

## **CAL FIRE Forest Health Environmental Compliance**

**NOTE:** Projects that will perform work on federally owned lands will need to comply with federal laws and regulations, including the National Environmental Protection Act (NEPA) in addition to any state laws and regulations. Proof of such compliance will be required.

### **California Environmental Quality Act (CEQA)**

Prior to commencing any on-the-ground work the Department of Forestry and Fire Protection requires proof of adequate compliance with the CEQA. This may be accomplished by one or more of the following methods:

1. Notice of exemption filed with the State Clearinghouse or the county clerk and completion of the associated Department of Forestry and Fire Protection Environmental Review Report for an Exempt Project for categorically exempt projects.
2. Initial study and negative declaration or mitigated negative declaration and all associated noticing documents filed with the State Clearinghouse or the county clerk.<sup>2</sup>
3. Draft and final environmental impact report and all associated noticing documents filed with the State Clearinghouse or the county clerk.<sup>3</sup>
4. Timber harvesting permit or notice in compliance with the California Forest Practice Act and Rules, if the project undertakes timber operations per Public Resources Code § 4527.
5. Finding of no significant impact or environmental impact statement prepared in compliance with the National Environmental Policy Act.
6. Certification that the project qualifies for the limited suspension of requirements of the California Environmental Quality Act pursuant to the Governor's October 30, 2015, *Proclamation of a State of Emergency*.

For exempt projects where the grantee is a public agency, the grantee will be responsible for: (a) performing the necessary environmental effects analysis; (b) preparing the Environmental Review Report for an Exempt Project and notice of exemption; and (c) filing the notice of exemption. For exempt projects where the

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<sup>2</sup>A Department of Fish and Wildlife filing fee will be required upon filing of the notice of determination for an initial study and negative declaration or mitigated negative declaration with the State Clearinghouse or county clerk. Grantees are advised to request funds for this fee when preparing budgets during the application phase for grant dollars.

<sup>3</sup> A Department of Fish and Wildlife filing fee will be required upon filing of the notice of determination for a final environmental impact report with the State Clearinghouse or county clerk. Grantees are advised to request funds for this fee when preparing budgets during the application phase for grant dollars.

grantee is not a public agency (e.g., fire safe council), a public agency will need to file the notice of exemption. The Department of Forestry and Fire Protection, another state agency or a local agency (e.g., resource conservation district, fire district) will need to file the notice of exemption on behalf of the non-public-agency grantee. The Department of Forestry and Fire Protection and other state agencies shall file the notice of exemption with the State Clearinghouse. Local agencies shall file the notice of exemption with the county clerk. Non-Department of Forestry and Fire Protection agencies will need to provide proof of filing.

For non-exempt projects where the grantee is a public agency, the grantee will assume the role of lead agency. The lead agency is responsible for: (a) performing the necessary environmental effects analysis; (b) preparing environmental documents; and (c) filing associated notices. For non-exempt projects where the grantee is not a public agency (e.g., fire safe council), a public agency will need to be responsible for ensuring the environmental documents adequately assess environmental effects and comply with applicable law and for filing associated notices. The Department of Forestry and Fire Protection, another state agency or a local agency (e.g., resource conservation district, fire district) will need to file the associated notices on behalf of the non-public-agency grantee. The Department of Forestry and Fire Protection and other state agencies shall file the notices at the State Clearinghouse. Local agencies shall file the notices with the county clerk. Non-Department of Forestry and Fire Protection agencies will need to provide proof of filing.

Regardless of who files the documents or is lead agency, the grantee is responsible for performing the necessary environmental effects analysis and preparation of environmental documents for projects. Grantees should plan their budgets for this work when applying for grants. When preparing their budgets, grantees should consider the need to contract with appropriate resource professionals to do the necessary environmental effects assessment and document preparation work. This may include biologists, professional archaeologists, air quality experts, registered professional foresters, environmental planners, etc.

The Department of Forestry and Fire Protection has a responsibility to review all environmental documents and associated notices for compliance with the California Environmental Quality Act. This will include ensuring adherence to necessary procedures and that project activities will not cause a significant effect on the environment. In cases where the Department of Forestry and Fire Protection, in its sole discretion, determines that there has been a failure to comply with required procedures or that project activities may cause a significant effect on the environment, the Department of Forestry and Fire Protection may ask for changes to documents or to the project and, in the absence of requested changes, may elect to terminate the Agreement.

The Department of Forestry and Fire Protection will review environmental documents according to the following:

1. Exempt projects where the grantee is not a public agency:

California Environmental Quality Act compliance review should occur when the applicable documents are in the draft phase. Review should ensure: (a) the project activities fit within the applicable categorical exemption(s) (14 CCR §§ 15301-15333); (b) no exceptions apply (14 CCR § 15200.2(a)-(f)); and (c) the Environmental Review Report for an Exempt Project provides sufficient information to determine that the project is indeed exempt.

2. Exempt projects where another public agency prepares and files documents:

California Environmental Quality Act compliance review may occur when the applicable documents are in the draft phase or after the notice of exemption has been filed. Reviewing documents while they are in the draft phase may avoid problems later. Review should focus on the same items described in (1)(a)-(c).

3. Negative declarations, mitigated negative declarations and environmental impact reports where the Department of Forestry and Fire Protection is the lead agency:

California Environmental Quality Act compliance review should occur during all phases of document preparation, filing, review, adoption and certification. Review should ensure all applicable requirements of the California Environmental Quality Act related to the specific environmental document are adequately addressed, including the timely filing of applicable notices.

4. Negative declarations, mitigated negative declarations and environmental impact reports where another public agency is the lead agency:

The Department of Forestry and Fire Protection should provide the lead agency with pertinent information regarding the project and associated impacts that will allow it to produce an adequate environmental document that the department may use as a responsible agency to grant funds for the project. This may occur during consultation, scoping and review (14 CCR §§ 15063(g), 15082(b), 15083, 15086(c), 15096(b)&(d)). Comments during consultation or review should focus on the choice of appropriate environmental document and the project's environmental effects. Comments should be limited to those project activities within the Department of Forestry and Fire Protection's area of expertise and that the Department of Forestry and Fire Protection may choose to fund. Comments should be specific and substantiated. Once the lead agency has adopted or certified the environmental document, the Department of Forestry and Fire Protection will need to review the document to ensure its adequacy. The Department of Forestry and Fire Protection's review should determine whether the environmental document provides enough information about project activities that it will fund and their effect on the environment. If the environmental document appears adequate, then the Department of Forestry and Fire Protection shall adopt alternatives or mitigation measures, make

findings and file a notice of determination with the State Clearinghouse. This must be done before any on-the-ground activities occur. If the environmental document does not appear adequate, then the Department of Forestry and Fire Protection may ask for changes to documents or to the project and, in the absence of requested changes, may elect to terminate the Agreement.

5. Timber harvesting permits or notices:

California Environmental Quality Act compliance review should occur after approval of the permit or acceptance of the notice. Review should ensure the grant-funded activities are consistent with those allowed under the permit or notice.

6. Finding of no significant impact or environmental impact statement:

California Environmental Quality Act compliance review should occur after completion and approval of the National Environmental Policy Act environmental document. Review should ensure the environmental document complies with the provisions of the California Environmental Quality Act and the grant-funded activities are consistent with those evaluated therein.

For all environmental documents where the Department of Forestry and Fire Protection is the lead agency, except timber harvesting permits or notices, cultural resources must be assessed per the procedures outlined in *Archaeological Review Procedures for CAL FIRE Projects* ([http://calfire.ca.gov/resource\\_mgt/archaeology-resources.php](http://calfire.ca.gov/resource_mgt/archaeology-resources.php)). This will require the project proponent to consult with the appropriate Department of Forestry and Fire Protection archaeologist to determine if impacts to cultural resources are possible. Results of this preliminary consultation (study) will determine what, if any, additional assessment work will have to be done. The Department of Forestry and Fire Protection archaeologist must concur in writing with the determination of this preliminary consultation (study). For a timber harvesting permit or notice in compliance with the California Forest Practice Act and Rules where another public agency is the plan submitter, the public agency shall comply with all applicable provisions of the Forest Practice Act and Rules and all other laws relating to the protection of archaeological and historical resources. For other environmental documents where another public agency is the lead agency, the public agency shall comply with all provisions of the California Environmental Quality Act and all other laws relating to the protection of archaeological and historic resources.<sup>4</sup> The methods used to assess environmental effects should provide sufficient information to demonstrate that no significant effects to cultural resources will occur during project implementation.

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<sup>4</sup> Analysis of impacts to archaeological and historic resources pursuant to the California Environmental Quality Act may require consulting a qualified professional archaeologist. Grantees are advised to request funds for the services of a professional archaeologist when preparing budgets during the application phase for grant dollars.

The Department of Forestry and Fire Protection may assist grantees in the preparation of environmental documents if necessary by answering questions and referring grantees to the appropriate guidelines for preparation of environmental documents.

California Environmental Quality Act compliance work must be completed within one year from date of grant award shown in the grant agreement or the agreement may be terminated.

#### Limited Suspension of Requirements of the California Environmental Quality Act

Certain projects may qualify for the limited suspension of the requirements of the California Environmental Quality Act pursuant to the Governor's October 30, 2015 *Proclamation of a State of Emergency*:

([https://www.gov.ca.gov/docs/10.30.15\\_Tree\\_Mortality\\_State\\_of\\_Emergency.pdf](https://www.gov.ca.gov/docs/10.30.15_Tree_Mortality_State_of_Emergency.pdf)).

The emergency proclamation suspends the requirements of the California Environmental Quality Act and Guidelines for purposes of carrying out, among other things, Directive 2, where the state agency with primary responsibility for implementing the directive concurs that local action is required. In order to qualify for the emergency proclamation's suspension of the California Environmental Quality Act, the grantee must meet the following criteria:

1. The project must be located in a high hazard zone as designated pursuant to Directive 1 (see <http://www.fire.ca.gov/treetaskforce/reports>).
2. The project must be necessary to protect the public health and safety.
3. The project involves the removal of dead or dying trees that threaten residences, critical community infrastructure, roads and other evacuation corridors.
4. The work will be conducted in accordance with the most current draft Guidelines for High Hazard Zone Tree Removal ([http://www.fire.ca.gov/treetaskforce/downloads/Draft\\_Tree\\_Removal\\_Guidelines\\_3-1-16.pdf](http://www.fire.ca.gov/treetaskforce/downloads/Draft_Tree_Removal_Guidelines_3-1-16.pdf)).

Grantees wishing to proceed under the emergency proclamation's suspension must certify that all of the preceding criteria are met. The Department of Forestry and Fire Protection reserves the right to reject any application for a project that is not eligible for the suspension of the requirements of CEQA. The Department of Forestry and Fire Protection may assist applicants in determining their eligibility for the proclamation's suspension of CEQA prior to application submission.