

Procedures for Compliance with the California Environmental Quality Act on CAL FIRE Projects



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This document is intended to provide general guidance to CAL FIRE personnel in the steps necessary in complying with CEQA for projects that CAL FIRE carries out, permits, funds, approves, or otherwise facilitates. More specific detail may be found in the CEQA Act and Guidelines. An on-line version of the current Act and Guidelines, blank templates and completed examples of Department CEQA documents, and additional resources are available on CAL FIRE's Intranet web site at:

<http://cdfweb/ResourceManagement/EnvironmentalProtection/ep.shtml>

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GENERAL RESPONSIBILITY FOR CEQA COMPLIANCE ON PROJECTS

Introduction

This document provides general guidance to CAL FIRE personnel in determining the Department's responsibility for compliance with the California Environmental Quality Act (CEQA) and the levels of environmental documentation necessary for project approval and implementation. It is intended for use with the CEQA Compliance Flow Chart included on page 11. This document only provides general guidance. Its intent is to demonstrate the common basis for CAL FIRE's CEQA compliance responsibilities and procedures under many diverse programs and highlights ways to integrate CEQA compliance between programs. More detailed guidance may be found within the respective program areas and by referring to the CEQA Statutes and Guidelines (PRC §§21000-21178; CCR Title 14 §§15000-153870) <http://www.califaep.org/resources/Documents/FINAL%20CEQA%20Handbook%20HighQuality.pdf>

Does the project receive CAL FIRE funding, support, or approval?

The California Environmental Quality Act (CEQA) requires **public agencies**¹ to consider their actions on **projects**² that may directly or indirectly result in a physical change in the environment. Projects include activities: undertaken directly by the public agency, or; activities permitted, funded, facilitated or otherwise assisted by a public agency. Examples of CAL FIRE projects include:

- Projects undertaken directly by CAL FIRE - construction, repairs, replacement, acquisition, in field training;
- Projects at State Forests - research, road maintenance, thinning, demonstration, chemical use;
- Projects by other entities requiring CAL FIRE approval - cell tower site leases, property easements;
- Projects that receive CAL FIRE funding – grants, CFIP, VMP, Urban Forestry;
- Projects that receive State funding passed through CAL FIRE – grants to local government and non-profits;
- Projects that receive federal funding passed through CAL FIRE – grants to local government or non-profits;;
- Projects that CAL FIRE facilitates - VMP, CAL FIRE equipment or crew assistance;
- Projects that receive formal CAL FIRE approval - Timberland Conversion Permits, PTEIRs (subject to full CEQA);
- Projects that receive formal CAL FIRE approval - Timber Harvesting Plans (subject to Forest Practice Rules and functional equivalency);
- Program or plan approvals by CAL FIRE – VMP-EIR, CFIP-EIR; management plans.

Examples of activities where CAL FIRE has no CEQA responsibility include:

- Activities undertaken by Fire Safe Councils/CRMPs/local government that do not involve CAL FIRE funds, approval or assistance;
- Activities funded directly by the Federal Government without CAL FIRE involvement;
- Activities approved, facilitated and/or funded exclusively by other state/local agencies;
- Activities carried out by private parties without any public agency approvals/funding/assistance.

Identify the Lead Agency

CEQA requires that a **lead agency**³ be identified for all projects. The lead agency is typically the public agency that has the principal responsibility for carrying out or approving the project and consequently has the primary responsibility for CEQA compliance. Other agencies that have a lesser, or secondary, project involvement may be identified as **responsible** or **trustee**⁴ agencies. Where no other public agency is involved and CAL FIRE funds, facilitates or approves the activity in any way, CAL FIRE becomes the lead agency by default.

CAL FIRE is clearly the lead agency when it is the only public agency involved with the project. CAL FIRE is also lead agency when its approval of a permit must occur prior to any other agency's approval. However, it becomes

¹ CEQA Guidelines Definitions CCR §15379

² CEQA Guidelines Definitions CCR §15378

³ CEQA Guidelines Definitions CCR §15367

⁴ CEQA Guidelines Definitions CCR §§15381 and 15386

less clear whether CAL FIRE falls into the lead or responsible agency role when more than one agency is involved, when CAL FIRE only provides funding, or where CAL FIRE equipment or personnel lend assistance. Examples of projects where CAL FIRE may be a responsible agency include:

- Local government is funding the project and CAL FIRE crews or equipment assist or standby;
- State Parks, or other public agency, proposes a prescribed burn under VMP and CAL FIRE is a partner;
- Timberland conversions where local government approval of rezoning or use permits are required.

CAL FIRE as the Lead Agency

Where CAL FIRE is the lead agency it is responsible for primary CEQA compliance. CAL FIRE must determine the level of environmental documentation required, file appropriate CEQA documents at the State Clearinghouse, consult with responsible and trustee agencies, identify and mitigate project impacts, and make appropriate findings.

Is the project exempt from CEQA?

The first responsibility of a lead agency is to determine whether the proposed project is subject to CEQA. Certain activities that CAL FIRE supports may not require further CEQA analysis because: it is not a project as defined by CEQA; there is a statutory exemption that covers the activity, or; the project fits one or more categorical exemptions. Examples of “non-projects” or exempt projects include:

Non-Projects

- Activities that could not impact the environment (guidelines and plans without implementation, educational materials, public presentations, training);
- Minor building/facility renovations, repairs (interiors of historic buildings), maintenance;
- Routine ongoing facility operations.

General Rule Exemption⁵

A project is exempt from CEQA if the activity is covered by the “general rule” that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that an activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Statutory Exemptions⁶

- Ministerial actions⁷ (issuing burning permits, conducting inspections, accepting FPR exemptions);
- Emergency response or emergency repair⁸ - fire control, repairs to prevent immediate injury or damage, action or repairs necessary as a result of a Governor declared emergency (i.e. flood damage repair, dead tree removal in southern California under Governor's Executive order).

Categorical Exemptions⁹

Several classes of activities are **generally** considered to be exempt from the requirement to conduct further environmental analysis; however, where the potential exists for environmental impacts due to location, scenic highways, hazardous materials sites, unusual circumstances, or cumulative effects, the exemptions do not apply¹⁰. To check for possible exceptions and confirm that a project does indeed fit within one or more classes of categorical

⁵ CEQA Guidelines CCR§15061(b)(3)

⁶ CEQA Guidelines CCR§15260

⁷ CEQA Guidelines CCR §15268 and 15369

⁸ CEQA Guidelines CCR §15269

⁹ CEQA Guidelines CCR §15300

¹⁰ CEQA Guidelines CCR §15300.2

exemption, CAL FIRE requires the completion of the Environmental Review Report Form (ERRF) that is available on the Department Environmental Protection Web Site at:

http://cdfweb/ResourceManagement/EnvironmentalProtection/documents/ERRF_EnvironmentalReviewReportForm.doc

The environmental review in the ERRF supporting a Notice of Exemption should include a level of analysis that ensures that there will not be an impact to sensitive resources as a result of the action.

The following classes of categorically exempt activities are routinely carried out by CAL FIRE:

- 1 - Existing Facilities – routine maintenance and ongoing operations at CAL FIRE facilities, maintenance or re-establishment of existing fuel breaks, building additions, minor demolitions, grading of roads;
- 2 - Replacement or Reconstruction – utility repairs/improvements, replacement of existing structures;
- 3 - New Construction or Conversion – small buildings and facilities, new fuel breaks, minor roads (not requiring other permits);
- 4 - Minor Alterations to Land – minor grading, trenching, minor vegetation removal, shaded fuel breaks, brush clearing around structures (30 to 100 ft);
- 6 - Information Collection – State Forest research, environmental studies prior to land acquisition (test wells/perk tests), land surveys;
- 7 or 8 - Actions to protect the environment or natural resources – fuels treatments; .
- 9 - Inspections – fire safe inspections pursuant to PRC §4290;
- 17 - Open Space Contracts or Easements – establishing conservation easements;
- 31 - Historic Resource Restoration/Rehabilitation – restoration work carried out according to prescribed standards.

File Notice of Exemption

Once CAL FIRE has determined that the proposed project is exempt (statutory or categorical) a Notice of Exemption (NOE)¹¹ shall be prepared and submitted to Sacramento – Environmental Protection for approval and filing at the State Clearinghouse. Although CEQA¹² does not require a Lead Agency to file a Notice of Exemption (NOE) for projects it has found to be exempt, it is CAL FIRE's policy to file an NOE for all its exempt projects. The Department insists on this practice for three reasons: 1). Only the Deputy Director for Resource Management (or his/her designee) has the authority to approve CEQA documents, which includes determining that projects are exempt; 2). In responding to a concern raised by the public, the Department can demonstrate that it has considered the potential impact to the environment prior to approving the project by producing a copy of the filed NOE; and, 3). The statute of limitations period¹³ (the period of time in which the Department's decision can be challenged) is reduced from 180 to 35 days.

Does the project “fit” one or more existing CAL FIRE Programs?

If the project is not exempt, CAL FIRE, as lead agency, must evaluate the project for its potential to cause significant effects. Prior to commencing an Initial Study the project should be evaluated to determine whether the activities proposed are already covered under another CEQA document prepared by CAL FIRE or another agency. Such programmatic CEQA documents prepared by CAL FIRE currently include the:

- Vegetation Management Program (Chaparral Management Program Environmental Impact Report) – VMP covers CEQA compliance for fuels treatment projects in various vegetation types through the use of a program checklist;
- California Forest Improvement Program (CFIP) – CFIP checklist completes CEQA compliance for various forest improvement treatments including thinning, tree planting, habitat improvement, etc.; or
- A Program Timberland Environmental Impact Report (PTEIR) – a PTEIR may have been developed locally for fuels management and timber harvesting purposes and requires the submittal of a Program Timber Harvesting Plan (PTHP) in lieu of a THP. Currently available in Meadow Vista (Placer County) and around Weaverville (Trinity County).

¹¹ CEQA Guidelines Appendix E - form available for downloading at:
http://cdfweb/ResourceManagement/EnvironmentalProtection/documents/NOE_NoticeOfExemption.doc

¹² CEQA Guidelines CCR §15062(a)

¹³ CEQA Guidelines CCR §15112(c)(2)

Complete Program Checklist

Each Program EIR contains a program checklist that identifies whether a proposed site specific project is within the scope of the analysis of the programmatic EIR, identifies potentially significant impacts of the project and corresponding program mitigation measures.

Does Program Checklist cover all project activities?

One or more of the programmatic documents may cover completely, or in part, the activities proposed. Following completion of the respective program checklist the proposed project may be found to be entirely within the scope of the analysis in the program EIR and no further CEQA compliance would be necessary. If not, CAL FIRE would be required to complete additional environmental analysis for those project activities not covered programmatically. Examples of projects requiring additional CEQA analysis include:

- VMP projects within State Parks;
- Understory burning in timberland;
- Projects outside, but adjacent to, the 4000 acres included in the Weaverville PTEIR.

Prepare Initial Study/CEQA Checklist and Negative Declaration or Mitigated Negative Declaration

Projects which are not exempt and not covered programmatically, or are only covered in part, require the completion of a CEQA Environmental Checklist. The intent of the CEQA checklist is to identify potentially significant project effects and determine whether those effects can be lessened through additional mitigation or whether significant effects remain following mitigation, thereby triggering the need for an EIR. All significance calls for pertinent items on the checklist must be supported by references, studies, expert opinion, field surveys, etc. Following the completion of additional analysis covering those specific activities CAL FIRE would prepare a negative declaration or mitigated negative declaration focusing on those issues and submit it to Sacramento-Environmental Protection for approval and filing at the State Clearinghouse for the prescribed 30 day public comment period. As lead agency CAL FIRE is required to consult with responsible or trustee agencies prior to project development and/or during the comment period. Following completion of the comment period CAL FIRE must consider comments¹⁴ received; determine the need to re-circulate¹⁵ the negative declaration; adopt the negative declaration¹⁶; and, file a Notice of Determination¹⁷ at the State Clearinghouse.

CAL FIRE has developed blank templates and completed examples of Initial Study/Negative Declaration, Initial Study/Mitigated Negative Declaration, and Notice of Determination CEQA documents. These are available on the Environmental Protection Web Site at: <http://cdfweb/ResourceManagement/EnvironmentalProtection/epCEQA.shtml>

CAL FIRE as the Responsible Agency

A **responsible agency** is defined in CEQA¹⁸ to include all public agencies, other than the lead agency, which have discretionary approval power over all or portions of a project. For example, if CAL FIRE is lead agency for a proposed project involving the alterations of a stream (such as replacing a culvert) a permit may be needed from the California Department of Fish and Game (CDFG)¹⁹ before this portion of the project may begin. CDFG would then become a responsible agency and must be formally consulted by CAL FIRE during the development of an EIR or Negative Declaration. This consultation would provide CDFG with the opportunity to ensure that CAL FIRE's CEQA document adequately addresses CDFG's discretionary action of issuing a permit authorizing culvert replacement. In this instance, CAL FIRE as lead agency would recruit the participation of CDFG and any other responsible or

¹⁴ CEQA Guidelines CCR §15074(b)

¹⁵ CEQA Guidelines CCR §15073.5

¹⁶ CEQA Guidelines CCR §15074

¹⁷ CEQA Guidelines CCR §15075

¹⁸ CEQA Guidelines CCR §15381

¹⁹ Fish and Game Code §1602

participating agencies in the development of a single CEQA document which discloses the entire project, including the involvement of other public agencies. Through this process only one CEQA document would be prepared disclosing and evaluating the environmental consequences of the entire set of actions involved in a project.

As a responsible agency CAL FIRE's role differs from its role as lead agency. While the lead agency is responsible for preparing the appropriate CEQA document, CAL FIRE as a responsible agency must consult with the lead agency, comment on the lead agency's CEQA document, identify potential project impacts within CAL FIRE's areas of expertise, suggest feasible mitigation, and consider the lead agency's final CEQA document prior to reaching a decision to proceed with or approve the project²⁰.

Lead agency CEQA Process

CAL FIRE typically serves as lead agency for most Department activities which do not involve participation by any other public agency. When another public agency is actively involved the Department often encourages or requires that public agency to serve as lead agency for CEQA compliance so as to not overwhelm the Department's limited staff with workload that could be accomplished by another public agency that is actively participating in the project. CAL FIRE then becomes a responsible agency if it has discretionary approval authority over a portion of the project (such as use of CAL FIRE's inmate crews).

The lead agency is in the "driver's seat" for projects where CAL FIRE is in the responsible agency role. They are responsible for preparing a CEQA document (exemption, negative declaration, EIR), consulting with responsible agencies, developing mitigation, and ensuring that all project impacts will be mitigated. With CAL FIRE's suggestion, they may choose to utilize one or more of CAL FIRE's programmatic documents to cover various project activities and CAL FIRE may offer its expertise in completing all, or parts of the program checklist.

Does the CEQA document prepared by the lead agency adequately cover CAL FIRE's activities?

CAL FIRE and the lead agency may not always agree on the appropriate level of CEQA documentation on a project. CAL FIRE may discuss its point of view with the lead agency but ultimately it is the lead agency's responsibility to make that determination. As a responsible agency CAL FIRE cannot act until the lead agency has filed, adopted or certified its CEQA document. Following lead agency action CAL FIRE may then determine whether the document covers the potential impacts that may arise from CAL FIRE's role in the project. While CAL FIRE's role may be limited in many projects (i.e., engines standing by) the environmental consequences, if something were to go awry could be tremendous. However, legally, CAL FIRE's options are limited if it is not satisfied with the lead agency's CEQA document²¹.

Conduct analysis necessary to avoid impacts from CAL FIRE activities.

Rather than confronting the lead agency it is generally preferable for CAL FIRE to determine where the lead agency's documentation or mitigation is lacking and develop its own protection measures to be employed while CAL FIRE is involved in the project. CAL FIRE may rely on the CEQA checklist, program checklists, or other internal processes to ensure that CAL FIRE actions are not having significant effects that the lead agency failed to address. While there are no formal procedures to follow as a responsible agency to disclose the additional steps that were undertaken it is worthwhile to maintain a record of those activities for future reference.

When CAL FIRE serves as responsible agency it usually has the opportunity to help shape the scope of the environmental review and the content of the environmental document prepared by the lead agency when that document is an EIR or Negative Declaration. CAL FIRE might or might not be informally consulted early in the process but the lead agency is always required to provide copies of the draft EIR or Negative Declaration to other participating state agencies through its distribution by the State Clearinghouse²². This process ensures that CAL FIRE has the opportunity to review the draft CEQA document prepared by the lead agency and submit comments to (1) ensure the document adequately addresses CAL FIRE's participation in the project, and (2) includes sufficient environmental analysis and documentation. Should the lead agency refuse to incorporate CAL FIRE's wishes in

²⁰ CEQA Guidelines CCR §15096

²¹ CEQA Guidelines §15096(e)

²² CEQA Guidelines §15073(d-e), §15086

making changes to the CEQA document the Department may elect to not participate by withholding approval or not carrying-out its discretionary actions.

In those instances where the lead agency finds the project to be exempt (general, statutory or categorical exemption) and files a Notice of Exemption, CAL FIRE, as a responsible agency, should evaluate the adequacy of the lead agency’s CEQA document and supporting studies, and possibly supplement any environmental review actions or documentation which may be required to meet Department standards to make sure no exceptions apply and no environmental impact will result. This supplemental review should be documented on the CAL FIRE Environmental Review Report Form and kept in the Department’s CEQA record.

Q and A on CEQA and CAL FIRE Projects

The following is a compilation of common questions and answers that have developed in regard to implementing CAL FIRE projects.

Question: When is a project no longer eligible for a Categorical Exemption?

Answer: The decision by a lead agency to find a project Categorically Exempt must be based on the fact that the project will not have a significant effect. The CEQA Guidelines (§15300) provide 33 Categorical Exemption classes that are presumed to not cause significant impacts. Where a project fits one or more of the exemption classes a Categorical Exemption may be appropriate. However, the Guidelines (§15300.2) also provide some exceptions to the use of a Categorical Exemption. In general it says that if a project will cause a significant effect due to the project location or unusual circumstances, the presence of historical resources or hazardous wastes, or result in damage to a scenic resource or lead to cumulative effects then a Categorical Exemption is not applicable. Completion of the Department’s Environmental Review Report Form will provide guidance on the appropriate scope and content of environmental review required.

The following table describes how a fuel break project could be found to be either exempt or not exempt based upon changes to the treatment or project description:

Potential Impact to:	Non-Exempt Activity	Exempt Activity
Water Quality	Using dozers to pile brush	Hand piling near watercourses
Archaeology	Using a masticator	Survey to identify and avoid sites
Aesthetics	Fuelbreak along a scenic highway	Shaded fuelbreak instead
Air Quality	Piling and burning	Chipping
Cumulative Effects	50 mile fuel break	5 miles per year over 10 years
Noise	Heavy equipment use near homes	Operations limited to weekdays, 8-5

Note: This is an example of the tradeoffs only. It doesn’t mean that any project where piling and burning is involved is always not exempt.

Questions: Can CAL FIRE provide mitigation for a project to reduce its impacts and meet the requirements for a Categorical Exemption?

Answer: If the project requires mitigation measures to eliminate, lessen or compensate for significant effects then a negative declaration should be prepared. However, if the measures change the project description in some way to avoid the potential impact altogether then a Categorical Exemption is appropriate. For example, if a project may lead to soil disturbance within the riparian zone of a watercourse and the mitigation is to install silt fencing to prevent water quality impacts, then a negative declaration should be prepared. However, if the watercourse was eliminated from the project area altogether through the establishment of sufficient buffers and/or redrawing the project boundary then the Categorical Exemption would be appropriate. How the project area and treatments are described is important in determining what level of CEQA review and analysis will be required. The best methodology is to identify the potential impacts and redesign the project for avoidance.

Question: Exemption Class 4, (§15004(h) (Minor Alterations to Land) restricts fuel management activities to within 30 to 100 feet of structures. How can CAL FIRE use this exemption for fuel breaks and other fuels treatments that are outside of that zone?

Answer: The description of the types of activities covered by this exemption class is for guidance purposes only. In fact the language says, "Examples include but are not limited to"; they are not always strict limitations. As long as the project fits the general restrictions of the category the exemption may still be appropriate. The restrictions found under §15004(h) were designed to match the clearance regulations of PRC §4290 making it clear that those activities were exempt. However, it is not meant to restrict similar treatments elsewhere. As long as the clearing of vegetation for fuels management purposes is accomplished without impacts to resources then the exemption is applicable. In fact, the other examples found within the class description provide further clarification of the breadth of activities that are covered, including land grading, trenching, landscaping, dredging, etc.

Question: When is/is not CAL FIRE the lead agency for a project?

Answer: CAL FIRE may be lead agency when it carries out, permits, funds or facilitates a project. Where the project proponent is a private party, non-public agency, or other entity not included in CEQA's definition of public agency²³, CAL FIRE is lead if its involvement includes one of those activities. Where the project proponent is another public agency (non-federal) they are lead. For grant funded projects, if the project proponent is a public agency, typically they would serve as lead agency and be responsible for CEQA compliance despite CAL FIRE funding, because the decision to apply for the grant and carry out the project was a discretionary decision by that agency that occurred prior to CAL FIRE's decision to fund the project.

Question: When doing the California Natural Diversity Data Base (CNDDDB) search, do CAL FIRE responsibilities include only state and federally listed species, or should we run the report for all occurrences of species such as the California Native Plant Society and others?

Answer: CEQA Checklist question #IV(a) only asks for state and federally listed species. However, #IV(b) is more general and mentions other sensitive species. The Mandatory Findings question #XVII is even broader and includes impacts to any wildlife species. CEQA is more inclusive than either the ESA or CESA and expects potential impacts to any species be considered by a lead agency. Generally we look at any list including the CNPS. Remember, impacts to a CNPS listed species may not be illegal but it may be an effect that should be evaluated under CEQA.

Question: What is CAL FIRE's responsibility to consult with other agencies?

Answer: Lead agencies are required to consult with responsible or trustee agencies when preparing negative declarations and EIRs. This consultation occurs automatically when environmental documents are circulated through the State Clearinghouse. This formal consultation meets the minimum requirement; however, it often is not the most productive due to other agencies raising potentially significant impacts that may derail a project late in the process. It is far more productive to initiate early or informal consultation where a project *may* cause impacts that are germane to another agency's responsibilities and incorporate suggested mitigation or avoidance measures into the project as early as possible and prior to circulation of the document for agency and public review and comment.

It is CAL FIRE's responsibility as lead agency to identify the various resources that *may* be impacted by a project and to solicit professional input in quantifying the impact and developing appropriate mitigation. CAL FIRE cannot pass that responsibility to another agency. CAL FIRE's initial efforts to identify potential impacts might include:

- Reviewing the Project Description for project size/extent, magnitude, treatment type, equipment use, etc., for impact potential;
- Reviewing the Environmental Setting and identifying sensitive areas (wetlands/riparian, old growth, wildlife trees, view sheds);
- Conducting database searches (NDDB, Information Centers, General and Fire Plans, THPs, past VMPs, etc.);
- Contacting CAL FIRE specialists (Foresters, Unit Environmental and VMP Coordinators, Archaeologists, Hydrologists, Soils Specialists, Pest Managers);

²³ CEQA Guidelines §15379

- Visiting the project site and conducting basic field review and/or survey;
- Talking with the landowner, neighbors, Native Americans, professionals familiar with the site, resource or treatment;
- Informal discussions with responsible agency professionals.

Once CAL FIRE is aware that a project *may* have an impact on a particular resource it would be wise to "informally" consult with the appropriate responsible or trustee agency to further define the project's impact potential and to develop feasible mitigation. As an alternative, CAL FIRE could redesign the project to avoid the impact potential, thereby removing the need to informally consult. There is no requirement for a lead agency to consult when there is no indication that the proposed project would impact resources under a particular responsible or trustee agency's control.

During the "formal" consultation that occurs during the draft CEQA document comment period, responsible and trustee agencies may raise potential impacts that CAL FIRE overlooked. At that point CAL FIRE may choose to: 1) adopt the suggested mitigation (if any); 2) avoid the impact, or: 3) articulate CAL FIRE's position as to why it still believes that there is no potential for a significant impact.

Where the lead agency finds that a project is Categorically Exempt from further CEQA analysis there is no consultation requirement. However, in reaching the exemption determination it is recommended that CAL FIRE personnel follow a similar "due diligence" process for attempting to identify potential project impacts and may find it advisable to informally consult with other agencies in certain cases.

Question: CDFG identified some wetland plant species within the project area. How are wetlands identified and what are CAL FIRE's responsibilities for protecting wetlands?

Answer: Wetlands are not identified solely by the presence of wetland plants. According to the Army Corps of Engineers (ACOE) (<http://www.wetlands.com/regs/tlpge02e.htm>), wetlands are defined as:

Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Wetlands also require three characteristics: 1). Hydric vegetation; 2). Hydric soils; and, 3). Wetlands hydrology.

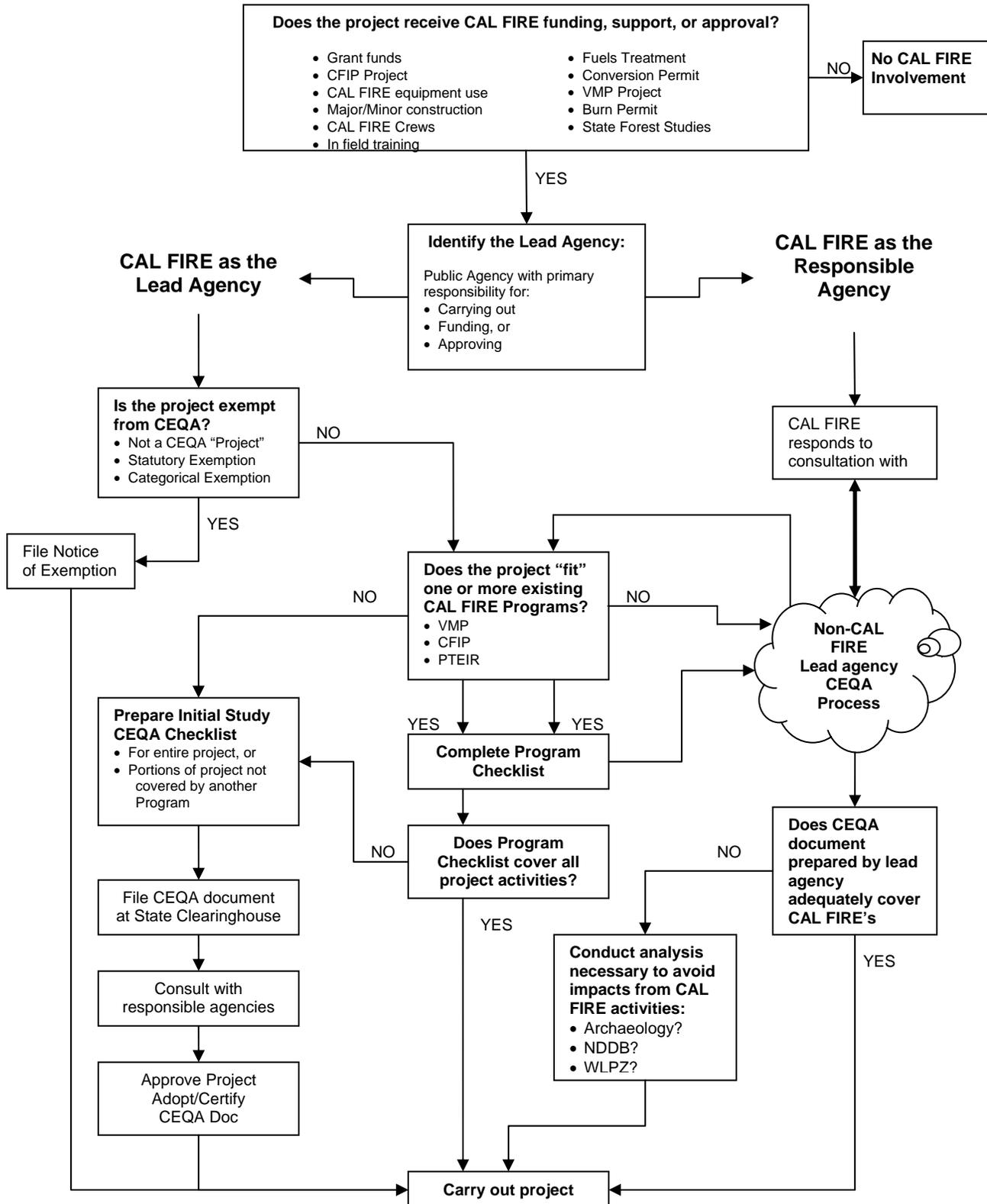
Hydric Vegetation: The prevalent vegetation consists of macrophytes that are typically adapted to areas having hydrologic and soil conditions described in a above. Hydrophytic species, due to morphological, physiological, and/or reproductive adaptations), have the ability to grow, effectively compete, reproduce, and/or persist in anaerobic soil conditions.

Hydric Soils: Soils are present and have been classified as hydric, or they possess characteristics that are associated with reducing soil conditions.

Wetlands Hydrology: The area is inundated either permanently or periodically at mean water depths <6.6 ft, or the soil is saturated to the surface at some time during the growing season of the prevalent vegetation. The period of inundation or soil saturation varies according to the hydrologic/soil moisture regime and occurs in both tidal and nontidal situations

The filling or disturbance of such wetlands may require a 404 Permit from the ACOE and a 401 Certification from CDFG. Without all three characteristics present the area may not be wetland. However, the disturbance of wetland plants may in particular situations be a significant effect under CEQA.

CEQA Compliance Flow Chart General Responsibility for CEQA Compliance on Projects



CEQA Process Guidelines for CAL FIRE Projects

When CAL FIRE funds, approves, permits, facilitates or carries out a *project as lead agency* it is obligated to ensure that the appropriate steps are taken in complying with the California Environmental Quality Act (CEQA). This document provides **general guidance** on CEQA compliance to CAL FIRE staff, and those preparing CEQA documents on CAL FIRE's behalf. More detailed guidance on CAL FIRE's lead agency responsibilities for CEQA compliance is provided below.

Notice of Exemption

- If project is *exempt*, identify Exemption Class and confirm that impacts will not occur by completing limited environmental review.
 - California Natural Diversity Database
 - other potential impacts (air, water, noise, hazards, etc.)
 - Archeological Review Procedures for CAL FIRE projects <http://www.indiana.edu/~e472/cdf/resources/archrevproc.doc>
- Complete Environmental Review Report Form (ERRF) http://cdfweb/ResourceManagement/EnvironmentalProtection/documents/ERRF_EnvironmentalReviewReportForm.doc
- Complete Notice of Exemption (NOE) http://cdfweb/ResourceManagement/EnvironmentalProtection/documents/NOE_NoticeOfExemption.doc
- Submit NOE and ERRF to CAL FIRE-HQ for review, approval and filing at State Clearinghouse for 35 day litigation period.

Negative Declaration and Mitigated Negative Declaration

- If not Exempt, complete Initial Study/Environmental Checklist with supporting documentation.
 - California Natural Diversity Data Base
 - other potential impacts (air, water, noise, hazards, etc.)
 - Archeological Review Procedures for CAL FIRE Projects <http://www.indiana.edu/~e472/cdf/resources/archrevproc.doc>
- Prepare a Negative Declaration or Mitigated Negative Declaration and Notice of Completion if there are no significant impacts or if potential impacts are mitigated to a level of less than significant. (CCR 15070 - 15071; CEQA Guidelines Appendix C)
- Submit to CAL FIRE-HQ for approval and filing at State Clearinghouse (15 copies) for 30 day comment period. (CCR 15073; 15105)
- Send Notice of Intent to Adopt a Negative Declaration: (CCR 15072)
 - to County Clerk for posting,
 - to other interested non-state agencies,
 - to individuals that have made a written request,

and, do at least one of the following:

 - Post Notice of Intent on and off the project site, or
 - Direct mailing to neighbors contiguous to the project property, or
 - Publication at least one time in a newspaper of general circulation.
- Consider comments received during comment period, consider need to recirculate or make changes to draft Negative Declaration as a result of comments (CCR 15073.5).
- CAL FIRE Deputy Director/Director adopts Neg Dec and approves the project.
- If Mitigated Neg Dec CAL FIRE must adopt a Mitigation Monitoring and Reporting Plan(CCR 15097)
- Submit Notice of Determination (NOD) for approval and filing at State Clearinghouse for 30 day litigation period:
- with CEQA filing fee made out to Department of Fish and Game²⁴.

Note: Where significant project impacts remain following mitigation an EIR may be required.

²⁴ The amount of this CEQA filing fee changes on January 1 every year. For current CEQA filing fee schedule, go to: http://www.CDFG.ca.gov/habcon/ceqa/ceqa_changes.html

References

- CAL FIRE Environmental Protection Intranet Web Site
<http://cdfweb/ResourceManagement/EnvironmentalProtection/ep.shtml>
- CEQA Statutes and Guidelines
<http://www.califaep.org/resources/Documents/FINAL%20CEQA%20Handbook%20HighQuality.pdf>
- Source for CEQA Technical Advice
<http://ceres.ca.gov/ceqa/more/tas/>
- CEQA Process Flow Chart
http://ceres.ca.gov/topic/env_law/ceqa/flowchart/index.html
- CEQA Act and Guidelines (Annual Handbook w/ revisions)
American Council of Engineering Companies (ACEC) California
1303 J Street, Sacramento, CA 95814
www.acec-ca.org
(916) 441-7991
- Guide to the California Environmental Quality Act
Remy, Thomas, Moose and Manley
Solano Press Books, Point Arena California
- CEQA Deskbook
Bass, Herson, and Bogdan
Solano Press Books, Point Arena California
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