

Chapter 1 INTRODUCTION

1.1 Purpose of CEQA

California Environmental Quality Act

In 1970, the California legislature enacted the California Environmental Quality Act (CEQA) which is codified in the Public Resources Code, starting at Section 21000 http://www.ceres.ca.gov/topic/env_law/ceqa/stat. The Guidelines for Implementation of the California Environmental Quality Act (*CEQA Guidelines*) http://ceres.ca.gov/topic/env_law/ceqa/guidelines, are in Title 14, Section 15000, of the California Code of Regulations. Hereinafter, references to the CEQA statutes in the Public Resources Code are shown as CEQA Statutes Section 21XXX, and references to the Guidelines in the California Code of Regulations are shown as CEQA Guidelines Section 15XXX. CEQA was closely modeled on the National Environmental Policy Act (NEPA). Both acts were conceived as a means to require public agencies to consider and disclose to the public the environmental implications of their actions. Unlike NEPA, CEQA imposes an obligation to implement mitigation measures or project alternatives to mitigate significant adverse environmental effects, if these measures or alternatives are feasible. Thus, CEQA establishes both a procedural obligation to analyze and make public adverse physical environmental effects, and a substantive obligation to mitigate significant impacts.

Environmental Impact Report

Probably the best-known element of CEQA is its requirement that public agencies prepare an Environmental Impact Report (EIR) whenever a proposed project may cause significant effects on the environment. According to CEQA Statutes Section 21002.1(a) <http://ceres.ca.gov/ceqa/stat/chap1.html>: “The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided.”

In a practical sense, EIRs serve other important functions in addition to meeting the legal requirements of CEQA. EIRs, although largely technical documents focusing on the physical environment, are intended to provide an opportunity for public participation in the decision-making process for proposed projects and to provide the public and decision makers with full information about the impacts of a project. Thus, the EIR process serves as a framework for public dialogue about the adverse impacts, as well as the merits, of proposed projects.

UC CEQA Compliance

Successful CEQA compliance for the University of California (UC or University) requires not only the preparation of technically sufficient and legally adequate documents, but also the establishment and maintenance of a sound working relationship with the community. By using the CEQA process to ensure that EIRs address environmental impacts and take public concerns into account, the University can meet its legal requirements, as well as further the objective of being a good neighbor in the community.

CEQA Statutes Section 21080.09 specifies how CEQA applies to UC Long Range Development Plans, and other University planning activities. A “Long Range Development Plan” is defined as a physical development and land use plan to meet the academic and institutional objectives for a particular campus or medical center of public higher education. The selection of a location for a particular campus and the approval of a long range development plan are subject to CEQA and require the preparation of an environmental impact report. Environmental effects relating to changes in enrollment levels shall be considered for each campus or medical center of public higher education in the environmental impact report prepared for the long range development plan for the campus or medical center. Approval of a project on a campus or medical center may be addressed in a tiered environmental analysis based on a long range development plan environmental impact report. Compliance with Section 21080.09 satisfies the obligations of public higher education to consider the environmental impact of academic and enrollment plans as they affect campuses or medical centers, provided that any such plans shall become effective only after the environmental effects of those plans have been analyzed in a long range development plan environmental impact report or tiered analysis.

1.2 Background

The Regents of the University of California (The Regents) adopted the state CEQA Guidelines and all future state guideline changes on March 17, 1989 (UC CEQA Handbook Appendix A). Thus, the State guidelines are UC's guidelines and every time the State updates the CEQA guidelines, those automatically become UC's guidelines.

The Office of the President has prepared this UC CEQA Handbook, and its predecessor (previously entitled "UC CEQA Handbook: Procedural Handbook and Model Approach for Implementing CEQA"), as a companion document to provide information to campuses on how UC implements CEQA. The UC CEQA Handbook was first published in May 1991, with updates in June 1992 and February 1994. This version of the UC CEQA Handbook supercedes the 1994 version, and reflects the CEQA Guideline changes adopted by the state, which took effect January 1999. This version further updates University practices and converts the document to a web-based format providing users with Internet links to supplementary information. This document will continue to be revised as the CEQA statutes and guidelines change and as UC procedures change.

Purpose

The UC CEQA Handbook supplements the CEQA Guidelines by elaborating on compliance issues from the University's perspective. The UC CEQA Handbook, therefore, functions as a companion volume to CEQA and the CEQA Guidelines; it provides a general framework for implementing CEQA successfully throughout the UC system. Although the Handbook's provisions are not mandatory, the Office of the President should be consulted prior to making any significant deviation from the framework outlined there. It will be updated as state law, University policy and campus needs evolve.

The scope of University activities that may be subject to CEQA is broad. The UC CEQA Handbook focuses on those University projects that most clearly have a significant effect on the physical environment: Long Range Development Plans (LRDPs) and facility construction projects. Other relatively common University activities that are subject to CEQA include the purchase or lease of off-campus properties. The UC Handbook discusses compliance strategies for these and other University projects subject to CEQA.

The Regents' action in 1989 (Amended UC Procedures for Implementation of CEQA) established two requirements that differed from state guidelines. First, UC requires a public hearing during the draft EIR public review period. Second, UC described the contents of the administrative record (UC CEQA Handbook Section 3.5). The state has subsequently defined the contents of an administrative record in CEQA Statute Section 21167.6(e) <http://ceres.ca.gov/ceqa/stat/chap6.html> which supercedes the Regents' previous action.

1.3 CEQA Roles of the University of California

Under CEQA, the public agency with the greatest responsibility for supervising or approving a project or the first public agency to make a discretionary decision to proceed with a proposed project should ordinarily act as the “Lead Agency.” The Lead Agency is responsible for preparing the appropriate CEQA document and has primary responsibility for approving or carrying out the project. Public agencies subsequently called upon to exercise discretionary authority to approve all or a portion of the project are called “Responsible Agencies.” “Trustee Agencies” are State agencies having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State. UC is normally a lead agency; however, it acts in the other two roles as well. Each role is described below and shown in Figure 1.

UC as a Lead Agency and Project Proponent

The University is an autonomous institution created by the State of California Constitution and will, in most instances, serve as the Lead Agency for CEQA purposes. The criteria for defining a lead agency are presented in the CEQA Guidelines Section 15051

http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art4.html.

- a) If the project will be carried out by a public agency, that agency shall be the Lead Agency even if the project would be located within the jurisdiction of another public agency.
- b) If the project is to be carried out by a nongovernmental person or entity, the Lead Agency shall be the public agency with the greatest responsibility for supervising or approving the project as a whole (sub points not listed for brevity).
- c) Where more than one public agency equally meet the criteria in subsection (b), the agency which will act first on the project in question shall be the Lead Agency.
- d) Where the provisions of subsections a), b), and c) leave two or more public agencies with a substantial claim to be the Lead Agency, the public agencies may by agreement designate an agency as the Lead Agency. An agreement may also provide for cooperative efforts by two or more agencies by contract, joint exercise of powers, or similar devices.

When dealing with other public agencies involved in a UC project (e.g., a permitting or funding role, or in a joint project), good communication is the key to clarifying UC’s CEQA role and the approval sequence.

UC as a Responsible Agency

The term Responsible Agency is defined as a public agency that proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purposes of CEQA, the term Responsible Agency includes all public agencies other than the Lead Agency which have discretionary approval power over the project (CEQA Guidelines Section 15381 http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art20.html, and Section 15096 http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art7.html).

Occasionally, UC serves as a Responsible Agency for non-UC projects that are built on, or adjacent to, UC property. For example, the University may be a Responsible Agency if a highway project was proposed adjacent to one of its campuses. In this case, University's jurisdiction would be of a geographical nature. The campus could therefore comment on any issue that would potentially impact its property, including the granting of an easement on University property to accommodate another jurisdiction's project.

The University would also be a Responsible Agency for projects in which it purchases, develops or leases land for which an EIR has already been prepared and certified by another agency.

When an EIR has not yet been prepared, the University's overall role in serving as a Responsible Agency would be to:

- 1) Provide comments to assist the Lead Agency in identifying key issues and determining whether an EIR is required; and
- 2) Suggest mitigation measures or changes to the project that would reduce the level of impact.

Since only one environmental document is prepared for a project, Responsible Agencies must review the document to ensure that it is adequate for any subsequent UC decisions that may be required in relation to the project.

Responsible Agencies Involved in UC Projects

Responsible Agencies that are frequently required to approve (some part of) proposed UC capital projects include:

- The California Coastal Commission <http://www.coastal.ca.gov> (for campus facilities located within the Coastal Zone);
- Caltrans <http://www.dot.ca.gov> (for projects affecting State Highways);
- Air Quality Management Districts (for air emissions);
- Regional Water Quality Control Boards (for waste water discharges);
- California Department of Toxic Substances Control <http://www.dtsc.ca.gov> (for hazardous materials handling);
- California Department of Fish and Game <http://www.dfg.ca.gov/dfghome.html> (for projects affecting streambeds, wildlife and habitats of rare or endangered species).

Local cities and counties may also become Responsible Agencies if called upon, for example, to grant discretionary approvals for encroachments and/or easements.

If the project also requires the approval of a federal agency such as the Department of Energy, US Army Corps of Engineers, US Fish and Wildlife Service, or the Nuclear Regulatory Commission,

CEQA encourages federal and state agencies to cooperate in preparing an environmental document that satisfies both CEQA and the National Environmental Policy Act (NEPA). If the federal agency has already prepared an environmental document, CEQA allows the state agency to use the NEPA analysis and supplement the NEPA document with additional information required under CEQA. Close coordination between the federal agency and the University is critical to enable combined NEPA/CEQA documents. (See UC CEQA Handbook Section 2.6).

UC as a Trustee Agency

Trustee Agencies are defined in CEQA Guidelines Section 15386 http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art20.html . Trustee Agencies administer lands to protect the natural resources present, or protect the State's interest in a natural resource such as the Department of Fish and Game's responsibility for fish and wildlife.

UC serves as a Trustee Agency with regard to sites within the UC Natural Reserve System (CEQA Guidelines Section 15386 (d) http://ceres.ca.gov/env_law/ceqa/guidelines/art20.html). For projects adjacent to Reserve sites, UC should be notified and comment as necessary on the environmental document. For projects UC proposes on its own Reserve sites, UC acts as both a Lead and a Trustee Agency. The other three Trustee Agencies are: Department of Fish and Game, State Lands Commission and the State Department of Parks and Recreation.

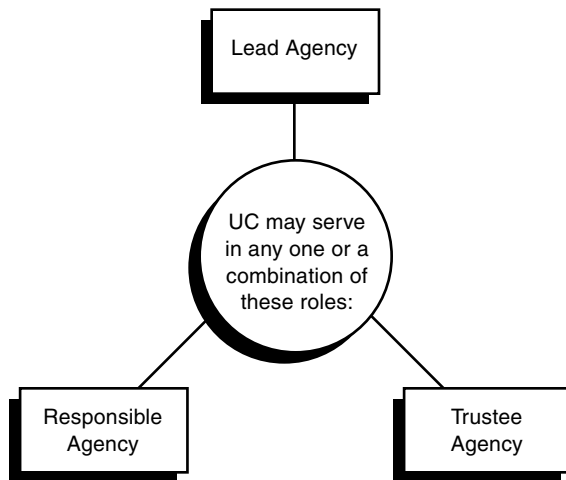
UC's Constitutional Autonomy

The California Constitution has delegated "full" powers of governance to The Regents with respect to affairs exclusive to the University (Article IX, Section 9 of the California Constitution http://www.leginfo.ca.gov/const/article_9). The University is exempt from local land use controls. There are some limitations to this autonomy however, such as with respect to police powers. In matters relating to the public health, safety, and welfare, it is recognized that the State's general police powers prevail over regulations made by The Regents (Tolman v. Underhill (1952) 39 Cal.2d 708, 712). UC CEQA Handbook Section 3.3.14, Land Use and Planning has suggested language describing UC's exemption.

The University in some instances allows private sector development on its property, builds joint venture projects, and/or develops facilities on non-UC property.

When private-sector projects are built on UC property, the University remains exempt from local land use controls as long as the purpose and function of the project are linked to the overall mission or any related services of the University Regents of the University of California v. City of Santa Monica, (1978) 77 Cal.App.3rd 130. In these cases, the developer may choose to comply with local land use controls if the project may be sold or leased in the future to a non-exempt entity.

Figure 1: UC CEQA Roles



1.4 Framework, Organization and Contents of the UC Handbook

Framework for the UC Handbook

As described in Section 1.2, the UC CEQA Handbook is based on the general requirements of CEQA. For this reason, specific citations to either the CEQA Statutes or Guidelines will be provided as appropriate in the text of the Handbook.

Contents of the UC Handbook

Chapters within the UC CEQA Handbook are organized as follows to address both the procedural and the substantive requirements of CEQA:

Chapter 1 - INTRODUCTION: Provides an overview of the UC CEQA Handbook, and a description of the University's responsibilities under CEQA.

Chapter 2 - PROCEDURAL REQUIREMENTS FOR CEQA COMPLIANCE: Describes the procedural or "process" requirements for complying with CEQA and the steps for coordinating preparation of environmental documents with the UC Offices of the President and General Counsel. It also contains a UC CEQA Process flow chart that depicts the sequence of procedural steps to be followed within the University. The chart provides a graphic overview of the different environmental documents and the key review and decision points in the process. Chapter Two contains a chart that depicts general time requirements for preparing environmental documents. In addition, Chapter Two discusses the way in which project EIRs are "tiered" under LRDPs.

Chapter 3 - CONTENT REQUIREMENTS FOR CEQA COMPLIANCE: Discusses the required contents for Initial Studies, Negative Declarations and EIRs. Chapter Three also discusses the contents of the administrative record.

Chapter 4 - PUBLIC INVOLVEMENT: Describes public involvement processes.

Chapter 5 - MITIGATION MEASURES AND MONITORING: Describes UC's approach to mitigation measures and to monitoring.

APPENDICES

The Appendices provide helpful reference information and samples of the standard forms used in CEQA practice. Some of the forms are provided in the Handbook and others are provided via websites where these forms can be easily accessed.

1.5 How to Use the UC CEQA Handbook

The Handbook contains a UC CEQA Process flow chart that outlines the sequence of steps to be followed to comply with CEQA. The chart provides a graphic overview of the different environmental documents and the key review and decision points in the process. The Procedural Section describes in detail compliance with these same steps. Chapter 2 should be consulted for all procedural matters.

Campus planners and their consultants should use the UC Handbook as a guide for preparing UC environmental documents. They should also refer regularly to CEQA Statutes and Guidelines for additional explanation; links to CEQA Statutes and Guidelines are included throughout the *UC CEQA Handbook* to facilitate consultation. The procedures and substantive approaches described in the *UC CEQA Handbook* should be followed unless, through consultation with the Offices of the President and General Counsel, it is decided that there is reason not to adhere to the method(s) described.

For assistance in interpreting any part of this *UC CEQA Handbook*, please contact the Planning Design and Construction Office <http://www.ucop.edu/facil/pd> in the University of California Office of the President.