

CHAPTER 7

ENVIRONMENTAL ANALYSIS PROCEDURES

OF THE

CONTRA COSTA TRANSPORTATION AUTHORITY

CONTRA COSTA TRANSPORTATION AUTHORITY

ADMINISTRATIVE CODE

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CHAPTER 7

CONTRA COSTA TRANSPORTATION AUTHORITY ENVIRONMENTAL ANALYSIS PROCEDURES

I. AUTHORITY, PURPOSE AND IMPLEMENTATION

A. AUTHORITY

These Environmental Analysis Procedures (hereinafter "Procedures") are adopted pursuant to the California Environmental Quality Act (hereinafter "CEQA"), (Gov. Code §21000 et seq.), and the State CEQA Guidelines (hereinafter "Guidelines"). The Guidelines are hereby incorporated by reference pursuant to Guidelines Section 15022(d).

B. PURPOSE

These procedures are meant to be used by the Authority in conjunction with CEQA and the Guidelines. The Guidelines are hereby incorporated by reference. These procedures are meant to serve as a guide for the administration of CEQA. Where a subject is adequately addressed in the Guidelines, it is not repeated here.

C. IMPLEMENTATION

The primary responsibility for implementing the provisions of CEQA, the Guidelines and the Procedures shall be with the Executive Director of the Authority. The Executive Director may delegate this responsibility but shall retain accountability to the Board of the Authority for proper and timely implementation.

The Executive Director shall prepare, or cause to be prepared, and maintain and update as necessary specific office procedures and forms consistent with and supplemental to these procedures for administering the Authority's responsibilities under CEQA and the Procedures in an orderly and expeditious manner. Such office procedures shall contain provisions for:

1. Determining the applicability of categorical exemptions;
2. Conducting initial studies;
3. Processing negative declarations;
4. Preparing environmental impact reports (EIRs);

5. Establishing time periods for staff to perform required functions under CEQA; and
6. Providing adequate comments on environmental documents which are submitted to the Authority for review.

II. DEFINITIONS

A. GENERAL

Definitions for Chapter 1 of the Code apply, unless the context indicates otherwise. In addition, whenever the following words are used in these Procedures, they shall have the meaning ascribed to them in this section. These definitions are intended to clarify, but not to supplant or negate, the definitions used in CEQA and the Guidelines.

B. DEFINITIONS

1. Decision Making Body - The body or individual who approves a project including, but not limited to, the Board or the Executive Director.
2. EIR - Environmental impact report, as further defined in Guidelines Section 15120.
3. Initial Study - Documentation describing the analysis performed by the Authority to determine whether a negative declaration or EIR must be prepared for a project.
4. Screen Check EIR - A preliminary draft of an EIR, the purpose of which is to allow review and evaluation of the contents by Authority staff prior to its submittal to responsible agencies and the public as a draft EIR.

III. EXEMPTIONS

A. MINISTERIAL PROJECTS

Ministerial approvals are exempt from the requirements of CEQA and these procedures. The Executive Director shall compile and maintain a list of ministerial approvals which are exempt from the requirements of CEQA and these procedures.

B. CATEGORICAL EXEMPTIONS

The Executive Director shall determine whether or not any project is categorically exempt in those instances when the Executive Director is the decision making body. In all other cases, the Board shall determine whether or not a project is categorically exempt. If the project is determined to be categorically exempt, this determination shall be noted in the project file, and a

written notice of the determination shall be posted in a conspicuous place, accessible to the general public, in the offices of the Authority. Projects listed as categorically exempt may still require environmental analysis if it is known that significant adverse impacts will occur or if the exceptions stated in Section 15300.2 of the Guidelines apply.

C. NO SIGNIFICANT EFFECT

If it can be seen with certainty that there is no possibility that an activity may have a significant effect on the environment, the activity is not subject to CEQA. The Authority shall not be required to prepare an Initial Study for such activities. After determining that the activity is exempt from CEQA, the Authority may prepare a Notice of Exemption, to be filed when the activity has been approved.

IV. INITIAL STUDY AND ENVIRONMENTAL ANALYSIS

A. ANALYSIS

After the Executive Director or the Board has determined a project is not categorically exempt, the Executive Director or his designee shall complete an initial study and thereafter the Executive Director or the Board, as appropriate, shall determine the appropriate environmental documentation to be prepared for the project. The determination shall be posted in a conspicuous place in the offices of the Authority.

B. A determination by the Executive Director of the level of environmental documentation necessary to comply with the requirements of CEQA and the Procedures shall be final unless such determination is appealed to the Board as provided in Section V herein. A determination by the Board of the level of environmental documentation necessary to comply with the requirements of CEQA and the Procedures shall be final.

V. APPEALS

A. APPEALS OF REQUIREMENT TO PREPARE AN EIR

1. Any interested person may initiate an appeal to the Board of a determination by the Executive Director that an EIR is required for a project. Such an appeal shall be filed with the Authority within two weeks from the date of the posting of the written determination that an EIR shall be required.
2. An appeal shall be considered filed on the date the Executive Director receives written notice of the appeal. The appellant shall specify in the appeal the reasons the Authority should be relieved of the requirement to prepare an EIR.

3. Each appeal filed within the time allotted shall be placed on the agenda of the Board by the Executive Director for consideration within two weeks of the termination of the appeal period or the next available Board meeting date.
4. Appeal of a determination that an EIR is required may be resolved without a Board determination by mutual agreement between the Executive Director and the person filing the appeal. Such an agreement shall terminate the appeal proceedings.
5. In deliberating the merits of an appeal of a requirement to prepare an EIR, the Board shall consider the initial study, the basis for requiring an EIR, and the written notice of appeal. The Board shall make a final determination as to whether there is substantial evidence that the project will have a significant effect on the environment and determine the appropriate environmental documentation to be prepared (Negative Declaration or EIR). The Board decision on an appeal shall in all cases be made within thirty (30) calendar days from the date of the Board's initial consideration of the appeal, or at the next available Board meeting date.

B. APPEALS OF NEGATIVE DECLARATION APPROVALS

1. Any interested person may initiate an appeal to the Board of a determination by the Executive Director that a negative declaration shall be prepared for a project. Such an appeal shall be filed with the Authority within two weeks from the date of posting of the written determination by the Executive Director to recommend that a Negative Declaration be approved.
2. An appeal shall be considered filed on the date the Executive Director receives written notice of the appeal. The appellant shall specify in the appeal the reason(s) why an environmental impact report should be prepared.
3. Each appeal filed within the time allotted shall be placed on the agenda of the Board by the Executive Director for consideration within two weeks of the termination of the appeal period or the next available Board meeting date.
4. Appeal of a negative declaration may be resolved without a Board determination by mutual agreement between the Executive Director and the person filing the appeal. Such an agreement shall terminate the appeal proceedings.

5. In proceedings deliberating the merits of an appeal of a decision to approve a negative declaration, the Board shall consider the initial study, the basis for preparing a negative declaration, and the written notice of appeal. The Board shall thereafter make a final determination of the appropriateness of any proposed mitigation measures and whether or not the project will have a significant effect on the environment. The Board shall then deny the appeal or require the preparation of the appropriate environmental documentation (a revised negative declaration or EIR). The Board's decision on an appeal shall in all cases be made within thirty (30) calendar days from the date of the Board's initial consideration of the appeal or at the next available Board meeting date.

C. APPEALS OF CATEGORICAL EXEMPTION DETERMINATIONS

1. Any interested person may initiate an appeal to the Board of a determination by the Executive Director that a project is categorically exempt pursuant to CEQA and the Procedures. Such an appeal shall be filed with the Authority within two weeks from the date of posting of the written determination by the Executive Director that a project is categorically exempt from CEQA.
2. An appeal shall be considered filed on the date the Executive Director receives written notice of the appeal. The appellant shall specify in the appeal the reason(s) when a project should not be determined to be categorically exempt from CEQA.
3. Each appeal filed within the time allotted shall be placed on the agenda of the Board by the Executive Director for consideration within two weeks of the termination of the appeal period or the next available Board meeting date.
4. Appeal of a determination that an Authority project is categorically exempt may be resolved without a Board determination by mutual agreement between the Executive Director and the person filing the appeal. Such an agreement shall terminate the appeal proceedings.
5. In deliberating the merits of an appeal of a determination that an Authority project is categorically exempt, the Board shall consider the written determination of the Executive Director, the written notice of appeal and the classification of projects entitled to a categorical exemption pursuant to Guidelines Section 15300 et seq. The Board shall thereafter make a final determination as to whether the project is categorically exempt. The Board shall then deny the appeal or require further environmental analysis pursuant to CEQA and the Procedures. The Board's decision on an appeal shall in all cases be made within thirty (30) calendar days from the date of

the Board's initial consideration of the appeal or at the next available Board meeting date.

VI. EIR PROCESS

A. PREPARATION OF THE EIR

Authority staff or any other persons designated by the Executive Director, including consultants hired by the Authority, shall prepare the EIR. Any person may submit information or comments to the Authority to assist in the preparation of the EIR. The submittal may be presented in any format, including the form of a Draft EIR. The Authority must consider all information or comments received. The information or comments may be included in the Draft EIR, in whole or in part.

B. SCREEN CHECK EIR

Pursuant to Guidelines Section 15084(e), all screen check EIRs for projects for which the Authority is the lead agency shall be reviewed by the Executive Director or his designee to determine the acceptability of the screen check EIR for formal distribution to the public as the Authority's Draft EIR for the project. The Executive Director shall be the final authority regarding the content, format and organization of all Draft EIRs.

C. DRAFT EIR REVIEW AND RESPONSE TO COMMENTS

Pursuant to Guidelines Section 15088(a) and 15202(a), the Executive Director or his designee shall respond to written comments which raise significant environmental issues received during the noticed comment period and any extension thereof.

D. EIR APPROVAL AND CERTIFICATION

1. All EIRs prepared for projects for which the Authority is the lead agency shall be reviewed as to compliance with CEQA and these Procedures by the Executive Director, and approved and certified by the Board prior to project approval.
2. When approving and certifying an EIR, the Board shall state in its findings all discretionary actions for which the EIR will be used.

E. PROJECT APPROVAL

Pursuant to Guidelines Section 15043 and 15093, where an EIR has been prepared, the Board shall balance the public benefits of a proposed project against any unavoidable adverse environmental impacts in deciding whether to approve or disapprove a project.

When the Executive Director recommends approval of a project which will have unavoidable significant adverse environmental effects, the Executive Director shall transmit to the Board information regarding the infeasibility of project alternatives or mitigation measures and the benefits of the proposed project which outweigh the unavoidable adverse impacts. Such information may be contained in the EIR, in a separate report or in a draft resolution for consideration by the Board.

F. NOTICE OF DETERMINATION

After a project has been approved for which a negative declaration or EIR has been prepared, the Executive Director or his designee shall file a Notice of Determination with the County Clerk and, when appropriate, the State Office of Planning and Research pursuant to Guidelines Sections 15075 and 15094. The Notice of Determination shall be filed within two business days after the project receives final approval.

G. DISPOSITION OF FINAL EIRs

The Authority shall file a copy of the Final EIR with the appropriate planning agency of any city where significant effects on the environment may occur. The Authority shall include the Final EIR as part of the regular project report which is used in the existing project review and budgetary process, if such a report is used. The Authority shall retain one or more copies of the Final EIR as public records for a reasonable period of time, and shall provide a copy of the certified Final EIR to each responsible agency.

VII. PROGRAM EIR

When a project is proposed which may be covered by a previously approved and certified EIR, the Executive Director or the Board, as appropriate, shall determine whether or not the EIR is adequate to serve as an EIR for the proposed project. If it is determined that a previously approved and certified EIR is adequate for the proposed project, this determination shall be noted in the project file and all required public notices on the project.

In order for the Executive Director or the Board to make a determination that a previously approved and certified EIR is adequate to serve as a program EIR for a proposed project, the Executive Director may conduct or cause to be conducted an initial study. Such an initial study shall only be made when necessary, i.e., when a project has been revised from that previously reviewed, when it is not readily apparent that the EIR adequately addresses the impacts of the proposed project or if new information has been ascertained which may affect the adequacy of the EIR for the proposed project.

VIII. NEPA COMPLIANCE

When a project lead agency is a federal agency required to comply with the provisions of the National Environmental Protection Act ("NEPA"), the Authority will cooperate with the lead agency regarding NEPA compliance matters.