


District Policy APR 2010
CEQA Implementation Policy

Approved By: 
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Director of Permit Services

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I. Applicability and Purpose of this Policy

The District has a statutory obligation to comply with the provisions of the California Environmental Quality Act (CEQA) prior to issuing an Authority to Construct (ATC) permit. This policy establishes a process for satisfying the requirements of CEQA under the District's ATC permitting process.

II. Background

The basic purposes of CEQA are to:

- Inform governmental decision makers and the public about the potential significant environmental effects of proposed projects,
- Identify ways to avoid or significantly reduce environmental impacts,
- Prevent significant, avoidable damage to the environment by requiring feasible changes to a project, use of alternatives, or mitigation measures, and
- Disclose to the public the reasons why a governmental agency approved the project if significant environmental effects are involved.

Most projects that occur within the San Joaquin Valley will have an impact on air quality, through construction and/or operational related activities. As such, under CEQA, the District will serve in the following roles:

- **Responsible Agency:** A Responsible Agency includes all public agencies, other than the Lead Agency, which have discretionary approval power over the project. The District becomes a Responsible Agency for a project because of its discretionary approval of air permits. As a Responsible Agency, the District complies with CEQA by considering the environmental review document prepared by the Lead Agency and reaching an independent decision regarding the project's impact on air quality, measures taken to reduce the project's impact on air quality, and preparation of "Findings", disclosing the basis for District approval of the project.
- **Lead Agency:** The Lead Agency is the public agency that has the principal responsibility for carrying out or approving the project. Lead Agencies comply with CEQA by determining the significance of the project's environmental impacts,

preparing the appropriate environmental reviews, completing the public disclosure process, including the project’s potential environmental impacts, measures taken to reduce the project’s impact, and the decision to approve the project. The District is always the Lead Agency when it develops rules, regulations, and air quality attainment plans. The District may become the Lead Agency for projects requiring air quality permits when the project does not require any discretionary action from another public agency.

- **Commenting/Trustee Agency:** As a Commenting or Trustee Agency, the District provides written comment to the Lead Agency characterizing the project’s potential impact on air quality, identify feasible mitigation measures, and identifying District rules and regulations that may be applicable to the project.

III. CEQA Implementation

CEQA Completeness for ATC Project

The District will determine CEQA Completeness in accordance with the below.

| Environmental Review Status for ATC Project | Required Information to be Submitted for ATC Project | CEQA Completeness for ATC Project |
|---|---|--|
| Public Agency (e.g. City or County) prepared and certified an environmental review document (e.g. Negative Declaration, Mitigated Negative Declaration, Environmental Impact Report) under CEQA that assessed the impact of the specific ATC project or another project of which it is part of or related to. | <ul style="list-style-type: none"> • Statement from public agency confirming the project has undergone environmental review, • Copy of the certified environmental document (e.g. Negative Declaration, Mitigated Negative Declaration or Environmental Impact Report), and • Copy of public agency’s signed Notice of Determination including proof of payment of Fish & Wildlife fees. | CEQA Complete , if all required information has been submitted to the District. |
| ATC project is specifically exempted from CEQA by a public agency (e.g. City or County). | <ul style="list-style-type: none"> • Statement from public agency confirming the project is exempt from CEQA, and • Copy of the public agency’s signed Notice of Exemption, if applicable. | CEQA Complete , if all required information has been submitted to the District. |
| Public agency is in the process of preparing an environmental review document for the ATC project. | <ul style="list-style-type: none"> • Statement from the public agency identifying whether or not the ATC project is undergoing environmental review. | *CEQA Incomplete , until the public agency has prepared and certified the environmental review for the ATC project and all required information has been submitted to the District. |

*Note: The District will send a project Incompleteness Letter to the ATC permit applicant.

CEQA Determination for ATC Project

Guidelines for Expedited Application Review (GEAR) and In-House Permit to Operate (PTO) Projects

Standardized GEAR and In-House PTO projects qualify for ministerial approval and are therefore exempt from CEQA provisions.

ATC Project NOT Covered under Certified Environmental Determination

The District has determined the ATC project will not have a significant environmental impact qualifying for an exemption under CEQA, **OR** the District has determined the ATC project may have the potential for a significant environmental impact and requires a project-specific environmental assessment.

ATC Project Covered under Certified Environmental Determination

For projects covered under a certified environmental determination prepared by the Lead Agency (e.g. Notice of Exemption, Negative Declaration, Mitigated Negative Declaration or Environmental Impact Report), the District prepares the appropriate CEQA documents as a Responsible Agency (Findings, Notice of Determination, etc.).

IV. District Significance Thresholds

The District has established CEQA Significance Thresholds which are available on the District's website at: <https://ww2.valleyair.org/permitting/ceqa/>

V. Indemnification Agreement/Letter of Credit

The District is potentially subject to litigation challenging the approval and issuance of an ATC permit and any required CEQA documents. As such, the District requires the permit applicant to bear the burden of the liability for potential litigation and the expense of such litigation.

Therefore, when the District is the Lead or Responsible Agency for CEQA purposes, an indemnification agreement and/or a letter of credit may be required. The decisions to require an indemnity agreement and a letter of credit are based on a case-by-case determination of a particular project's potential for litigation risk. This determination may be based on a project's potential to generate public concern, its potential for significant impacts, and the project proponent's ability to pay for the costs of litigation without a letter of credit, among other factors. If required, District staff will work in parallel with the project applicant.

Attachment A: CEQA Implementation Process

