



**Local Agency Formation Commission of Napa County**  
Subdivision of the State of California

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*We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture*

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**Agenda Item 8a (Action)**

**TO:** Local Agency Formation Commission

**PREPARED BY:** Brendon Freeman, Executive Officer *BF*

**MEETING DATE:** October 4, 2021

**SUBJECT:** Proposed Amendment to Policy on CEQA

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**RECOMMENDATION**

It is recommended the Commission adopt the Resolution of the Local Agency Formation Commission of Napa County Amending the *Policy on CEQA* (“the Policy”), included as Attachment One.

**SUMMARY**

The Commission’s adopted Strategic Plan includes a schedule for the Commission’s Policy Committee (Mohler and Wagenknecht) to comprehensively review all local policies.

On July 14, 2021 and September 3, 2021, the Policy Committee met to review the Policy and agreed to recommend significant revisions. The proposed revisions involve restructuring and simplifying the Policy to eliminate confusion for all parties and streamline the review process for projects subject to the California Environmental Quality Act (CEQA). Notably, this involves adopting the CEQA Guidelines to determine the appropriate course of Commission action for projects subject to the requirements of CEQA.

The Committee’s proposed Policy is included as an exhibit to Attachment One. The current version of the Policy is included as Attachment Two for reference.

**ATTACHMENTS**

- 1) Draft Resolution Amending the *Policy on CEQA*
- 2) Current *Policy on CEQA* (Tracked Changes)

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Margie Mohler, Vice Chair  
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner  
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner  
Councilmember, City of Napa

Diane Dillon, Chair  
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner  
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner  
County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner  
Representative of the General Public

Eve Kahn, Alternate Commissioner  
Representative of the General Public

Brendon Freeman  
*Executive Officer*

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF  
THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY  
AMENDING ITS POLICY ON CEQA

WHEREAS, on December 4, 2006, the Local Agency Formation Commission of Napa County (the "Commission") adopted a *Policy on CEQA*; and

WHEREAS, the Commission considered a proposed amendment to the *Policy on CEQA* at its regular meeting on October 4, 2021, and invited public comment at that meeting; and

NOW, THEREFORE, BE IT RESOLVED that the Commission hereby amends the *Policy on CEQA* as attached hereto.

This Resolution shall take effect immediately.

The foregoing resolution was duly and regularly adopted by the Commission at a public meeting held on October 4, 2021, after a motion by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, by the following vote:

AYES:	Commissioners	_____
NOES:	Commissioners	_____
ABSENT:	Commissioners	_____
ABSTAIN:	Commissioners	_____

\_\_\_\_\_  
Diane Dillon  
Commission Chair

ATTEST: \_\_\_\_\_  
Brendon Freeman  
Executive Officer

Recorded by: Kathy Mabry  
Commission Clerk



## LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

### *Policy on CEQA*

(Adopted on December 4, 2006; Last Amended: October 4, 2021)

#### **I. BACKGROUND**

Under Public Resources Code Section 15022, each public agency shall adopt objectives, criteria, and specific procedures consistent with the California Environmental Quality Act (CEQA) and the Guidelines for Implementation of the California Environmental Quality Act (“the Guidelines”) for administering its responsibilities under CEQA, including the orderly evaluation of projects and preparation of environmental documents.

In adopting procedures to implement CEQA, a public agency may adopt the State CEQA Guidelines through incorporation by reference. The agency may then adopt only those specific procedures or provisions which are necessary to tailor the general provisions of the guidelines to the specific operations of the agency. A public agency may also choose to adopt a complete set of procedures identifying in one document all the necessary requirements.

#### **II. PURPOSE**

The Guidelines are the regulations that explain and interpret the law for both the public agencies required to administer CEQA and for the public generally. They are found in Chapter 3 of Title 14 in the California Code of Regulations. The Guidelines provide objectives, criteria and procedures for the orderly evaluation of projects and the preparation of environmental impact reports, negative declarations, and mitigated negative declarations by public agencies. The fundamental purpose of the Guidelines is to make the CEQA process comprehensible to those who administer it, to those subject to it, and to those for whose benefit it exists. To that end, the Guidelines are more than mere regulations which implement CEQA as they incorporate and interpret both the statutory mandates of CEQA and the principles advanced by judicial decisions. The Governor's Office of Planning and Research prepares and develops proposed amendments to the Guidelines and transmits them to the Secretary for Resources. The Secretary for Resources is responsible for certification and adoption of the Guidelines and amendments thereto.

Revision of the CEQA Guidelines is an on-going process. By statute, the Secretary of Resources is required to review and consider amendments to the Guidelines every two years. Annual changes to CEQA and evolving case law make revisions to the Guidelines necessary on a continual basis.

#### **III. CEQA GUIDELINES AND COMMISSION LOCAL INTEREST POLICIES**

It is the Commission’s policy to adopt the Guidelines approved by the State Department of Resources and as amended from time to time, in the preparation of all environment documentation. Whenever an agency other than the Commission is involved in the approval of a project, the Commission prefers that the other agency be designated as the “Lead Agency.” For annexations and/or reorganizations involving annexation to a city, the city shall act as the Lead Agency under CEQA for the proposal. CEQA processing shall be undertaken in accordance with the most recent version of CEQA, the Guidelines, and the Commission’s adopted policies.

Notably, the Commission has identified additional areas of local interest that shall be addressed by the Lead Agency in the preparation of any CEQA document. These include:

- A. Cumulative and regional impacts;
- B. Impacts to public services, including but not limited to, water supply and distribution systems; wastewater treatment and sewer collection systems; solid waste disposal capacity and collection; public school districts, fire and police protection; and public facilities, including discussion on the ability of the receiving entities (i.e. water district, sewer district, school district) to provide the services to the proposed boundary change area;
- C. Conversion of prime agricultural lands to urban uses and protection/preservation of prime agricultural lands and resources;
- D. Consistency with general and specific plans; and
- E. Availability of affordable housing.

DRAFT

**CEQA POLICY  
OF  
THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY**  
(Effective December 4, 2006)

**SECTION 1. INTRODUCTION**

Section 15022 of the State CEQA Guidelines requires public agencies to adopt objectives, criteria and specific procedures consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines for administering CEQA. The CEQA (Sections 21000 et seq. of the Public Resources Code) and the State CEQA Guidelines (Sections 15000 et seq. of Title 14 of the California Administrative Code) are hereby incorporated by reference into this CEQA Policy of the Local Agency Formation Commission of Napa County (hereinafter "Policy").

This Policy establishes the Napa County LAFCO procedures for the Commission acting as both a Responsible Agency and as a Lead Agency with respect to complying with the State CEQA requirements. The Commission shall conform to any statutory change in CEQA regardless of whether this Policy contains the amended procedures.

**SECTION 2. PURPOSE**

The purpose of the Commission's Policy is to set forth the specific procedures and provisions adopted by the Commission to implement and comply with the requirements of CEQA and the State CEQA Guidelines.

**SECTION 3. LAFCO AS A RESPONSIBLE AGENCY**

3.1 LAFCO as Responsible Agency: A Responsible Agency is a public agency other than the Lead Agency that has responsibility for carrying out or approving a project and for complying with CEQA.

3.1.1. In the case of projects initiated by a land use authority, such as a city or county, where annexations are required as a condition of approval, LAFCO will assume the Responsible Agency role unless the Lead Agency did not consult with LAFCO as the Responsible Agency.

3.1.2. LAFCO will assume the Responsible Agency role for annexations that include a prezone by a city unless the Lead Agency did not consult with LAFCO as the Responsible Agency.

3.1.3. LAFCO will assume the Responsible Agency role for changes in organizations for a district which include infrastructure development by a district unless that agency did not consult with LAFCO as the Responsible Agency.

3.2 Comment Period for Lead Agency Environmental Documents: Lead agencies shall comply with the State CEQA Guidelines requirements (Section 15086 to 15087) for distributing draft environmental documents to Responsible Agencies when forwarding draft environmental documents to LAFCO. The Executive Officer will transmit written comments to the lead agency within the noticed public review period. The Executive Officer, or his/her designee, shall respond in writing as to the adequacy of the proposed environmental document, including any specific areas of concern or disagreement, within the time specified in the lead agency's notice. LAFCO shall also identify, in writing, any significant environmental effects that it believes could result from the project. Comments should be limited to LAFCO's scope and responsibilities for review of the project. The lead agency should incorporate and address all LAFCO comments in the final environmental document.

Issues that are particularly important for an environmental document that is being prepared for a subsequent LAFCO action include the following:

- (1) Cumulative and Regional Impacts
- (2) Impacts to public services, including but not limited to, water supply and distribution systems; wastewater treatment and sewer collection systems; solid waste disposal capacity and collection; public school districts, fire and police protection; and public facilities, including discussion on the ability of the receiving entities (i.e. water district, sewer district, school district) to provide the services to the proposed boundary change area.
- (3) Conversion of prime agricultural lands to urban uses and protection/preservation of prime agricultural lands and resources.
- (4) Consistency with General and Specific Plans
- (5) Affordable Housing

3.3 Lead Agency Preparation of Environmental Documents: The following procedures apply when a city, special district or other entity assumes the role of lead agency (as defined in CEQA Section 21067 and CEQA Guidelines Section 15051) for preparation of the appropriate environmental document. Generally, this involves a lead agency's environmental review and document for a project where subsequent LAFCO action is anticipated.

3.3.1 Lead agencies shall, as a result of any comments received by LAFCO, prepare environmental documents in a manner that would permit their use by LAFCO in considering subsequent boundary change proposals. References to any boundary changes required to implement the underlying project shall be included on the title page and accurately described in the project description.

3.3.2 All notices of determination or exemption shall be submitted to LAFCO. Additionally, copies of the final environmental document and the lead agency's adopted Statement of Facts and Findings (CEQA Guidelines Section 15091), Statement of Overriding Considerations, and adopted mitigation measures (CEQA Guidelines Section 15096[g]), shall be submitted to LAFCO with the application, if applicable. The lead agency shall also include for an approved project its adopted Mitigation Monitoring and Reporting Program (MMRP) and any conditions of project approval that mitigate or avoid significant effects on the environment.

3.4 LAFCO Use of Lead Agency Environmental Documents: LAFCO shall, in making determinations on boundary change proposals, utilize the environmental document prepared by the lead agency in accordance with these procedures and the State CEQA Guidelines. The Commission shall certify that it has reviewed and considered the information contained in the environmental document prior to approval of a proposal. LAFCO shall, when utilizing a lead agency's environmental document for a project where significant effects are identified, make or incorporate, by reference, findings required by Section 15091 for each significant effect of the project.

3.4.1 If LAFCO approves a proposal supported by an EIR, it must adopt a Statement of Overriding Considerations when a lead agency (pursuant to State CEQA Guidelines Section 15093) has adopted a Statement of Overriding Considerations for significant effects, which cannot be wholly mitigated. LAFCO may adopt a Statement of Overriding Considerations by incorporating the lead agency's Statement by reference.

3.4.2 When an EIR has been prepared, LAFCO shall not approve the project as proposed if it finds feasible alternatives or feasible mitigation measures within its powers that would substantially lessen any significant effect the project would have on the environment.

3.4.3 LAFCO can also require an applicant to prepare a subsequent environmental document, including a supplemental environmental impact report or an addendum to an

environmental impact report, pursuant to CEQA Guidelines Sections 15162 and 15163. Additionally, in some instances LAFCO may assume the role of lead agency pursuant to CEQA Guidelines Section 15052.

3.4.4 The Executive Officer will deem an application incomplete, for processing purposes, until the required environmental documentation has been received.

#### **SECTION 4. LAFCO AS LEAD AGENCY**

4.1 Lead Agency Criteria: Public Resources Code Section 21067 defines lead agency as the public agency that has the principal responsibility for carrying out or approving a project that may have a significant impact upon the environment. LAFCO will assume the Lead Agency role when:

- (1) A petitioner submits a project application to LAFCO.
- (2) The Commission initiates and determines that it is the lead agency for a sphere of influence update pursuant to Government Code Section 56425.
- (3) The Commission initiates and determines that it is the lead agency for conducting a service review pursuant to Government Code Section 56430.
- (4) The Commission initiates a proposal pursuant to Government Code Section 56375(a).
- (5) Another public agency was the appropriate lead agency, but pursuant to CEQA Guidelines Section 15052, a shift in the lead agency designation is required.

4.2 Determination of the Applicability of CEQA: The Executive Officer or his/her designee shall, when LAFCO is the Lead Agency, determine whether an environmental document will be required (CEQA Guidelines Section 15060) or whether the project is exempt from CEQA (CEQA Guidelines Section 15061). The Executive Officer will also be responsible for determining whether a project normally considered exempt from CEQA may require preparation of an environmental document because the project may actually have a significant impact on the environment (CEQA Guidelines Section 15300.2.).

4.2.1 The Executive Officer shall, within 30 days from the date of receiving an application, such as a petition, or the initiation of a project for which LAFCO is the lead agency, determine whether an activity is subject to CEQA (CEQA Guidelines Section 15060) before conducting an Initial Study. If the proposal is considered to be subject to CEQA, and is not considered to be exempt from the State CEQA Guidelines (Section 15061), the Executive Officer shall prepare an initial study, or cause an initial study to be prepared.

4.3 Categorical or Other Exemptions: The Executive Officer shall determine whether the project qualifies for an exemption under State CEQA Guidelines (Section 15061). If the project



qualifies for an exemption, no further environmental documentation is necessary other than the filing of the “Notice of Exemption” form with the Napa County Clerk.

4.3.1 Common LAFCO Exemptions. The following categories of exemptions are frequently relevant to projects before LAFCO:

- (1) New Construction or Conversion of Small Structures as specified in State CEQA Guidelines (Section 15303).
- (2) Information Collection as specified in State CEQA Guidelines (Section 15306).
- (3) Annexation of Existing Facilities and Lots for Exempt Facilities as specified in State CEQA Guidelines (Section 15319).
- (4) Changes in Organization of Local Agencies as specified in State CEQA Guidelines (Section 15320).
- (5) Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment as specified in State CEQA Guidelines (Section 15061(b)(3)).

4.3.2. Limitations on Use of Exemptions: All exemptions for these categories are inapplicable when any of the following occur (State CEQA Guidelines Section 15300.2):

- (1) 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 significant.
- (2) The cumulative impact of successive projects of the same type, in the same place, over time, is significant.
- (3) 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.

4.4 Costs of Preparation of Environmental Documents: For projects submitted by petition, or where LAFCO is serving as lead agency on behalf of another public agency, the full costs of preparing all environmental documents, including the preparation of an initial study and either a Negative Declaration, Mitigated Negative Declaration or an Environmental Impact Report shall be the responsibility of the petitioners or the public agency involved. The petitioners or public agency will be required to submit a deposit fee and a reimbursement agreement committing to payment of the entire costs for preparation of all environmental documents prior to the preparation of an initial study.

4.5 Preparation of Environmental Documents: The Executive Officer will determine if LAFCO staff will prepare the initial study and/or other environmental documents, or whether the initial study and/or other environmental documents will be prepared by independent consultants hired by LAFCO. Any independent consultants shall serve solely at the direction of the Executive Officer.

The Executive Officer may require project proponents to submit special studies or other information necessary to adequately evaluate potential impacts of a project.

4.6 Initial Study Preparation:

4.6.1. Any initial study shall be completed in a timely fashion and within the time limits required by law.

4.6.2. Responsible Agencies, Trustee Agencies and Affected Agencies may be consulted and advice and recommendations may be solicited from other public agencies/persons or organizations.

4.6.3. The Initial Study Checklist and Initial Study Assessment Guidelines currently in use by the County of Napa Planning Department will be utilized unless LAFCO prepares and adopts its own, separate, Initial Study Checklist and Assessment Guidelines.

4.6.4. The initial study shall take into consideration all aspects and phases of the project, the purposes, policies, rules, regulations and standards set forth in CEQA, the CEQA Guidelines, this Administrative Supplement, and, as appropriate, other LAFCO policies and procedures and the plans and policies of the County and/or affected cities and/or special districts, as appropriate.

4.7 Determination of Appropriate Environmental Document:

4.7.1 Based on a completed initial study the Executive Officer shall determine the appropriate environmental document to be prepared.

4.7.2 The Executive Officer shall prepare or cause to be prepared a Negative Declaration or Mitigated Negative Declaration for those projects that have been found to have no significant effect on the environment pursuant to State CEQA Guidelines Sections 15070 through 15075.

4.7.3 The Executive Officer shall prepare or cause to be prepared an Environmental Impact Report for those projects that may have a significant effect on the environment pursuant to State CEQA Guidelines Sections 15080 - 15179.5.

4.8 Fish and Game Fees: Additional fees may be required by the California Department of Fish and Game pursuant to California Fish and Game Code Section 711.4 and Title 14 California Code of Regulations Section 753.5 to defray the cost of managing and protecting fish and wildlife. If the Initial Study determines that a project has a significant impact on fish and wildlife resources, the applicant must pay the state mandated fees. These fees apply to both public and private projects. No project shall be vested, or final, until these fees are paid.

4.9 Public Notice and Review: The Executive Officer shall provide or cause to be provided, public notification and shall make Negative Declarations, Mitigated Negative Declarations and Environmental Impact Reports available for public review, pursuant to State CEQA Guidelines Section 15073 et. seq. (Negative Declarations/Mitigated Negative Declarations) or Sections 15087 - 15088.5 (EIRs).

4.10 Adoption of Environmental Documents: LAFCO shall adopt Negative Declarations, Mitigated Negative Declarations and Environmental Impact Reports in accordance with the State CEQA Guidelines.

## **SECTION 5. POLICY REGARDING SIGNIFICANT AND ADVERSE ENVIRONMENTAL IMPACTS**

When evaluating environmental impacts during its environmental review process, LAFCO may identify such impacts as significant and adverse if:

5.1 Build out of the proposed project may cause service levels to decline below established standards, or cause costs of service provision to rise substantially to the detriment of service levels, or cause those currently receiving service to receive reduced or inadequate services, especially when such change may cause adverse health and safety or other physical impacts.

5.2 Build out of the proposed project may cause the infrastructure capacity of a service provider to exceed planned and safe limits especially when such change may cause adverse health and safety or other physical impacts.

5.3 Inclusion of the proposed territory into the boundaries of the service agency exceeds the ability of the service provider to provide service to the proposed or existing development within that territory with either existing or proposed service capacity.

5.4 The proposed project includes or plans for infrastructure capacity, especially water and sewer lines, that exceed the needs of the proposed project and may be used to serve areas not presently planned for development, especially those containing prime agricultural and resource land, mineral, sensitive plant and wildlife or other important resources.

5.5 The proposed project could cause health and safety or physical impacts because a service provider is incapable of providing service, the proposal has an illogical boundary, or elements needed to provide service (water supply, treatment facilities, equipment, energy) are not available, or stressed beyond capacity.

5.6 The proposed project may result in substantial loss of prime agricultural land or important open space, timberland, mining or other resource lands. Land use zones adopted by a city or the County shall be used to judge appropriate land use.

5.7 The proposed project may cause premature, ill-planned, illogical or inefficient conversion of prime agricultural, timberland, open space, mineral resource or other important resource areas not presently planned for development.

5.8 The proposed project is substantially inconsistent with applicable Sphere of Influence plans; or General Plan or Specific Plan, area service plans, phased land use plans of any city or County; or resource conservation plans of the state or federal government.

5.9 The proposed project may induce substantial growth on important agricultural, resource and open space lands because it would:

- Permit the extension of, or require, infrastructure such as flood control levees or water diversions, electrical, water or sewer lines, especially trunk lines, roadways or public facilities that would permit new development in a substantial area currently constrained from development.
- Encourage or foster development by permitting uses that adversely impact adjacent agricultural, timberland, mining or other resource operations, significantly increase property values of adjacent or proximate agricultural or resource land, or remove man-made or natural buffers between urban and agricultural, timber, mining or conservation uses.
- Be adversely and substantially inconsistent with the agricultural, open space, resource conservation or preservation, growth management, or other plans or policies of General Plan or Specific Plan of the land use jurisdiction responsible for the project site or vicinity.

5.10 The proposed project, when considered in conjunction with other recent, present and reasonably foreseeable projects, may cause significant adverse cumulative impacts.