be filed with the County Clerk of the Counties of Alameda and Contra Costa and the county clerk of any other county affected by the project. (Guidelines 6.12; Form 3).

~~VI.V.~~ VI.V. **AUTHORITY**

A. Board Authority

The Board has the authority to approve or deny any changes to Board Policies.

~~VII.VI.~~ VII.VI. **ATTACHMENTS**

Appendix A – Guidelines for Board Policy 525

[Appendix B – Forms for Board Policy 525](#)