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TITLE:

Department Compliance with the Requirements of the California Environmental Quality Act

AFFECTED PARTIES:

Hazardous Waste Management Program  
Site Mitigation Program  
Office of Pollution Prevention & Technology Development  
Office of Legal Counsel and Criminal Investigation  
Office of Policy & Environmental Analysis  
Public Participation Branch  
All Department program areas developing regulations

PURPOSE:

This is the first in a series of Policy and Procedure Memorandum relating to implementation of the requirements of the California Environmental Quality Act (CEQA), (Public Resource Code §21000 et seq.).

*It is the policy of the Director that all Department programs be in procedural compliance with the provisions of CEQA and that an effective system exists within the Department to provide on-going policy and procedural guidance to programs and management.*

This memorandum provides general information relating to the Department's program responsibilities and implementation to ensure that the Department is in procedural compliance with the provisions of CEQA.

BACKGROUND:

Purpose and Objectives

The Legislature enacted and the Governor signed CEQA into law in 1970. The primary purpose of this law is to require public agency decision makers to consider and document the environmental implications of their actions. In addition to this primary purpose, the Legislature set forth the following objectives of CEQA:

- to disclose to decision makers and the public the significant environmental effects of proposed activities;
- to identify ways to avoid or reduce environmental damage;
- to prevent environmental damage by requiring implementation of feasible alternatives or mitigation measures;

- to disclose to the public reasons for agency approvals of projects with significant environmental impacts;
- to foster interagency coordination; and
- to enhance public participation.

### Application to Government Activities

CEQA applies only to *discretionary* activities proposed to be carried out or approved by public agencies. It does not apply to private projects that do not require discretionary government approval. Many activities undertaken by the Department are discretionary and, therefore, subject to the environmental review requirements of CEQA.

### Implementation

Public agencies must adopt procedures to implement CEQA, which are consistent with CEQA and the Guidelines (14 Cal. Code Regs. §15000 et seq.), including the orderly evaluation of projects and preparation of environmental documents.

The Department's internal CEQA procedures are being examined and modified to reflect subsequent amendments to CEQA and associated Guidelines to ensure that the Department remains in procedural compliance with CEQA.

### PROGRAM IMPLEMENTATION / RESPONSIBILITIES:

#### All Department Programs

The environmental review process and the preparation of environmental documents required under CEQA must be consistent within all Department programs. To ensure that these documents are prepared in a consistent and timely manner, all CEQA documents are required to be reviewed and approved by the Planning and Environmental Analysis Section (PEAS) within the Department's Office of Policy & Environmental Analysis.

These documents shall be submitted by the program staff to PEAS a minimum of 10 working days prior to: 1) the date the project manager distributes the documents to the State Clearinghouse; or 2) the beginning of a public comment review period as announced in a public notice. The CEQA documents subject to this time consideration include:

- |                                 |                             |
|---------------------------------|-----------------------------|
| 1) Initial Studies              | 5) Notices of Exemption     |
| 2) Negative Declaration         | 6) Notices of Determination |
| 3) Environmental Impact Reports | 7) Notices of Completion    |
| 4) Notices of Preparation       |                             |

All Department programs shall be responsible for contacting PEAS and applicable Public Participation staff to discuss a CEQA compliance strategy relating to each specific project. Such discussions may be conducted via telecommunications (i.e.

facsimile or conference telephone call) in lieu of a personal meeting, as determined by PEAS and the specific program area. When necessary, PEAS shall be responsible for contacting the Office of Legal Counsel (OLC) for consultation regarding CEQA compliance

In addition, each Department program area shall implement and be responsible for specific activities as identified below.

### Planning & Environmental Analysis Section

The PEAS serves as the Department's central CEQA office. The function of the PEAS is to ensure consistent procedural implementation of CEQA by all Department programs, including both headquarters and the Regional Offices. In this capacity, the PEAS is responsible for conducting the following activities:

- Developing CEQA policy and guidance related to the scope and content of environmental review conducted by the various Department programs;
- Providing CEQA technical assistance and guidance to all programs on projects in which the Department is either the Lead Agency or a Responsible Agency;
- Tracking environmental documents reviewed by the Department in situations where the Department is a Responsible Agency;
- Serving as the primary point of contact with OPR on CEQA technical matters;
- Reviewing Notice of Determination packets for completeness / processing Fish and Game fees / serving as liaison with Accounting Office / reviewing de minimis claims;
- Acting as liaison with OLC on CEQA interpretation / case law analysis, and coordinating OLC involvement regarding CEQA compliance;
- Providing training to programs; and
- Acting as Department CEQA liaison with local, state, and federal agencies.

### Hazardous Waste Management Program (HWMP)

Many activities within the HWMP are subject to the requirements of CEQA. These activities include the issuance of facility permits, facility permit renewals or modifications, variances and closure plans. It is also possible for some enforcement actions to be subject to CEQA depending on the nature of the order.

To ensure that CEQA compliance is attained, the CEQA planning process must begin when a particular application or draft plan is first received for approval. After receipt of an application or draft plan, the HWMP is responsible for conducting the following activities:

- Contacting PEAS to discuss a CEQA compliance strategy;
- Contacting Public Participation;
- Preparing or overseeing the development of environmental documents for projects in which the Department is Lead Agency as defined by CEQA;

- Reviewing and commenting on environmental documents for projects in which the Department is a Responsible Agency as defined by CEQA;
- Meeting with affected agencies;
- Conducting public hearings, if necessary;
- Preparing and filing necessary CEQA documents with PEAS; and
- Approving the CEQA document and project.

### Site Mitigation Program (SMP)

Activities within the SMP are also subject to the requirements of CEQA. These activities include all State and federal projects in which the Department assumes primary responsibility for cleanup or expends State funds on a response action.

CEQA compliance for particular projects may occur at any given point in the cleanup process, depending on the extent of contamination and proposed cleanup activity. Often, it is difficult to assess the point(s) at which CEQA compliance is required. To ensure that CEQA compliance is attained, the SMP is responsible for conducting the following activities:

- Contacting PEAS to discuss a CEQA compliance strategy;
- Contacting Public Participation;
- Preparing or overseeing the development of environmental documents for projects in which the Department is Lead Agency as defined by CEQA;
- Reviewing and commenting on environmental documents for projects in which the Department is a Responsible Agency as defined by CEQA;
- Meeting with affected agencies;
- Conducting public hearings, if necessary;
- Preparing and filing necessary CEQA documents with PEAS; and
- Approving the CEQA document and project.

### The Rulemaking Process

The development of proposed regulations by the various Department programs is subject to the provisions of CEQA. To ensure that CEQA compliance is attained, the CEQA process for regulation development must begin when Department Management instructs staff to formally initiate the rulemaking process. Once the rulemaking process has been initiated, affected programs shall be responsible for conducting the following activities:

- Contacting PEAS when a decision is made to initiate rulemaking;
- Contacting Public Participation;
- Preparing the environmental documents;
- Meeting with affected agencies;
- Conducting public hearings, If necessary;

- Preparing and filing necessary CEQA documents with PEAS and the Office of Regulations; and
- Approving the CEQA document and project.

#### Office of Pollution Prevention & Technology Development (PP & TD)

Certain activities of the Office of PP&TD are subject to the requirements of CEQA. - These activities include, but are not limited to, the issuance of variances, and the granting of research and development awards. The Office of PP&TD shall be responsible for conducting the following activities:

- The project manager contacts PEAS to discuss a CEQA compliance strategy;
- Contacting Public Participation;
- Preparing environmental documents;
- Meeting with affected agencies;
- Conducting public hearings, if necessary;
- Approving the CEQA document and project; and
- Preparing and filing necessary CEQA documents with PEAS.

#### Office of Legal Counsel and Criminal Investigation (OLC)

The OLC provides legal support to Department programs and represents the Department in CEQA legal challenges. To ensure that the procedural aspects of CEQA are complied with by all Department programs, OLC shall be responsible for conducting the following activities:

- Providing CEQA legal advice and consultation services; and
- Attending CEQA compliance strategy meetings at the request of PEAS.

#### Public Participation Branch

The Public Participation Branch ensures that communities affected by hazardous substance release sites and hazardous waste management facilities are informed of and may participate in the site mitigation or permit decision-making processes. This includes public participation in the CEQA process for sites and facilities. Public Participation shall be responsible for conducting the following activities:

- Providing consultation to program staff and management regarding the public interest of sites and facilities; and
- Developing and planning participation activities to ensure the public has the opportunity to participate in the CEQA process.

#### IMPLEMENTATION:

All Department programs shall implement the policies and procedures contained herein in continuance of efforts by the Department in achieving procedural compliance with the

requirements of CEQA, Additional CEQA policy and procedural guidance will be provided through subsequent memoranda.

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Original Signed By:  
William F. Soo Hoo, Director  
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William F. Soo Hoo, Director