

LOCAL AGENCY FORMATION COMMISSION OF MODOC COUNTY  
CEQA GUIDELINES

LOCAL AGENCY FORMATION COMMISSION  
(LAFCO)  
COUNTY OF MODOC

ENVIRONMENTAL PROTECTION (CEQA) GUIDELINES  
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**I. PURPOSE, JURISDICTION, AND AUTHORITY**

**A. PURPOSE OF CEQA**

The California Environmental Quality Act of 1970, as amended, ("CEQA"), Public Resources Code ("PRC") sections 21000 et seq. and the Guidelines for Implementation of CEQA ("CEQA Guidelines") Division 6, Title 14 of the California Administrative Code set forth in detail policies intended to ensure that discretionary governmental approval of a project only be made after an assessment and mitigation of the adverse environmental impacts of the project.

**B. LAFCO JURISDICTION**

CEQA (Section 21080 of the PRC, and CEQA Guidelines Section 15020) require all California public agencies to comply with the environmental review requirements set forth in the statute and CEQA Guidelines.

As an independent public agency of the State of California, LAFCO is subject to the requirements of CEQA. It may function as "Lead Agency" (CEQA Guidelines Section 15050) where it undertakes primary responsibility for environmental review, or LAFCO may function as a "Responsible Agency" (CEQA Guidelines Section 15096) where its CEQA role is limited to a review of environmental documentation prepared by another public agency.

**C. AUTHORITY TO ADOPT AGENCY CEQA GUIDELINES**

Section 21082 PRC and Section 15022 of the State CEQA Guidelines require each public agency to develop local guidelines for compliance with the requirements of CEQA. These local guidelines are adopted pursuant to that authority, and are intended to supplement rather than replace the State CEQA Guidelines. Where these guidelines conflict with the state law or the state guidelines, the state law or guidelines shall supersede these rules.

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**II. GENERAL LAFCO CEQA POLICIES**

**A. LAFCO'S ROLE AS LEAD AGENCY LIMITED**

1. General Policy. Given its limited staff and jurisdiction, LAFCO will normally require a City, the County or a Special District affected by a change of organization to act as the lead agency for environmental review.
2. Exceptions. LAFCO will function as the Lead Agency where:
  - a. The application is made by petition direct to LAFCO and the City, District or County is unable or unwilling to act as the Lead Agency; or
  - b. The City, District or County requests and the Commission agrees to act as lead agency; or
  - c. The proposal involves any of the following:
    - (1) The incorporation of a new city.
    - (2) The formation of a new special district.
    - (3) The adoption of a new sphere of influence for an agency or a general revision to an agency sphere not accompanied by a specific annexation request.
    - (4) The consolidation or reorganization of districts or cities when initiated by LAFCO
3. The procedure requesting LAFCO to assume lead agency status is set forth in Section III.B. below.

**B. PARTICIPATION AS A RESPONSIBLE AGENCY**

It is the policy of Modoc County LAFCO that LAFCO shall actively participate in the Lead Agency's development of the environmental documents where LAFCO is a responsible agency. Only through such active participation can LAFCO assure that the environmental documents shall provide adequate information to meet LAFCO's needs.

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C. APPLICANT PAYMENT FOR ENVIRONMENTAL PROCESSING

The applicant seeking LAFCO approval for a project shall reimburse LAFCO for the reasonable cost of conducting the environmental review process for their project.

**III. GENERAL LAFCO CEQA PROCEDURES**

A. ENVIRONMENTAL COORDINATOR

1. Designation of Executive Officer. The Executive Officer of LAFCO shall be designated the LAFCO Environmental Coordinator ("EC").
2. Alternate. The Executive Officer, or in his or her absence, the Commission Chair, may designate a subordinate or retain a consultant to act as the LAFCO EC on a project. The Executive Officer shall not retain a consultant to act as EC without consultation with the Commission.
3. Authorizations. The EC is authorized to carry out the following functions in administering the LAFCO CEQA function:
  - a. Determination of whether or not a project is exempt.
  - b. Conduct of an Initial Study.
  - c. Preparation of a Negative Declaration or an Environmental Impact Report.
  - d. Determination whether the CEQA documents are complete within the required time limit.
  - e. Preparation of responses to public comments.
  - f. Filing of Notices.
  - g. Providing information to the Commission.
  - h. Act as the hearing officer for the receipt of public comments on Draft EIRs.

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**B. APPLICATION FOR LAFCO TO ASSUME LEAD AGENCY RESPONSIBILITY**

An application requesting LAFCO to assume lead agency status shall be in letter form addressed to the Commission and shall include the following:

1. Diligent Agency Effort. Satisfactory evidence that diligent effort has been made to obtain the consent of the City, District or County to act as Lead Agency, and that either 1) such consent has been denied by the legislative body of that agency or 2) that the legislative body requests that LAFCO act as lead agency. The application shall also request explanation of any specific reasons the City, District or County did not want to act as lead agency.
2. Costs. Agreement by the project proponent or City, District or County to cover the costs of LAFCO acting as lead agency, and submitting appropriate deposit per adopted fee schedule.
3. Commission Consideration. Upon submission of a letter, the Executive Officer will schedule the request for consideration at the next available Commission meeting.
4. Approval Required. Only upon approval of the application by the Commission will LAFCO act as lead agency (note: LAFCO requires an indemnification agreement with all applications).

**C. ENVIRONMENTAL PROCESSING FEE**

1. Environmental Processing Charge. The applicant seeking LAFCO approval for a project shall reimburse LAFCO for the reasonable cost of conducting the environmental review process for their project. A deposit shall be required with the execution of an agreement to pay the total actual cost of processing, in accordance with the adopted LAFCO staff charge schedule.
2. Charge Includes Pre-Application Activities. Where LAFCO is not the lead agency on a project but a responsible agency, LAFCO is required to participate in the environmental review process before the lead agency even before it may receive an application. In such case, LAFCO staff shall keep track of their pre-application cost, and once an application is received, such cost shall be chargeable as part of the overall environmental processing costs.
3. Payment Required. A project application shall not be considered complete until any required environmental processing fee or deposit is paid in full. Where the applicant has entered into an agreement to pay, failure to pay subsequent LAFCO billings when due shall be cause for Commission to terminate processing of the application.
4. Pre-Review Costs. LAFCO will charge for staff time and expenses, in accordance with LAFCO's established hourly rate, for reviewing

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environmental documents on projects or proposals that will require future LAFCO consideration. Any pre-review costs shall be payable upon submission of an application to LAFCO. A summary of any pre-review costs shall be included in the LAFCO comment letter to the lead agency.

**D. TIME LIMITS.**

LAFCO shall follow the time limits set forth in CEQA Guidelines, Article 8, Sections 15100 - 15112, in processing environmental documents. Section 15111 provides that where the principal act governing public agency consideration provides for time limits for processing an application that are shorter than those authorized under CEQA, then the application shall not be deemed accepted under the principal act until CEQA compliance has occurred. Here, Section 56658 (i) of Cortese-Knox sets a mandatory 90 day time period from acceptance of an application to time of hearing before the Commission. Since this is inadequate time to complete the environmental review process, applications for the purposes of compliance with Cortese-Knox shall not be deemed complete until the CEQA process has reached a point where it can be completed within the 90 day time limits of Cortese-Knox-Hertzberg.

1. Summary of Time Limits. CEQA process time limits are summarized as follows (*Note -- all references to days are CALENDAR days as opposed to working days*):
  - a. Thirty (30) days from receipt of an application to determine whether it is complete for environmental review purposes.
  - b. Forty-five (45) days from date that the application is determined to be complete to decide whether to prepare a Negative Declaration or EIR.
  - c. One hundred and five (105) days from the date an application is deemed complete to finalize a Negative Declaration or Exemption from CEQA for a project.
  - d. One year (365 days) from the date an application is deemed complete to finalize an EIR for a project.
  
2. Extension of Time Limits. These time limits may be extended where compelling circumstances justify additional time and the project applicant is advised of their extension. Compelling circumstances include but are not limited to:
  - a. The failure of the applicant to pay fees as prescribed.
  - b. The failure of the applicant to provide information requested by the EC.
  - c. The filing of an appeal or litigation contesting any provision of these guidelines or a decision rendered in accordance with these guidelines.

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- d. The determination by LAFCO subsequent to the preparation of a Negative Declaration that an EIR will be required.

**E. USE OF CONSULTANTS.**

LAFCO and the EC may hire contractors and/or consultants to prepare any and all environmental documents. However, the EC and the Commission retain ultimate responsibility for the adequacy of the environmental document.

**F. PUBLIC NOTICE.**

Public notice for any action contemplated by the Commission on a CEQA project matter shall be publicly noticed by one or more of the methods outlined in accordance with the California Environmental Quality Act, as amended, LAFCO Bylaws, and LAFCO Policies, Standards and Procedures.

**G. APPEAL**

- 1. Appeal of EC Determination: Appeal of any of the determinations made by the EC may be made by any person. Such appeal shall be made on a standard form to be supplied to the appellant by the EC. Appeals must be filed with the EC within 10 (ten) calendar days from the action which is being appealed and shall be accompanied by the appropriate fee. The appeal shall contain reasons for justifying the appeal, and the burden of proof of the appeal shall be on the appellant. The appeal shall be scheduled for hearing by the Commission at the next regularly scheduled meeting and shall be upheld or denied within 90 days of filing.
- 2. Reconsideration: The environmental determination of the Commission is final unless a request for amendment/reconsideration is filed within 30 days as specified in GC Section 56895 and Section 6.5 of LAFCO's Policies, Standards and Procedures for reconsideration, along with the appropriate fee. Any such reconsideration request shall comply with the requirements of G.C. Section 56895, but the burden of proof for any reconsideration of environmental issues shall be on the appellant.
- 3. Effect: Nothing in this section is intended to restrict the right of members of the public to raise environmental issues during any public review of the environmental document. However, failure of the applicant to appeal a determination of the EC or the Commission shall bind the applicant to accept the conditions of the determination.

**IV. CEQA INITIAL PROJECT PROCESSING--LAFCO THE LEAD AGENCY**

**A. APPLICATION SUBMITTAL.**

Where LAFCO is to act as the lead agency for CEQA processing, the applicant shall submit a completed project application, including a fully completed Applicant Environmental Questionnaire. LAFCO staff will log in the project in accordance with the procedure described in

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LAFCO's Bylaws and Policies, Standards, and Procedures. The EC shall determine whether the application is complete enough to prepare environmental documentation (CEQA Guidelines sections 15060 - 15061). If not, the project representative will be notified of the deficiencies within 30 days of submission and asked to resubmit with the additional information.

**B. INITIAL REVIEW; CONSULTATION WITH OTHER AGENCIES.**

Once the application is sufficiently complete to initiate environmental review, the EC shall informally consult with other responsible public agencies to obtain their views regarding the potential environmental impacts of the project.

**C. CATEGORICAL EXEMPTIONS.**

The EC shall determine whether the project qualifies for a categorical exemption under CEQA Guidelines section 15300, et seq. If the project qualifies for a categorical exemption, no further environmental documentation is necessary other than the filing of the "Notice of Exemption" with the Modoc County Clerk.

1. Common LAFCO Exemptions. The following categories of exemptions are frequently relevant to projects before LAFCO:
  - a. Class 6. Information Collection as specified in CEQA Guidelines Section 15306.
  - b. Class 19. Annexation of Existing Facilities and Lots for Exempt Facilities as specified in CEQA Guidelines Section 15319.
  - c. Class 20. Changes in Organization of Local Agencies as specified in CEQA Guidelines Section 15320 including but not limited to Sphere of Influence Plan reviews and affirmations for districts are not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline Section 15320, changes in organization in that: The Sphere of Influence affirmation for districts will not affect the geographical area in which these services are provided; will not result in any substantive changes to the functions, operations or purposes of the districts; are not predicated on, or will result in, any land use changes that may be subject to CEQA review; and will not cause any reasonable foreseeable environmental consequences in that the Sphere of Influence affirmation will not directly create or cause any significant land use changes or other actions that could be detrimental to the environment.
2. Exceptions to Exemptions. However, all exemptions for these classes are inapplicable when any of the following occur:
  - a. Due to particular circumstances relating to the specific project, such as a particularly sensitive project environment, a project that is ordinarily insignificant in its impact on the environment may be

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deemed to have potentially significant impacts requiring further environmental review. (CEQA Guideline Section 15300.2).

- b. The cumulative impact of successive projects of the same type, in the same place, over time, is significant.
- c. An exemption shall not be used for a project where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

**D. INITIAL STUDY.**

The EC shall prepare an Initial Study to determine whether the project will be processed with a Negative Declaration or an Environmental Impact Report. The EC may use information provided in the Environmental Questionnaire prepared by the applicant, and information from any other appropriate sources. The EC may employ the Environmental Evaluation Checklist form contained in Appendix G of the California Environmental Quality Act Guidelines.

The project applicant shall be notified in writing (with signed return receipt required) of the results of the Initial Study. Any interested person who is dissatisfied with the recommendation of the EC may appeal that decision in accordance with the procedure set forth above.

**E. FISH AND GAME FEES.**

Additional fees may be required by the California Department of Fish and Game as per California Fish and Game Code Section 711.4 and California Code of Regulations Section 753.5 to defray the cost of managing and protecting fish and wildlife. These fees apply to both public and private projects. For private projects, the applicant shall be responsible for paying these fees. No project shall be vested, or final, until these fees are paid.

**F. MINISTERIAL PROJECTS**

CEQA review is not required of projects over which LAFCO does not exercise discretion. See § 15268 of the State CEQA Guidelines. While certain actions of the Commission are ministerial, these tend to be actions taken with respect to larger projects as to which the LAFCO has discretion, as ministerial conducting authority proceedings following discretionary approval of a change of organization. For this reason, no list of ministerial projects is stated in these guidelines notwithstanding §15022(a)(1)(B) of the State CEQA Guidelines.

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**V. NEGATIVE DECLARATION PROCESS**

**A. NO SIGNIFICANT EFFECT.**

A Negative Declaration ("Neg Dec") shall be prepared by the EC for a project when the Initial Study shows that there is no substantial evidence that the project may have a significant effect upon the environment.

1. Changes to Significant Effects. A Neg Dec shall be prepared when the Initial Study identifies potentially significant impacts, but changes in the project have been made which would avoid the impacts, and there is no substantial evidence that the revised project will have a significant effect upon the environment.
2. Form of the Neg Dec. The Neg Dec shall consist of the initial study and conclusions based on that initial study in a format prescribed in Section 15071 of the CEQA Guidelines.
3. Consultation with Other Agencies. The EC shall consult with and solicit comments from any affected agency or person with special expertise on the impacts of the project in the completion of this form.
4. Public Review. The Neg Dec shall be available for public review not less than twenty-one (21) working days prior to any hearing on the project by the Commission and 30 days if the Neg Dec is circulated to the State Clearinghouse. Public notice of the availability of the Neg Dec and any public hearings shall be given in accordance PRC Section 21092, 21092.5(c) and these guidelines. Public copies shall be made available as follows:
  - a. One or more copies available to the public in the main branch of the public library and each library branch in the project area.
  - b. One copy to the applicant.
  - c. One or more copies at the LAFCO office, with "check-out" privileges where appropriate.
  - d. One copy to each Responsible Agency and each Trustee Agency.
  - e. Copies for sale to other agencies and the public shall be available at the LAFCO office for purchase (at actual cost).
  - f. One copy posted on LAFCO's website.
5. Determination of Adequacy by the Commission. Prior to the approval of the project, the Commission shall determine all of the following:
  - a. That the Neg Dec is adequate, complete, and appropriate.

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- b. That the Neg Dec reflects its independent judgment.
  - c. If the project has been modified to reduce or eliminate one or more significant effects, the EC shall ensure that the provisions of the modification(s) are made known to the Commission, that the modification(s) are part of the project record, and that the modification(s) are included as a condition or requirement of approval. **NOTE:** The Commission's ability to use mitigated negative declarations is restricted by its limited authority to place conditions on the project.
- 6. Notice of Determination. If the decision of the Commission is to approve the project, the EC shall prepare a "Notice of Determination" substantially in the form located in Appendix D of the CEQA guidelines. The completed Notice shall be filed with the Modoc County Clerk, and the Clerk's endorsed copy maintained in the permanent LAFCO files. If the project requires further discretionary approval of a State agency, a copy of the Notice shall be filed with the State Office of Planning and Research.
  - 7. Inadequate Neg Dec Procedure. If the subsequent decision of the Commission is that a Neg Dec is inadequate and that an EIR is required for the project, the EC shall then prepare a Draft EIR for the project. The application shall be deemed incomplete until the EIR is prepared and can be finalized within the 90 day Commission decision time-frame.
  - 8. Adoption of Mitigation Monitoring Program. At the time the Negative Declaration is adopted, the Commission or decision-making body shall adopt a program for reporting or monitoring mitigation measures that were adopted or made conditions of project approval.

**VI. ENVIRONMENTAL IMPACT REPORT PROCESS**

**A. DRAFT ENVIRONMENTAL IMPACT REPORT PROCESS**

- 1. Submission of Additional Information. If the Initial Study indicates the need for an Environmental Impact Report ("EIR"), the applicant may be asked to submit to the EC any information that the EC may require to prepare the Draft EIR. Preparation of the Draft EIR shall not begin until the EC has determined that the required information has been received and is complete. The EC may also require additional information from the applicant at any time during the EIR process if determined to be necessary for the completion of the environmental documents.

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2. Notice of Preparation (Appendix I of the CEQA Guidelines), shall be completed by the EC within 15 days of the final determination to prepare an EIR. This Notice shall be circulated to each known Responsible Agency, Trustee Agency, and to the State Clearinghouse. The Notice shall include:
  - a. A description of the project.
  - b. A written boundary location of the project and a map, either or both of which are in sufficient detail to delineate the extent of the project.
  - c. The probable environmental effects of the project.
  - d. When completed, a copy of the Draft EIR.
3. State Clearinghouse. When LAFCO is acting as Lead Agency with respect to a project over which a State agency has legal jurisdiction, or when the EC otherwise considers it appropriate, the EC shall submit a Notice of Preparation to the State Clearinghouse for circulation to state agencies.
4. Early Consultation. Prior to the preparation of the draft EIR, and in conformance with PRC Section 21153, the EC:
  - a. **shall** consult with:
    - (1) Every responsible agency.
    - (2) Any agency that has jurisdiction by law with respect to the project.
    - (3) Any city or county that borders on the project or may be affected by the project.
    - (4) The City, County, District and/or project applicant.
  - b. **may** consult with:
    - (1) Any person who has special environmental expertise on the environmental impacts involved in the project.
    - (2) Any person whom the project applicant or the EC believes will be concerned with the environmental impacts of the project.
    - (3) Any member of the public who has submitted written request for consultation.

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5. EIR - Information Required. The EC or consultant shall prepare a Draft EIR containing all the information required by Article 9 of the CEQA Guidelines, beginning with Section 15120 and which also specifically addresses the environmental issues of LAFCO, particularly conversion of prime agricultural and open space lands.
6. Notice of Completion shall be filed with the State Office of Planning and Research as soon as the Draft EIR has been completed, and BEFORE copies of the report are made available for public review. The Notice shall be in substantially the same form as given in Appendix C of the CEQA Guidelines and shall comply with CEQA Guideline section 15085. If appropriate, the Notice shall also be submitted to the State Clearing-house.
7. Public Review of the Draft EIR shall take place subsequent to the filing of the Notice of Completion with the Office of Planning and Research. The Public Review Period for Draft EIRs shall not be less than thirty (30) nor more than sixty (60) calendar days as prescribed in CEQA Guideline Section 15105. Exceptions to these limits shall be only in unusual circumstances and shall be approved by the Commission in accordance with CEQA guideline section 15105. Public notice of the availability of the Draft EIR shall be given in accordance with the public notice procedure established in the CEQA guideline 15087. Public copies of the Draft EIR shall be placed as follows:
  - a. One or more copies available to the public in the main branch of the public library and each library branch in the project area.
  - b. One copy to the applicant.
  - c. One or more copies at the LAFCO office, including "check-out" copies where appropriate.
  - d. One copy to each Responsible Agency and each Trustee Agency.
  - e. Copies for sale to other agencies and the public shall be available at the LAFCO office for purchase (at actual cost).
  - f. Posted on the County's website, when feasible.
8. Written Comment. During the Public Review Period any interested person may submit written comments on the draft EIR to the Commission. Such comments shall only be accepted where signed by the writer or representative if a group comments.
9. Project Public Hearing. One or more public hearings shall be held after the conclusion of the required public review period for any project for which an EIR is required. At the public hearing, the Commission shall:

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- a. Consider the contents of the draft EIR.
  - b. Hear a summary of the Draft EIR presented by the EC or Consultant.
  - c. Hear any written comments submitted to the EC regarding the draft EIR.
  - d. Hear any oral testimony regarding the draft EIR from any person in attendance at the hearing.
  - e. Comment on any additions or clarifications commissioners or Members would like to see in the Final EIR.
  - f. Direct that any of the following actions occur:
    - (1) Order that the public review period be extended to receive additional comment on the draft EIR.
    - (2) If major issues are raised that require substantial rewrite of portions of the draft EIR, direct that the draft EIR be revised and recirculated as a revised draft;
    - (3) Direct the EC to respond in the Final EIR to substantial questions of content raised in the public hearing and/or subsequent Commission discussion.
    - (4) If no substantial questions are raised regarding content or adequacy of the Draft EIR, certify the Draft EIR as a Final EIR.
10. Recirculation of Draft EIR. If "significant new information" is added to the EIR after the close of the public comment period but before certification, LAFCO must provide a second public review period and recirculate the Draft EIR for comments. New information is considered "significant" when the EIR is changed in a way that deprives the public of a meaningful opportunity to comment. This occurs when the new information discloses:
- a. A new substantial environmental impact resulting from the project or from a new mitigation measure proposed to be implemented.
  - b. A substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance.
  - c. A new feasible project alternative or mitigation measure that clearly would lessen the environmental impacts of the project, but which the project's proponents decline to adopt.

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- d. The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment of the draft was, in effect, meaningless.
- e. New information is not "significant" when it merely clarifies, amplifies, or makes insignificant modifications to an adequate EIR. Substantial evidence must support the LAFCO's decision not to recirculate an EIR.

**B. FINAL ENVIRONMENTAL IMPACT REPORT PROCESS**

1. Additional Information. Submission of additional information necessary to respond to questions raised during the Draft EIR process may be required of the project applicant by the EC in order to prepare the Final EIR.
2. Preparation. The EC or Consultant shall prepare a Final EIR containing all the information required by CEQA Guidelines Article 9.
3. Distribution. The EC shall distribute the Final EIR to those agencies, individuals and public locations as required by Section 21092.5 and the CEQA Guidelines. This distribution shall be made at least 10 days prior to any hearing to certify the Final EIR.
4. Public Hearing on the Final EIR shall be held not sooner than twenty-one (21) calendar days after the Final EIR is distributed publicly. Such hearing may be held in conjunction with the hearing on the project itself. At this hearing, the Commission shall:
  - a. Hear the Final EIR presented by the EC.
  - b. Hear any testimony relative to the Final EIR by those in attendance at the hearing.
  - c. Hear any written comments on the Final EIR presented to the EC.
  - d. Optionally, certify that the Final EIR has been completed in compliance with CEQA and CEQA Guidelines.
  - e. Optionally, advise the EC what further information is necessary to complete the Final EIR.
5. Certification. The Commission shall certify that the Final EIR has been completed in compliance with CEQA and CEQA Guidelines and that the document reflects the independent judgment of the Commission.
6. Review and Consideration. Prior to approval or denial of the project, the Commission shall state that the Commission has reviewed and considered the information contained in the EIR and that the document reflects the independent judgment of the Commission.

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**C. SIGNIFICANT EFFECTS - FINDINGS REQUIRED.**

1. Commission Findings. The Commission shall NOT approve a project for which a Final EIR has been certified and which identifies one or more significant environmental effects of the project unless the Commission makes one or more of the following findings. Each finding shall be accompanied by a brief explanation of the rationale behind the finding and shall be supported by substantial evidence in the record:
  - a. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effect as identified in the Final EIR.
  - b. Such changes or alterations are the responsibility of another public agency, and that public agency has adopted such changes or can and should adopt the changes into their approval.
  - c. Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the Final EIR.
2. Evidence Required. If the Commission intends to approve a project for which the Final EIR identifies one or more significant effects, the Commission may require the project applicant to provide and submit evidence into the record to substantiate the need to approve the project notwithstanding the identification of the significant environmental effects of the project as proposed.
3. Processing Findings. LAFCO shall prepare and process findings on the Final EIR as follows:
  - a. The findings required in (VI.C.), above, shall be reduced to written form.
  - b. The Public Hearing or the Commission hearing on a project may be continued to a time and place certain so that written findings may be drafted and presented to the Commission. The EC may request LAFCO staff, counsel, and the project applicant to assist with the drafting of the findings.
  - c. The Commission shall adopt the findings as a regular part of the hearing on the project. Action on the project shall not be considered final until findings have been adopted by the Commission.
4. Adoption of Mitigation Monitoring Program. At the time the CEQA findings are made, the Commission shall adopt a program for reporting or

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monitoring mitigation measures that were adopted or made conditions of project approval.

**D. STATEMENT OF OVERRIDING CONSIDERATIONS**

1. If the Commission determines to carry out or approve a project that the Final EIR indicates will have a significant and unavoidable effect on the environment, it shall make a statement of overriding considerations pursuant to Section 15093 of the State CEQA Guidelines.

**VII. PROCEDURE WHERE LAFCO IS THE RESPONSIBLE AGENCY**

**A. PARTICIPATION IN LEAD AGENCY ENVIRONMENTAL REVIEW PROCESS**

1. EC Review. The EC shall, upon receipt of notice of preparation of a Neg Dec or EIR, for a project that will ultimately come to the Commission for consideration, consult with the Lead Agency and submit appropriate comments to the Lead Agency as to LAFCO's areas of concern. The EC shall also review and comment on any Draft EIR once it is prepared.
2. Commission Review of Draft Environmental Documents. If requested by a member of the Commission, or where the EC feels it appropriate due to the magnitude or controversy surrounding a project, the EC shall submit the draft documents to the Commission for their review and comment. The EC shall then include any Commission comments in the LAFCO response.
3. EC Follow-Up. The EC shall follow up on LAFCO comments to ensure that any information requested is adequately included in the final environmental document.

**B. REVIEW OF ENVIRONMENTAL DOCUMENTS**

1. Complete Documentation Required. Where LAFCO is a responsible agency, the application for LAFCO approval shall be accompanied by a complete copy of the environmental documentation, including the notice of determination showing the date of filing with the County Clerk.
2. Executive Officer's Report. The EC shall review the environmental documentation and discuss relevant information in the documentation in the Executive Officer's report on the project.
3. Commission Review and Certification. The Commission shall review the environmental documentation and certify, in its decision, that it has so reviewed the environmental documents for the project.

**C. SUPPLEMENTATION OF ENVIRONMENTAL DOCUMENTS**

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Following certification of a Final EIR, a Subsequent EIR shall be prepared if the conditions in State CEQA Guidelines Section 15162 apply, or a Supplemental EIR shall be prepared if the conditions in State CEQA Guidelines Section 15163 apply. A decision not to prepare a Subsequent or Supplemental EIR shall be based on substantial evidence, which may, but is not required to, be documented in an EIR Addendum.

1. Supplements Limited. Pursuant to Section 15050(c) of the CEQA Guidelines, LAFCO may not challenge the adequacy of the environmental documentation prepared by the lead agency unless it finds grounds requiring the preparation of subsequent environmental documentation as set forth in Section 15162.
  
2. Grounds for Requiring Additional Environmental Documentation. The grounds for requiring supplements are any one of the following concerns listed in Section 15162 of the CEQA Guidelines:
  - a. Substantial changes are proposed in the project which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
  
  - b. Substantial changes occur with respect to the project circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
  
  - c. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
    - (1) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  
    - (2) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  
    - (3) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  
    - (4) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt

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the mitigation measure or alternative.

**VIII. AMENDMENTS AND FILING**

**A. AMENDMENTS**

Amendments to these CEQA Guidelines shall be made in compliance with the LAFCO Bylaws and Policies and Standards.

**B. FILING OF GUIDELINES**

Upon approval of these Guidelines, and any amendments thereto, an original certified and signed copy shall be filed with the Clerk of the Board of Supervisors of Modoc County.