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# The Redwood Marine Terminal Project: Timing the Application of CEQA

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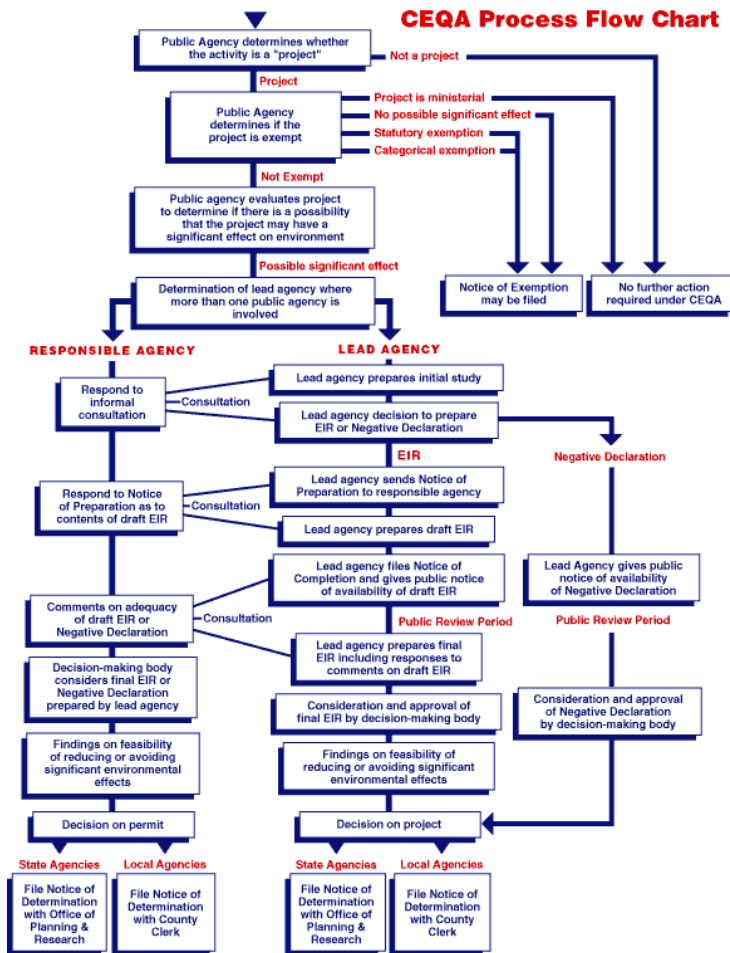
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# District Procedural and Substantive Requirements for Approving Local Projects

- Local rules (District Ordinances)
  - Overarching state procedural requirements (e.g., Brown Act)
  - State-mandated compliance with statewide laws:
    - Every local agency must comply with the requirements of the California Environmental Quality Act (CEQA) in locally approving projects
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# CEQA: Detailed Law Mandating Consideration of Environmental Effects



- CEQA requires procedural compliance with adopted processes
- CEQA requires substantive protection of the environment
- CEQA requires clarity from local agencies in documenting compliance

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# CEQA's Basic Obligations

- The District must consider the potential environmental consequences of every action approved
  - The District must adopt all feasible measures available to avoid/reduce/offset impacts
  - The District must identify the specific overriding benefits achieved if it chooses to approve any action with significant environmental effects
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# “Approval:”

## CEQA Guidelines Section 15352

- “(a) ‘Approval’ means the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person. The exact date of approval of any project is a matter determined by each public agency according to its rules, regulations, and ordinances. Legislative action in regard to a project often constitutes approval.”
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# Time of CEQA Application:

## CEQA Guidelines Section 15004

- “(a) Before granting any approval of a project subject to CEQA, every Lead Agency or Responsible Agency shall consider a final EIR or Negative Declaration or another document authorized by these Guidelines to be used in the place of an EIR or Negative Declaration.
  - “(b) Choosing the precise time for CEQA compliance involves a balancing of competing factors. EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment.
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# Time of CEQA Application:

## CEQA Guidelines Section 15004 (2)

- “(b)(1) With public projects, at the earliest feasible time, project sponsors shall incorporate environmental considerations into project conceptualization, design, and planning. CEQA compliance should be completed prior to acquisition of a site for a public project.
  - “(b)(2) To implement the above principles, public agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance. For example, agencies shall not:
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# Time of CEQA Application:

## CEQA Guidelines Section 15004 (3)

- “(b)(2)(A) Formally make a decision to proceed with the use of a site for facilities which would require CEQA review, regardless of whether the agency has made any final purchase of the site for these facilities, except that agencies may designate a preferred site for CEQA review and may enter into land acquisition agreements when the agency has conditioned the agency's future use of the site on CEQA compliance.
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# Time of CEQA Application:

## CEQA Guidelines Section 15004 (4)

- “(b)(2)(B) Otherwise take any action which gives impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project. ...
  - “(c) The environmental document preparation and review should be coordinated in a timely fashion with the existing planning, review, and project approval processes being used by each public agency. These procedures, to the maximum extent feasible, are to run concurrently, not consecutively. ...”
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# The Redwood Marine Terminal Project (1)

- The District commissioned a Feasibility Study; initially completed Fall 2007 and revised early 2008 – Received/Filed (not an approval)
  - The District followed with the development of additional feasibility information (“business plan”) – Receive/File (not an approval)
  - The District has taken no action to date that may be interpreted as an intention to approve any development options for the Redwood Marine Terminal Project
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# The Redwood Marine Terminal Project (2)

- As required by CEQA, the recommended project will next be subject to an evaluation of environmental effects – this is the next phase of project development, together with the development of additional design-level information (the “5%-10% design”) that will allow realistic environmental assessments to take place
  - When the CEQA assessment has been completed, then the District will consider the Redwood Marine Terminal Project for possible approval
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# The Redwood Marine Terminal Project (3)

- The District's must address in a project-level CEQA review all possible impacts and appropriate mitigation measures for any action that the District proposes to approve for "entitlement" (e.g., the Multipurpose Berth)
  - The impacts of project elements that are not specifically set for District "entitlement" (e.g., the rail elements of the Long-term Expansion) must be considered in a programmatic CEQA review (the District is not the lead agency for and cannot approve the rail-related elements in the Long-term Expansion, but must consider the potential impacts programmatically in reviewing the elements that the District can approve)
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