

Chapter 8.00
Environmental Review

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Section 8.00.010 **Purpose**

This Chapter is intended to implement the Authority’s responsibilities under Public Resources Code Section 21082 and California Code of Regulations, Title 14, Section 15022 to adopt objectives, criteria and procedures for evaluation of projects and the preparation of environmental impact reports and negative declarations pursuant to the California Environmental Quality Act (CEQA).

Section 8.00.020 **State CEQA Guidelines Adopted by Reference**

(a) The State CEQA Guidelines [Title 14, Division 6, Chapter 3 of the California Code of Regulations], including all sections thereof and appendices thereto, as amended from time to time, are adopted by reference as the environmental review regulations of the Authority. Reference in this Code to this Chapter shall include reference to the State CEQA Guidelines.

(b) The provisions of this Chapter shall be construed as consistent with CEQA and the State CEQA Guidelines. If a provision, by its terms, cannot be construed as consistent with CEQA or the State CEQA Guidelines, the provisions of CEQA or the State CEQA Guidelines shall prevail to the extent of the inconsistency.

Section 8.00.030 **Application of Chapter**

This Chapter applies to all projects undertaken by the Authority or subject to discretionary approval of the Authority except:

1. Any activity that is not a project as defined in CEQA or other State statute or that will not result in a direct or reasonably foreseeable indirect physical change in the environment;
2. Activities that are statutorily exempted from CEQA by its own terms or by other state statute;
3. Projects that meet the criteria of a categorical exemption from CEQA or this Chapter.
4. Administrative or operational activities, such as the purchase and use of supplies and equipment, use and operation of existing facilities, personnel-related actions, general policy and procedure making and other activities necessary or convenient to the routine conduct of Authority business.

Section 8.00.040 **Duties of Board and General Manager**

- (a) The Board shall:
 1. Prior to approving the project, certify that a final EIR has been completed in compliance with CEQA and this Chapter, certify that it reviewed and considered the information contained in the final EIR, and certify that the final EIR reflects the Authority's independent judgment and analysis.
 2. Adopt final negative declarations and final mitigated negative declarations prior to approving a project where such projects would not have a significant impact on the environment.
 3. Make or adopt findings as required by Section 15091 of the State CEQA Guidelines.
 4. Make or adopt statements of overriding considerations as required by Section 15093 of the State CEQA Guidelines.
 5. Adopt mitigation monitoring and reporting programs as required by Section 15097 of the State CEQA Guidelines.
 6. Consider appeals of determinations of the General Manager.
 7. Exercise any power of the Authority necessary to implement CEQA or this Chapter that is not otherwise delegated to the General Manager.

8. Be responsible, at its discretion, for establishing additional thresholds of significance to help determine when a proposed project or activity may have a significant effect on the environment.
- (b) The following responsibilities are delegated to the General Manager:
 1. Administer this Chapter and perform such administrative, technical and other work necessary for compliance with CEQA and this Chapter, including preparation and adoption of forms, checklists and other standard documents consistent with this Chapter.
 2. Perform all preliminary reviews and initial studies.
 3. Determine whether a project is exempt from the requirements of CEQA. The General Manager's determination of exemption shall be final, unless the final decision-making authority for the project is vested in the Board.
 4. Prepare, circulate and schedule for hearing as appropriate proposed negative declarations, proposed mitigated negative declarations, draft environmental impact reports and other documents necessary to comply with CEQA or this Chapter.
 5. Prepare final environmental documents, including preparation of proposed findings, for adoption or certification by the Board.
 6. File notices as appropriate or as required.
 7. Schedule and notice public hearings when required by CEQA or this Chapter, or as otherwise deemed appropriate by the General Manager or directed by the Board.
 8. Approve addenda to previously certified environmental impact reports, or adopted negative declarations or mitigated negative declarations, which make minor technical changes or additions to projects and where none of the conditions described in Section 15162 of the State CEQA Guidelines has occurred.
 9. Determine whether a previously certified or adopted environmental impact report, negative declaration or mitigated negative declaration is sufficient to cover changes or modifications to a project or whether additional environmental review is required.
 10. Recommend to the Board additions to the list of Authority projects and activities that are exempt from review under this Chapter or over which the Authority exercises only ministerial authority.

11. Execute agreements with public agencies determining the lead agency for a project.
12. Coordinate with lead agencies where the Authority will be a responsible agency.
13. Promulgate supplemental policies for administration of this Chapter.
14. Make the determinations specified in paragraphs 1 through 5, inclusive, of subdivision (a) for projects for which approval authority has been delegated to the General Manager by this Code or by other specific action of the Board. Decisions of the General Manager under this section are subject to appeal to the Board as provided in this Chapter or Code.

(c) The General Manager may delegate responsibility under this Chapter as provided in Section 2.04.070 of this Code.

(d) In furtherance of this Chapter, the Authority may contract with qualified persons or entities for the conduct of investigations, studies, tests, evaluations or other technical or scientific work and for the preparation and processing of documents, including, without limitation, initial studies, negative declarations, mitigated negative declarations and environmental impact reports.

(e) The Board intends, by this Section, to delegate to the General Manager the greatest degree of responsibility for implementation of CEQA and this Chapter permitted by law and to reserve to itself only those decisions or duties that are non-delegable under applicable law or are reserved to the Board by this Chapter.

Section 8.00.050 **Statutory Exemptions**

The following specific Authority activities are considered statutorily exempt from CEQA. Nothing in this section precludes a determination, on a case-by-case basis, that other Authority activities are statutorily exempt from CEQA or this Chapter. Nothing in this section is intended to limit application of any statutory exemption.

- (a) Ministerial Projects (State CEQA Guidelines Section 15268).
 1. Exercise of reserved rights for which no encroachment permit is required pursuant to Section 7.00.050 of this Code.
 2. Filling water orders of member agencies from existing Authority supplies.
 3. Deferral of water standby availability charges that meet the criteria established by ordinance of the Board.
- (b) Emergency Projects (State CEQA Guidelines Section 15269).

1. Projects to repair or correct a condition of an existing facility, which condition is discovered during the annual or periodic shutdown pursuant to the Authority's pipeline inspection and aqueduct protection program, and the repair or correction of which is necessary to maintain system reliability or to prevent or mitigate a foreseeable risk of damage if prompt remedial action is not taken.
2. Projects to repair, restore, demolish, or replace property or facilities damaged or destroyed as the result of an emergency as defined in Section 2.04.050, subdivision (e) of this Code, or projects to repair, restore or replace facilities the damage to or destruction of which results in an emergency as defined in Section 2.04.050, subdivision (e).

(c) Rates, Tolls, Fares and Charges and Budget (State CEQA Guidelines Sections 15060, subdivision (c), 15273).

1. Water rates, tax rates and other charges for the purpose of meeting operating expenses, including employee compensation and benefits, purchasing or leasing supplies, equipment, or materials; meeting financial reserve needs and requirements, or obtaining funds for capital projects necessary to maintain service within existing service areas. Written findings setting forth with specificity the basis for the claim of this exemption shall be incorporated in the record of the project.
2. Inclusion of a project in the Capital Improvement Program Budget for planning and environmental review purposes shall not be construed as an irrevocable commitment to the project or its implementation. A project shall be subject to revision or deletion from the Capital Improvement Program as necessary to comply with CEQA and this Chapter. A project that is subject to CEQA and which is identified in the Capital Improvement Program Budget shall not be deemed approved until after completion of applicable environmental review. No appropriation in a budget for a capital project that provides new or expanded service shall be spent for activities other than exempt planning, feasibility, environmental review and other similar purposes until the Board certifies or adopts the environmental review document for the project pursuant to this Chapter.

Section 8.00.060 Categorical Exemptions

(a) Specific Authority activities falling within the classes of categorical exemptions described in the CEQA Guidelines are listed below under the applicable exemption categories. Nothing in this Section shall be construed to prevent application of a categorical exemption to an Authority activity that is not listed.

1. Class 1: Existing Facilities (State CEQA Guidelines Section 15301).

- i. Operation, repair and maintenance of the existing pipelines, pumps, tanks, reservoirs, vents, valves, vaults, rights of way and appurtenant facilities comprising the Authority's aqueduct system involving negligible or no expansion of use. This includes grading, mowing and regrading for maintenance of an existing right of way.
 - ii. Draining pipelines or other structures at existing vent or drain locations for purposes of inspection, repair or maintenance, provided the drainage is regulated in a manner reasonably calculated to avoid damage to adjoining property and discharge into a water course complies with the Clean Water Act or other applicable law governing water quality.
 - iii. Installation of security devices, including without limitation, fences or gates, and implementation of programs for the security of the Authority's facilities and water supplies.
 - iii. Issuance of water vouchers and rebates for conservation devices.
 - iv. Purchase and installation of valves, meters, etc. to modernize or improve existing facilities.
 - v. Issuance of encroachment permits or joint use agreements for activity that qualifies as minor modifications of an existing facility.
2. Class 2: Replacement or Reconstruction (State CEQA Guidelines Section15302)
- i. Replacement or reconstruction of existing pipelines, pumps, tanks, reservoirs, vents, valves, vaults and other structures comprising the Authority's aqueduct system where the new structure will be located on the same site and have substantially the same purpose and capacity as the former structure.
3. Class 3: Construction, installation or conversion of small structures, equipment or facilities (State CEQA Guidelines Section15303)
- i. The addition of appurtenant structures and equipment to existing facilities including garages, sheds, fences, and gates; valve vaults, flow control facilities less than 500 square feet, and pipeline segments less than 150 linear feet to connect such structures to an existing aqueduct.
 - ii. Issuance of encroachment permits or joint use agreements for activity that qualifies as construction, installation or conversion of small structures, equipment or facilities.
4. Class 4: Minor alterations to land. (State CEQA Guidelines Section15304)

- i. Minor grading to establish access roads over land with a slope of less than 10 percent, except in waterways, wetlands or designated scenic or geologic hazard areas.
 - ii. Issuance of encroachment permits or joint use agreements for activity that qualifies as minor alteration to land.
 - iii. Issuance of pothole licenses.
 - iv. Temporary use of land for discharge of potable or raw water from pipelines and facilities provided erosion is controlled and the discharge into a watercourse complies with the Clean Water Act or other applicable laws governing water quality.
 - v. New gardening or landscaping, including the replacement of existing conventional landscaping with water efficient landscaping.
 - vi. Geologic sampling, boring, surveying and other similar exploratory or testing activities for purposes of feasibility, planning or design studies where the property is restored to its preexisting condition as near as reasonably feasible under the circumstances.
5. Class 5: Minor alterations in land use limitations (State CEQA Guidelines Section 15305)
- i. Issuance of minor encroachment permits for structures or activities that do not require a building, grading or similar construction permit under applicable ordinances of a city or county.
6. Class 6: Information Collection (State CEQA Guidelines Section 15306)
- i. Leak detection, turf and agricultural audits.
 - ii. Resource data collection that does not result in a serious or major disturbance to an environmental resource, including geotechnical investigations, biological sampling, and cultural resource testing and recovery.
7. Class 9: Inspections (State CEQA Guidelines Section 15309)
- i. Inspections to check performance and operation of pipelines and appurtenant facilities and structures, as well as inspections to check on quality, health or safety of a project.
8. Class 12: Sale of surplus property (State CEQA Guidelines Section 15312)

- i. The sale of surplus Authority property subject to limitations in Section 15312 of CEQA Guidelines.
- 9. Class 13: Acquisition of lands for wildlife conservation purposes (State CEQA Guidelines Section 15313).
 - i. Acquisition of habitat mitigation lands.
- 10. Class 21: Enforcement Action (State CEQA Guidelines Section 15321)
 - i. Actions to enforce Chapter 7.00 of this Code.
- 11. Class 25: Transfer of ownership of interests in land in order to preserve open space (State CEQA Guidelines Section 15325).
 - i. Acquisition of areas to preserve the existing and natural conditions or to allow restoration of natural conditions.
 - ii. Transfer of land title to a local, state or federal agency, or approved land conservation organization for management purposes, including transfers of mitigation credits in mitigation land bank programs of the Authority.
- 12. Class 28: Small hydroelectric generating facilities at existing facilities where the capacity of the generating facilities is 5 megawatts or less (CEQA Guidelines Section 15328).
 - i. Installation of hydroelectric generating facilities of 5 megawatts or less in connection with existing pipelines, subject to the limitations in CEQA Guidelines Section 15328.

(b) The categorical exemptions listed in subdivision (a) may not apply to particular projects if there exists one or more of the exceptions listed in Section 15300.2 of the State CEQA Guidelines.

(c) The exceptions identified in Section 15300.2(a) through (c) of the State CEQA Guidelines shall not apply regarding the effects of a project on one or more endangered, rare or threatened species (as defined in Section 15380 of the CEQA Guidelines), or the habitats on which they depend, including wetlands in the following circumstances: (1) the affected endangered, rare or threatened species are Covered Species as defined in the Implementing Agreement for the San Diego County Water Authority Natural Community Conservation Plan/Habitat Conservation Plan, dated September 28, 2011, as may be amended; and (2) the project is to be implemented in compliance with said Implementing Agreement and associated Federal Endangered Species Act and Natural Community Conservation Planning Act permits, as may be amended.

Section 8.00.070 **Projects for Which a Person or Entity other than the Authority is the Applicant**

(a) Whenever a person or entity submits an application for a discretionary permit or other governmental determination of the Authority the person or entity shall also submit a completed Environmental Information Form (State Guidelines Appendix H) and such other information as the General Manager may require. After a preliminary review of the form the General Manager may require the person or entity to submit a completed draft Environmental Checklist Form (State Guidelines Appendix G) and additional information necessary to make a determination of the environmental effects of the project. The General Manager shall prepare an initial study as applicable. Based upon the findings of the initial study, the General Manager shall determine whether to prepare an EIR, a negative declaration, or mitigated negative declaration, or reaffirm a previously certified EIR or adopted negative declaration, or adopted mitigated negative declaration.

(b) If Authority is a responsible agency for the project, the applicant shall submit the approved negative declaration, mitigated negative declaration, environmental impact report or other final environmental determination of the lead agency instead of the other information required by this section.

(c) The application shall not be deemed complete until the applicant has submitted all the information required by subdivision (a) or (b). The applicant shall bear the Authority's cost of the environmental review for the project.

(d) The Board, General Manager or other employee having decision-making authority for the project under this Code shall approve or certify the exemption, negative declaration, mitigated negative declaration or environmental impact report for the project. If the decision of the General Manager or other employee having decision-making authority is subject to appeal as provided in this Code, the appeal of the decision on the project shall also constitute an appeal of the decision approval or certification of the exemption, negative declaration, mitigation declaration or environmental impact report.

Section 8.00.080 **Initial Study – Authority Projects**

(a) Except as provided in this subdivision, the General Manager shall prepare an initial study for all Authority projects. An initial study is not required for a project that is determined to be exempt following a preliminary review. An initial study is not required for a project for which the General Manager has determined to prepare an environmental impact report without the need for an initial study.

(b) Based on the initial study, the General Manager may:

1. Determine that the project is exempt from further review;
2. Determine that the project has been reviewed by a previously approved or certified negative declaration, mitigated negative declaration or environmental

impact report and that there are no material changes to the project that warrant further environmental review;

3. Prepare a proposed negative declaration;
4. Prepare a proposed mitigated negative declaration;
5. Prepare a draft environmental impact report.

Section 8.00.090 Notice of Intent to Adopt a Proposed Negative Declaration or Mitigated Negative Declaration

(a) At the time it gives notice of intent to adopt a proposed negative declaration or mitigated negative declaration, the Authority will make a copy of the notice of intent available in electronic format through the Authority's website on the Internet

(b) The Authority will give notice of intent to adopt a proposed negative declaration or mitigated negative declaration by:

1. Mailing to organizations and individuals who have previously requested such notice in writing.
2. Publication at least one time in a newspaper of general circulation in the community where the project is located. The newspapers specified pursuant to Section 1.08.050 of this Code may be used for this purpose.
3. Mailing by first class mail, postage prepaid, to the owners and occupants of property within 600 feet of the proposed project. Owners shall be determined using the latest equalized assessment roll. The General Manager may provide additional mailed notice whenever the Manager determines that additional notice is appropriate under the circumstances.
4. Posting for a period of at least 20 days in the office of the county clerk of each county in which the project will be located.

(c) Notice of the public hearing required by Section 8.00.100 may be included in the notice of intent to adopt a proposed negative declaration or mitigated negative declaration. If the notice of the public hearing is not included in the notice of intent to adopt, then the notice of the public hearing shall be given at least 10 days before the hearing in the same manner as specified in subdivision (a). Published notice shall be complete on the date of publication. Mailed notice shall be complete on the date of mailing.

Section 8.00.100 Public Hearings on a Proposed Negative Declarations or Mitigated Negative Declarations

(a) As part of the public review process for proposed negative declarations and mitigated negative declarations the Water Planning and Environmental Committee shall hold a public hearing to receive comments from the public. The public hearing will be held during the period for public review required by Section 15073 of the State CEQA Guidelines.

(b) The public hearing on a proposed negative declaration or mitigated negative declaration may be combined with any other public hearing or meeting for the project.

Section 8.00.110 Adoption of Negative Declaration or Mitigated Negative Declaration

(a) If final decision- making authority for a project, except for possibility of appeal, has been delegated by the Board to the General Manager or Authority employee subordinate to the General Manager, then the General Manager or employee may adopt the proposed negative declaration or mitigated negative declaration as presented, conditionally adopt the proposed negative declaration including additional or substitute mitigation measures, order substantial revision and recirculation of the proposed negative declaration or mitigated negative declaration, or order preparation of an environmental impact report if it finds the project may have a significant effect on the environment.

(b) Except as provided in subdivision (a), the Board may adopt the proposed negative declaration or mitigated negative declaration as presented, conditionally adopt the proposed negative declaration including additional or substitute mitigation measures, order substantial revision and recirculation of the proposed negative declaration or mitigated negative declaration, or order preparation of an environmental impact report if it finds the project may have a significant effect on the environment.

Section 8.00.120 Notice of Completion of Draft Environmental Impact Reports – Notice of Availability

(a) At the time it provides a notice of completion of a draft environmental impact report to OPR, the Authority will make a copy of the notice of completion available in electronic format through the Authority’s website on the Internet.

(b) The Authority will give notice of availability of a draft environmental impact report by:

1. Mailing to organizations and individuals who have previously requested such notice in writing.
2. Publication at least one time in a newspaper of general circulation in the community where the project is located. The newspapers specified pursuant to Section 1.08.050 of this Code may be used for this purpose.
3. Mailing by first class mail, postage prepaid, to the owners and occupants of property within 600 feet of the proposed project. Owners shall be determined using the latest equalized assessment roll. The General Manager may provide

additional mailed notice whenever the Manager determines that additional notice is appropriate under the circumstances.

4. Posting for a period of at least 30 days in the office of the county clerk of each county in which the project will be located.

(c) Notice of the public hearing required by Section 8.00.130 may be included in the notice of availability of a draft environmental impact report. If the notice of the public hearing is not included in the notice of availability, then the notice of the public hearing shall be given at least 10 days before the hearing in the same manner as specified in subdivision (b). Published notice shall be complete on the date of publication. Mailed notice shall be complete on the date of mailing.

Section 8.00.130 **Public Hearings on Draft Environmental Impact Reports**

(a) As part of the public review process for draft environmental impact reports the Water Planning and Environmental Committee shall hold a public hearing to receive comments from the public. Based on the record of the hearing, the Water Planning and Environmental Committee may direct preparation of appropriate responses to comments received during the public hearing or order revisions of the draft environmental impact report. If the Committee orders revisions, it may also require further review by the Committee of the draft as revised.

(b) The public hearing on a draft environmental impact report may be combined with any other public hearing or meeting for the project.

(c) The public hearing will be held during the period for public review required by Section 15105 of the State CEQA Guidelines.

Section 8.00.140 **Responsible Agency –Activities Subject to Chapter 7.00**

The Authority will be a responsible agency for encroachment and other permits for activities that require a discretionary permit of a city or county and for joint use agreements issued pursuant to Chapter 7.00 of this Code.

Section 8.00.150 **Environmental Documents**

The Water Resources Department is designated as the custodian of Authority environmental review records. The Water Resources Department is responsible for preparing the record of proceedings of public hearings held pursuant to this Chapter.