What Constitutes a CEQA Project
CEQA Definition of a “Project Requiring Environmental Review

- The “whole of an action” subject to a public agency’s discretionary approval or funding

- With the potential for resulting in either:
  - A direct physical change in the environment or
  - A reasonably foreseeable indirect physical change in the environment

- That includes any of the following:
  - A discretionary (non-ministerial) activity by a public agency, e.g. a public works project
  - A private activity which receives any public funding, subsidy or other financial assistance
  - An activity involving a public agency’s discretionary issuance of a lease permit, license certificate or other discretionary approval

  ▪ Practice tip: “Project” does not mean the governmental approval. Look at the subject of the public agency’s decision, not the permit or form of discretionary approval. Project examples:
    - A development proposal (not the conditional use permit required to approve the development)
    - The content of a legislative or regulatory proposal (not the form of the action). See CEQA Guidelines § 15378, subdivision (d).

- Which is not statutorily or categorically exempt from CEQA
CEQA Exemptions

- **Statutory exemptions.** Public Resources Code §§ 15260 – 15285 and CEQA Guidelines §§ 15260 – 15285

- **Categorical exemptions** (i.e. classes of activities which the Secretary of Resources deems, as a rule, to have no significant physical impact on the environment). CEQA Guidelines §§ 15300 – 15332

  Caveat: Use of certain categorical exemptions may not be appropriate if the project:
  
  - May be located in a particularly sensitive environment, or
  - Is of a type with a potentially significant cumulative impact, or
  - Where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

  CEQA Guidelines § 15300.2.

- **Purely ministerial activities:** those activities subject to solely ministerial approval or funding by a public agency; i.e. an activity which does not require the application of a public agency’s exercise of discretion. Compare CEQA guidelines § 15369 (defines “ministerial”) with § 15357 (defines a “discretionary project”).

  - N.B.: A project which requires ministerial and discretionary approvals must be treat as a (non-exempt) project for CEQA purposes.

  - Practice tip: Local CEQA Guidelines should list ministerial and potentially ministerial activities. Example: approval of a building permit for a development project becomes ministerial when the city determines that no discretionary permit (e.g. conditional use permit) is also required for the proposed construction.

- Any activity which can be seen “with certainty” to have no potentially significant physical impact on the environment
GENERAL STATUTORY EXEMPTIONS FROM CEQA

Public Resources Code §§ 21080 (b)

☐ Ministerial project or ministerial approvals

☐ Disapproved or rejected projects

☐ Certain emergency actions
  
  ☐ Emergency repairs to public service facilities necessary to maintain service

  ☐ Specific actions necessary to prevent or mitigate an imminent emergency

  ☐ Repair/restoration of facilities damaged or destroyed in a disaster-requires Governor’s declaration of emergency

☐ Adoption of amendment of rates, fares, tolls and charges – requires a written finding is made that such measure is necessary to meet operating expenses for fund capital projects necessary to maintain service.
**CATEGORICAL EXEMPTIONS FROM CEQA – PARTIAL LIST**

*CEQA Guidelines §§ 15300 – 15332*

- **Class 1** Existing Facilities
  *CEQA Guidelines § 15301*

- **Class 2** Replacement or reconstruction of existing structures
  *CEQA Guidelines § 15302*

- **Class 3** New construction or conversion of small structures
  *CEQA Guidelines § 15303*

- **Class 4** Minor alterations to land
  *CEQA Guidelines § 15304*

- **Class 5** Minor alterations in land use limitations
  *CEQA Guidelines § 15305*

- **Class 6** Information collection – e.g. feasibility study
  *CEQA Guidelines § 15306*

- **Class 11** Accessory Structures
  *CEQA Guidelines § 15311*

- **Class 15** Minor land divisions
  *CEQA Guidelines § 15315*

- **Class 32** In-Fill development projects
  *CEQA Guidelines § 15332*

*See CEQA Guidelines § 15300.2 for limits on use of a Class 3, 4, 5, 6, or 11 Exemption*
CAVEAT:
CATEGORICAL EXEMPTIONS 3, 4, 5, 6, AND 11
CEQA Guidelines §§ 15300.2

A class 3, 4, 5, 6, or 11 categorical exemption should not be used if a project with ordinarily insignificant impacts may have a significant environmental impact due to:

✓ Location in an environmentally sensitive environment (e.g. wetlands or wildlife habitat)

✓ Cumulatively significant impacts

✓ Unusual circumstances

✓ Examples: impact on scenic highways, location on a hazardous waste site or impact on historical resources

If the exemption is inapplicable, prepare in Initial Study to determine whether a Negative Declaration or EIR is necessary

Categorical Exemptions 3, 4, 5, 6, and 11:

➢ Class 3 New construction or conversion of small structures
➢ Class 4 Minor alterations to land
➢ Class 5 Minor alteration in land use limitations
➢ Class 6 Information collection – e.g. feasibility study
➢ Class 11 Accessory Structures
DEVELOPMENTS IMPLEMENTING A PLAN PREVIOUSLY ANALYZED IN AN EIR MAY BE EXEMPT FROM ADDITIONAL ENVIRONMENTAL REVIEW

*CEQA Guidelines §§ 15180 – 15184*

- Redevelopment Project Plan implementation may be a single CEQA Project
  *CEQA Guidelines §§ 15180*

- Urbanized area housing and commercial developments consistent with a previously adopted “regulatory document” such as a Specific Plan or Local Coastal Plan

Examples of implementation actions: land subdivisions, zoning changes and PUDs

Caveat: requires public notice and written findings
Public Resources Code § 21080.7, Government Code § 65457 and CEQA Guidelines § 15182

- Residential Projects Consistent with a Community Plan, General Plan or Zoning
  *CEQA Guidelines § 15183*

Plan implementation exemption can’t be used if a subsequent EIR OR supplement to an EIR is necessary

Or

The implementing project’s site specific impacts were not considered in the prior EIR.