



Bureau of Land Management

National Environmental Policy Act-California
Environmental Quality Act Coordination
Recommended Practices

Prepared by Kearns & West

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Abbreviations Table

Abbreviation	Explanation
BLM	Bureau of Land Management
CADR	Office of Conflict and Dispute Resolution
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CPUC	California Public Utilities Commission
DOE	U.S. Department of Energy
DOI	U.S. Department of Interior
EA	Environmental Assessment
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FONSI	Finding of No Significant Impact
IS	Initial Study
MND	Mitigated Negative Declaration
MOU	Memorandum of Understanding
ND	Negative Declaration
NEPA	National Environmental Policy Act
NOA	Notice of Availability
NOD	Notice of Decision
NOI	Notice of Intent
NOP	Notice of Preparation
PV	Photovoltaic
ROD	Record of Decision
RTMP	Road and Trail Management Plan
USFWS	US Fish and Wildlife Service

INTRODUCTION

The National Environmental Policy Act¹ (NEPA) and the California Environmental Quality Act² (CEQA), are federal and state environmental review laws, respectively. While these two laws are separate, they have similar requirements for analysis and disclosure of environmental impacts of proposed projects. These similar purposes and requirements allow federal and state agencies to work together to create joint NEPA-CEQA documents. Joint NEPA-CEQA documents include the necessary language to meet the requirements of both laws and include a collaborative and iterative review process between the NEPA and CEQA lead agencies to ensure the document meets all necessary federal, state, and local laws, policies and regulations.

Both NEPA and CEQA can be large, complex environmental review processes. Finding ways to make the overall effort more efficient within a more reasonable time frame is in the shared interest of all agencies and participants involved. It is hoped that the NEPA and CEQA documents will either be conducted jointly or in a complementary manner to improve efficiency and achieve the goals for both the federal, state, and local agencies involved. This document identifies several collaboration scenarios for NEPA and CEQA processes that improve collaboration and coordination.

This document is intended primarily for BLM planners, project managers, and decisionmakers working on projects that require compliance with both NEPA and CEQA. The document provides a framework from which to consider opportunities for coordination as well as recommended best practices that may be useful throughout the environmental review process. Project teams should review the document and determine the best coordination strategy given the specific details, stakeholders, timeline, and context of each project, in consultation with decisionmakers and solicitor guidance. The document may also be useful for other federal agencies, California state and local government agencies, and proponents of projects that require both state and federal environmental review.

¹ 42 U.S.C §4321 *et seq.* https://www.fsa.usda.gov/Internet/FSA_File/nepa_statute.pdf

² California Public Resources Code §21000 *et seq.*

http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=PRC&division=13.&title=&part=&chapter=&article=

Background

The Department of Interior's (DOI) Office of Collaborative Action and Dispute Resolution (CADR), on behalf of the Bureau of Land Management (BLM), engaged Kearns & West (K&W) to help explore challenges and opportunities associated with conducting joint NEPA-CEQA processes. In 2019, K&W initiated this effort by preparing a stakeholder assessment compiling key themes from a series of discussions with key stakeholders with experience preparing joint NEPA-CEQA documents for renewable energy projects.

After completing and analyzing the stakeholder assessment, BLM hosted and K&W facilitated an all-day, in-person workshop at University of California, Riverside where the same stakeholders, representing federal and local agencies and environmental consultants, engaged in a series of activities to identify potential next steps for stakeholders preparing environmental documents for projects with NEPA and CEQA components.

At the workshop, stakeholders unanimously agreed that the most effective next step would be to create a document memorializing the steps that NEPA and CEQA lead agencies, consultants, and others involved in the environmental document drafting process should take to coordinate and efficiently prepare joint or coordinated NEPA-CEQA documents. Towards this end, K&W has drafted this document building on key themes from the 2019 stakeholder assessment and workshop, and BLM-CA and CADR have reviewed the draft report as a significant deliverable under the CADR contract.

Navigating Coordinated NEPA and CEQA Processes

This NEPA-CEQA Recommended Practices (hereafter called the Recommended Practices Document) is intended to aide in the completion of joint or coordinated NEPA-CEQA documents. The Recommended Practices Document provides a framework for selecting from six scenarios for projects that require compliance with both NEPA and CEQA. These NEPA-CEQA scenarios describe how the milestones of the two processes align in time, and whether they produce a single joint document or two separate documents. These scenarios will serve as a framework for how to effectively structure agency and stakeholder coordination during the NEPA and CEQA processes.

This Recommended Practices Document includes the following sections:

1. **Coordination and Public Participation for All Scenarios:** An overview of pre-Notice of Intent (NOI) and Notice of Preparation (NOP) coordination and a guide to designing the public participation process.
2. **Selecting a Scenario:** A brief introduction to the six NEPA-CEQA scenarios and a decision-making framework to assist in scenario selection.
3. **Scenarios:** Detailed descriptions of how to navigate milestones and deliverables for the six NEPA-CEQA coordinating scenarios and a case study for each scenario.
4. **Messaging Guide:** A messaging guide for agency staff involved in NEPA and CEQA processes.

BLM and other federal and state agencies have unique government to government relationships with sovereign tribal entities. This Recommended Practices Document is intended to support and complement these government to government consultation relations between agencies and tribes during the NEPA and CEQA processes. Federal, state, and local agencies, as well as environmental consultants, are encouraged to use the tools and concepts in this Recommended Practices Document to assist in the coordinated environmental review processes of a project requiring compliance with both NEPA and CEQA.

SECTION 1 – Early Coordination and Public Participation for all Scenarios

This section introduces considerations important to any project with both NEPA and CEQA components, regardless of how the processes are aligned. Ideas discussed here are elaborated on in the context of different scenarios in Section 3.

Project Team Members

The NEPA-CEQA project team is comprised of all relevant stakeholders who will work together during the environmental review process for a project requiring compliance with both NEPA and CEQA. For any given project, the project team will include:

- NEPA lead agency, including planners, project managers, decisionmakers, and solicitors;
- CEQA lead agency, including planners, project managers, decisionmakers, and solicitors;
- Regulatory agencies with permitting and/or review roles (local, state, and federal, e.g., U.S. Fish and Wildlife Service, CA Dept. of Fish and Wildlife, U.S. Environmental Protection Agency, counties);
- Environmental consultant(s) assisting in preparing the NEPA or CEQA documents;
- Tribal governments;
- Cooperating agencies; and
- Applicant, if applicable

It should be noted that different agencies and organizations may be involved at different stages throughout the process.

Early Coordination

Regardless of how the NEPA and CEQA processes are aligned, close coordination between project team members is key to:

- minimize the potential need for supplemental documents or document recirculation;
- decrease litigation risk from conflicting findings; and
- ensure that public engagement processes are well coordinated, clear, and understood.

This coordination can include:

- early identification of key stakeholders and/or partners;
- planning around the seasonal needs of different data collection windows;
- establishing a regular meeting cadence for the project team; and
- planning the public engagement process.

To coordinate these various actions, team members should plan on meeting regularly throughout the NEPA and CEQA processes, starting before the NOI or NOP and ending after both agency decisions have been issued and after construction is complete.

It should be noted that NEPA and CEQA processes can include Endangered Species Act Section 7 Consultation and National Historic Preservation Section 106 Consultation as well as equivalent state processes. These consultations should be addressed in the NEPA and CEQA processes.

Project Kick-off

Before either the NEPA or CEQA process officially kicks off through NOI and/or NOP publication, the NEPA and CEQA lead agencies should convene in one or multiple kick-off meetings to:

- review this Recommended Practices Document;
- review the NEPA-CEQA Handbook³;
- review the NEPA-CEQA terminology guide (Appendix A);
- design and timing of public participation process;
- select the preferred coordination scenario; and
- develop a proposed project timeline⁴.

A list of topics to be discussed at this meeting is included in Appendix B and can be referenced when preparing an agenda for the project kick-off meeting. Other agencies in addition to the NEPA and CEQA agency leads may be involved as part of the coordination effort.

Coordination Agreements or Protocols

Team members should determine if a Memorandum of Understanding (MOU) is appropriate. If so, refer to the MOU framework (Appendix C) to draft an agreement memorializing the commitment to work together. If not, the team can prepare communications and process protocols to guide the environmental review processes.

Designing the Public Participation Process

Public participation is an essential component of both NEPA and CEQA environmental review processes; public meetings and comment periods are key milestone in all scenarios. To facilitate coordinated public involvement, reduce process fatigue, and minimize confusion between the NEPA and CEQA processes, the project team should consider the following recommendations when designing and coordinating the public engagement processes.

Public Outreach and Engagement Plan: Prepare a public outreach and engagement plan that outlines goals and objectives, public involvement requirements, general outreach information and an estimated timeline for the NEPA and CEQA processes, including public engagement opportunities. This document should be prepared and used by state and federal agencies.

Meeting Scheduling and Coordination: Determine public meeting schedules and how meetings for NEPA and CEQA align with each other (or not). Where possible, coordinate joint public meetings for external scoping and for the draft and final environmental review documents. If the selected scenario does not enable joint or aligned public meetings and comment periods, it will be important to coordinate messaging and materials prior to each public engagement step. Representatives from the project team (agencies and consultants) should attend all public meetings or coordinate in advance who will attend and how to remain coordinated and consistent in messaging and outreach practices.

Materials Coordination: It is important for the project team to share materials on the public processes to assure consistent, coordinated messaging and public processes. Scoping meeting agendas and presentations, requests for public comment, fact sheets, press releases, or other public materials should be reviewed and coordinated with the project team.

Talking Points: Prepare and review talking points that:

³ “NEPA and CEQA: Integrating Federal and State Environmental Review”; February 2014.

https://ceq.doe.gov/docs/ceq-publications/NEPA_CEQA_Handbook_Feb_2014.pdf

⁴ [This Recommended Practices Document has been developed assuming an EIS will be conducted. If it is determined that an EA is appropriate, the timelines in the Scenarios will be adjusted.](#)

- outline the NEPA and CEQA processes, highlighting all opportunities for public participation;
- explain how members of the public can participate in joint public meetings and/or why members of the public will be asked to comment twice if the processes are separate; and
- clarify how stakeholders can provide useful comments.⁵

First Public Interaction/ Scoping Meetings: The first interaction with members of the public should provide clarity and a straightforward path for public engagement. During this first interaction plan on a review of both the NEPA and CEQA processes and highlight key milestones and target dates, acknowledging that the schedule may adjust over time.

Addressing Questions on Process or Topics at Public Meetings: If public processes are joint or each occurs within a near-term timeframe, (see Scenarios 1 and 2 in Section 2 below) agencies should indicate that questions and comments raised at their public meetings will be addressed in the joint or separate NEPA and CEQA documents. If public processes do not coincide (see Scenarios 3—6 in Section 2), the agency whose public process happens second should address questions raised previously to provide continuity for members of the public. This will minimize the sense that individuals are providing the same comment twice. For example, when the NEPA Draft EIS is published after the CEQA Draft EIR, the NEPA lead agency can summarize comments that came up during the CEQA public meetings or include the CEQA public comments as an appendix in the NEPA document.

Updates Between Milestones: Consider providing updates to the public depending on the complexity and level of public interest in the project between major milestones. These can include periodic email updates, mailers (or other means of communications for those without Internet access), factsheets, informal interviews, small group meetings, and more depending on stakeholders.

⁵ Messaging guide included in Section 4

SECTION 2 – Selecting a Scenario

Scenarios and Milestones

The NEPA and CEQA processes can be aligned in six different ways depending on project footprint and location, size, type, and other considerations. Each scenario in Figure 1 organizes the same set of milestones and deliverables (Table 1) in unique ways. It should be noted that the NEPA Environmental Review Document could be an Environmental Impact Statement (EIS) or an Environmental Analysis (EA)⁶. A detailed outline and description of the milestones for each of the six scenarios is provided in Section 3.

Process Milestones	NEPA EIS Process	CEQA EIR Process
Project Initiation	NOI	NOP
Public Comment Period	Scoping	Scoping
Draft Document	Draft EIS	Draft EIR
Draft Document Publication	Publication of a Notice of Availability in the Federal Register	State Clearinghouse Distribution for State Agency review (if required)
Public Comment Period	Public and Agency Review and Comment	Public and Agency Review and Comment
Final Document	Final EIS	Final EIR
Response to Comments	Included in Final EIS	Provide proposed responses to public agency comments at least 10 days prior to certification of the EIR
Final Document Publication	Publication of a Notice of Availability in the Federal Register	Certify EIR, adopt Findings on Project' Significant Environmental Impacts and Alternatives, Mitigation Monitoring and Reporting Program, and, if necessary, a Statement of Overriding Considerations
Waiting Period	30-Day Review Period (Agency may convert this into a public review and comment or protest period and 60-day governor's consistency review, for land use plan decisions).	N/A
Agency Decision	Record of Decision (ROD)	Notice of Determination (NOD)

Table 1: Major milestones in the NEPA and CEQA processes amended from *NEPA and CEQA: Integrating Federal and State Environmental Reviews* published in 2014

⁶ [This Recommended Practices Document has been developed assuming an EIS will be conducted. If it is determined that an EA is appropriate, the timelines in the Scenarios will be adjusted.](#)

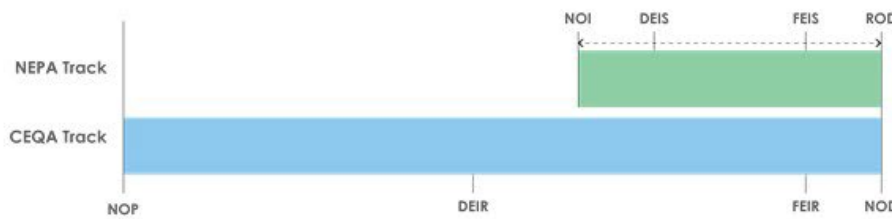
Scenario 1 – Joint Document



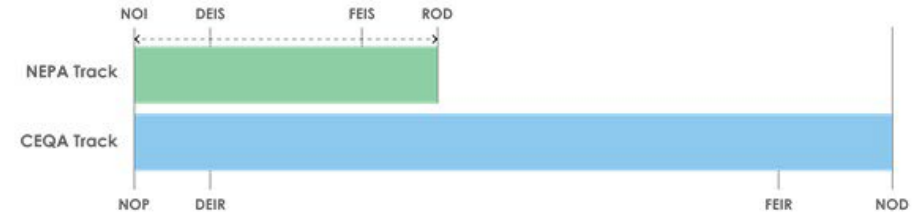
Scenario 2 – Closely Coordinated



Scenario 3 – CEQA First, Simultaneous End



Scenario 4 – Simultaneous Start, NEPA Ends First, then CEQA Ends



Scenario 5 – CEQA First, Then NEPA



Scenario 6 – NEPA First, Then CEQA

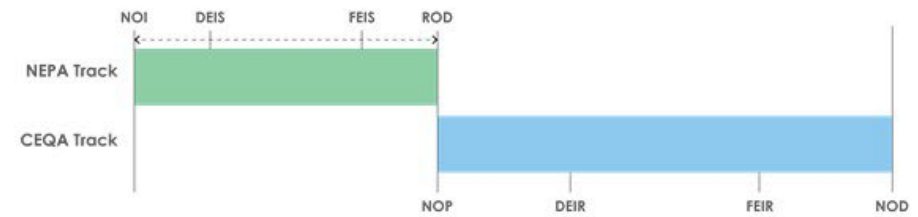


Figure 1 Simplified diagrams of Scenarios 1-6. Detailed graphics provided in Section 3.

Decision-Making Framework

To select an ideal scenario, the project team should evaluate a variety of considerations that can shape the approach for coordinating the two processes. The Decision-Making Framework weighs relevant considerations to assist the project team in selecting the optimal scenario for a proposed project with both NEPA and CEQA components.

Project Considerations

1. **Alternatives Development**

The alternatives development process can vary in complexity depending on the footprint, size, and type of a project. Projects where alternatives require close coordination may benefit from processes with similar timelines (Scenarios 1 and 2), while those with straightforward alternatives whose footprint fall predominantly within one jurisdictional authority, may benefit from slightly staggered scenarios (Scenarios 3-6). Regardless, it is important to consider the alternatives development process to select a scenario that will allow both agencies to fulfill their requirements.

2. **Resources and Jurisdiction**

The choice of process may depend on agency jurisdiction, funding authorization, and resources involved in the project. This factor may result in one agency having primacy over project decision making.

3. **Issues and Alternatives**

Applicants and agencies should try to identify potential state or federal issues that may impact the project and the alternatives development process. Larger policies and issues that may arise through the environmental review should be considered, such as renewable energy goals, border issues, groundwater management, cultural, biological, and other resources.

4. **Potential for Controversy: Policy, Procedures and Authorities**

Foreseeable controversies under state or federal environmental reviews can be the source of ongoing policy debate or protest and might pose a litigation risk. Controversy can influence the choice of how to phase NEPA and CEQA. In addition, different agencies' policies and procedures may differ regarding alternatives descriptions, and requirements for environmental analysis.

5. **Multiple Agencies Involvement**

Early identification of the federal, state, and local agencies that may need to be involved could influence process phasing. If a project involves more federal agencies (or conversely, state agencies) the project scenario may favor one approach over another.

Instructions for the Decision-Making Framework

The chart below helps weigh project considerations. To use the framework, select an answer that applies to each of the five project considerations. Then add the values together and look on the spectrum below for a suggested NEPA-CEQA scenario. Scenarios on the spectrum range from having a predominant NEPA component (-10) to a predominant CEQA component (+10).

Because weighing the project considerations is an inherently subjective exercise, use the calculations merely as a basis for discussion and a factor to consider when selecting the appropriate scenario for a specific project. Project details, timeline, and stakeholders will be integral to the decision of which scenario is most appropriate, as well as decisionmaker and solicitor guidance based on these project-specific factors.

NEPA-CEQA Decision Framework

Decision Framework Overview

The following chart includes a variety of considerations that can shape the approach for balancing NEPA and CEQA processes. To use the chart, circle each answer that applies and add all the values together. Look on the spectrum below to find what suggested phasing scenarios might apply.

Alternative Development

The alternatives development process can vary in complexity depending on the footprint, size, and type of a project. Therefore, it is important to consider the alternatives development process to select a scenario that will allow both agencies to fulfill their requirements.

Resources and Jurisdiction

The choice of process may depend on agency jurisdiction, funding authorization, and resources involved in the project. This factor may result in one agency having primacy over project decision making.

Issues and Alternatives

Applicants and agencies should try to identify potential state or federal issues that may impact the project and the alternatives development process. Larger policies and issues that may arise through the environmental review should be considered, such as renewable energy goals, border issues, groundwater management, and cultural resources.

Potential for Controversy: Policy, Procedures and Authorities

Foreseeable controversies under state or federal environmental reviews can be the source of ongoing policy debate or protest and might pose a litigation risk. Controversy can influence the choice of how to phase NEPA and CEQA. In addition, different agencies' policies and procedures may differ regarding document page limits, completion timeframes, alternatives descriptions, and requirements for environmental analysis.

Multiple Agencies Involvement

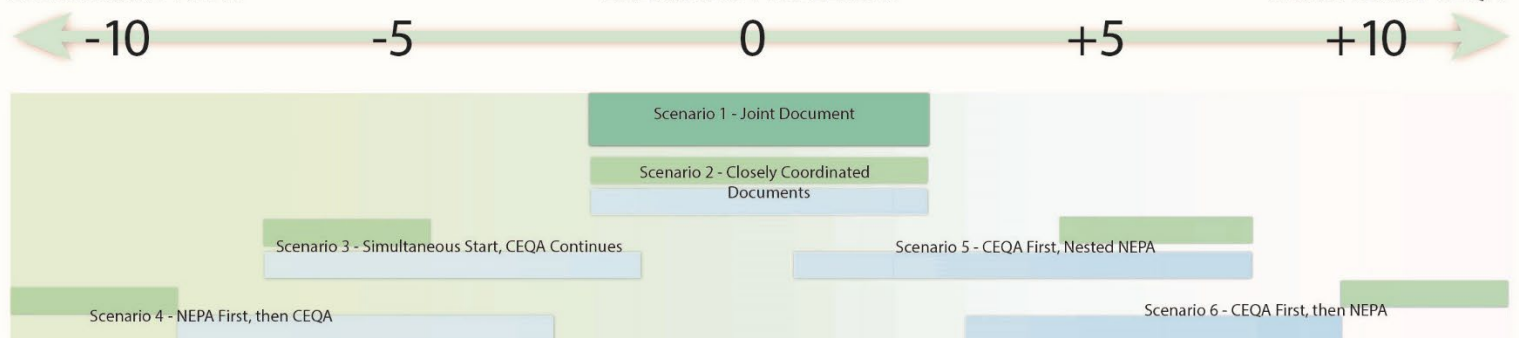
Early identification of the federal, state, and local agencies that may need to be involved could influence process phasing. If a project involves more federal agencies (or conversely, state agencies) and procedures may favor one approach over another.

-2	-1	0	+1	+2
Issues being considered in alternatives development focus primarily on federal resources or jurisdictional issues	Issues being considered in alternatives development focus primarily on federal resources but require close coordination with state agencies	Close nexus between state/local and federal issues and resources being considered during the design and alternatives development process	Issues being considered in alternatives development focus primarily on state resources but require close coordination with federal agencies	Issues being considered in alternatives development focus primarily on state/local resources or jurisdictional issues
Project involves significant federal land and/or resources	Over half the project involves federal land and/or resources	Project is roughly equal between federal and state land and resources	Over half the project involves state land and/or resources	Project involves significant state land and/or resources
The project has foreseeable federal issues that need to be considered during alternatives development, but it is unlikely/unforeseeable that the project has state issues	The project has foreseeable federal issues, with some potential for state issues to emerge while alternatives are being considered	Balanced State and Federal Issues - either no issues are foreseeable or potential issues seem evenly divided between state and federal jurisdiction that could impact development of alternatives	The project has foreseeable state issues, with some potential for federal issues to emerge while alternatives are being considered	The project has foreseeable state issues that must be considered during alternatives development, but it is unlikely that the project has federal issues
High potential for federal litigation and low/unforeseeable risk of state litigation. There are policy conflicts between state and federal agencies regarding timeframes, document length, alternative descriptions and/or environmental analysis requirements.	Policy conflicts between state and federal regarding timeframes, document length, alternatives descriptions, and/or environmental analysis requirements favor initiation of NEPA compliance before initiation CEQA.	Balanced risk of potential state and federal litigated issues. Either no policy conflicts or policy conflicts regarding document length and requirements for environmental analysis.	Policy conflicts between state and federal agencies regarding timeframe, document length, alternative descriptions, and/or environmental analysis requirements favor initiation of CEQA compliance before initiation of NEPA.	High potential for state litigation and low/unforeseeable risk of federal litigation. There are policy conflicts between state and federal agencies regarding timeframes, document length, alternative descriptions and/or environmental analysis requirements.
Foreseeable that multiple federal agencies will play a significant role in the design and alternatives process, one state/local involved	Foreseeable that multiple federal agencies will play a significant role in the design and alternatives process, some state/local involved	Foreseeable that there are roughly equal numbers of federal, state, and/or local permitting agencies involved in the design and alternatives process	Foreseeable that multiple state/local agencies will play a significant role in the design and alternatives process, some federal involved	Foreseeable that multiple state/local agencies will play a significant role in the design and alternatives process, one federal involved

SIGNIFICANT NEPA

BALANCED PROCESSES

SIGNIFICANT CEQA



Choosing a Phasing Scenario

Weighing factors is an inherently subjective exercise. As a result, there is some variation in what scenario you should apply. Calculations are used to provide a rough guide that makes it more straightforward to choose a process.

SECTION 3 – Scenarios

The steps in each scenario below, which occur after the kick-off meeting described in Section 1, highlight the changing roles and responsibilities and keep track of the coordinating factors and key milestones involved in implementing the scenario recommended in Section 2. Project team members should use these suggested coordinating steps to complete each of the six NEPA-CEQA scenarios. In addition, project team members should reference the NEPA-CEQA terminology guide (Appendix A) to understand language requirements for the NEPA and CEQA documents. Having a singular, jointly developed NEPA and CEQA document is preferred to improve efficiency and coordination. However, in some cases, other scenarios are appropriate. The scenarios described here provide suggestions for consideration when determining project-specific environmental review processes, and do not outline firm paths that must be followed.

The six scenarios discussed here are:

1. Joint document
2. Closely Coordinated Documents
3. Simultaneous Start, CEQA Continues
4. NEPA First, Then CEQA
5. CEQA First, Nested NEPA
6. CEQA First, Then NEPA

Each Scenario description consists of:

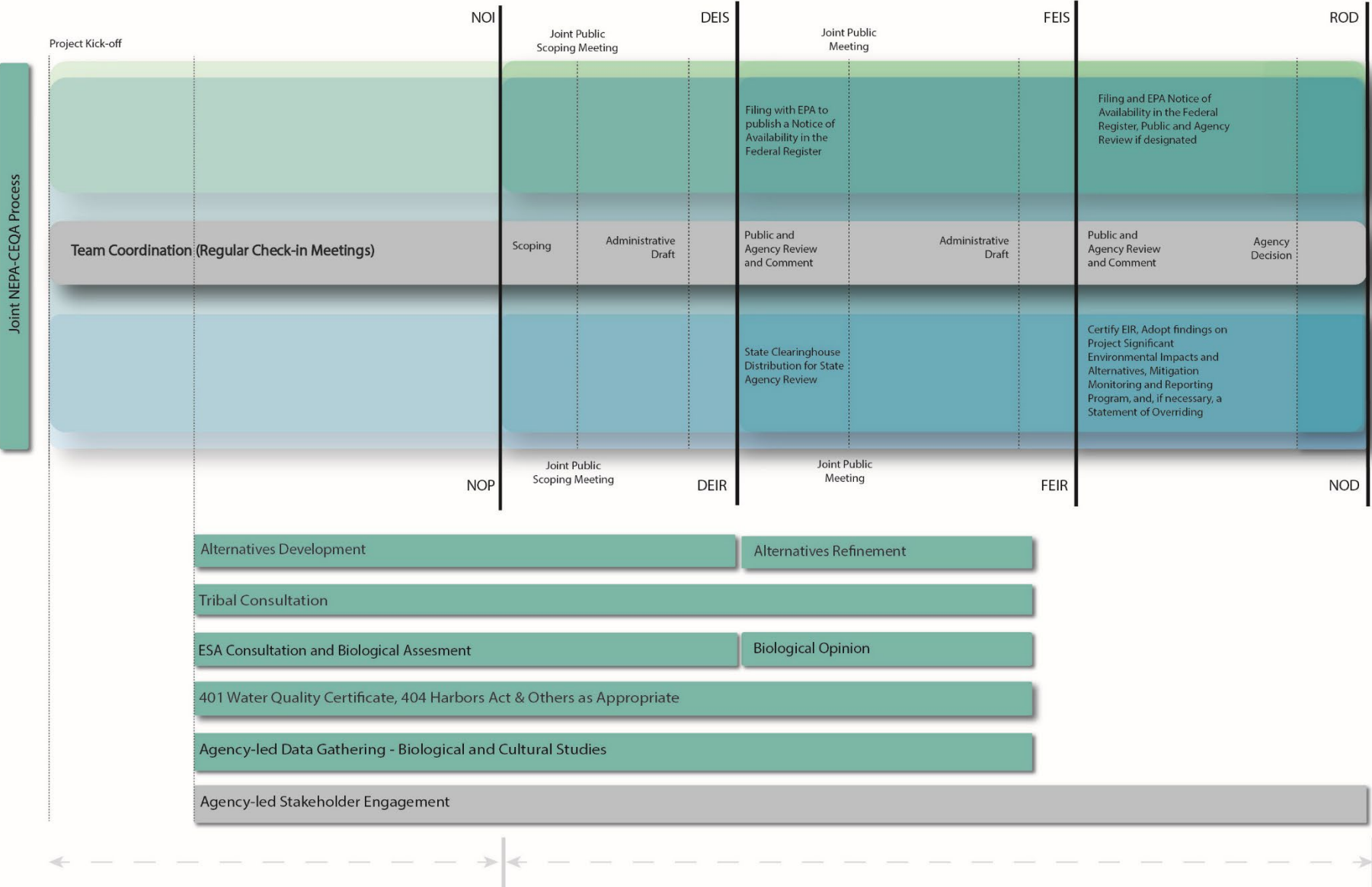
- a visual representation;
- a written overview with a list of milestones and key deliverables;
- in-depth descriptions and suggestions on how to coordinate between and leading up to milestones and deliverables; and
- a case study illustrating how projects with a specific set of characteristics lend themselves to that specific scenario.

Throughout this section joint items are highlighted in turquoise, NEPA led items are highlighted in green, and CEQA led items are highlighted in blue. Each scenario includes reference to other associated environmental laws, policy, and regulations, including tribal consultation, federal Endangered Species Act, California Endangered Species Act, Sections 401 and 404 of the Clean Water Act, Section 106 of the National Historic Preservation Act (Section 106), that are often completing in parallel or as part of the NEPA and CEQA processes. This list is not exhaustive; these additional requirements are included here as they relate to the NEPA and CEQA processes, but each has independent agency and applicant requirements. Project teams must ensure compliance with these associated requirements, based on current law, policy, and guidance.

Scenario 1 – Joint Document

Scenario 1 - Joint Document

Scenario 1 Purpose
 Scenario 1 is recommended for projects with complex alternatives development processes that can range from being majority on federal land to being majority on state/local land, therefore requiring very close coordination between the NEPA and CEQA lead agencies. This scenario leads to the preparation of a single joint document that fulfills both NEPA and CEQA environmental review requirements.



Scenario 1 Overview⁷

In Scenario 1 the NEPA and CEQA lead agencies will prepare a single Joint Document that fulfills all federal and state requirements.

Scenario 1 is recommended for projects with complex alternatives development processes with potential alternatives ranging from being primarily on federal land to primarily on state/local land. Team members will therefore remain very closely coordinated to avoid the risk that NEPA and CEQA agencies will propose, analyze, and ultimately adopt highly different alternatives. A Joint Document is possible in situations in which both agencies can agree on the structure, processes, and timeline. If at the kick-off meeting agencies decide that the CEQA EIR cannot meet the federal requirements, they should consider Scenario 2, which follows the same timeline, but leads to the creation of two separate documents.

The fact that this scenario leads to one single environmental review process and document is beneficial for two reasons. First, since there will only be a single set of public meetings, the streamlined public process will reduce process fatigue and confusion for the public. Second, the document will eliminate the risk of litigation that arises when NEPA and CEQA agencies analyze different alternatives and potentially propose conflicting mitigation measures.

Early coordination should begin before the NOI/NOP to ensure that both NEPA and CEQA lead agencies are aligned on the anticipated timeline. It will also be necessary for agencies to begin conducting studies well in advance to ensure that information is ready to be utilized once the timeline begins.

Summary of Milestones and Deliverables:

- 1.1. NEPA and CEQA Early Environmental Review
- 1.2. NOI/NOP Joint Public Scoping Period and Meetings
- 1.3. Preparing the Joint Draft EIS/EIR
- 1.4. Draft EIS/EIR Administrative Draft Review⁸
- 1.5. Draft EIS/EIR Filing, Distribution, and Certification
- 1.6. Public Engagement Coordination and Joint Public Meeting
- 1.7. Preparing the Joint Final EIS/EIR
- 1.8. Final EIS/EIR Administrative Draft Review
- 1.9. Final EIS/EIR Filing, Distribution and Certification
- 1.10. Agency Decisions (ROD/NOD)

⁷ Additional joint document resources and information can be found at:

<https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-37-preparing-joint-nepa-ceqa-documentation>

⁸ Administrative draft review steps happen internally and occur before documents become public. This step allows project team members to review and provide input on documents before they are officially released and commented on by members of the public.

Milestone and Deliverables

1.1. NEPA and CEQA Early Environmental Review

Following the kick-off meeting and other pre-NOI/NOP coordination, the NEPA and CEQA lead agencies will begin preparing for their environmental review processes by starting the following tasks:

- Alternatives development;
- Tribal consultation;
- Threatened and endangered species consultation under the federal Endangered Species Act and California Endangered Species Act;
- Sections 401 and 404 of the Clean Water Act ;
- Resource surveys, including biological and cultural;
- Initiate the Section 106 process; and
- Stakeholder engagement.

During this period, the team should have regular planning meetings to check-in on the progress and ensure that studies are completed, alternatives developed, and mitigations proposed adhere to NEPA and CEQA requirements. Through this coordination, the project team identifies their specific coordination needs, defines study requirements, and approves study methodologies, among other specific items that arise.

Having clarified the requirements, each group, including state, local and federal agencies, can then discuss their preferred timelines for completing studies (keeping in mind that seasons may impact the timing for completion of the studies), alternatives development, tribal consultation, public engagement, and other process components. Additional studies may need to be completed as new information arises.

1.2. NOI/NOP Joint Scoping Period and Meeting(s)

Key Milestones: Joint NOI/NOP, comment period, and public scoping meeting(s)

Before publishing the NOI and NOP, project team members will meet to prepare for the joint scoping meeting, discuss the anticipated timeline, and review project roles and responsibilities. The NEPA and CEQA lead agencies will coordinate in order to issue a joint NOI/NOP, which will trigger a 30-day (or longer as appropriate) comment period and a joint public meeting(s) that will present the project to members of the public, gather input, and outline how the Joint Document will satisfy both NEPA and CEQA environmental review requirements. All project team members should attend or be represented at public scoping meeting(s).

1.3. Preparing the Joint Draft EIS/EIR

After a period of data collection and document drafting (initiated in step 1.1), the NEPA and CEQA lead agencies will prepare the joint environmental document which will review the information/science gathered, analyze the range of alternatives, and propose mitigation measures.

All team members should remain closely coordinated during the drafting process to ensure that the document consistently adheres to both NEPA and CEQA requirements.

1.4. Draft EIS/EIR Administrative Draft Review

Once a first complete draft of the document is ready, the project team will convene to discuss and review an administrative draft. The administrative draft should have a complete description of the project, including purpose and need as well as an initial set of alternatives, while being early enough in the process to allow for a revision of the alternatives if necessary. The draft will also review information gathered and produced throughout the environmental review process and assess the information

needed to finalize the Joint Document. Following the review period, the team will convene to review and discuss the administrative draft and comments.

Both the NEPA and CEQA lead agencies should thoroughly review the draft to ensure that their requirements are met. If there are conflicts, the issue(s) should be addressed to minimize risk of litigation. This may trigger another round of interagency reviews, but it will ensure that the document can be adopted by both NEPA and CEQA lead agencies.

1.5. Draft EIS/EIR Filing, Distribution, and Certification

Key Milestones: Publish Joint Draft EIS/EIR

The NEPA lead and CEQA lead agencies will coordinate to publish the joint Draft EIS/EIR.

The NEPA lead agency will publish the document and file it with the EPA, which will publish a NOA in the Federal Register, thus beginning the 45-day public comment period⁹. If desired or required, the NEPA lead agency will also publish an individual NOA in the Federal Register.

The CEQA lead agency will submit the document to the State Clearinghouse, which will distribute it for State Agency Review and announce its public availability, thus starting the 30-day comment period, including a public meeting.

1.6. Public Engagement Coordination and Joint Public Meeting

Key Milestones: Draft EIS/EIR comment period and public meeting(s)

The NEPA and CEQA lead agencies will convene project team members to prepare for the joint Draft EIS/EIR public meeting(s), which should be attended by all project team members.

Before scheduling the public meeting, project team members should review the Draft EIS/EIR and develop talking points:

- Highlighting project findings;
- Explaining the relationship between CEQA and NEPA processes; and
- Providing a timeline of project milestones and upcoming opportunities for public engagement.

1.7. Preparing the Joint Final EIS/EIR

Following the joint public meeting(s) and closure of the comment period, the agencies will review comments and draft a joint Final EIS/EIR document. The NEPA and CEQA lead agencies may need to conduct additional studies, reevaluate the identified preferred alternative, and/or review the mitigation measures proposed in the Draft EIS/EIR. If this is the case, the agencies should coordinate to ensure that additional studies, new alternatives, and updated mitigations fulfill NEPA and CEQA requirements, or to address conflicts should they arise.

Although CEQA and NEPA have different mitigation requirements, it is important for agencies to coordinate to minimize the potential for conflicting mitigation measures, keeping in mind that some mitigations are NEPA specific and others are CEQA specific.

⁹ Note that a 90-day comment period is required for a Draft EIS that includes a Resource Management Plan amendment.

1.8. Final EIS/EIR Administrative Draft Review

Once the agencies are ready, they will share an administrative draft of the Final EIS/EIR with the project team highlighting the changes made since the publication of the Draft EIS/EIR. Agencies will determine a review timeline and target date for the team to convene and discuss the administrative draft.

As with the Draft EIS/EIR, both agencies should thoroughly review the document to ensure that it meets NEPA and CEQA requirements. Any conflicts or issues should be addressed as soon as possible. This may trigger another round of interagency reviews, but it will help ensure that the document can be adopted by both NEPA and CEQA lead agencies.

1.9. Final EIS/EIR Filing, Distribution and Certification

Key Milestones: Publish Final EIS/EIR

The NEPA lead and CEQA lead agencies will coordinate to publish the joint Final EIS/EIR.

The NEPA lead agency will publish the document and file it with the EPA, which will publish an NOA which initiates the 30-day availability period¹⁰. If desired or required, the NEPA lead agency will also publish an individual NOA in the Federal Register.

The CEQA lead agency will publish the document, provide proposed responses to public agency comments, and then certify the Final EIS/EIR, adopting findings on project significant environmental impacts and alternatives, mitigation monitoring and reporting program, and, if necessary, a statement on overriding considerations.

1.10. Agency Decision and ROD/NOD

Key Milestone: Agency Decisions, ROD/ NOD

After collecting and reviewing comments on the Joint Document, the NEPA and CEQA lead agencies will meet to prepare to publish the agencies' decisions and ROD/NOD, which, after published, will end the joint environmental review process.

¹⁰ The 30-day availability period may be extended as needed due to protests if the project includes a Resource Management Plan amendment or revision.

Scenario 1 Case Study

The following hypothetical case study illustrates how a project with this set of characteristics might be “scored” in the decision-making framework. It is important to note that this project has been simplified to illustrate the use of the tool and how to navigate the process. Project teams should expect specific projects to be more nuanced.

Case Description

The Linear Project is a 70-mile transmission line project traversing BLM land as well as private land in San Bernardino County. Because the project location could shift based on potential resources impacts, alternatives could range from having a larger CEQA footprint to having a larger NEPA footprint. To avoid the risk of conflicting alternatives, agencies have chosen to prepare one Joint Document as opposed to two separate NEPA and CEQA documents. The Joint Document is possible in this situation because the BLM and San Bernardino County, the lead NEPA and CEQA agencies respectively, agree on the timing of the environmental review and the length of the document. The primary resources of concern are cultural resources and terrestrial Endangered Species Act (ESA) species on federal and private/local government lands.

Project Name	The Linear Project
Land Ownership (federal, state, local, private)	<ul style="list-style-type: none"> Project footprint will depend on the alternatives. It will cover BLM land and private land in San Bernardino County
Resources of Concern	<ul style="list-style-type: none"> Sensitive cultural resources Terrestrial ESA species
Project Considerations	
1. Alternatives Development	Alternatives developed will range from being primarily on federal land to being primarily on private land. These will reflect the range of alternatives that might be considered to address different ways to route the transmission line to minimize or avoid impacts to other cultural and terrestrial resources or reflecting local community needs and preferences.
2. Resources and Jurisdiction	It is anticipated that there are cultural resources and terrestrial ESA species on both federal and state/local lands.
3. State/local versus Federal Issues and Alternatives	Issues considered in the development of alternatives will need to address both federal and state/local issues and resources.
4. Potential for Controversy: Policy, Procedures, and Authorities	There is a balanced risk of NEPA and CEQA litigation due to concerns for the impacted cultural resources and ESA species. In addition, agencies agree on the length and timeframe of environmental review, therefore allowing for a Joint Document.
5. Multiple Agencies Involved	NEPA: <ul style="list-style-type: none"> BLM, USFWS, SHPO CEQA: <ul style="list-style-type: none"> San Bernardino County, CDFW, CPUC

NEPA-CEQA Decision Framework

Decision Framework Overview

The following chart includes a variety of considerations that can shape the approach for balancing NEPA and CEQA processes. To use the chart, circle each answer that applies and add all the values together. Look on the spectrum below to find what suggested phasing scenarios might apply.

Example: Scenario 1 – Joint Document

Alternative Development

The alternatives development process can vary in complexity depending on the footprint, size, and type of a project. Therefore, it is important to consider the alternatives development process to select a scenario that will allow both agencies to fulfill their requirements.

Resources and Jurisdiction

The choice of process may depend on agency jurisdiction, funding authorization, and resources involved in the project. This factor may result in one agency having primacy over project decision making.

Issues and Alternatives

Applicants and agencies should try to identify potential state or federal issues that may impact the project and the alternatives development process. Larger policies and issues that may arise through the environmental review should be considered, such as renewable energy goals, border issues, groundwater management, and cultural resources.

Potential for Controversy: Policy, Procedures and Authorities

Foreseeable controversies under state or federal environmental reviews can be the source of ongoing policy debate or protest and might pose a litigation risk. Controversy can influence the choice of how to phase NEPA and CEQA. In addition, different agencies' policies and procedures may differ regarding document page limits, completion timeframes, alternatives descriptions, and requirements for environmental analysis.

Multiple Agencies Involvement

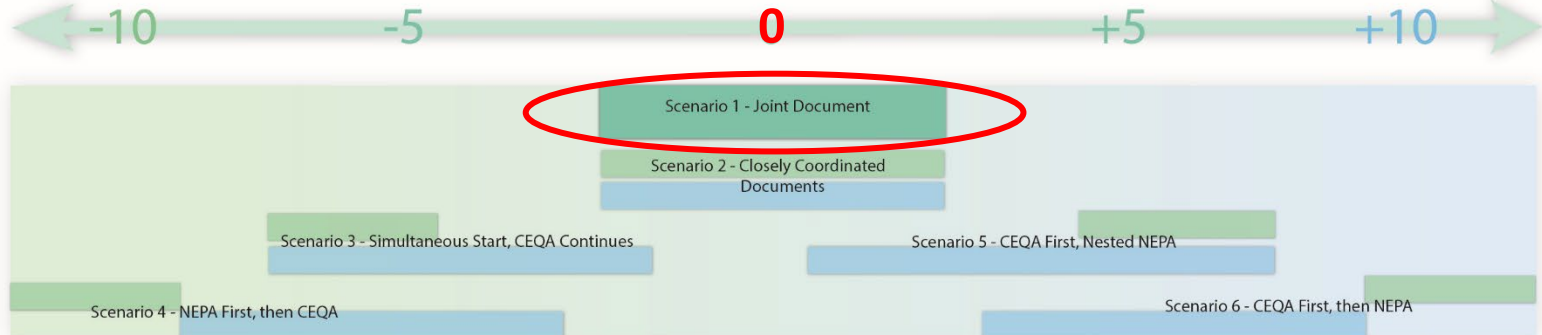
Early identification of the federal, state, and local agencies that may need to be involved could influence process phasing. If a project involves more federal agencies (or conversely, state agencies) the project scenario may favor one approach over another.

-2	-1	0	+1	+2
Issues being considered in alternatives development focus primarily on federal resources or jurisdictional issues	Issues being considered in alternatives development focus primarily on federal resources but require close coordination with state agencies	Close nexus between state/local and federal issues and resources being considered during the design and alternatives development process	Issues being considered in alternatives development focus primarily on state resources but require close coordination with federal agencies	Issues being considered in alternatives development focus primarily on state/local resources or jurisdictional issues
Project involves significant federal land and/or resources	Over half the project involves federal land and/or resources	Project is roughly equal between federal and state land and resources	Over half the project involves state land and/or resources	Project involves significant state land and/or resources
The project has foreseeable federal issues that need to be considered during alternatives development, but it is unlikely/unforeseeable that the project has state issues	The project has foreseeable federal issues, with some potential for state issues to emerge while alternatives are being considered	Balanced State and Federal Issues - either no issues are foreseeable or potential issues seem evenly divided between state and federal jurisdiction that could impact development of alternatives	The project has foreseeable state issues, with some potential for federal issues to emerge while alternatives are being considered	The project has foreseeable state issues that must be considered during alternatives development, but it is unlikely that the project has federal issues
High potential for federal litigation and low/unforeseeable risk of state litigation. There are policy conflicts between state and federal agencies regarding timeframes, document length, alternative descriptions and/or environmental analysis requirements.	Policy conflicts between state and federal regarding timeframes, document length, alternatives descriptions, and/or environmental analysis requirements favor initiation of NEPA compliance before initiation CEQA.	Balanced risk of potential state and federal litigated issues. Either no policy conflicts or policy conflicts regarding document length and requirements for environmental analysis.	Policy conflicts between state and federal agencies regarding timeframe, document length, alternative descriptions, and/or environmental analysis requirements favor initiation of CEQA compliance before initiation of NEPA.	High potential for state litigation and low/unforeseeable risk of federal litigation. There are policy conflicts between state and federal agencies regarding timeframes, document length, alternative descriptions and/or environmental analysis requirements.
Foreseeable that multiple federal agencies will play a significant role in the design and alternatives process, one state/local involved	Foreseeable that multiple federal agencies will play a significant role in the design and alternatives process, some state/local involved	Foreseeable that there are roughly equal numbers of federal, state, and/or local permitting agencies involved in the design and alternatives process	Foreseeable that multiple state/local agencies will play a significant role in the design and alternatives process, some federal involved	Foreseeable that multiple state/local agencies will play a significant role in the design and alternatives process, one federal involved

SIGNIFICANT NEPA

BALANCED PROCESSES

SIGNIFICANT CEQA



Choosing a Phasing Scenario

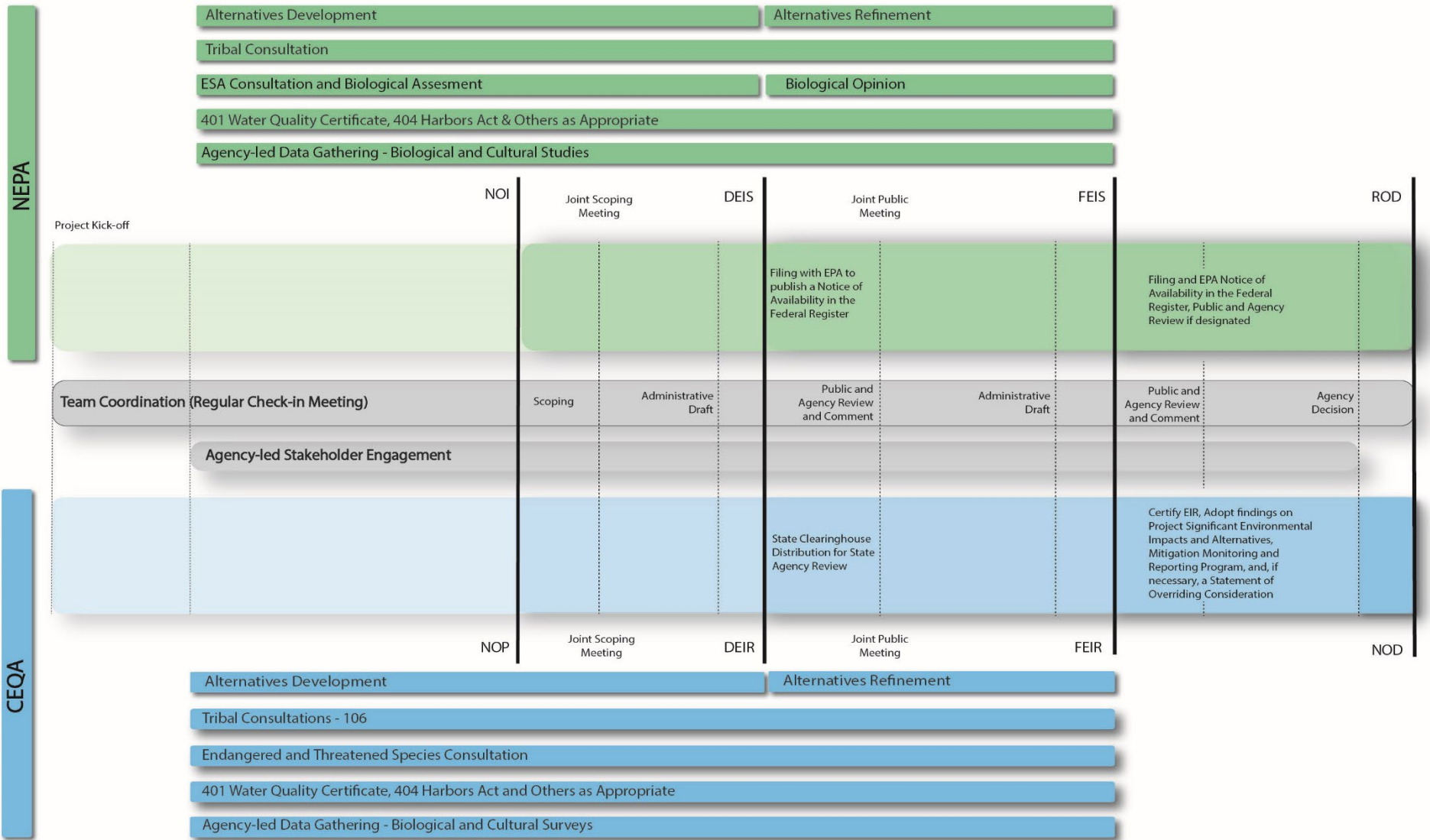
Weighing factors is an inherently subjective exercise. As a result, there is some variation in what scenario you should apply. Calculations are used to provide a rough guide that makes it more straightforward to choose a process.

Scenario 2 – Closely Coordinated Documents

Scenario 2 - Closely Coordinated Documents

Scenario 2 Purpose

Scenario 2 is recommended for projects with (1) particularly complex alternatives development processes that can range from being majority on federal land to being majority on state/local land and (2) a long list of resources of concern that pose a high risk of federal and state litigation.



Scenario 2 Overview

In Scenario 2, despite preparing separate documents and following their own specific guidelines, the NEPA and CEQA agencies will start and finish their processes together, coordinating to reach all public milestones at the same time and within the agreed to timeframe. A key feature of this scenario is that it requires close coordination and alignment between agencies but allows them the flexibility to create separate documents adhering to their own requirements.

Scenario 2 is recommended for projects with (1) particularly complex alternatives development processes with potential alternatives ranging from being mostly on federal land to mostly on state/local land and (2) a long list of resources of concern that pose a high risk of federal and state litigation. Team members will therefore follow the same timeline in order to avoid the risk that NEPA and CEQA agencies will propose, analyze, and ultimately adopt highly different alternatives, but also prepare separate documents so that each agency can address the long list of resources of concerns according to their respective NEPA or CEQA specific requirements.

If agencies are willing to agree on the document length and environmental analysis, they have the option to complete a single Joint Document (Scenario 1). Scenario 2 differs from Scenario 1 primarily due to a potential for agency policy conflicts regarding requirements for environmental analysis caused by the extensive list of impacted resources. To avoid this conflict, Scenario 2 allows both agencies to complete separate documents following their respective guidelines while remaining coordinated.

Early coordination should begin before the NOI and NOP to ensure that both NEPA and CEQA lead agencies are aligned on the anticipated timeline. It will also be necessary for agencies to begin conducting studies well in advance to ensure that information is ready to be utilized once the Draft EIS and Draft EIR documents are being prepared.

Summary of Milestones and Deliverables:

- 2.1. NEPA and CEQA Early Environmental Review
- 2.2. NEPA NOI and CEQA NOP Joint Public Scoping Period and Meetings
- 2.3. Preparing the NEPA Draft EIS and CEQA Draft EIR
- 2.4. NEPA Draft EIS and CEQA Draft EIR Administrative Draft Review¹¹
- 2.5. NEPA Draft EIS and CEQA Draft EIR Filing, Distribution, and Certification
- 2.6. Public Engagement Coordination and Joint Public Meeting
- 2.7. Preparing the NEPA Final EIS and CEQA Final EIR
- 2.8. NEPA Final EIS and CEQA Final EIR Administrative Draft Review
- 2.9. NEPA Final EIS and CEQA Final EIR Filing, Distribution and Certification
- 2.10. Agency Decisions and NEPA ROD and CEQA NOD

¹¹ Administrative draft review steps happen internally and occur before documents become public. This step allows project team members to review and provide input on documents before they are officially released and commented on by members of the public.

Milestone and Deliverables

2.1. NEPA and CEQA Early Environmental Review

Following the kick-off meeting and other pre-NOI/NOP coordination, the NEPA and CEQA lead agencies will begin preparing for their environmental review processes by separately, but simultaneously, starting the following tasks:

- Alternatives development;
- Tribal consultation;
- Threatened and endangered species consultation;
- Sections 401 and 404 of the Clean Water Act;
- Resource surveys, including biological and cultural;
- Initiate the Section 106 process; and
- Stakeholder engagement.

Although tasks for NEPA and CEQA will happen independent of one another, the team should have regular planning meetings to check-in on the progress of their separate tasks and ensure that studies completed, alternatives developed, and mitigations proposed adhere to both NEPA and CEQA requirements, to the extent possible. Through this coordination, the project team will identify their specific coordination needs, define study requirements, and approve study methodologies, among other specific items that arise.

Having clarified the requirements, the project team will then discuss their preferred timelines for completing studies (keeping in mind that seasons may impact the timing for completion of the studies), alternatives development, tribal consultation, public engagement, and other process components. Additional studies may need to be completed as new information arises.

2.2. NEPA NOI and CEQA NOP Joint Scoping Period and Meeting(s)

Key Milestones: NEPA NOI and CEQA NOP, comment period, and public scoping meeting(s)

Before publishing the NOI and NOP, project team members will meet to prepare for the joint scoping meeting, discuss the anticipated NEPA and CEQA timelines, and review project roles and responsibilities.

The NEPA and CEQA lead agency will simultaneously issue their NOI and NOP formally starting the NEPA and CEQA. Each notice will trigger a 30-day (or longer as appropriate) comment period and a joint public meeting(s) that will present the project to members of the public, gather input, and outline how the parallel NEPA and CEQA processes relate to each other. All project team members should attend or be represented at public scoping meeting(s).

2.3. Preparing the NEPA Draft EIS and CEQA Draft EIR

After a period of data gathering and document drafting (initiated in step 2.1), the NEPA and CEQA lead agencies will separately prepare their respective environmental review documents, each reviewing the information/science gathered, analyzing the range of alternatives, and proposing mitigation measures.

Although both lead agencies will be preparing separate documents, it is important that they check-in regularly to ensure that the Draft EIS and Draft EIR are not misaligned.

2.4. NEPA Draft EIS and CEQA Draft EIR Administrative Draft Review

The NEPA and CEQA lead agencies will share administrative drafts of their respective documents with the project team and develop a review timeline and target date for the team to convene and discuss the drafts. Each administrative draft should have a complete description of the project, including purpose

and need as well as an initial set of alternatives, while being early enough in the process to allow for a revision of the alternatives if necessary. The drafts will also review information gathered and produced throughout the environmental review process and assess the information needed to finalize each document. Following the review period, the team will convene to review and discuss both drafts.

If there are conflicts between both documents, the issues should be addressed to minimize risk of litigation due to misaligned documents. This may trigger another round of interagency reviews, but it will minimize potential discrepancies between the NEPA and CEQA documents.

2.5. NEPA Draft EIS and CEQA Draft EIR Filing, Distribution, and Certification

Key Milestones: Publish Draft EIS and Draft EIR

The NEPA lead and CEQA lead agencies will coordinate to simultaneously publish the Draft EIS and Draft EIR.

The NEPA lead agency will publish the Draft EIS and file it with the EPA, which will publish a NOA in the Federal Register, thus beginning the 45-day public comment period.¹² If desired or required, the NEPA lead agency will also publish an individual NOA in the Federal Register.

The CEQA lead agency will publish the Draft EIR and submit it to the State Clearinghouse, which will distribute it for State Agency Review and announce its public availability, thus starting the 30-day comment period culminating in a public meeting.

2.6. Public Engagement Coordination and Joint Public Meeting

Key Milestones: Draft EIS and Draft EIR comment period and public meeting(s)

The NEPA and CEQA lead agency will convene project team members to prepare for the joint NEPA Draft EIS and CEQA Draft EIR public meeting(s), which should be attended by all project team members.

Before scheduling the public meeting, project team members should review the Draft EIS and Draft EIR and develop talking points:

- Highlighting project findings;
- Explaining the relationship between the CEQA and NEPA processes and documents; and
- Providing a timeline of project milestones and upcoming opportunities for public engagement.

2.7. Preparing the NEPA Final EIS and CEQA Final EIR

Following the joint public meeting(s) and closure of the comment period, each agency will review comments received and work to draft their final documents. The NEPA and CEQA lead agencies may need to conduct additional studies, reevaluate the identified preferred alternative, and/or review the mitigation measures proposed in their Draft EIS or Draft EIR. If this is the case, the agencies should coordinate to ensure that additional studies, new alternatives, and updated mitigations do not conflict, or to address conflicts should they arise.

Although CEQA and NEPA have different mitigation requirements, it is important for agencies to coordinate to minimize the potential for conflicting mitigation measures, keeping in mind that some mitigations are NEPA specific and others are CEQA specific.

¹² Note that a 90-day comment period is required for a Draft EIS that includes a Resource Management Plan amendment.

2.8. Administrative Draft Reviews

Once both agencies have prepared their final documents, they will share an administrative draft with the project team highlighting the update and modifications made since the Draft EIS and Draft EIR were published. Agencies will determine a review timeline and target date for the project team to convene to discuss the administrative drafts.

If there are conflicts between documents, the issues should be addressed to minimize risk of litigation due to misaligned documents. This may trigger another round of interagency reviews, but it will minimize potential discrepancies between the NEPA and CEQA documents.

2.9. NEPA Final EIS and CEQA Final EIR Filing, Distribution and Certification

Key Milestones: Publish Final EIS and Final EIR

The NEPA lead and CEQA lead agencies will coordinate to simultaneously publish the Final EIS and Final EIR.

The NEPA lead agency will publish the Final EIS and file the completed document with the EPA, which will publish an NOA which initiates the 30-day availability period. If desired or required, the NEPA lead agency will also publish an individual NOA in the Federal Register.

The CEQA lead agency will publish the Final EIR, provide proposed responses to public agency comments and then certify the EIR, adopting findings on project significant environmental impacts and alternatives, mitigation monitoring and reporting program, and, if necessary, a statement on overriding considerations.

2.10. Agency Decisions and NEPA ROD and CEQA NOD

Key Milestone: Agency Decisions, NOD, and ROD

After collecting and reviewing comments on their respective documents, the NEPA and CEQA lead agencies will coordinate on their selected alternatives and other relevant aspects of their respective decisions to ensure they are not conflicting. Once both agencies agree on the decisions and alternatives, the NEPA lead agency will publish an agency decision and ROD and the CEQA lead agency will publish an agency decision and NOD, respectively ending each environmental review process.

Scenario 2 Case Study

The following hypothetical case study illustrates how a project with this set of characteristics might be “scored” in the decision-making framework. It is important to note that this project has been simplified to illustrate the use of the tool and how to navigate the process. Project teams should expect specific projects to be more nuanced.

Scenario 2 differs from Scenario 1 primarily due to agency policy conflicts regarding document length and requirements for environmental analysis caused by the extensive list of impacted resources.

Case Description

A developer in Kern County proposes an expansion of a transmission line that crosses BLM and county land. Depending on potential resource impacts or other considerations, the alternatives could range from having a larger CEQA footprint to having a larger NEPA footprint. To avoid the risk of conflicting documents, NEPA and CEQA lead agencies will follow the same timeline. However, due to an extensive list of endangered species, cultural resources, and sensitive habitats, agencies are likely to have conflicting policies and procedures regarding the length of the environmental review document and the criteria for alternatives developed. Therefore they will prepare separate documents while following a coordinated timeline that aligns all major milestones.

Project Name	Vento-Reese 500-kV Transmission Line
Land Ownership (federal, state, local, private)	<ul style="list-style-type: none"> Project footprint will vary depending on the alternatives.
Resources of Concern	<ul style="list-style-type: none"> Endangered species Cultural resources Sensitive habitat
Project Considerations	
1. Alternatives Development	Alternatives developed will range from being primarily on federal land to being primarily on private land. Agencies will coordinate to assure that the alternatives align in both the NEPA and CEQA documents.
2. Federal versus State/Local Resources	It is anticipated that there are cultural resources and terrestrial ESA species on both federal and state/local lands.
3. State/Local versus Federal Issues and Alternatives	The project has foreseeable federal and state/local issues that could impact the alternatives development process.
4. Potential for Controversy: Policy, Procedures, and Authorities	There is a balanced risk of controversy for both NEPA and CEQA. Due to the extensive list of resources of concern and the complex alternatives development process, NEPA and CEQA agencies have differing policies regarding the length of the environmental review document thus requiring each agency to prepare separate, but closely coordinated documents.
5. Multiple Agencies Involved	NEPA: <ul style="list-style-type: none"> BLM, USFWS, SHPO CEQA: <ul style="list-style-type: none"> Kern County, CPUC, CDFW

NEPA-CEQA Decision Framework

Decision Framework Overview

The following chart includes a variety of considerations that can shape the approach for balancing NEPA and CEQA processes. To use the chart, circle each answer that applies and add all the values together. Look on the spectrum below to find what suggested phasing scenarios might apply.

Example: Scenario 2 – Closely Coordinated Documents

Alternative Development

The alternatives development process can vary in complexity depending on the footprint, size, and type of a project. Therefore, it is important to consider the alternatives development process to select a scenario that will allow both agencies to fulfill their requirements.

Resources and Jurisdiction

The choice of process may depend on agency jurisdiction, funding authorization, and resources involved in the project. This factor may result in one agency having primacy over project decision making.

Issues and Alternatives

Applicants and agencies should try to identify potential state or federal issues that may impact the project and the alternatives development process. Larger policies and issues that may arise through the environmental review should be considered, such as renewable energy goals, border issues, groundwater management, and cultural resources.

Potential for Controversy: Policy, Procedures and Authorities

Foreseeable controversies under state or federal environmental reviews can be the source of ongoing policy debate or protest and might pose a litigation risk. Controversy can influence the choice of how to phase NEPA and CEQA. In addition, different agencies' policies and procedures may differ regarding document page limits, completion timeframes, alternatives descriptions, and requirements for environmental analysis.

Multiple Agencies Involvement

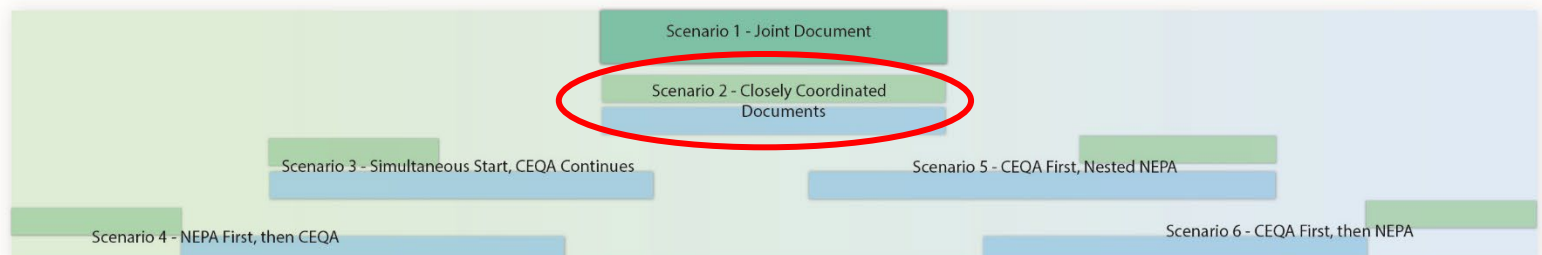
Early identification of the federal, state, and local agencies that may need to be involved could influence process phasing. If a project involves more federal agencies (or conversely, state agencies) the project scenario may favor one approach over another.

	-2	-1	0	+1	+2
Alternative Development	Issues being considered in alternatives development focus primarily on federal resources or jurisdictional issues	Issues being considered in alternatives development focus primarily on federal resources but require close coordination with state agencies	Close nexus between state/local and federal issues and resources being considered during the design and alternatives development process	Issues being considered in alternatives development focus primarily on state resources but require close coordination with federal agencies	Issues being considered in alternatives development focus primarily on state/local resources or jurisdictional issues
Resources and Jurisdiction	Project involves significant federal land and/or resources	Over half the project involves federal land and/or resources	Project is roughly equal between federal and state land and resources	Over half the project involves state land and/or resources	Project involves significant state land and/or resources
Issues and Alternatives	The project has foreseeable federal issues that need to be considered during alternatives development, but it is unlikely/unforeseeable that the project has state issues	The project has foreseeable federal issues, with some potential for state issues to emerge while alternatives are being considered	Balanced State and Federal Issues - either no issues are foreseeable or potential issues seem evenly divided between state and federal jurisdiction that could impact development of alternatives	The project has foreseeable state issues, with some potential for federal issues to emerge while alternatives are being considered	The project has foreseeable state issues that must be considered during alternatives development, but it is unlikely that the project has federal issues
Potential for Controversy: Policy, Procedures and Authorities	High potential for federal litigation and low/unforeseeable risk of state litigation. There are policy conflicts between state and federal agencies regarding timeframes, document length, alternative descriptions and/or environmental analysis requirements.	Policy conflicts between state and federal regarding timeframes, document length, alternatives descriptions, and/or environmental analysis requirements favor initiation of NEPA compliance before initiation CEQA.	Balanced risk of potential state and federal litigated issues. Either no policy conflicts or policy conflicts regarding document length and requirements for environmental analysis.	Policy conflicts between state and federal agencies regarding timeframe, document length, alternative descriptions, and/or environmental analysis requirements favor initiation of CEQA compliance before initiation of NEPA.	High potential for state litigation and low/unforeseeable risk of federal litigation. There are policy conflicts between state and federal agencies regarding timeframes, document length, alternative descriptions and/or environmental analysis requirements.
Multiple Agencies Involvement	Foreseeable that multiple federal agencies will play a significant role in the design and alternatives process, one state/local involved	Foreseeable that multiple federal agencies will play a significant role in the design and alternatives process, some state/local involved	Foreseeable that there are roughly equal numbers of federal, state, and/or local permitting agencies involved in the design and alternatives process	Foreseeable that multiple state/local agencies will play a significant role in the design and alternatives process, some federal involved	Foreseeable that multiple state/local agencies will play a significant role in the design and alternatives process, one federal involved

SIGNIFICANT NEPA

BALANCED PROCESSES

SIGNIFICANT CEQA



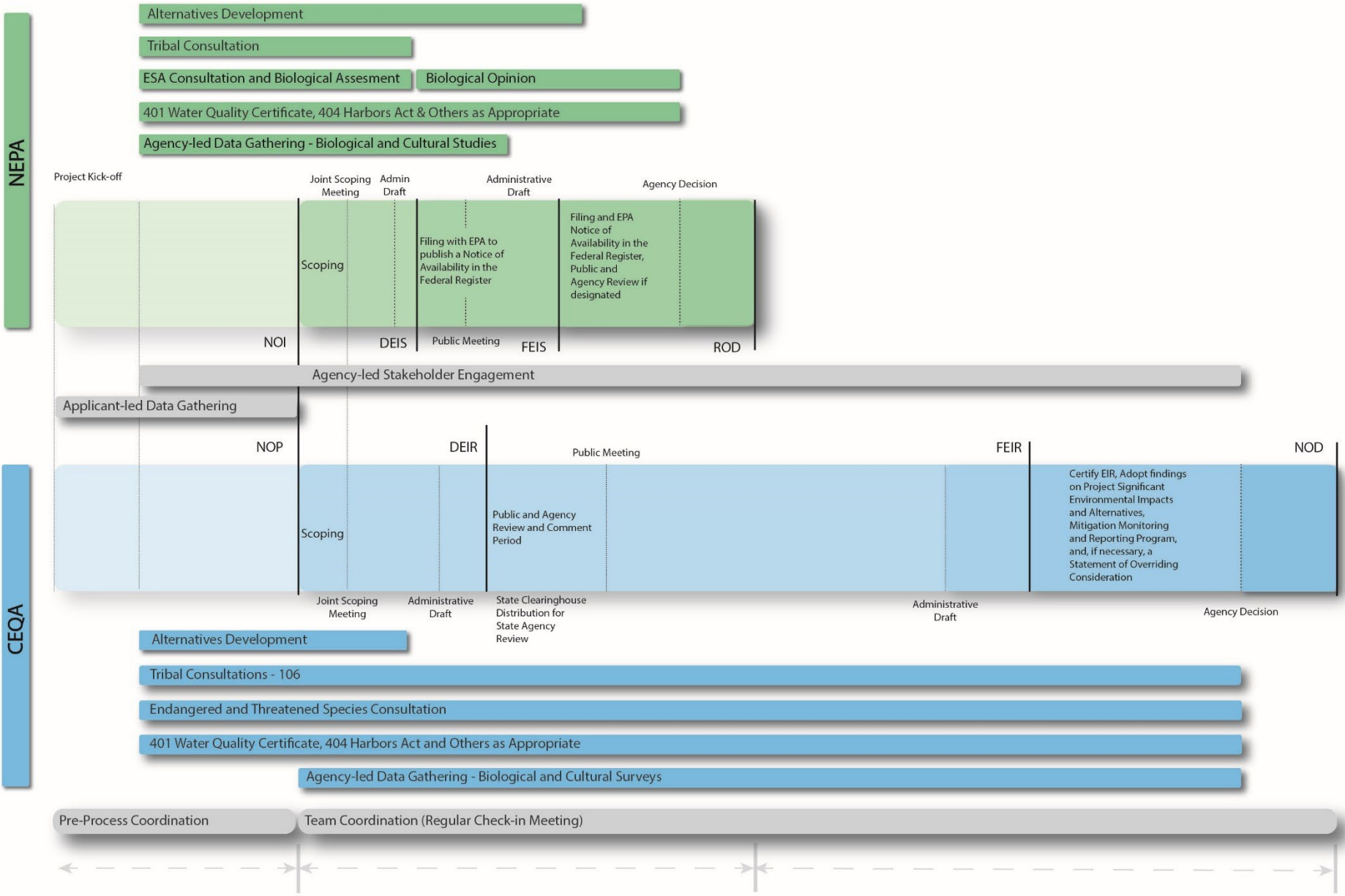
Choosing a Phasing Scenario

Weighing factors is an inherently subjective exercise. As a result, there is some variation in what scenario you should apply. Calculations are used to provide a rough guide that makes it more straightforward to choose a process.

Scenario 3 – Simultaneous Start, CEQA Continues

Scenario 3 - Simultaneous Start, CEQA Continues

Scenario 3 Purpose
 Scenario 3 is recommended for projects with larger federal components but that require coordination with the CEQA lead agency to ensure alternatives developed are feasible. This scenario is ideal for simpler projects with lower risks of federal or state litigation.



Scenario 3 Overview

In Scenario 3, the NEPA and CEQA processes will start together, however the NEPA process will follow a shorter timeline while the CEQA process will take longer. A key feature of this scenario is the joint start, which will allow agencies to coordinate on the scoping meetings and the alternatives development process. Once NEPA and CEQA alternatives are developed and approved by both agencies, the CEQA process can proceed at a slower pace, especially since the CEQA EIR is expected to adopt the NEPA alternatives.

Scenario 3 is recommended for projects with larger federal components but that require coordination with the CEQA lead agency to ensure alternatives are feasible. This scenario is ideal for simpler projects with lower risks of federal or state litigation. In addition to the lower risks of litigation, the smaller amount of state/local resources would likely require a reduced CEQA environmental review effort that can utilize existing NEPA resources unless it is a reduced environmental review due to the preparation of an EA, like Scenarios 5 and 6.

Early coordination should begin before the NOI/NOP to ensure that both NEPA and CEQA lead agencies are aligned on the anticipated timeline for their respective processes. Agencies should also ensure that studies conducted for the NEPA process can be later incorporated into the CEQA EIR by reference.

Summary of Milestones and Deliverables:

- 3.1. CEQA and NEPA Early Environmental Review
- 3.2. NEPA NOI and CEQA NOP Joint Scoping Period and Meetings
- 3.3. Preparing the NEPA Draft EIS and CEQA Draft EIR
- 3.4. NEPA Draft EIS Administrative Draft Review¹³
- 3.5. NEPA Draft EIS Filing with EPA to Publish NOA in the Federal Register
- 3.6. NEPA Draft EIS Public Engagement Coordination and Public Meeting
- 3.7. Preparing the NEPA Final EIS
- 3.8. CEQA Draft EIR Administrative Draft Review
- 3.9. CEQA Draft EIR State Clearinghouse Distribution for State Agency Review
- 3.10. CEQA Draft EIR Public Engagement Coordination and Public Meeting
- 3.11. Preparing the CEQA Final EIR
- 3.12. NEPA Final EIS Administrative Draft Review
- 3.13. NEPA Final EIS Filing with EPA to Publish NOA in the Federal Register
- 3.14. NEPA Agency Decision and ROD
- 3.15. CEQA Final EIR Administrative Draft Review
- 3.16. CEQA Final EIR State Clearinghouse Distribution for State Agency Review
- 3.17. CEQA Agency Decision and NOD

¹³ Administrative draft review steps happen internally and occur before documents become public. This step allows project team members to review and provide input on documents before they are officially released and commented on by members of the public.

Milestone and Deliverables

3.1. NEPA and CEQA Early Environmental Review

Following the kick-off meeting and other pre-NOI/NOP coordination, the NEPA and CEQA lead agencies will begin preparing for their environmental review processes by separately, but simultaneously, starting the following tasks:

- Alternatives development
- Tribal consultation;
- Threatened and endangered species consultation;
- Sections 401 and 404 of the Clean Water Act;
- Resource surveys, including biological and cultural;
- Initiate the Section 106 process; and
- Stakeholder engagement.

Although tasks for NEPA and CEQA will happen independent of one another, the team should have regular planning meetings to check-in on the progress of their separate tasks and ensure that studies completed, alternatives developed, and mitigations proposed adhere to both NEPA and CEQA requirements, to the extent possible. Through this coordination, the project team will identify their specific coordination needs, define study requirements, and approve study methodologies, among other specific items that arise.

Having clarified the requirements, each group, including state, local and federal agencies, can then discuss their preferred timelines for completing studies (keeping in mind that seasons may impact the timing for completion of the studies), alternatives development, tribal consultation, public engagement, and other process components. Additional studies may need to be completed as new information arises.

3.2. NEPA NOI and CEQA NOP Joint Scoping Period and Meeting(s)

Key Milestones: NEPA NOI and CEQA NOP, comment period, and public scoping meeting(s)

Before publishing the NOI and NOP, project team members will meet to prepare for the joint scoping meeting, discuss the anticipated NEPA and CEQA timelines, and review project roles and responsibilities. All project team members should attend or be represented at public scoping meeting(s).

The NEPA and CEQA lead agency will simultaneously issue their NOI and NOP, respectively, formally starting the NEPA and CEQA processes. Each notice will trigger a 30-day (or longer as appropriate) comment period and joint public scoping meetings that will present the project to members of the public, gather input, and outline how the parallel NEPA and CEQA processes relate to each other.

3.3. Preparing the NEPA Draft EIS and CEQA Draft EIR

After a period of data gathering and document drafting (initiated in step 3.1), the NEPA and CEQA lead agencies will separately prepare their respective environmental review documents, each reviewing the information/science gathered, analyzing the range of alternatives, and proposing mitigation measures.

Although both lead agencies will be preparing separate documents, it is important that they check-in regularly to ensure that the Draft EIS and Draft EIR are not misaligned and that alternatives developed and studies prepared under the NEPA process can be referenced by the CEQA Draft EIR.

In addition, given the NEPA timeline is much shorter than the CEQA timeline, the NEPA lead agency is expected to complete Draft EIS related steps before the CEQA lead agency completes the equivalent Draft EIR steps.

3.4. NEPA Draft EIS Administrative Draft Review

The NEPA lead agency will share an administrative draft of the Draft EIS for project team members' review and indicate a review timeline and target date for the project team to convene and discuss the draft. The administrative draft should have a complete description of the project, including purpose and need as well as an initial set of alternatives, while being early enough in the process to allow for a revision of the alternatives if it is required for consistency with the CEQA alternatives. It will also review information gathered and produced throughout the environmental review process and assess the information needed to finalize the EIS. Following the review period, the NEPA lead will convene the group to review and discuss the document.

At this meeting, the CEQA lead agency will thoroughly review the document and ensure that findings do not conflict with the Draft EIR being prepared in the CEQA process and can be incorporated by reference. Any conflicts should be addressed now to prevent a possible recirculation of the EIR. This may trigger another round of interagency reviews, but it will minimize potential discrepancies between the NEPA and CEQA documents and schedule delays.

3.6. NEPA Draft EIS Filing with EPA to Publish NOA in the Federal Register

Key Milestones: Publish Draft EIS and NOA

The NEPA lead agency will publish the Draft EIS and file it with the EPA, which will publish a NOA in the Federal Register, thus beginning the 45-day public comment period.¹⁴ If desired or required, the NEPA lead agency will also publish an individual NOA in the Federal Register.

3.7. NEPA Draft EIS Public Engagement Coordination and Public Meeting

Key Milestones: Draft EIS comment period and public meeting(s)

The NEPA lead will convene project team members to prepare for the NEPA Draft EIS public meeting(s), which should be attended by all project team members, including representatives of the CEQA lead agency who are encouraged to address comments brought up during NEPA engagement to inform the future CEQA EIR document and public process.

Before scheduling the public meeting, project team members should review the Draft EIS and develop talking points:

- Highlighting project findings;
- Explaining the relationship between CEQA and NEPA processes;
- Providing a timeline of project milestones and upcoming opportunities for public engagement; and
- Summarizing how NEPA public comments will be addressed in the forthcoming CEQA process.

3.8. Preparing the NEPA Final EIS

Following the Draft EIS public meeting and the closure of the comment period, the NEPA lead agency will review comments received and work to prepare a draft Final EIS. The agency may need to conduct

¹⁴ Note that a 90-day comment period is required for a Draft EIS that includes a Resource Management Plan amendment.

additional studies, re-evaluate the identified preferred alternative, and/or review the mitigation measures proposed in the Draft EIS. If this is the case, NEPA lead agency should coordinate with the CEQA lead agency to ensure that additional studies, new alternatives, and updated mitigations do not conflict with those being developed under for the CEQA Draft EIR, or to address conflicts should they arise.

Although CEQA and NEPA have different mitigation requirements, it is important for agencies to coordinate to minimize the potential for conflicting mitigation measures, keeping in mind that some mitigations are NEPA specific and others are CEQA specific.

3.9. CEQA Draft EIR Administrative Draft Review

The CEQA lead agency will share an administrative draft of the Draft EIR for project team members' review and indicate a review timeline and target date for the project team to convene and discuss the draft. The administrative draft should have a complete description of the project, including the purpose and need as well as an initial set of alternatives, while being early enough in the process to allow for a revision of the alternatives if it is required for consistency with the NEPA alternatives. It will also review information gathered and produced throughout the environmental review process and assess the information needed to finalize the EIR. Following the pre-determined review period, the CEQA lead will convene the group to discuss and review the document.

At this meeting, the NEPA lead agency will thoroughly review the document to ensure that findings do not conflict with the NEPA Final EIS being drafted. If there are conflicts, the issue(s) should be addressed to allow the EIR to incorporate the EIS by reference. This may trigger another round of interagency reviews, but it will minimize potential discrepancies between the NEPA and CEQA documents and schedule delays.

3.10. CEQA Draft EIR State Clearinghouse Distribution for State Agency Review

Key Milestone: Publish Draft EIR

The CEQA lead agency will publish the Draft EIR and submit it to the State Clearinghouse, which will distribute it for State Agency Review and announce its public availability, thus starting the 30-day comment period culminating in a public meeting.

3.11. CEQA Draft EIR Public Engagement Coordination and Public Meeting

Key Milestones: Draft EIR comment period and public meeting(s)

The CEQA lead agency will convene team members to prepare for the Draft EIR public meeting(s), which should be attended by all project team members, including representatives of the NEPA lead agency who are encouraged to discuss comments brought up previously during the NEPA process.

Before scheduling the public meeting, project team members should review the Draft EIR and develop talking points:

- Highlighting project findings;
- Explaining the CEQA and NEPA processes;
- Addressing comments provided during the NEPA public engagement process; and
- Providing a timeline of project milestones and upcoming opportunities for public engagement.

3.12. Preparing the CEQA Final EIR

Following the Draft EIR public meeting(s) and the closure of the public comment period, the CEQA lead agency will review comments received and work to prepare a draft Final EIR. The agency may need to conduct additional studies, re-evaluate the identified preferred alternative, and/or review the mitigation measures proposed in the Draft EIR. If this is the case, the CEQA lead agency should coordinate with the NEPA lead agency to ensure that additional studies, new alternatives, and updated mitigations do not conflict with the NEPA Final EIS, or to address conflicts should they arise.

Although CEQA and NEPA have different mitigation requirements, it is important for agencies to coordinate to minimize the potential for conflicting measures, keeping in mind that some mitigations are NEPA specific and others are CEQA specific.

3.13. NEPA Final EIS Administrative Draft Review

Once the NEPA lead agency is done preparing the Final EIS (initiated in step 3.8), they will share with the project team an administrative draft of the document highlighting the updates and modifications made since the Draft EIS and indicate a review timeline and target date for the project team to convene and discuss the draft. Following the review period, the NEPA lead will convene the group to review and discuss the document.

The CEQA lead agency should review the document to ensure that, wherever possible, it meets CEQA requirements and does not conflict with the existing CEQA Draft EIR. The team will discuss ways to address any issues in case CEQA requirements are not met. This may potentially trigger another round of reviews; however, it will minimize potential risks towards the end of the process.

3.14. NEPA Final EIS Filing with the EPA to Publish NOA in the Federal Register

Key Milestones: Publish Final EIS and NOA

The NEPA lead agency will publish the Final EIS and files the completed document with the EPA, which will publish an NOA which initiates the 30-day availability period. If desired or required, the NEPA lead agency will also publish an individual NOA in the Federal Register.

3.15. NEPA Agency Decision and Record of Decision (ROD)

Key Milestones: Agency Decision and ROD

Following the 30-day availability period, and after collecting and reviewing comments, the NEPA lead will publish the ROD, officially ending the NEPA environmental review process.

3.16. CEQA Final EIR Administrative Draft Review

The CEQA lead agency will share an administrative draft of the Final EIR highlighting the updates and modifications made since the Draft EIR and indicate a review timeline and target date for the project team to convene and discuss the draft. Following the pre-determined review period, the CEQA lead will convene the group to discuss and review the document.

The NEPA lead agency should review the Final EIR and ensure that it does not conflict with the existing NEPA Final EIS. The team will discuss ways to address any issues in case NEPA requirements are not met. This may potentially trigger another round of reviews; however, it will minimize potential risks towards the end of the process.

3.17. CEQA Final EIR Publication and Certification

Key Milestone: Publish Final EIR

The CEQA lead agency will publish the Final EIR, provide proposed responses to public agency comments and then certify the EIR, adopting findings on project significant environmental impacts and alternatives, mitigation monitoring and reporting program, and, if necessary, a statement on overriding considerations.

3.18. CEQA Agency Decision and NOD

Key Milestone: Agency Decision and NOD

After collecting and reviewing comments on the Final EIR, the CEQA lead will publish the agency decision highlighting the selected alternative for the project. Shortly thereafter the agency will publish a NOD officially ending the CEQA environmental review process.

Scenario 3 Case Study

The following hypothetical case study illustrates how a project with this set of characteristics might be “scored” in the decision-making framework. It is important to note that this project has been simplified to illustrate the use of the tool and how to navigate the process. Project teams should expect specific projects to be more nuanced.

Case Description

A developer is considering a 550 MW solar farm located entirely on land owned and managed by BLM that requires approval with the county for road access crossing private land within Kern County. Although all resources of concern are on federal land, agencies choose to start simultaneously to make sure that alternatives developed during the NEPA process are feasible with county plans. Once the alternatives are developed and approved by the project team, the CEQA process can progress at a slower pace, especially since the CEQA EIR is expected to adopt the NEPA alternatives. Comparable projects in the area have shown minimal potential impacts on sensitive habitat and the community is familiar with the ongoing surge in renewable development - if anything, the community is in favor of the jobs and potential revenue, suggesting low/unforeseeable risks of federal or state litigation¹⁵.

Project Name	SolarScape 550
Land Ownership (federal, state, local, private)	<ul style="list-style-type: none"> 8000 acres on BLM land 2000 acres on privately owned and state-owned land in San Bernardino County
Resources of Concern	<ul style="list-style-type: none"> Sensitive habitat ESA species
Project Considerations	
1. Alternatives Development	Alternatives developed in the NEPA process are expected to be adopted in the CEQA EIR.
2. Federal versus State/Local Resources	80% of the project footprint is located on BLM land with the only state/local component being a 3-mile road crossing private land to provide access to the project.
3. State/Local versus Federal Issues and Alternatives	Given the project footprint, most foreseeable issues will be on the federal side.
4. Potential for Controversy: Policy, Procedures, and Authorities	It is anticipated that conflict will be relatively low since the local community wants to embrace renewable energy projects for economic development purposes. There are policy differences between BLM and Kern County regarding the timeline of the environmental analysis, which, due to the predominance of NEPA, favors the completion of NEPA before the completion of CEQA.
5. Multiple Agencies Involved	NEPA: <ul style="list-style-type: none"> BLM, USFWS CEQA: <ul style="list-style-type: none"> Kern County, CDFW

¹⁵ Note this scenario is idealized for the purpose of this document. A commercial solar project on federal land is likely to have strong opposition.

NEPA-CEQA Decision Framework

Decision Framework Overview

The following chart includes a variety of considerations that can shape the approach for balancing NEPA and CEQA processes. To use the chart, circle each answer that applies and add all the values together. Look on the spectrum below to find what suggested phasing scenarios might apply.

Example:
Scenario 3 – Simultaneous Start, CEQA Continues

Alternative Development

The alternatives development process can vary in complexity depending on the footprint, size, and type of a project. Therefore, it is important to consider the alternatives development process to select a scenario that will allow both agencies to fulfill their requirements.

Resources and Jurisdiction

The choice of process may depend on agency jurisdiction, funding authorization, and resources involved in the project. This factor may result in one agency having primacy over project decision making.

Issues and Alternatives

Applicants and agencies should try to identify potential state or federal issues that may impact the project and the alternatives development process. Larger policies and issues that may arise through the environmental review should be considered, such as renewable energy goals, border issues, groundwater management, and cultural resources.

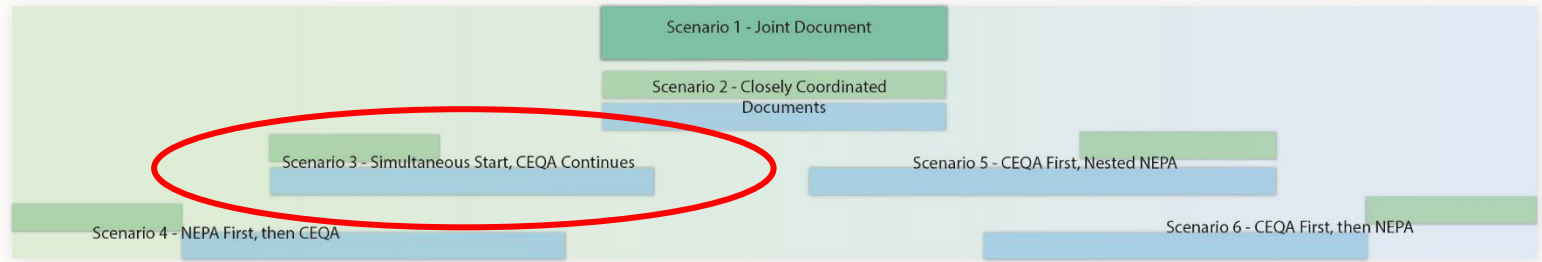
Potential for Controversy: Policy, Procedures and Authorities

Foreseeable controversies under state or federal environmental reviews can be the source of ongoing policy debate or protest and might pose a litigation risk. Controversy can influence the choice of how to phase NEPA and CEQA. In addition, different agencies' policies and procedures may differ regarding document page limits, completion timeframes, alternatives descriptions, and requirements for environmental analysis.

Multiple Agencies Involvement

Early identification of the federal, state, and local agencies that may need to be involved could influence process phasing. If a project involves more federal agencies (or conversely, state agencies) the project scenario may favor one approach over another.

-2	-1	0	+1	+2
Issues being considered in alternatives development focus primarily on federal resources or jurisdictional issues	Issues being considered in alternatives development focus primarily on federal resources but require close coordination with state agencies	Close nexus between state/local and federal issues and resources being considered during the design and alternatives development process	Issues being considered in alternatives development focus primarily on state resources but require close coordination with federal agencies	Issues being considered in alternatives development focus primarily on state/local resources or jurisdictional issues
Project involves significant federal land and/or resources	Over half the project involves federal land and/or resources	Project is roughly equal between federal and state land and resources	Over half the project involves state land and/or resources	Project involves significant state land and/or resources
The project has foreseeable federal issues that need to be considered during alternatives development, but it is unlikely/unforeseeable that the project has state issues	The project has foreseeable federal issues, with some potential for state issues to emerge while alternatives are being considered	Balanced State and Federal Issues - either no issues are foreseeable or potential issues seem evenly divided between state and federal jurisdiction that could impact development of alternatives	The project has foreseeable state issues, with some potential for federal issues to emerge while alternatives are being considered	The project has foreseeable state issues that must be considered during alternatives development, but it is unlikely that the project has federal issues
High potential for federal litigation and low/unforeseeable risk of state litigation. There are policy conflicts between state and federal agencies regarding timeframes, document length, alternative descriptions and/or environmental analysis requirements.	Policy conflicts between state and federal regarding timeframes, document length, alternatives descriptions, and/or environmental analysis requirements favor initiation of NEPA compliance before initiation CEQA.	Balanced risk of potential state and federal litigated issues. Either no policy conflicts or policy conflicts regarding document length and requirements for environmental analysis.	Policy conflicts between state and federal agencies regarding timeframe, document length, alternative descriptions, and/or environmental analysis requirements favor initiation of CEQA compliance before initiation of NEPA.	High potential for state litigation and low/unforeseeable risk of federal litigation. There are policy conflicts between state and federal agencies regarding timeframes, document length, alternative descriptions and/or environmental analysis requirements.
Foreseeable that multiple federal agencies will play a significant role in the design and alternatives process, one state/local involved	Foreseeable that multiple federal agencies will play a significant role in the design and alternatives process, some state/local involved	Foreseeable that there are roughly equal numbers of federal, state, and/or local permitting agencies involved in the design and alternatives process	Foreseeable that multiple state/local agencies will play a significant role in the design and alternatives process, some federal involved	Foreseeable that multiple state/local agencies will play a significant role in the design and alternatives process, one federal involved



Choosing a Phasing Scenario

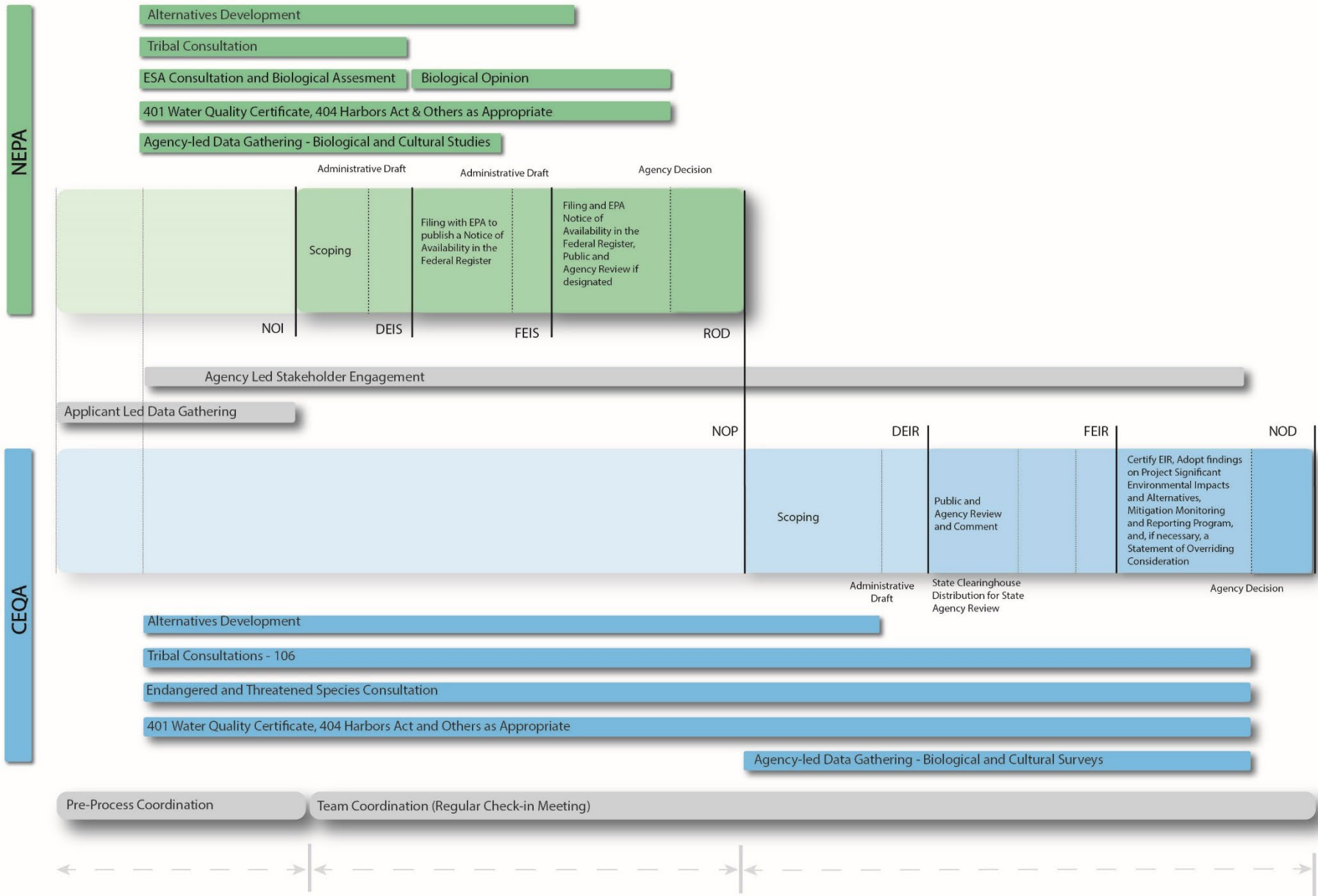
Weighing factors is an inherently subjective exercise. As a result, there is some variation in what scenario you should apply. Calculations are used to provide a rough guide that makes it more straightforward to choose a process.

Scenario 4 – NEPA First, Then CEQA

Scenario 4 - NEPA first, then CEQA

Scenario 4 Purpose

Scenario 4 is recommended for projects with considerably greater federal footprints and a high potential for federal litigation due to a long list of impacted resources on federal land. Given the emphasis on the NEPA process, the CEQA process can complete either an EIR or a reduced environmental review effort such as a mitigated negative declaration or incorporating NEPA studies and alternatives by reference.



Scenario 4 Overview

In Scenario 4 the NEPA process will initiate and conclude in a shorter timeframe, before the CEQA process begins, therefore allowing the CEQA process to incorporate relevant information from the NEPA process into the CEQA EIR. A key feature of this scenario is that it completely staggers both processes so that there is no overlap between NEPA and CEQA.

Scenario 4 is recommended for projects with considerably greater federal footprints and a high potential for federal litigation due to a long list of impacted resources on federal land. Given the emphasis on the NEPA process, the CEQA process can complete either an EIR or a reduced environmental review effort such as a mitigated negative declaration (MND), incorporating NEPA studies and alternatives by reference, unless it is a reduced environmental review due to the preparation of an EA, like Scenarios 5 and 6.

Early coordination among the agencies should occur before the NEPA NOI is issued to ensure that the CEQA process can utilize studies conducted and comments received during the NEPA process, including possible incorporation by reference into the CEQA document. Use of the NEPA document and its studies will assist the CEQA agency in completion of the EIR or mitigated negative declaration.

Note that MND milestones can be substituted-in for the EIR steps listed below (MND process not shown here).

Summary of Milestones and Deliverables:

- 4.1. NEPA and CEQA Early Environmental Review
- 4.2. NEPA NOI and Scoping
- 4.3. Preparing the NEPA Draft EIS
- 4.4. NEPA Draft EIS Administrative Draft Review¹⁶
- 4.5. NEPA Draft EIS Filing with EPA to Publish NOA in the Federal Register
- 4.6. NEPA Draft EIS Public Engagement Coordination and Public Meeting
- 4.7. Preparing the NEPA Final EIS
- 4.8. NEPA Final EIS Administrative Draft Review
- 4.9. NEPA Final EIS Filing with EPA to Publish NOA in the Federal Register
- 4.10. NEPA Agency Decision and ROD
- 4.11. CEQA NOP and Scoping
- 4.12. Preparing the CEQA Draft EIR
- 4.13. CEQA Draft EIR Administrative Draft Review
- 4.14. CEQA Draft EIR State Clearinghouse Distribution for State Agency Review
- 4.15. CEQA Draft EIR Public Engagement Coordination and Public Meeting
- 4.16. Preparing the CEQA Final EIR
- 4.17. CEQA Final EIR Administrative Draft Review
- 4.18. CEQA Final EIR Publication and Certification
- 4.19. CEQA Agency Decision and NOD

¹⁶ Administrative draft review steps happen internally and occur before documents become public. This step allows project team members to review and provide input on documents before they are officially released and commented on by members of the public.

Milestone and Deliverables

4.1. NEPA and CEQA Early Environmental Review

Following the kick-off meeting and other pre-NOI/NOP coordination, the NEPA and CEQA lead agencies will begin preparing for their environmental review processes by separately, but simultaneously, starting the following tasks:

- Alternatives development;
- Tribal consultation;
- Threatened and endangered species consultation;
- Sections 401 and 404 of the Clean Water Act;
- Resource surveys, including biological and cultural;
- Initiate the Section 106 process; and
- Stakeholder engagement.

Although tasks for NEPA and CEQA will happen independent of one another, the team should have regular planning meetings to check-in on the progress of their separate tasks and ensure that studies completed, alternatives developed, and mitigations proposed adhere to both NEPA and CEQA requirements, to the extent possible. Through this coordination, the project team will identify their specific coordination needs, define study requirements, and approve study methodologies, among other specific items that arise.

Having clarified the requirements, each group, including state, local and federal agencies, will then discuss their preferred timelines for completing studies (keeping in mind that seasons may impact the timing for completion of the studies), alternatives development, tribal consultation, public engagement, and other process components. Additional studies may need to be completed as new information arises.

The NEPA tasks will lead into preparing the NEPA Draft EIS in step 4.3 and the CEQA tasks will lead straight into preparing the CEQA Draft EIR in step 4.12.

4.2. NEPA NOI and Scoping

Key Milestones: NOI, comment period, and public scoping meetings

The NEPA lead agency will issue a NOI, formally starting the NEPA environmental review process that will culminate in a ROD. The NOI will trigger a 30-day (or longer as appropriate) public scoping period along with a public scoping meeting (or meetings) to present the project to the public and gather input. The CEQA lead agency should send representatives to the scoping meetings to address any CEQA related questions.

Before publishing the NOI, project team members should meet to discuss the NEPA and CEQA timelines and review project roles and responsibilities. Although the NEPA lead agency will lead meetings throughout the duration of the NEPA process, it is important for the CEQA lead agency to be actively involved to ensure that the NEPA process, currently in the early environmental review stage, does not lead to an EIR with widely different outcomes.

4.3. Preparing the NEPA Draft EIS

After a period of data gathering and document drafting (initiated in step 4.1), the NEPA lead agency will prepare its Draft EIS which reviews information/science gathered throughout the NEPA environmental review process, analyzes the range of alternatives, and proposes mitigation measures.

In completing this step, the NEPA lead agency will coordinate with the CEQA lead agency to ensure that, wherever possible, the NEPA Draft EIS adheres to CEQA requirements and can be referenced by the CEQA Draft EIR.

4.4. NEPA Draft EIS Administrative Draft Review

The NEPA lead agency will share an administrative draft of the Draft EIS for project team members' review and indicate a review timeline and target date for the project team to convene and discuss the draft. The administrative draft should have a complete description of the project, including purpose and need as well as an initial set of alternatives, while being early enough in the process to allow for a revision of the alternatives if it is required for consistency with the CEQA alternatives. It will also review information gathered and produced throughout the environmental review process and assess the information needed to finalize the EIS. Following the review period, the NEPA lead agency will convene the group to discuss and review the document.

If in the kick-off meeting the agencies agreed to have the CEQA EIR incorporate the NEPA EIS by reference, it will be important that the CEQA lead agency thoroughly review the Draft EIS to ensure that, wherever possible, it meets CEQA requirements. If there are conflicts, the issue(s) should be addressed to allow the EIS to be incorporated by reference by the EIR. This may trigger another round of interagency reviews, but it will minimize potential discrepancies between the NEPA and CEQA documents and schedule delays.

4.5. NEPA Draft EIS Filing with EPA to Publish NOA in the Federal Register

Key Milestones: Publish EIS and NOA

The NEPA lead agency will publish the Draft EIS and file it with the EPA which will publish a NOA in the Federal Register, thus beginning the 45-day public comment period.¹⁷ If desired or required, the NEPA lead agency will also publish an individual NOA in the Federal Register.

4.6. NEPA Draft EIS Public Engagement Coordination and Public Meeting

Key Milestones: Draft EIS comment period and public meeting(s)

The NEPA lead will convene project team members to prepare for the NEPA Draft EIS public meeting(s), which should be attended by all project team members, including representatives of the CEQA lead agency who are encouraged to address comments brought up during NEPA engagement to inform the future CEQA EIR document and public process.

Before scheduling the public meeting, project team members should review the Draft EIS and develop talking points:

- Highlighting project findings;
- Explaining the relationship between CEQA and NEPA processes;
- Providing a timeline of project milestones and upcoming opportunities for public engagement; and
- Summarizing how NEPA public comments will be addressed in the CEQA process, as appropriate.

¹⁷ Note that a 90-day comment period is required for a Draft EIS that includes a Resource Management Plan amendment.

4.7. Preparing the NEPA Final EIS

Following the DIES public meeting and the closure of the comment period, the NEPA lead agency will review comments received and work to prepare a draft Final EIS. The agency may need to conduct additional studies, reevaluate the identified preferred alternative, and/or review the mitigation measures proposed in the Draft EIS. If this is the case, it is recommended that the NEPA lead agency coordinate with the CEQA lead agency to ensure that additional studies, new alternatives, and updated mitigations do not conflict with those being developed under the CEQA pre-NOP process, or to address conflicts should they arise.

Although CEQA and NEPA have different mitigation requirements, it is important for agencies to coordinate to minimize the potential for conflicting mitigation measures, keeping in mind that some mitigations are NEPA specific and others are CEQA specific.

4.8. NEPA Final EIS Administrative Draft Review

The NEPA lead agency will share an administrative draft of the Final EIS highlighting the updates and modifications made since the Draft EIS and indicates a review timeline and target date for the project team to convene and discuss the draft. Following the pre-determined review period, the NEPA lead will convene the group to discuss and review the document.

The CEQA lead agency should review the document and ensure that, wherever possible, it meets CEQA requirements. The team should discuss ways to address any issues in case CEQA requirements are not met. This may potentially trigger another round of reviews; however, it will minimize potential risks towards the end of the process.

4.9. NEPA Final EIS Filing with the EPA to Publish NOA in the Federal Register

Key Milestones: Publish Final EIS and NOA

The NEPA lead agency will publish the Final EIS and file the completed document with the EPA, which will publish an NOA which initiates the 30-day availability period. If desired or required, the NEPA lead agency will also publish an individual NOA in the Federal Register.

4.10. NEPA Agency Decision and ROD

Key Milestones: Agency Decision and ROD

Following the 30-day availability period, the NEPA lead will publish the ROD, officially ending the NEPA environmental review process.

4.11. CEQA NOP and Scoping

Key Milestones: NOP, comment period, and public scoping meeting(s)

The CEQA lead agency will issue a NOP, formally starting the CEQA environmental review process. It is important to note that the studies and tasks necessary to complete the Draft EIS will already be underway (see step 4.1 above). The NOP will also trigger a 30-day (or longer as appropriate) comment period along with a scoping public meeting(s) to present the project to members of the public, gather input, and outline how the CEQA process relates to the finished NEPA process. The NEPA lead agency should send representatives to the scoping meeting(s) to address any NEPA related questions.

Before publishing the NOP, project team members should meet to discuss the CEQA timeline and review project roles and responsibilities. From this point on, meetings will be led by the CEQA lead agency as

they work to prepare the EIR, however it is important for the NEPA lead agency to continue its involvement to minimize the risk of a recirculation of the EIR due to conflicting findings.

4.12. Preparing the CEQA Draft EIR

After a period of data gathering and document drafting (initiated in step 4.1), the CEQA lead agency will prepare its Draft EIR which reviews information/science gathered throughout the CEQA environmental review process, analyzes the range of alternatives, and proposes mitigation measures.

In completing this step, the CEQA lead agency should coordinate with the NEPA lead agency to ensure that, wherever possible, the CEQA Draft EIR does not conflict with the existing NEPA Final EIS.

4.13. CEQA Draft EIR Administrative Draft Review

The CEQA lead agency will share an administrative draft of the Draft EIR for project team members' review and indicate a review timeline and target date for the project team to convene and discuss the draft. The administrative draft should have a complete description of the project, including the purpose and need as well as an initial set of alternatives, while being early enough in the process to allow for a revision of the alternatives if it is required for consistency with the NEPA alternatives. It will also review information gathered and produced throughout the environmental review process and assess the information needed to finalize the EIR. Following the review period, the CEQA lead will convene the group to discuss and review the document.

At this meeting, the NEPA lead agency should thoroughly review the document to ensure that findings do not conflict with the existing NEPA Final EIS. If there are conflicts, the issue(s) should be addressed to prevent a recirculation of the EIS. This may trigger another round of interagency reviews, but it will minimize potential discrepancies between the NEPA and CEQA documents and schedule delays.

4.14. CEQA Draft EIR State Clearinghouse Distribution for State Agency Review

Key Milestone: Publish Draft EIR

The CEQA lead agency will publish the Draft EIR and submit it to the State Clearinghouse, which will distribute it for State Agency Review and announce its public availability, thus starting the 30-day comment period culminating in a public meeting.

4.15. CEQA Draft EIR Public Engagement Coordination and Public Meeting

Key Milestones: Draft EIR comment period and public meeting(s)

The CEQA lead will convene team members to prepare for the Draft EIR public meeting(s), which should be attended by all project team members, including representatives from the NEPA lead agency who are encouraged to discuss comments brought up previously during the NEPA process as appropriate.

Before scheduling the public meeting, project team members should review the Draft EIR and develop talking points:

- Highlighting project findings;
- Explaining the CEQA and NEPA processes;
- Addressing comments provided during the NEPA public engagement process; and
- Providing a timeline of project milestones and upcoming opportunities for public engagement.

4.16. Preparing the CEQA Final EIR

Following the Draft EIR public meeting(s) and the closure of the public comment period, the CEQA lead agency will review comments received and work to prepare a draft Final EIR. The agency may need to conduct additional studies, reevaluate the identified preferred alternative, and/or review the mitigation measures proposed in the Draft EIR. If this is the case, the CEQA lead agency should coordinate with the NEPA lead agency to ensure that additional studies, new alternatives, and updated mitigations do not conflict with the existing NEPA Final EIS, or to address conflicts should they arise.

Although CEQA and NEPA have different mitigation requirements, it is important for agencies to coordinate to minimize the potential for conflicting measures, keeping in mind that some mitigations are NEPA specific and others are CEQA specific.

4.17. CEQA Final EIR Administrative Draft Review

The CEQA lead agency will share an administrative draft of the Final EIR highlighting the updates and modifications made since the Draft EIR and indicates a review timeline and target date for the project team to convene and discuss the draft. Following the pre-determined review period, the CEQA lead will convene the group to discuss and review the document.

The NEPA lead agency should review the Final EIR and ensure that it does not conflict with the existing NEPA Final EIS. The team will discuss ways to address any issues in case NEPA requirements are not met. This may potentially trigger another round of reviews; however, it will minimize potential risks towards the end of the process.

4.18. CEQA Final EIR Publication and Certification

Key Milestone: Publish Final EIR

The CEQA lead agency will publish the Final EIR, provide proposed responses to public agency comments and then certify the EIR, adopting findings on project significant environmental impacts and alternatives, mitigation monitoring and reporting program, and, if necessary, a statement on overriding considerations.

4.19. CEQA Agency Decision and NOD

Key Milestone: Agency Decision and NOD

After collecting and reviewing comments on the Final EIR, the CEQA lead will publish the agency decision highlighting the selected alternative for the project. Shortly thereafter the agency will publish a NOD officially ending the CEQA environmental review process.

Scenario 4 Case Study

The following hypothetical case study is based on the existing Upper Santa Ana River Habitat Conservation Plan and illustrates how a project with this set of characteristics might be “scored” in the decision-making framework. It is important to note that this project has been over-simplified to illustrate use of the tool and how to navigate the process. Project teams should expect specific projects to be more nuanced.

Case Description

A water recharge agency in San Bernardino county proposes a habitat conservation plan (HCP) covering land that is 80% on BLM land and 20% on private and county land and includes activities for water conservation and aggregate mining. Due to an extensive list of sensitive species and cultural resources on BLM land, there is a great risk of federal litigation that would require NEPA to start and finish before the CEQA completes an EIR or mitigated negative declaration that incorporates NEPA studies, alternatives, and findings by reference. Alternatives developed for the NEPA EIS are expected to be adopted in the CEQA EIR.

Project Name	Wilderness Habitat Conservation Plan
Land Ownership (federal, state, local, private)	<ul style="list-style-type: none"> 8,000 acres on BLM land 2,000 acres on privately owned and county-owned land in San Bernardino County
Resources of Concern	<ul style="list-style-type: none"> Sensitive habitat ESA species
Project Considerations	
1. Alternatives Development	Alternatives analyzed in the NEPA process will help structure the CEQA process and are anticipated to be adopted by San Bernardino County.
2. Federal versus State/Local Resources	Most of the project is on federal land (8,000 out of 10,000 acres), and, therefore, involves more significant federal resources.
3. State/Local versus Federal Issues and Alternatives	The federal component of the project must be addressed prior to the beginning of the state/local component because resources that require decisions are primarily on federal lands. The resources requiring CEQA compliance are anticipated to be less complicated.
4. Potential for Controversy: Policy, Procedures, and Authorities	Given the sensitive resources involved on federal lands there is a greater risk of federal litigation. Additionally, there are policy conflicts regarding the timeframe of the environmental reviews favoring the completion of NEPA before the initiation of CEQA.
5. Multiple Agencies Involved	NEPA: <ul style="list-style-type: none"> BLM, USFWS CEQA: <ul style="list-style-type: none"> San Bernardino County

NEPA-CEQA Decision Framework

Decision Framework Overview

The following chart includes a variety of considerations that can shape the approach for balancing NEPA and CEQA processes. To use the chart, circle each answer that applies and add all the values together. Look on the spectrum below to find what suggested phasing scenarios might apply.

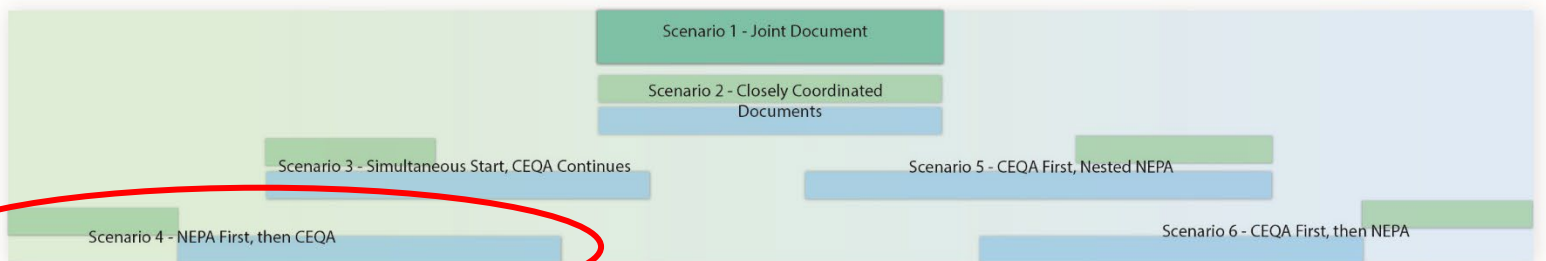
Example:
Scenario 4 – NEPA First, Then CEQA

	-2	-1	0	+1	+2
Alternative Development The alternatives development process can vary in complexity depending on the footprint, size, and type of a project. Therefore, it is important to consider the alternatives development process to select a scenario that will allow both agencies to fulfill their requirements.	Issues being considered in alternatives development focus primarily on federal resources or jurisdictional issues	Issues being considered in alternatives development focus primarily on federal resources but require close coordination with state agencies	Close nexus between state/local and federal issues and resources being considered during the design and alternatives development process	Issues being considered in alternatives development focus primarily on state resources but require close coordination with federal agencies	Issues being considered in alternatives development focus primarily on state/local resources or jurisdictional issues
Resources and Jurisdiction The choice of process may depend on agency jurisdiction, funding authorization, and resources involved in the project. This factor may result in one agency having primacy over project decision making.	Project involves significant federal land and/or resources	Over half the project involves federal land and/or resources	Project is roughly equal between federal and state land and resources	Over half the project involves state land and/or resources	Project involves significant state land and/or resources
Issues and Alternatives Applicants and agencies should try to identify potential state or federal issues that may impact the project and the alternatives development process. Larger policies and issues that may arise through the environmental review should be considered, such as renewable energy goals, border issues, groundwater management, and cultural resources.	The project has foreseeable federal issues that need to be considered during alternatives development, but it is unlikely/unforeseeable that the project has state issues	The project has foreseeable federal issues, with some potential for state issues to emerge while alternatives are being considered	Balanced State and Federal Issues - either no issues are foreseeable or potential issues seem evenly divided between state and federal jurisdiction that could impact development of alternatives	The project has foreseeable state issues, with some potential for federal issues to emerge while alternatives are being considered	The project has foreseeable state issues that must be considered during alternatives development, but it is unlikely that the project has federal issues
Potential for Controversy: Policy, Procedures and Authorities Foreseeable controversies under state or federal environmental reviews can be the source of ongoing policy debate or project and might pose a litigation risk. Controversy can influence the choice of how to phase NEPA and CEQA. In addition, different agencies' policies and procedures may differ regarding document page limits, completion timeframes, alternatives descriptions, and requirements for environmental analysis.	High potential for federal litigation and low/unforeseeable risk of state litigation. There are policy conflicts between state and federal agencies regarding timeframes, document length, alternative descriptions and/or environmental analysis requirements.	Policy conflicts between state and federal regarding timeframes, document length, alternatives descriptions, and/or environmental analysis requirements favor initiation of NEPA compliance before initiation CEQA.	Balanced risk of potential state and federal litigated issues. Either no policy conflicts or policy conflicts regarding document length and requirements for environmental analysis.	Policy conflicts between state and federal agencies regarding timeframe, document length, alternative descriptions, and/or environmental analysis requirements favor initiation of CEQA compliance before initiation of NEPA.	High potential for state litigation and low/unforeseeable risk of federal litigation. There are policy conflicts between state and federal agencies regarding timeframes, document length, alternative descriptions and/or environmental analysis requirements.
Multiple Agencies Involvement Early identification of the federal, state, and local agencies that may need to be involved could influence process phasing. If a project involves more federal agencies (or conversely, state agencies) the project scenario may favor one approach over another.	Foreseeable that multiple federal agencies will play a significant role in the design and alternatives process, one state/local involved	Foreseeable that multiple federal agencies will play a significant role in the design and alternatives process, some state/local involved	Foreseeable that there are roughly equal numbers of federal, state, and/or local permitting agencies involved in the design and alternatives process	Foreseeable that multiple state/local agencies will play a significant role in the design and alternatives process, some federal involved	Foreseeable that multiple state/local agencies will play a significant role in the design and alternatives process, one federal involved

SIGNIFICANT NEPA

BALANCED PROCESSES

SIGNIFICANT CEQA



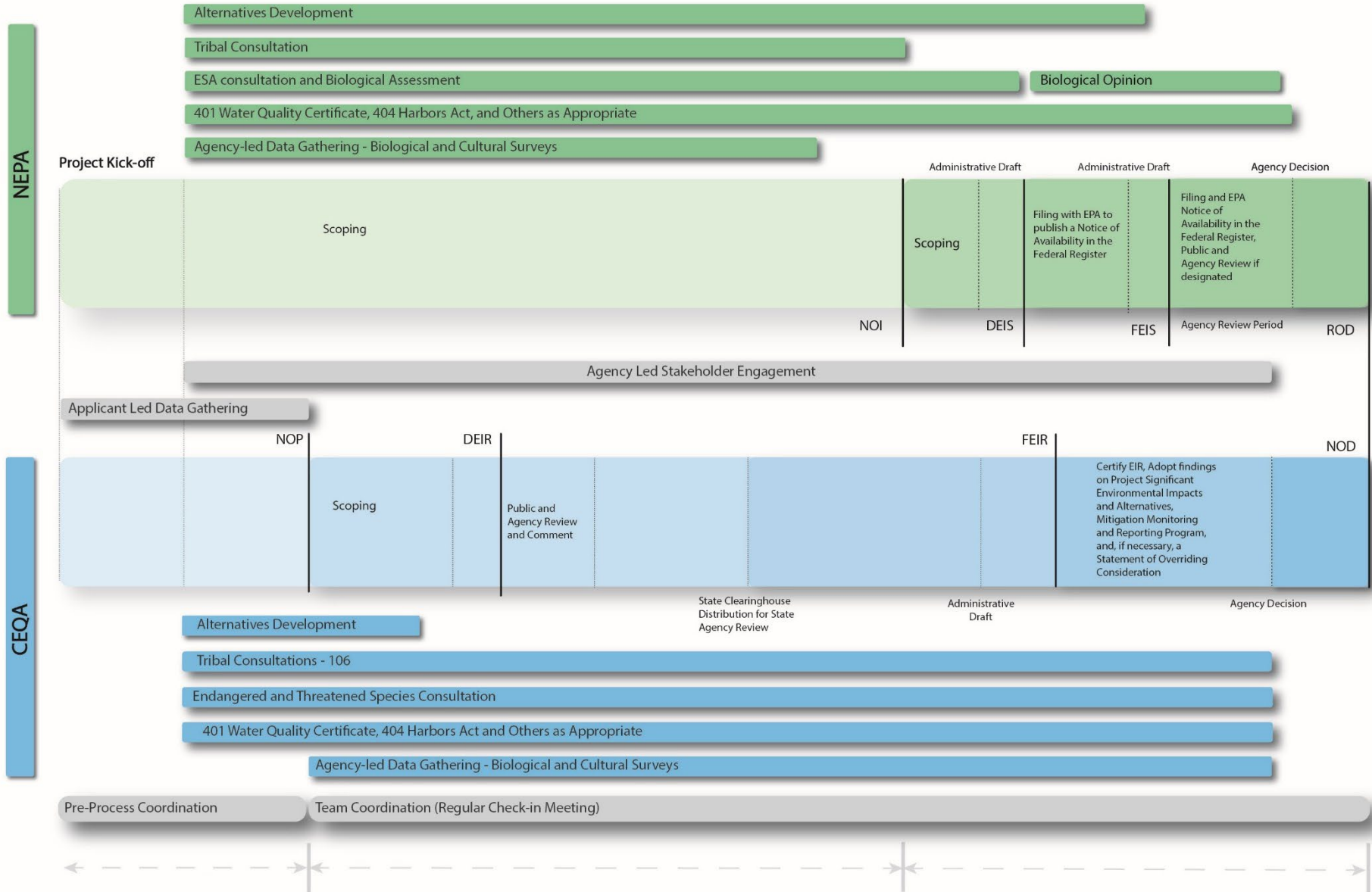
Choosing a Phasing Scenario
 Weighing factors is an inherently subjective exercise. As a result, there is some variation in what scenario you should apply. Calculations are used to provide a rough guide that makes it more straightforward to choose a process.

Scenario 5 – CEQA First, Nested NEPA

Scenario 5 - CEQA First, Nested NEPA

Scenario 5 Purpose

Scenario 5 is recommended for projects with larger state/local components but that require coordination with the NEPA lead agency. This scenario is ideal for less complex projects with lower risks of state or federal litigation. In addition to the lower risks of litigation, the smaller amount of federal resources would likely only require a reduced NEPA environmental review effort that can utilize existing CEQA resources.



Scenario 5 Overview

In Scenario 5, the NEPA process will be nested within a longer CEQA process and can start and finish at any point as long as it begins after the CEQA NOP and ends before the CEQA NOD. A key feature of this scenario is that it allows both agencies to coordinate in order to publish their agency decisions simultaneously, although this is not required.

Scenario 5 is recommended for projects with larger state/local components but that require coordination with the NEPA lead agency. This scenario is ideal for less complex projects with lower risks of state or federal litigation. In addition to the lower risks of litigation, the smaller amount of federal resources would likely only require a reduced NEPA environmental review effort, such as an EIS or an EA incorporating CEQA studies and alternatives by reference.

Early coordination among the agencies should begin before the CEQA NOP is issued to ensure that the NEPA process can utilize studies conducted and comments received during the beginning of the CEQA process, including possible incorporation by reference into the NEPA document. For this to occur, the applicant would need to share information with the NEPA lead. In addition, early coordination will help ensure that, if necessary, the CEQA lead agency is able to obtain any federal approvals so that it can complete its process.

Summary of Milestones and Deliverables:

Note that because there is some variation on when a nested NEPA process can start and finish, the NEPA milestones listed below can be rearranged to fit different project timelines.

- 5.1. CEQA and NEPA Early Coordination and Environmental Review
- 5.2. CEQA NOP and Scoping
- 5.3. Preparing the CEQA Draft EIR
- 5.4. CEQA Draft EIR Administrative Draft Review¹⁸
- 5.5. CEQA Draft EIR State Clearinghouse Distribution for State Agency Review
- 5.6. CEQA Draft EIR Public Engagement Coordination and Public Meeting
- 5.7. Preparing the CEQA Final EIR
- 5.8. NEPA NOI and Scoping
- 5.9. Preparing the NEPA Draft EIS
- 5.10. NEPA Draft EIS Administrative Draft Review
- 5.11. NEPA Draft EIS Filing with EPA to Publish NOA in the Federal Register
- 5.12. NEPA Draft EIS Public Engagement Coordination and Public Meeting
- 5.13. Preparing the NEPA Final EIS
- 5.14. NEPA Final EIS Administrative Draft Review
- 5.15. Final EIS Filing with EPA to Publish NOA in the Federal Register
- 5.16. NEPA Agency Decision and ROD
- 5.17. CEQA Final EIR Administrative Draft Review
- 5.18. CEQA Final EIR Publication and Certification
- 5.19. CEQA Agency Decision and NOD

¹⁸ Administrative draft review steps happen internally and occur before documents become public. This step allows project team members to review and provide input on documents before they are officially released and commented on by members of the public.

Milestone and Deliverables

5.1. CEQA and NEPA Early Coordination and Environmental Review

Following the kick-off meeting and other pre-NOI/NOP coordination, the CEQA and NEPA lead agencies will begin preparing for their environmental review processes by separately, but simultaneously, starting the following tasks:

- Alternatives development;
- Tribal consultation;
- Threatened and endangered species consultation;
- Sections 401 and 404 of the Clean Water Act;
- Resource surveys, including biological and cultural;
- Initiate the Section 106 process; and
- Stakeholder engagement.

Although tasks for NEPA and CEQA will happen independent of one another, the team should have regular planning meetings to check-in on the progress of their separate tasks and ensure that studies completed, alternatives developed, and mitigations proposed adhere to both NEPA and CEQA requirements, to the extent possible. Through this coordination, the project team will identify their specific coordination needs, define study requirements, and approve study methodologies, among other specific items that arise.

Having clarified the requirements, each group, including state, local and federal agencies, will then discuss their preferred timelines for completing studies (keeping in mind that seasons may impact the timing for completion of the studies), alternatives development, tribal consultation, public engagement, and other process components. Additional studies may be needed to be completed as new information arises.

The CEQA tasks will lead straight to Preparing the CEQA Draft EIR in step 5.3 while the NEPA tasks will lead to Preparing the NEPA Draft EIS in step 5.9.

5.2. CEQA NOP and Scoping

Key Milestones: NOP, comment period, and public scoping meeting(s)

Before publishing the NOP, project team members will meet to discuss the anticipated CEQA timeline and review project roles and responsibilities. Although the CEQA lead agency will lead meetings throughout the duration of the CEQA process, it is important for the NEPA lead agency to be actively involved to ensure that the NEPA process, currently in the early environmental review stage, does not lead to an EIS with widely different outcomes.

The CEQA lead agency will issue a NOP formally starting the CEQA environmental review process. The NOP will trigger a 30-day (or longer as appropriate) comment period and public scoping meeting(s) to present the project to members of the public, gather input, and outline how the CEQA and NEPA processes relate to each other. The NEPA lead agency should send representatives to the scoping meeting(s) to address any NEPA related questions.

5.3. Preparing the CEQA Draft EIR

After a period of data gathering and document drafting (initiated in step 5.1), the CEQA lead agency will prepare its Draft EIR which reviews information/science gathered throughout the CEQA environmental review process, analyzes the range of alternatives, and proposes mitigation measures.

In completing this step, the CEQA lead agency should coordinate with the NEPA lead agency to ensure that, wherever possible, the CEQA Draft EIR adheres to NEPA requirements and can be referenced by the NEPA Draft EIS.

5.4. CEQA Draft EIR Administrative Draft Review

The CEQA lead agency will share an administrative draft of the Draft EIR for project team members' review and indicate a review timeline and target date for the project team to convene and discuss the draft. The administrative draft should have a complete description of the project including purpose and need and an initial set of alternatives, while being early enough in the process to allow for a revision of the alternatives if it is required for consistency with the NEPA alternatives. It will also review information gathered and produced throughout the environmental review process and assess the information needed to finalize the EIR. Following the review period, the CEQA lead will convene the group to review and discuss the document.

If in the kick-off meeting the agencies agreed to have the NEPA EIS incorporate the CEQA EIR by reference, it will be important that the NEPA lead thoroughly review the Draft EIR to ensure that, wherever possible, it meets NEPA requirements. If there are conflicts, the issue(s) should be addressed. This may trigger another round of reviews, but it will minimize potential discrepancies between the NEPA and CEQA documents and schedule delays.

5.5. CEQA Draft EIR State Clearinghouse Distribution for State Agency Review

Key Milestone: Publish Draft EIR

The CEQA lead agency will publish the Draft EIR and submit it to the State Clearinghouse, which will distribute it for State Agency Review and announce its public availability, thus starting the 30-day comment period culminating in a public meeting.

5.6. CEQA Draft EIR Public Engagement Coordination and Public Meeting

Key Milestones: Draft EIR comment period and public meeting(s)

The CEQA lead agency will convene team members to prepare for the Draft EIR public meeting(s), which should be attended by all project team members, including representatives of the NEPA lead agency who are encouraged to address comments brought up during CEQA engagement to inform the future NEPA EIS document and public process.

Before scheduling the public meeting, project team members should review the Draft EIR and develop talking points:

- Highlighting project findings;
- Explaining the relationship between the CEQA and NEPA processes;
- Providing a timeline of project milestones and upcoming opportunities for public engagement; and
- Summarizing how CEQA public comments will be addressed in the NEPA process, as appropriate.

5.7. Preparing the CEQA Final EIR

Following the Draft EIR public meeting(s) and the closure of the public comment period, the CEQA lead agency will review comments received and work to prepare a draft Final EIR. The agency may need to conduct additional studies, reevaluate the identified preferred alternative, and/or review the mitigation measures proposed in the Draft EIR. If this is the case, the CEQA lead agency should coordinate with the

NEPA lead agency to ensure that additional studies, new alternatives, and updated mitigations do not conflict with NEPA requirements, or to address conflicts should they arise.

Although CEQA and NEPA have different mitigation requirements, it is important for agencies to coordinate to minimize the potential for conflicting mitigation measures, keeping in mind that some mitigations are CEQA specific and others are NEPA specific.

5.8. NEPA NOI and Scoping

Key Milestones: NOI, comment period, and public scoping meeting(s)

The NEPA lead agency will issue a NOI, formally starting the NEPA environmental review process. It is important to note that the studies and tasks necessary to complete the Draft EIS will already be underway (see step 5.1 above). The NOI will trigger a 30-day (or longer as appropriate) comment period along with a scoping public meeting(s) to present the project to members of the public, gather input, and outline how the NEPA process relates to the ongoing CEQA process. The CEQA lead agency should send representatives to the scoping meeting(s) to address any CEQA related questions.

Before publishing the NOI, project team members should meet to discuss the NEPA timeline and review project roles and responsibilities.

5.9. Preparing the NEPA Draft EIS

After a period of data gathering and document drafting (initiated in step 5.1), the NEPA lead agency will prepare its Draft EIS which reviews information/science gathered throughout the NEPA environmental review process, analyzes the range of alternatives, and proposes mitigation measures.

In completing this step, the NEPA lead agency should coordinate with the CEQA lead agency to ensure that, wherever possible, the NEPA Draft EIS does not conflict with the CEQA Final EIR being prepared simultaneously.

5.10. NEPA Draft EIS Administrative Draft Review

The NEPA lead agency will share an administrative draft of the Draft EIS for project team members' review and indicate a review timeline and target date for the project team to convene and discuss the draft. The administrative draft should have a complete description of the project, including purpose and need as well as an initial set of alternatives, while being early enough in the process to allow for a revision of the alternatives if it is required for consistency with the CEQA alternatives. It will also review information gathered and produced throughout the environmental review process and assess the information needed to finalize the EIS. Following the pre-determined review period, the NEPA lead agency will convene the group to review and discuss the document.

At this meeting, the CEQA lead agency should thoroughly review the document and ensure that findings do not conflict with the Final EIR being prepared in the CEQA process. If there are conflicts, the issue(s) should be addressed in order to prevent conflicting documents. This may trigger another round of reviews, but it will minimize potential risks towards the end of the process.

5.11. NEPA Draft EIS Filing with EPA to Publish NOA in the Federal Register

Key Milestone: Publish Draft EIS and NOA

The NEPA lead agency will publish the Draft EIS and file it with the EPA, which will publish a NOA in the Federal Register, thus beginning the 45-day public comment period.¹⁹ If desired or required, the NEPA lead agency will also publish an individual NOA in the Federal Register.

5.12. NEPA Draft EIS Public Engagement Coordination and Public Meeting

Key Milestones: Draft EIS comment period and public meeting(s)

The NEPA lead will convene project team members to prepare for the NEPA Draft EIS public meeting(s), which should be attended by all project team members, including representatives of the CEQA lead agency who can speak to CEQA related items that may arise.

Before scheduling the public meeting, project team members should review the Draft EIS and develop talking points:

- Highlighting project findings;
- Explaining the relationship between the CEQA and NEPA processes;
- Addressing comments provided during the CEQA public engagement process; and
- Providing a timeline of project milestones and upcoming opportunities for public engagement.

Representatives of the CEQA lead agency should provide a quick update on the estimated timeline for the CEQA Final EIR being drafted simultaneously.

5.13. Preparing the NEPA Final EIS

Following the Draft EIS public meeting and closure of the comment period, the NEPA lead agency will review comments received and work to prepare a draft. The agency may need to conduct additional studies, reevaluate the identified preferred alternative, and/or review the mitigation measures proposed in the Draft EIS. If this is the case, the NEPA lead agency should coordinate with the CEQA lead agency to ensure that additional studies, new alternatives, and updated mitigations do not conflict with the almost complete CEQA Final EIR, or to address conflicts should they arise.

Although CEQA and NEPA have different mitigation requirements, it is important for agencies to coordinate to minimize the potential for conflicting mitigation measures, keeping in mind that some mitigations are NEPA specific and others are CEQA specific.

5.14. NEPA Final EIS Administrative Draft Review

The NEPA lead agency will share an administrative draft of the Final EIS highlighting the updates and modifications made since the Draft EIS and indicate a review timeline and target date for the project team to convene and discuss the draft. Following the pre-determined review period, the NEPA lead will convene the group to review and discuss the document.

The CEQA lead agency should review the NEPA Final EIS and ensure that it does not conflict with the CEQA Final EIR being drafted. The team will discuss ways to address any issues in case there are conflicts. This may potentially trigger another round of reviews; however, it will minimize potential risks towards the end of the process.

¹⁹ Note that a 90-day comment period is required for a Draft EIS that includes a Resource Management Plan amendment.

5.15. NEPA Final EIS Filing with the EPA to Publish NOA in the Federal Register

Key Milestones: Publish Final EIS and NOA

The NEPA lead agency will publish the Final EIS and file the completed document with the EPA, which will publish a NOA which initiates the 30-day availability period. If desired or required, the NEPA lead agency will also publish an individual NOA in the Federal Register.

5.16. NEPA Agency Decision and ROD

Key Milestone: Agency Decision and ROD

Following the 30-day availability period, the NEPA lead will publish the ROD, officially ending the NEPA environmental review process.

5.17. CEQA Final EIR Administrative Draft Review

Once the CEQA lead agency is done preparing the Final EIR (initiated in step 5.7), they will share with the project team an administrative draft of the document highlighting the updates and modifications made since the Draft EIR. They will indicate a review timeline and target date for the project team to convene and discuss the draft. Following a pre-determined review period, the CEQA lead will convene the group to discuss and review the document.

The NEPA lead agency should review the Final EIR and ensure that it does not conflict with the existing NEPA Final EIS. The team will discuss ways to address any issues in case NEPA requirements are not met. This may potentially trigger another round of reviews; however, it will minimize potential risks towards the end of the process.

5.18. CEQA Final EIR Publication and Certification

Key Milestone: Publish Final EIR

The CEQA lead agency will publish the Final EIR and provide proposed responses to public agency comments and then certify the EIR, adopting findings on project significant environmental impacts and alternatives, mitigation monitoring and reporting program, and, if necessary, a statement on overriding considerations.

5.19. CEQA Agency Decision and NOD

Key Milestone: Agency Decision and NOD

After collecting and reviewing comments on the Final EIR, the CEQA lead will publish the agency decision highlighting the selected alternative for the project. Shortly thereafter the agency will publish a NOD officially ending the CEQA environmental review process.

Scenario 5 Case Study

The following hypothetical case study is based on the existing Humboldt Redwood State Park Road and Trail Management Plan (RTMP) and illustrates how a project with this set of characteristics might be “scored” in the decision-making framework. It is important to note that this project has been simplified to illustrate use of the tool and how to navigate the process. Project teams should expect specific projects to be more nuanced.

Case Description

A California State Park in Humboldt County managed by the California Department of Parks and Recreation is preparing a RTMP that, among other components, will attempt to connect the park with BLM public lands through a combination of land purchases, conservation easements, and enhanced land stewardship efforts. Because the project is sited almost entirely on previously used agriculture land, biological resources are less of a concern. While most of the project will occur within state lands, the project will require coordination with BLM to obtain a Recreation and Public Purposes Act lease (R&PP) that must be analyzed in a NEPA EA or EIS with or before the CEQA EIR.

Project Name	State Park RTMP
Land Ownership (federal, state, local, private)	<ul style="list-style-type: none">• 7,500 acres on California Department of Parks and Recreation land• 40 acres on BLM public lands
Resources of Concern	<ul style="list-style-type: none">• Impacts to sensitive plant communities/species
Project Considerations	
1. Alternatives Development	Alternatives developed will fall mostly within state/private lands.
2. Federal versus State/Local Resources	Over 95% of the project footprint will be located on state land with the only federal component being a small BLM land purchase.
3. State/Local versus Federal Issues and Alternatives	Given the project footprint, issues considered in the alternative development process will focus primarily on state resources.
4. Potential for Controversy: Policy, Procedures, and Authorities	There are policy conflicts between CDFW and BLM regarding environmental analysis requirements, which, due to the predominance of CEQA, favor the initiation of CEQA environmental review prior to initiating NEPA.
5. Multiple Agencies Involved	NEPA: <ul style="list-style-type: none">• BLM CEQA: <ul style="list-style-type: none">• California Department of Parks and Recreation, CDFW

NEPA-CEQA Decision Framework

Decision Framework Overview

The following chart includes a variety of considerations that can shape the approach for balancing NEPA and CEQA processes. To use the chart, circle each answer that applies and add all the values together. Look on the spectrum below to find what suggested phasing scenarios might apply.

**Example:
Scenario 5 – CEQA First,
Nested NEPA**

Alternative Development

The alternatives development process can vary in complexity depending on the footprint, size, and type of a project. Therefore, it is important to consider the alternatives development process to select a scenario that will allow both agencies to fulfill their requirements.

Resources and Jurisdiction

The choice of process may depend on agency jurisdiction, funding authorization, and resources involved in the project. This factor may result in one agency having primacy over project decision making.

Issues and Alternatives

Applicants and agencies should try to identify potential state or federal issues that may impact the project and the alternatives development process. Larger policies and issues that may arise through the environmental review should be considered, such as renewable energy goals, border issues, groundwater management, and cultural resources.

Potential for Controversy: Policy, Procedures and Authorities

Foreseeable controversies under state or federal environmental reviews can be the source of ongoing policy debate or protest and might pose a litigation risk. Controversy can influence the choice of how to phase NEPA and CEQA. In addition, different agencies' policies and procedures may differ regarding document page limits, completion timeframes, alternatives descriptions, and requirements for environmental analysis.

Multiple Agencies Involvement

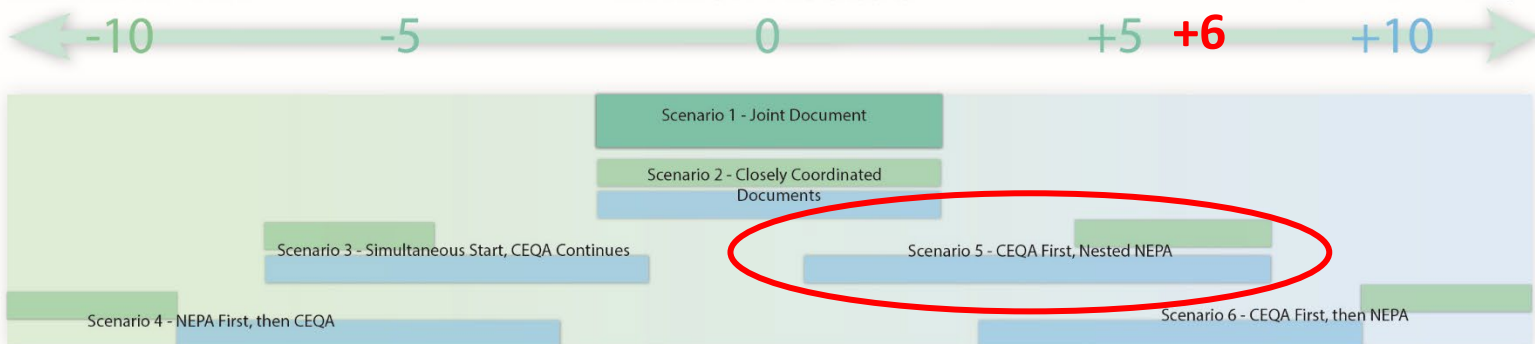
Early identification of the federal, state, and local agencies that may need to be involved could influence process phasing. If a project involves more federal agencies (or conversely, state agencies) the project scenario may favor one approach over another.

-2	-1	0	+1	+2
Issues being considered in alternatives development focus primarily on federal resources or jurisdictional issues	Issues being considered in alternatives development focus primarily on federal resources but require close coordination with state agencies	Close nexus between state/local and federal issues and resources being considered during the design and alternatives development process	Issues being considered in alternatives development focus primarily on state resources but require close coordination with federal agencies	Issues being considered in alternatives development focus primarily on state/local resources or jurisdictional issues
Project involves significant federal land and/or resources	Over half the project involves federal land and/or resources	Project is roughly equal between federal and state land and resources	Over half the project involves state land and/or resources	Project involves significant state land and/or resources
The project has foreseeable federal issues that need to be considered during alternatives development, but it is unlikely/unforeseeable that the project has state issues	The project has foreseeable federal issues, with some potential for state issues to emerge while alternatives are being considered	Balanced State and Federal Issues - either no issues are foreseeable or potential issues seem evenly divided between state and federal jurisdiction that could impact development of alternatives	The project has foreseeable state issues, with some potential for federal issues to emerge while alternatives are being considered	The project has foreseeable state issues that must be considered during alternatives development, but it is unlikely that the project has federal issues
High potential for federal litigation and low/unforeseeable risk of state litigation. There are policy conflicts between state and federal agencies regarding timeframes, document length, alternative descriptions and/or environmental analysis requirements.	Policy conflicts between state and federal regarding timeframes, document length, alternatives descriptions, and/or environmental analysis requirements favor initiation of NEPA compliance before initiation CEQA.	Balanced risk of potential state and federal litigated issues. Either no policy conflicts or policy conflicts regarding document length and requirements for environmental analysis.	Policy conflicts between state and federal agencies regarding timeframe, document length, alternative descriptions, and/or environmental analysis requirements favor initiation of CEQA compliance before initiation of NEPA.	High potential for state litigation and low/unforeseeable risk of federal litigation. There are policy conflicts between state and federal agencies regarding timeframes, document length, alternative descriptions and/or environmental analysis requirements.
Foreseeable that multiple federal agencies will play a significant role in the design and alternatives process, one state/local involved	Foreseeable that multiple federal agencies will play a significant role in the design and alternatives process, some state/local involved	Foreseeable that there are roughly equal numbers of federal, state, and/or local permitting agencies involved in the design and alternatives process	Foreseeable that multiple state/local agencies will play a significant role in the design and alternatives process, some federal involved	Foreseeable that multiple state/local agencies will play a significant role in the design and alternatives process, one federal involved

SIGNIFICANT NEPA

BALANCED PROCESSES

SIGNIFICANT CEQA



Choosing a Phasing Scenario

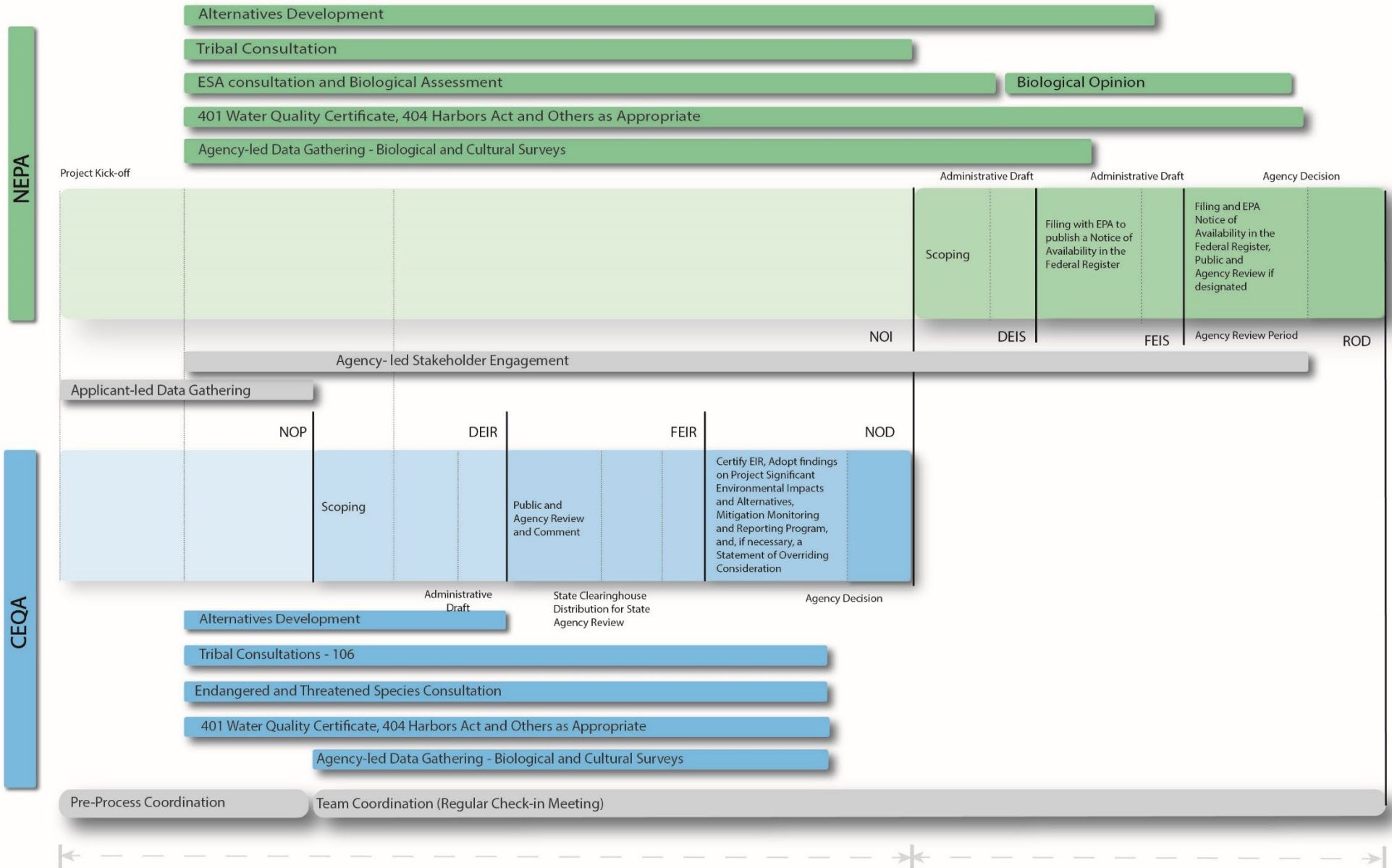
Weighing factors is an inherently subjective exercise. As a result, there is some variation in what scenario you should apply. Calculations are used to provide a rough guide that makes it more straightforward to choose a process.

Scenario 6 – CEQA First, Then NEPA

Scenario 6 - CEQA First, Then NEPA

Scenario 6 Purpose

Scenario 6 is recommended for projects with considerably greater state/local footprints and a high potential for state litigation due to a long list of impacted resources on state/local lands. Given the emphasis on the CEQA process, the NEPA process can complete either an EIS or a reduced environmental review effort such as an EA incorporating CEQA studies and alternatives by reference.



Scenario 6 Overview

In Scenario 6 the CEQA process will start and finish before the NEPA process begins, therefore allowing the NEPA process to incorporate relevant information from the CEQA process into the NEPA EIS. A key feature of this scenario is that it completely staggers both processes so that there is no overlap between NEPA and CEQA.

Scenario 6 is recommended for projects with considerably greater state/local footprints and a high potential for state litigation due to a long list of impacted resources on state/local lands. Given the emphasis on the CEQA process, the NEPA process can complete either an EIS or a reduced environmental review effort such as an EA incorporating CEQA studies and alternatives by reference. This scenario is also useful for projects requiring a state decision or land transfer before the NEPA process can proceed.

Early coordination among the agencies should begin before the CEQA NOP is issued to ensure that the NEPA process can utilize studies conducted and comments received during the CEQA process, including possible incorporation by reference into the NEPA document. Use of the CEQA document and its studies will assist the federal agency in completing the EIS within a shorter timeframe.

Summary of Milestones and Deliverables:

- 6.1. CEQA and NEPA Early Environmental Review
- 6.2. CEQA Notice of Preparation and Scoping
- 6.3. Preparing the CEQA Draft EIR
- 6.4. CEQA Draft EIR Administrative Draft Review²⁰
- 6.5. CEQA Draft EIR State Clearinghouse Distribution for State Agency Review
- 6.6. CEQA Draft EIR Public Engagement Coordination and Public Meeting
- 6.7. Preparing the CEQA Final EIR
- 6.8. CEQA Final EIR Administrative Draft Review
- 6.9. CEQA Final EIR Publication and Certification
- 6.10. CEQA Agency Decision and NOD
- 6.11. NEPA NOI and Scoping
- 6.12. Preparing the NEPA Draft EIS
- 6.13. NEPA Draft EIS Administrative Draft Review
- 6.14. NEPA Draft EIS Filing with EPA to Publish NOA in the Federal Register
- 6.15. NEPA Draft EIS Public Engagement Coordination and Public Meeting
- 6.16. Preparing the NEPA Final EIS
- 6.17. NEPA Final EIS Administrative Draft Review
- 6.18. NEPA Final EIS Filing with EPA to Publish NOA in the Federal Register
- 6.19. NEPA Agency Decision and ROD

²⁰ Administrative draft review steps happen internally and occur before documents become public. This step allows project team members to review and provide input on documents before they are officially released and commented on by members of the public.

Milestone and Deliverables

6.1. CEQA and NEPA Early Environmental Review

Following the kick-off meeting and other pre-NOI/NOP coordination, the CEQA and NEPA lead agencies will begin preparing for their environmental review processes by separately, but simultaneously starting the following tasks:

- Alternatives development;
- Tribal consultation;
- Threatened and endangered species consultation;
- Sections 401 and 404 of the Clean Water Act;
- Resource surveys, including biological and cultural;
- Initiate the Section 106 process; and
- Stakeholder engagement.

Although tasks for NEPA and CEQA will happen independent of one another, the team should have regular planning meetings to check-in on the progress of their separate tasks and ensure that studies completed, alternatives developed, and mitigations proposed adhere to both NEPA and CEQA requirements, to the extent possible. Through this coordination, the project team will identify their specific coordination needs, define study requirements, and approve study methodologies, among other specific items that arise.

Having clarified the requirements, each group, including state, local and federal agencies, will then discuss their preferred timelines for completing studies (keeping in mind that seasons may impact the timing for completion of the studies), alternatives development, tribal consultation, public engagement, and other process components. Additional studies may need to be completed as new information arises.

The CEQA tasks will lead straight into Preparing the CEQA Draft EIR in step 6.3 while the NEPA tasks will lead into Preparing the NEPA Draft EIS in step 6.11.

6.2. CEQA NOP and Scoping

Key Milestones: NOP, comment period, and public scoping meeting(s)

Before publishing the NOP, project team members will meet to discuss the anticipated CEQA timeline and review project roles and responsibilities. Although the CEQA lead agency will lead meetings throughout the duration of the CEQA process, it is important for the NEPA lead agency to be actively involved to ensure that the NEPA process, currently in the early environmental review stage, does not lead to an EIS with widely different outcomes.

The CEQA lead agency will issue a NOP formally starting the CEQA environmental review process. The NOP will trigger a 30-day (or longer as appropriate) comment period and a public scoping meeting(s) that will present the project to members of the public, gather input, and outline how the CEQA and NEPA processes relate to each other. The NEPA lead agency should send representatives to the scoping meeting(s) to address any NEPA related questions.

6.3. Preparing the CEQA Draft EIR

After a period of data gathering and document drafting (initiated in step 1), the CEQA lead agency will prepare its Draft EIR which reviews information/science gathered throughout the CEQA environmental review process, analyzes the range of alternatives, and proposes mitigation measures.

In completing this step, the CEQA lead agency should coordinate with the NEPA lead agency to ensure that, wherever possible, the CEQA Draft EIR adheres to NEPA requirements and can be referenced by the NEPA Draft EIS.

6.4. CEQA Draft EIR Administrative Draft Review

The CEQA lead agency will share an administrative draft of the Draft EIR for project team members' review and indicate a review timeline and target date for the project team to convene and discuss the draft. The administrative draft should have a complete description of the project, including purpose and need as well as an initial set of alternatives, while being early enough in the process to allow for a revision of the alternatives if it is required for consistency with the NEPA alternatives. It will also review information gathered and produced throughout the environmental review process and assess the information needed to finalize the EIR. Following the review period, the CEQA lead will convene the group to review and discuss the document.

If in the kick-off meeting the agencies agreed to have the NEPA EIS incorporate the CEQA EIR by reference, it will be important that the NEPA lead thoroughly review the Draft EIR to ensure that, wherever possible, it meets NEPA requirements. If there are conflicts, the issue(s) should be addressed. This may trigger another round of interagency reviews, but it will minimize potential discrepancies between the NEPA and CEQA documents and schedule delays.

6.5. CEQA Draft EIR State Clearinghouse Distribution for State Agency Review

Key Milestone: Publish Draft EIR

The CEQA lead agency will publish the Draft EIR and submit it to the State Clearinghouse, which will distribute it for State Agency Review and announce its public availability, thus starting the 30-day comment period culminating in a public meeting.

6.6. CEQA Draft EIR Public Engagement Coordination and Public Meeting

Key Milestones: Draft EIR comment period and public meeting(s)

The CEQA lead agency will convene team members to prepare for the Draft EIR public meeting(s), which should be attended by all project team members, including representatives of the NEPA lead agency who are encouraged to address comments brought up during CEQA engagement to inform the future NEPA EIS document and public process.

Before scheduling the public meeting, project team members should review the Draft EIR and develop talking points:

- Highlighting project findings;
- Explaining the relationship between the CEQA and NEPA processes;
- Providing a timeline of project milestones and upcoming opportunities for public engagement; and
- Summarizing how CEQA public comments will be addressed in the NEPA process, as appropriate.

6.7. Preparing the CEQA Final EIR

Following the Draft EIR public meeting(s) and the closure of the public comment period, the CEQA lead agency will review comments received and work to prepare a draft Final EIR. The agency may need to conduct additional studies, re-evaluate the identified preferred alternative, and/or review the mitigation measures proposed in the Draft EIR. If this is the case, the CEQA lead agency should coordinate with the

NEPA lead agency to ensure that additional studies, new alternatives, and updated mitigations do not conflict with NEPA requirements, or to address conflicts should they arise.

Although CEQA and NEPA have different mitigation requirements, it is important for agencies to coordinate to minimize the potential for conflicting mitigation measures, keeping in mind that some mitigations are CEQA specific and others are NEPA specific.

6.8. CEQA Final EIR Administrative Draft Review

The CEQA lead agency will share an administrative draft of the Final EIR highlighting the updates and modifications made since the Draft EIR and indicate a review timeline and target date for the project team to convene and discuss the draft. Following the pre-determined review period, the CEQA lead agency will convene the group to discuss and review the document.

The NEPA lead agency should review the Final EIR and ensure that, wherever possible, it meets NEPA requirements. The team will discuss ways to address any issues in case NEPA requirements are not met. This may potentially trigger another round of reviews; however, it will minimize potential risks towards the end of the process.

6.9. CEQA Final EIR Publication and Certification

Key Milestone: Publish Final EIR

The CEQA lead agency will publish the Final EIR, provide proposed responses to public agency comments and then certify the EIR, adopting findings on project significant environmental impacts and alternatives, mitigation monitoring and reporting program, and, if necessary, a statement on overriding considerations.

6.10. CEQA Agency Decision and NOD

Key Milestone: Agency Decision and NOD

After collecting and reviewing comments on the Final EIR, the CEQA lead will publish the agency decision highlighting the selected alternative for the project. Shortly thereafter the agency will publish a NOD officially ending the CEQA environmental review process.

6.11. NEPA NOI and Scoping

Key Milestones: NOI, comment period, and public scoping meeting(s)

Before publishing the NEPA NOI, project team members should meet to discuss the NEPA and CEQA timelines and review project roles and responsibilities. From this point on, meetings will be led by the NEPA lead agency as they work to prepare the EIS, however it is important for the CEQA lead agency to continue its involvement to minimize the risk of a recirculation of the EIR due to conflicting findings.

The NEPA lead agency will issue a NOI, formally starting the NEPA environmental review process. It is important to note that the studies and tasks necessary to complete the Draft EIS will already be underway (see step 6.1. above). The NOI will trigger a 30-day (or longer as appropriate) comment period and a public scoping meeting(s) to present the project to members of the public, gather input, and outline how the NEPA process relates to the finished CEQA process. The CEQA lead agency should send representatives to the scoping meeting(s) to address any CEQA related questions.

6.12. Preparing the NEPA Draft EIS

After a period of data gathering and document drafting (initiated in step 6.1), the NEPA lead agency will prepare its Draft EIS which reviews information/science gathered throughout the NEPA environmental review process, analyzes the range of alternatives, and proposes mitigation measures.

In completing this step, the NEPA lead agency should coordinate with the CEQA lead agency to ensure that, wherever possible, the NEPA Draft EIS does not conflict with the existing CEQA Final EIR.

6.13. NEPA Draft EIS Administrative Draft Review

The NEPA lead agency will share an administrative draft of the Draft EIS for project team members' review and indicate a review timeline and target date for the project team to convene and discuss the draft. The administrative draft should have a complete description of the project, including purpose and need as well as an initial set of alternatives. It will also review information gathered and produced throughout the environmental review process and assess the information needed to finalize the EIS. Following the review period, the NEPA lead agency will convene the group to review and discuss the document.

At this meeting, the CEQA lead agency, despite having finalized its process, should thoroughly review the document to ensure that findings do not conflict with the existing CEQA Final EIR. If there are conflicts, the issue(s) should be addressed to prevent recirculation of the EIR. This may trigger another round of reviews, but it will minimize potential risks towards the end of the process.

6.14. NEPA Draft EIS Filing with EPA to Publish NOA in the Federal Register

Key Milestone: Publish Draft EIS and NOA

The NEPA lead agency will publish the Draft EIS and file it with the EPA, which will publish a NOA in the Federal Register, thus beginning the 45-day public comment period.²¹ If desired or required, the NEPA lead agency will also publish an individual NOA in the Federal Register.

6.15. NEPA Draft EIS Public Engagement Coordination and Public Meeting

Key Milestones: Draft EIS comment period and public meeting(s)

The NEPA lead will convene project team members to prepare for the NEPA Draft EIS public meeting(s), which should be attended by all project team members, including representatives of the CEQA lead agency who are encouraged to discuss comments brought up previously during the CEQA process.

Before scheduling the public meeting, project team members should review the Draft EIS and develop talking points:

- Highlighting project findings;
- Explaining the relationship between the CEQA and NEPA processes;
- Addressing comments provided during the CEQA public engagement process; and
- Providing a timeline of project milestones and upcoming opportunities for public engagement.

6.16. Preparing the NEPA Final EIS

Following the Draft EIS public meeting(s) and the closure of the comment period, the NEPA lead agency will review comments received and work to prepare a draft Final EIS. The agency may need to conduct

²¹ Note that a 90-day comment period is required for a Draft EIS that includes a Resource Management Plan amendment.

additional studies, re-evaluate the identified preferred alternative, and/or review the mitigation measures proposed in the Draft EIS. If this is the case, it is recommended that the NEPA lead agency coordinate with the CEQA lead agency to ensure that additional studies, new alternatives, and updated mitigations do not conflict with the existing CEQA Final EIR, or to address conflicts should they arise.

Although CEQA and NEPA have different mitigation requirements, it is important for agencies to coordinate to minimize the potential for conflicting mitigation measures, keeping in mind that some mitigations are NEPA specific and others are CEQA specific.

6.17. NEPA Final EIS Administrative Draft Review

The NEPA lead agency will share an administrative draft of the Final EIS highlighting the updates and modifications made since the Draft EIS and indicate a review timeline and target date for the project team to convene and discuss the draft. Following the pre-determined review period, the NEPA lead will convene the group to review and discuss the document.

The CEQA lead agency should review the Final EIS and ensure that it does not conflict with the existing CEQA Final EIR. The team will discuss ways to address any issues in case there are conflicts. This may potentially trigger another round of reviews; however, it will minimize potential risks towards the end of the process.

6.18. NEPA Final EIS Filing with the EPA to Publish NOA in the Federal Register

Key Milestones: Publish Final EIS and NOA

The NEPA lead agency will publish the Final EIS and files the completed document with the EPA, which will publish a NOA which initiates the 30-day availability period. If desired or required, the NEPA lead agency will also publish an individual NOA in the Federal Register.

6.19. NEPA Agency Decision and ROD

Key Milestone: Agency Decision and ROD

Following the 30-day availability period, the NEPA lead will publish the ROD, officially ending the NEPA environmental review process.

Scenario 6 Case Study

The following hypothetical case study is based on the existing IP Athos Renewable Energy Project and illustrates how a project with this set of characteristics might be “scored” in the decision-making framework. It is important to note that this project has been simplified to illustrate use of the tool and how to navigate the process. Project teams should expect specific projects to be more nuanced.

Case Description

A developer proposes a utility-scale solar photovoltaic (PV) electrical generation and energy storage facility located on approximately 3,228 acres of private land in Riverside County. The gen-tie line crosses a small portion of federal public land to reach the existing substation. The primary resources of concern are visual and sensitive cultural resources on private land, suggesting a greater risk of state litigation and uncertainty towards the alternative that will be selected by the CEQA agency. Alternatives developed for the CEQA process are expected to be adopted and incorporated by referenced in the subsequent NEPA document after the CEQA EIR is complete.

Project Name	Leland II Solar Project - Solar Gen-tai Project in Riverside County
Land ownership (federal, state, local, private)	<ul style="list-style-type: none"> • 3,228 acres within the County of Riverside • 183 miles of federal lands managed by BLM traversed by the 220-kV gen-tie transmission line
Resources of concern	<ul style="list-style-type: none"> • Sensitive cultural resources (on and off site) • Visual resources
Project Considerations	
1. Alternatives Development	Issues considered in the alternative development process will focus primarily on local resources and jurisdictional issues.
2. Federal versus State/Local Resources	Over 95% of the project footprint will be located on private land with the only federal component being a 7-mile portion of the gen-tie line.
3. State/Local versus Federal Issues and Alternatives	Given the project footprint, most foreseeable issues will be on the state/local side.
4. Potential for Controversy: Policy, Procedures, and Authorities	There is a higher risk of state litigation. Additionally, there are policy conflicts regarding the timeframe of the environmental reviews due to differing requirements for the level of analysis on the alternatives.
5. Multiple Agencies Involved	NEPA <ul style="list-style-type: none"> • BLM CEQA <ul style="list-style-type: none"> • CDFW, CPUC, Riverside County

NEPA-CEQA Decision Framework

Decision Framework Overview

The following chart includes a variety of considerations that can shape the approach for balancing NEPA and CEQA processes. To use the chart, circle each answer that applies and add all the values together. Look on the spectrum below to find what suggested phasing scenarios might apply.

Example:
Scenario 6 – CEQA First, Then NEPA

Alternative Development

The alternatives development process can vary in complexity depending on the footprint, size, and type of a project. Therefore, it is important to consider the alternatives development process to select a scenario that will allow both agencies to fulfill their requirements.

Resources and Jurisdiction

The choice of process may depend on agency jurisdiction, funding authorization, and resources involved in the project. This factor may result in one agency having primacy over project decision making.

Issues and Alternatives

Applicants and agencies should try to identify potential state or federal issues that may impact the project and the alternatives development process. Larger policies and issues that may arise through the environmental review should be considered, such as renewable energy goals, border issues, groundwater management, and cultural resources.

Potential for Controversy: Policy, Procedures and Authorities

Foreseeable controversies under state or federal environmental reviews can be the source of ongoing policy debate or protest and might pose a litigation risk. Controversy can influence the choice of how to phase NEPA and CEQA. In addition, different agencies' policies and procedures may differ regarding document page limits, completion timeframes, alternatives descriptions, and requirements for environmental analysis.

Multiple Agencies Involvement

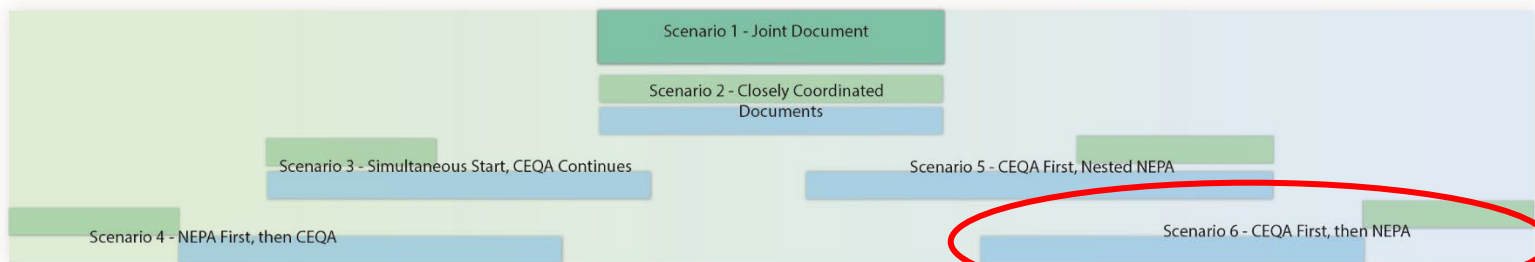
Early identification of the federal, state, and local agencies that may need to be involved could influence process phasing. If a project involves more federal agencies (or conversely, state agencies) the project scenario may favor one approach over another.

	-2	-1	0	+1	+2
Alternative Development	Issues being considered in alternatives development focus primarily on federal resources or jurisdictional issues	Issues being considered in alternatives development focus primarily on federal resources but require close coordination with state agencies	Close nexus between state/local and federal issues and resources being considered during the design and alternatives development process	Issues being considered in alternatives development focus primarily on state resources but require close coordination with federal agencies	Issues being considered in alternatives development focus primarily on state/local resources or jurisdictional issues
Resources and Jurisdiction	Project involves significant federal land and/or resources	Over half the project involves federal land and/or resources	Project is roughly equal between federal and state land and resources	Over half the project involves state land and/or resources	Project involves significant state land and/or resources
Issues and Alternatives	The project has foreseeable federal issues that need to be considered during alternatives development, but it is unlikely/unforeseeable that the project has state issues	The project has foreseeable federal issues, with some potential for state issues to emerge while alternatives are being considered	Balanced State and Federal Issues - either no issues are foreseeable or potential issues seem evenly divided between state and federal jurisdiction that could impact development of alternatives	The project has foreseeable state issues, with some potential for federal issues to emerge while alternatives are being considered	The project has foreseeable state issues that must be considered during alternatives development, but it is unlikely that the project has federal issues
Potential for Controversy: Policy, Procedures and Authorities	High potential for federal litigation and low/unforeseeable risk of state litigation. There are policy conflicts between state and federal agencies regarding timeframes, document length, alternative descriptions and/or environmental analysis requirements.	Policy conflicts between state and federal regarding timeframes, document length, and/or environmental analysis requirements favor initiation of NEPA compliance before initiation CEQA.	Balanced risk of potential state and federal litigated issues. Either no policy conflicts or policy conflicts regarding document length and requirements for environmental analysis.	Policy conflicts between state and federal agencies regarding timeframe, document length, alternative descriptions, and/or environmental analysis requirements favor initiation of CEQA compliance before initiation of NEPA.	High potential for state litigation and low/unforeseeable risk of federal litigation. There are policy conflicts between state and federal agencies regarding timeframes, document length, alternative descriptions and/or environmental analysis requirements.
Multiple Agencies Involvement	Foreseeable that multiple federal agencies will play a significant role in the design and alternatives process, one state/local involved	Foreseeable that multiple federal agencies will play a significant role in the design and alternatives process, some state/local involved	Foreseeable that there are roughly equal numbers of federal, state, and/or local permitting agencies involved in the design and alternatives process	Foreseeable that multiple state/local agencies will play a significant role in the design and alternatives process, some federal involved	Foreseeable that multiple state/local agencies will play a significant role in the design and alternatives process, one federal involved

SIGNIFICANT NEPA

BALANCED PROCESSES

SIGNIFICANT CEQA



Choosing a Phasing Scenario

Weighing factors is an inherently subjective exercise. As a result, there is some variation in what scenario you should apply. Calculations are used to provide a rough guide that makes it more straightforward to choose a process.

SECTION 4 - Messaging Guide

Federal and state laws require that applicants and agencies engage members of the public throughout the environmental review processes. Below is a messaging guide with talking points that agency staff can refer to when engaging stakeholders throughout the CEQA and NEPA public engagement processes²².

Text in italics should be replaced with project specific details.

NOI/NOP Scoping Meetings

What is the project?

- Provide a brief project description including a description of the project, its footprint, relevant analysis area, and anticipated timeline.
- Introduce team members (applicant, NEPA lead, CEQA lead) and their roles throughout the process. Can also include other agencies involved in the environmental review processes.

What is CEQA?

- The California Environmental Quality Act (CEQA) is a California statute that requires California state and local agencies to identify the significant environmental impacts of proposed project actions and to avoid, minimize or mitigate those impacts.
- For more information visit:
 - CEQA Frequently Asked Questions:
 - <https://www.pcl.org/campaigns/ceqa/ceqa-faqs/>

What is NEPA?

- The National Environmental Policy Act (NEPA) is a procedural statute designed to ensure that federal agencies consider potentially significant environmental consequences of “major *federal* actions” and inform the public about the NEPA process agencies undertake to make decisions on proposed projects.²³
- For more information visit:
 - EPA – What is NEPA
 - <https://www.epa.gov/nepa/what-national-environmental-policy-act>
 - DOE NEPA Citizens Guide
 - https://ceq.doe.gov/docs/get-involved/Citizens_Guide_Dec07.pdf

What is the environmental review process?

- When an action is required from both federal and state or local agencies, project proponents must conduct an environmental review that adheres to both federal and state environmental laws, respectively the National Environmental Policy Act and the California Environmental Quality Act.

²² The talking points included in this section were developed by K&W and BLM based on key themes from the discussions from the NEPA-CEQA workshop in June 2019.

²³ <https://www.stoel.com/legal-insights/national-environmental-policy-act-alert-ceq-propos>

- The intent of environmental review is to analyze the environmental impacts of the project, consider alternatives that may reduce impacts, and enable the public to identify issues of concern and other relevant topics to assist in informing the environmental review processes.
- State and federal agencies will prepare their respective CEQA and NEPA documents or a joint NEPA and CEQA document presenting the results from resource studies, alternatives analysis, ways to avoid, minimize and mitigate for potential impacts, and conclusions.

What is an Environmental Impact Report (EIR)?

- The environmental review documents prepared by state and local agencies consistent with CEQA.
- Environmental Impact Reports (or EIRs) inform the public and public agency decision-makers of significant environmental effects of proposed projects, identify possible ways to minimize those effects, and describe reasonable alternatives to those projects.
- For more information visit:
 - Environmental Impact Reports:
 - <https://www.lapl.org/collections-resources/research-guides/environmental-impact-reports>

What is an Environmental Impact Statement (EIS)?

- An environmental document prepared by federal agencies consistent with NEPA.
- EISs outline the impact of a proposed project, which may be significant, on its surrounding environment. In the United States, these statements are mandated by federal law for certain projects.
- For more information visit:
 - What is an Environmental Impact Statement?:
 - https://www.americanbar.org/groups/public_education/publications/teaching-legal-docs/teaching-legal-docs--what-is-an-environmental-impact-statement/

What is the project timeline?

- *Project team members provide a description of the project timeline (as determined by the selected scenario) and explanation of the major project milestones. If possible, provide date ranges so members of the public understand how long the process will take.*
- Major project milestones (*reorder this list chronologically to match the selected scenario*)
 1. NEPA Notice of Intent (NOI)
 2. NEPA Draft Environmental Impact Statement (Draft EIS) and public meetings
 3. NEPA Final Environmental Impact Statement (Final EIS) and public meetings
 4. NEPA Record of Decision (ROD)
 5. CEQA Notice of Preparation (NOP)
 6. CEQA Draft Environmental Impact Report (Draft EIR) and public meetings
 7. CEQA Final Environmental Impact Report (Final EIR) and public meetings
 8. CEQA Notice of Decision (NOD)

How can members of the public participate?

- Members of the public will be informed of upcoming public comment periods and public meetings. There is a scoping meeting as part of the Notice of Intent (NOI) for NEPA and Notice

to Proceed (NOP) for CEQA; then there are opportunities to provide comment once the draft EIR/EIS (spell out) are issued. The intent is to enable the public to identify issues of concern and other relevant topics to assist in informing the environmental review processes.

- Meaningful public engagement helps agencies make decisions that are better informed, more efficient, more durable, and generally result in improved natural resource conditions and realized opportunities for resource use for present and future generations.²⁴
- Members of the public are encouraged to sign-up to the mailing lists for both the NEPA and CEQA processes to receive regular updates on the project.

How can members of the public find project information?

- Members of the public are also encouraged to review the project websites which are established by the NEPA and CEQA leads, and may also be established by the applicant, to obtain project information and remain current on the environmental review processes.
- *Provide project website links.*

EIR/EIS Public Meetings

CEQA Milestones

- CEQA Notice of Preparation (NOP), including scoping meetings and scoping period.
- CEQA Draft Environmental Impact Report (Draft EIR), including public comment and public meetings.
- CEQA Final Environmental Impact Report (Final EIR), including public comment.
- CEQA Notice of Decision (NOD)

How to read the EIR

- The EIR will have the following sections²⁵:
 - Executive Summary
 - Introduction
 - Description of Proposed Project and Alternatives
 - Environmental Setting, Impacts, and Mitigation Measures
 - Impacts to threatened or endangered species
 - Air and water quality impacts
 - Impacts to historical and cultural sites, particularly sites of significance for indigenous peoples
 - Social and economic impacts to local communities, including housing stock, business, property values, and considerations of aesthetics and noise expected
 - Cost and schedule analysis for all actions and alternatives presented.
 - Comparison of Alternatives

NEPA milestones and timeline

- NEPA Notice of Intent (NOI), including public scoping meetings and a public scoping period.
- NEPA Draft Environmental Impact Statement (Draft EIS), including public meetings and a comment period.

²⁴ “A Guide to External Collaboration for the Bureau of Land Management”. October 9, 2019.

²⁵ <http://resources.ca.gov/ceqa/guidelines/art9.html>

- NEPA Final Environmental Impact Statement (Final EIS), including a public availability period.
- NEPA Record of Decision (ROD).

How to read the EIS

- The EIS will have the following sections²⁶:
 1. Introduction to the proposed action and its purpose and need
 2. Range of alternatives to the proposed action
 3. Description of the affected environment
 4. Analysis of the environmental impacts of each proposed action and range of alternatives, including but not limited to the following resources or issues:
 - Threatened or endangered species
 - Air and water quality
 - Historical and cultural sites, particularly sites of significant for indigenous peoples
 - Social and economic impacts to local communities

It should be noted that the affected environment and impacts may be included in a single chapter or separate chapters.

How can members of the public provide useful comments on the EIR/EIS?

- Members of the public are encouraged to focus on specific project components or resources that the project may potentially impact, particularly impacts of concern to you.
- Members of the public should provide best available science that may be useful in resource and impact analyses.
- Provide suggestions on new alternatives or how to avoid, minimize or mitigate potential negative impacts on you and your community or improve positive impacts.
- Avoid summary comments such as “I don’t like this project,” since the project team cannot take actions/address these directly through the environmental review processes.

How can members of the public stay up to date on project developments?

- Members of the public are encouraged to sign-up to project mailing lists to receive updates and be notified of upcoming public meetings.
- Members of the public are also encouraged to monitor project websites both the NEPA and CEQA websites as well as the applicant’s website should one exist.

²⁶ Pulled from the American Bar Association:
https://www.americanbar.org/groups/public_education/publications/teaching-legal-docs/teaching-legal-docs--what-is-an-environmental-impact-statement-/

CONCLUSION

Projects that involve both NEPA and CEQA environmental reviews require close coordination to ensure that requirements for both the federal and state environmental laws can be met and addressed as efficiently and effectively as possible. The purpose of this NEPA-CEQA Recommended Practices Document is to assist stakeholders preparing environmental documents for these projects by providing a roadmap that outlines:

- how to select the appropriate NEPA-CEQA scenario based on a variety of project considerations; and
- how to effectively coordinate to successfully complete the scenario minimizing duplication, or requiring recirculating environmental documents, reducing public confusion about the processes, and meeting regulatory and legal requirements of both laws.

Federal, state, and local agencies, as well as environmental consultants are encouraged to use the tools and concepts in this Recommended Practices Document to assist in the coordinated environmental review processes of a project requiring compliance with both NEPA and CEQA.

The contents of the Recommended Practices Document were gathered from the stakeholder assessment (Appendix D) and workshop summary (Appendix E) prepared by K&W in 2019 and including perspectives from a variety of stakeholder including federal, state, and local agencies, as well as environmental consultants.

Appendix A: NEPA-CEQA Terminology Guide

The following content was excerpted from section 3 of the NEPA and CEQA: Integrating Federal and State Environmental Reviews published in 2014. To access the full guide, visit the following link:

https://ceq.doe.gov/docs/ceq-publications/NEPA_CEQA_Handbook_Feb_2014.pdf. Updates to CEQ’s NEPA Implementing Regulations were issued in May 2022 and September 2020. Citations provided here reflect language current as of February 2014, as of the time of publication of the document from which the excerpt is taken. Project teams must utilize the NEPA regulations in effect at the time of project initiation, consistent with CEQ and DOI regulations and BLM guidance.

How does NEPA and CEQA Terminology Differ?

“Action” (NEPA) versus “project” (CEQA):

NEPA applies to Federal agency decisions on “proposals for legislation and other major Federal actions” (42 U.S.C. § 4332(2)(c)). Federal actions include actions with the potential for environmental impacts. Such actions may include adoption and approval of official policy, formal plans, programs, and specific Federal projects (40 C.F.R. § 1508.18). NEPA also applies in cases where an agency is exercising its discretion in deciding whether and how to exercise its authority over an otherwise non-Federal project (for example, issuing a permit or approving funding).

CEQA applies to state and local agency decisions to carry out or approve “discretionary projects... including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division” (Cal. Pub. Resources Code, § 21080). CEQA broadly defines “project” to include “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment” (CEQA Guidelines, § 15378). Therefore, CEQA may apply to a broader range of projects than does NEPA.

Significance

“Significance” is a term used in both NEPA and CEQA (40 C.F.R. § 1508.27; CEQA Guidelines, § 15382).

NEPA requires that an EIS be prepared when the proposed Federal action as a whole has the potential to “significantly [affect] the quality of the human environment...” (42 U.S.C. § 4332). The NEPA determination of significance is based on context (area) and intensity (degree of impact) (40 C.F.R. § .27). Under NEPA, an EA can be prepared to determine whether a finding of no significant impact can be made (id. at § 1508.9). An EIS is needed when the proposal has the potential for a significant impact as shown by an EA or when an agency’s initial determination indicates an EIS is appropriate (id. at § 1501.4).

CEQA requires the identification of each “significant effect on the environment” resulting from the whole of the action and ways to mitigate each significant effect (CEQA Guidelines, §§ 15064, subd. (a) & 15126.4). If the action may have a significant effect on any environmental resource, an EIR must be prepared (id. at § 15063, subd. (b)). In addition, the CEQA Guidelines list a number of circumstances requiring a mandatory finding of significance, and, therefore, preparation of an EIR (id. at § 15065). Each and every significant effect on the environment must be disclosed in the EIR and mitigated if feasible (id. at §§ 15126.2 & 15126.4).

Agency staff engaged in joint processes should, therefore, take into account that some impacts determined to be significant under CEQA may not necessarily be determined significant under NEPA.

Agency Designations:

Lead Agency: Under NEPA, the lead agency has “primary responsibility for preparing the environmental impact statement” (40 C.F.R. § 1508.16), or environmental assessment (EA). NEPA allows agencies to share the lead role as co-leads. CEQA defines the lead agency as “the public agency which has the principal responsibility for carrying out or approving a project. The lead agency will decide whether an EIR or Negative Declaration will be required for the project and will cause the document to be prepared” (CEQA Guidelines, §§ 15051 & 15367). CEQA does not provide for co-leads; consequently, where more than one agency has responsibility for a project, one agency shall be the lead agency that prepares the CEQA review for that project (id. at § 15050, subd. (a)). Therefore, there may be a NEPA and a CEQA co-lead; however, there may not be multiple CEQA leads. For ease of administration and to reduce public confusion, the Federal agencies should endeavor to have one lead for purposes of developing the environmental review with the CEQA co-lead.

Cooperating Agency versus Responsible and Trustee Agencies: Under NEPA, a cooperating agency is “any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal. . . ” (40 C.F.R. § 1508.5). Tribal, state, local, or other Federal governmental agencies with responsibilities for managing resources potentially affected by the proposed action may also, with the agreement of the lead agency, become cooperating agencies. Cooperating agencies participate in the NEPA process at the request of the lead agency and, upon request, provide expertise for the environmental analysis.

Under CEQA, responsible agencies are “all public agencies other than the Lead Agency which have discretionary approval power over the project,” and participate in the CEQA process through required consultation with the lead agency (CEQA Guidelines, §§ 15096 & 15381). Agencies without approval authority, but which have jurisdiction by law over resources potentially affected by the project, are known as trustee agencies which must be included in the consultation and review process (id. at § 15386).

Categorical Exclusion versus Categorical Exemption:

NEPA and CEQA both allow certain government actions to proceed without further NEPA or CEQA review if that type of action has been previously determined not to have a significant impact on the environment. Actions defined in either a Categorical Exclusion or Categorical Exemption may be subject to further environmental review in the case of extraordinary circumstances under NEPA or exceptions to the exemptions under CEQA (40 C.F.R. § 1508.4; CEQA Guidelines, §§ 15061, subd. (b), & 15300.2).

California currently has thirty three Categorical Exemptions identified in sections 15301 through 15333 of the CEQA Guidelines, as well as exceptions to those exemptions in section 15300.2. Individual state and local agencies may also specify in their own implementing regulations which particular activities tend to fall within those Categorical Exemptions (CEQA Guidelines, § 15022, subd. (a)). Under CEQA, a Categorical Exemption applies to classes of projects, regardless of the agency considering the project proposal. *Under NEPA, the Categorical Exclusions are specific to the agency that has established them and included them in their NEPA implementing procedures. Consequently, a proposed project requiring multiple Federal agency actions will require a NEPA review that satisfies all the agencies’ implementing procedures and could, if*

each of the agencies does not have an appropriate Categorical Exclusion, require further review in an EA or an EIS.

All Categorical Exemptions are subject to certain exceptions (CEQA Guidelines, § 15300.2). CEQA gives lead agencies the discretionary authority to determine whether substantial evidence supports application of a Categorical Exemption for the proposed project (id. at § 15061). NEPA allows agencies to determine Categorical Exclusions on an independent basis (See 40 C.F.R. §§ 1507.3 & 1508.4). The agency Categorical Exclusions are found in the agency NEPA implementing procedures available at http://ceq.hss.doe.gov/nepa_contacts/Federal_Agency_NEPA_Implementing_Procedures_7March2013.pdf.

In cases where both a Categorical Exclusion under NEPA and a Categorical Exemption under CEQA may apply, the agencies should coordinate to ensure that the consideration of potential effects is consistent with the review of extraordinary circumstances or exceptions.

Both NEPA and CEQA also provide for certain statutory exemptions. As acts of Congress and of the California Legislature, NEPA and CEQA are subject to exceptions also enacted by Congress or the Legislature. The exemptions can be complete, limited, or conditional depending on the statutory language in the exemption. Many CEQA statutory exemptions are contained within CEQA while others are found in other laws. The NEPA statutory exemptions are contained in other laws.

Environmental Assessment and Finding of No Significant Impact versus Initial Study and Negative Declaration:

A FONSI under NEPA is a brief statement by an agency that explains why an action will not have a significant effect on the human environment (40 C.F.R. § 1508.13). A FONSI generally includes the EA document, which provides the basis for the FONSI. Federal agencies shall engage the public in the preparation of an EA; however, the type and form of public involvement is left to the individual agency. NEPA also provides for a Mitigated FONSI, which explains that an action may pose some significant effects, but that mitigation measures that will be adopted by the agency will reduce these effects to a level where they are no longer significant.

Under CEQA, the lead agency may adopt a Negative Declaration (ND) if “there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment” (CEQA Guidelines, § 15070, subd. (a)). A proposed ND must be circulated for public review along with an Initial Study (IS). An IS briefly describes the project and any potential impacts. As with NEPA, CEQA allows for a Mitigated ND (MND) in which mitigation measures are proposed to reduce potentially significant effects so that they are less than significant (id. at § 15369.5). Proposed mitigation measures must generally be subject to review by the public, responsible agencies, trustee agencies, and the county clerk of each county within which the proposed project is located, prior to adoption of a MND (id. at §§ 15072 (requirements for notice of intent to adopt a negative declaration), 15073.5 (new mitigation measures necessary to reduce a significant impact require recirculation) & 15074.1 (different mitigation measures may be substituted if they are equally effective if the lead agency holds a hearing and makes a specific finding)).

A table summarizing and comparing the NEPA EA and CEQA ND processes and procedural differences, taken from [NEPA and CEQA: Integrating Federal and State Environmental Reviews](#) document, follows.

	National Environmental Policy Act- Environmental Assessment Process	California Environmental Quality Act- Initial Study Process
Environmental Document	<i>Environmental Assessment (EA)</i> : a concise document discussing the need for the project, alternative courses of action, and environmental impacts	<i>Initial Study (IS)</i> : brief description of the project and any potential impacts.
Application	Project is not subject to a Categorical Exclusion and it is unclear whether, or unlikely that, the project has the potential to cause significant environmental effects.	Project is not exempt, and there is no substantial evidence that a project may have significant effects on the environment.
Notice of Intent	Not Required	Required for a Negative Declaration
Scoping	Agency has discretion whether and how to scope.	Required for projects of statewide or area-wide significance.
Public/ Agency Engagement	Agencies have discretion as to how to involve the public and agencies.	Required consultation with responsible and trustee agencies.
Commenting	Agency must provide FONSI for public review only when the action has never before been done by that agency or it is something that would typically require an EIS. The review period lasts 30 days.	A Negative Declaration must be circulated for public review along with the IS. Proposed Mitigation Measures are also generally subject to review.
Review Period	Variable; at the discretion of the authorized officer	20 days - most projects 30 days - projects where state agency is the lead/responsible/trustee agency or are of state/area/region-wide significance
Conclusions	<i>Finding of No Significant Impact</i> : the determination that a proposed project will not cause any significant environmental impacts.	<i>Negative Declaration</i> : there is no substantial evidence that the project may have a significant effect on the environment.
Conclusions	<i>Mitigated Finding of No Significant Impact</i> : the project may result in significant impacts to the environment, but the agency's proposed mitigation measures will reduce the impacts to below significant.	<i>Mitigated Negative Declaration</i> : any adverse impacts of the project can be mitigated to a point where it is clear that no significant effects would occur.
Conclusions	<i>Determination to Prepare an Environmental Impact Statement</i>	<i>Determination to Prepare an Environmental Impact Report</i> ²⁷

Table 2 Description of NEPA Environmental Assessment and CEQA Negative Declaration processes

²⁷ In this case, reference the following table.

Environment Impact Statement versus Environmental Impact Report:

An EIS under NEPA closely resembles an EIR under CEQA. A table summarizing and comparing the NEPA and CEQA processes and procedural differences between an EIS and an EIR follows.

NEPA Environmental Impact Statement Process	CEQA Environmental Impact Report Process
Notice of Intent	Notice of Preparation
Scoping	Scoping
Draft EIS	Draft EIR
Filing with EPA which publishes a Notice of Availability in the Federal Register	State Clearinghouse Distribution for State Agency review (if required)
Public and Agency Review and Comment (45 days minimum)	Public and Agency Review and Comment
Final EIS	Final EIR
N/A	Provide proposed responses to public agency comments at least 10 days prior to certification of the EIR
Filing and EPA Notice of Availability in the Federal Register, Public and Agency Review (if designated)	Certify EIR, adopt Findings on Project' Significant Environmental Impacts and Alternatives, Mitigation Monitoring and Reporting Program, and, if necessary, a Statement of Overriding Considerations
30-Day Review Period (Agency may convert this into a public review and comment period).	N/A
Agency Decision Record of Decision	Agency Decision Notice of Determination

Table 3 Comparison of NEPA EIS and CEQA EIR requirements/milestones.

Appendix B: Topic Recommendations for Project Kick-Off Meetings

The following is a list of topics that could be discussed during a project's kick-off meetings. These topics will be covered in multiple meetings and will require different participants depending on the topic.

- Project overview (description)
- Mission and purpose of the coordinating group, including roles and responsibilities of each team member
- In-depth review of CEQA and NEPA requirements
- Contact information for all team members:
 - NEPA lead agency
 - CEQA lead agency
 - Regulatory agencies with permitting and/or review roles (local, state, and federal; e.g., US Fish and Wildlife Service, CA Dept. of Fish and Wildlife, counties, others)
 - Environmental consultant(s) assisting in preparing the NEPA or CEQA documents
 - Tribal governments
 - Cooperating agencies
 - Applicant (not necessarily in all meetings)
- Scenario selection
- Coordination process to last the entirety of the environmental review process (until both agencies are finished)
- Identification of the coordination teams and sub-teams (leads for CEQA and NEPA; environmental review/document preparation teams, legal teams, cultural teams, public process teams, etc.)
- Anticipated timeline with estimated dates and respective steps to achieve each scenario milestone
- Distribution of EIR and EIS templates
- Discussion of anticipated issues/resources impacted by the project and how the team will address them
- Discussions of the NHPA Section 106 process and the state equivalent process and how it will inform the NEPA and CEQA review.
- Anticipated public review processes and how to coordinate and minimize public process fatigue. (Note: some of this may be addressed in subsequent coordination meetings but reviewing all up front and building a common understanding of the coordinated processes is helpful for all involved.)

Appendix C: MOU Framework

The following content was pulled directly from the [NEPA and CEQA: Integrating Federal and State Environmental Reviews](#) published in 2014. To access the full guide, visit the following link: https://ceq.doe.gov/docs/ceq-publications/NEPA_CEQA_Handbook_Feb_2014.pdf. As above, citations provided here reflect language current as of February 2014, as of the time of publication of the document from which the excerpt is taken. Project teams must utilize the NEPA regulations in effect at the time of project initiation, consistent with CEQ and DOI regulations and BLM guidance.

MOU Elements

This section is intended to serve as a resource for agencies preparing a Memorandum of Understanding (MOU) to aid in the creation of an environmental review document that satisfies the requirements of NEPA and CEQA. The writing of an inter-agency MOU should take place through meaningful communication and collaboration between the agencies involved and should occur **before** starting to develop the NEPA and CEQA review planning and documentation. This is necessary to accurately characterize the nature and scope of the project, identify the parties, define respective roles and responsibilities, and establish a cooperative and collaborative environment for the entirety of the project and environmental review. The Federal and state lead agencies are encouraged to include non-lead Federal agencies in the NEPA and CEQA MOU – all of the benefits of early, meaningful communication and collaboration between the Federal and state lead agencies apply with equal or greater force to the non-lead Federal action agencies. The MOU Framework should encourage the Federal and state lead agencies to bring other Federal agencies to the table early, to plan their participation in the process, and include them as signatories to the MOU. Each Federal agency has its own NEPA procedures (40 C.F.R. § 1507.3) that describe the agency’s internal review and approval process. Ideally, the MOU should lay out the procedures for the various agencies and describe how those will be integrated to ensure all agencies are moving forward together.

The potential elements of the MOU are outlined and explained below. This resource is not intended to be comprehensive and not every element discussed below may be necessary for the writing of an MOU. There is “example text” provided to stimulate thinking – not to encourage the use of unnecessary boilerplate. Determining which elements are applicable to a particular MOU requires consideration of the circumstances under which the MOU is being drafted. For example, an MOU can be written for a single project, or, if a Federal and California state/local agency work together frequently, for many projects. An MOU may also be expanded to address cooperation in meeting environmental review and consultation requirements beyond NEPA and CEQA.

The basic elements described below are:

- Introduction/ Purpose;
- Goals/ Benefits;
- Defining the Aspects of the Project’s Environmental Review/ Roles and Responsibilities;
- Issue Resolution;
- Amendments/ Changes to the MOU; and
- Post NEPA/ CEQA Collaboration and Cooperation.

Agencies should also discuss handling confidential and sensitive information, such as information associated with the 106 process.

Agencies should, whenever practicable, follow these best practices:

- Relying on the same sets of data, field study results, and analysis for both NEPA and CEQA;
- Determining and publishing a schedule for when and how analysis is done;
- Properly scoping activities and focusing on the project under consideration; and
- Having all agencies follow a similar timeline.

Introduction/Purpose

This portion of the MOU explains the need for the MOU, outlines the big-picture actions and responsibilities for the agencies involved, and summarizes the overall goal. An MOU can be developed and used for a specific project or a suite of projects or program (the “proposed action” in the example text).

EXAMPLE TEXT: The purpose of this Memorandum of Understanding is to provide a framework for cooperation between the [Federal agency] and the [CA state/local agency] as joint lead agencies in preparing and completing a joint environmental analysis and document that analyzes the potential environmental consequences of [insert proposed action].

This MOU will facilitate a joint environmental review process between [CA state/local agency] and [Federal agency], ultimately aiding the goals and missions of both agencies in the fulfillment of their environmental reviews and simplifying the process for the public. While each agency will assist other agencies to the best extent possible, it will ultimately be the responsibility of [Federal Agency] to comply with the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.), and the responsibility of [CA state agency] to comply with the California Environmental Quality Act (CEQA) (Cal. Pub. Resources Code, § 21000 et seq.).

NEPA regulations (40 C.F.R. § 1506.2) direct federal agencies to cooperate with state and local agencies to the fullest extent possible to reduce duplication between NEPA and state/local requirements, including joint planning processes, environmental research and studies, public hearings, and Environmental Impact Statements. CEQA Guidelines sections 15222 and 15226 encourage similar cooperation by state and local agencies with Federal agencies when environmental review is required under both NEPA and CEQA. Under these conditions, the Parties shall be joint lead agencies involved with a single planning process which complies with all applicable laws.

The Parties will prepare the joint environmental analysis and document pursuant to NEPA, CEQA, and all applicable laws, executive orders, regulations, direction, and guidelines. Work may include, but is not limited to, environmental and technical information collection/analysis, public engagement, and outreach, and drafting a joint environmental analysis document. Should the decision be made to advance (authorize/approve/fund) the proposed project, this Memorandum of Understanding continues the cooperation during the implementation of any decision to include implementation of any mitigation measures and monitoring developed through the NEPA and CEQA process. This cooperation serves the mutual interest of the Parties and the public.

Parties and Goals/Mutual Benefit and Interests

This section identifies the parties and their decision-making responsibilities. In other words, provide the general – rather than “proposed action” specific – reason the parties are entering into the MOU. The goals/mutual benefits and interests can take the form of setting out guiding principles, such as the goal of providing better information to decision-makers and the public on the environmental consequences of the proposed action, meeting the individual parties’ responsibilities and obligations for funding/permitting, or otherwise approving the proposed action, satisfying regulatory requirements, and increasing collaboration.

EXAMPLE TEXT: The Federal and State agencies (Parties) are committed to demonstrating cooperation as they develop the environmental review that will provide the public and decision- makers with useful information that will inform their decision on “the proposed action.” The Parties enter this MOU agreeing to:

Create a framework where all Parties have a voice in the environmental review process, and agree to open, frequent and candid communication.

Integrate each Party’s mission and each Party’s statutory and legal responsibilities into this framework because nothing in this MOU can alter the Parties’ independent governing or regulatory obligations.

Develop a coordination schedule for the environmental review with input from each Party and use best efforts to meet that schedule.

Provide the necessary staffing and resources to ensure a meaningful and substantive planning process, including attending periodic meetings and conference calls.

Communicate with each other within an agreed upon timeframe if a Party is unable to meet the schedule.

Exchange information in a timely manner. The lead agencies will provide the Parties with information and materials in an agreed upon timeframe. In turn, the Parties agree to perform the review of documents and provide substantive feedback within the specified timeframe.

Designate a point-of-contact (POC) for each Party and agree that all written communication to that Party will include the POC. The POC agrees to provide or coordinate timely written communication on behalf of the POC’s Party. A Party wishing to issue written binding communication regarding the Party’s approvals or disapprovals on critical issues or documents will clearly state that the written communication is intended to represent the Party’s position. The POC’s routine communications are not binding on that Party.

Affirm that the lead agencies have the sole and ultimate decision-making authority for the selection of the alternatives and Record of Decision, and primary responsibility for NEPA and CEQA compliance as well as compliance with other relevant environmental laws and regulations.

Facilitate early engagement and coordination in identifying issues, studies and overall development of the environmental review.

Identify environmental goals for the “proposed action” with the intent of using these goals to improve project level coordination and implementation.

Work collaboratively to support the development of the environmental review and to identify environmental issues related to the development of a range of alternatives and environmental analysis.

Efficiently identify, communicate, and resolve issues or disagreements.

Consider the views of all the Parties.

All actions governed by applicable California state/Federal laws. An MOU does not grant the signatories any additional rights or powers, nor does it excuse the signatories from fulfilling any other statutory obligation they might have. As such, it is good practice to explicitly state this in the MOU.

Each Party is responsible for its own actions/omissions. In line with the previous element, an MOU in no way incurs upon the signatories a shared statutory responsibility to fulfill the obligations of the other signatories. As such, the MOU should indicate the actions for which each signatory is responsible.

Defining the Aspects of the Project's Environmental Review/Roles and Responsibilities

The MOU can identify the parties and set out how they will handle the process by describing their respective roles and responsibilities.

Identification of the Principal Contacts for the joint effort, and provision of their contact information.

The MOU should be viewed as an information resource for the involved agencies. One of the most important pieces of information is who to contact at each agency. The text of the MOU should identify the agency contact in a manner that stays current through the entirety of the joint procedure – for instance, the MOU might designate the contact by office rather than by name.

The MOU can be divided by sections that correlate with the stages of the process – “early planning” and “preparing the document” are used below as examples.

Early planning. The MOU may describe roles and responsibilities for the stage preceding actual development of analyses or documents. This early planning can include scoping and other activities that precede drafting the NEPA and CEQA documents such as:

- Identification of affected resources;
- Identification of affected stakeholders, including organizations, members of the public, and other agencies with responsibility for associated resource protection and management;
- Outreach and management of involved stakeholders;
- Identification of data needs;
- Determination of methodologies to be applied to data collection/analysis on which resources to include in an analysis and work on individual resources as the process moves forward;
- Using/hiring of independent experts/specialists (e.g., academic institutions, etc.);
- Identification of research needs; and
- Identification of existing research and incorporation of existing studies and information.

Communicating with the applicant. If the environmental review is applicant-driven (e.g., the issuance of a permit), the MOU can outline which agency will handle contact with the applicant and ask for additional information and clarification when needed.

Identifying and coordinating with other Federal and California state processes (e.g., Endangered Species Act, National Historic Preservation Act, and Native American consultation). The MOU can assign responsibility for identifying and coordinating the completion of CA state and Federal requirements.

Timeframes and milestones. This section describes the timeframe of the project, including major project milestones. These timeframes can be as general or as specific as the signatories find relevant or useful for the purpose of their progress, but their inclusion provides a common roadmap around which agencies can plan their work schedule.

Examples of Milestones include intermediate steps as well as conclusions: Scoping, informal or formal consultation under the Endangered Species Act, consultation under the National Historic Preservation Act Section 106 process, internal review of documents, publication of draft documents, public comment periods, etc.

Data and methodology. The MOU can address the determinations that will be made regarding what data is needed and when the amount and quality of data is considered adequate. The MOU can describe which agency will determine which standards apply to each stage of the planning and environmental review process.

The agencies should have specialists work together to develop methodologies. This may involve adopting the more stringent of two requirements or merely disclosing the different methodologies and results to the public.

EXAMPLE TEXT FOR USING MOST STRINGENT REQUIREMENT: *“The Draft and Final EIR/EIS and related analyses will apply whichever NEPA and CEQA requirement or other substantive legal/regulatory requirement is more stringent in its analysis.”*

Consultation with other parties. This element identifies those parties that are involved in the environmental review but are not a party to the MOU and identifies which Party to the MOU will coordinate efforts with those entities.

Using a contractor:

- Selection of a contractor (if any) is a joint process. If desired, the parties in the MOU can agree to how the lead agency will select the contractor. Both NEPA and CEQA leaders should have a role in contractor selection to ensure the contractor can meet the NEPA and CEQA requirements. Check with your agency counsel to ensure that any considerations under the California and Federal Acquisition Regulations are addressed as well as State laws, including but not necessarily limited to, laws under the California Public Contracts Code.
- Working with the contractor. The MOU should specify how each agency can work with the contractor. For example, if one agency hires the contractor, can another agency access that contractor directly, or must they work through the contracting agency? Are there aspects to the analysis that the contractor is not at liberty to share outside the lead agency?
- Preparing the document. The MOU should specify which agency will be responsible for preparing particular analyses and the writing of the document. For example, the MOU can identify the sections of the document each agency will provide (e.g., the Federal agency would

provide information and analysis specific to NEPA requirements, while the California state agency would provide information and analysis specific to CEQA requirements).

The MOU can identify the agencies' responsibilities for the various determinations made during the development of the joint analysis and documentation such as:

- Scope and content of the document and underlying analyses;
- Defining what constitutes "satisfactory" work;
- Describing how to include other agencies that may become involved in review; and
- Determining data adequacy: significant figures, common data frameworks, file formats, collection methodology, software, etc.

Develop mailing lists for outreach and document distribution. This element identifies the agency that will manage the address list for the distribution of materials, information, and the environmental review document to stakeholders and the general public for review.

Gathering and maintaining public comments and the administrative record. Identify the agency responsible for gathering, docketing, and maintaining the public comments as well as the other elements of the administrative record.

Review and respond to public comments. Designating a single agency to coordinate responses to public comments is helpful, but the California and Federal joint lead agencies should be actively involved in the review of comments in order to ensure all relevant issues are addressed and receive responses as required by NEPA and CEQA.

Organizing/running joint public meetings. Identifying which agency will be responsible for scheduling and running public meetings will facilitate collaboration in planning and the public comment processes as well as in any subsequent studies and analyses.

Sharing and disclosure of information. The MOU can include a statement identifying the type of communications and data that is subject to disclosure under laws including the Freedom of Information Act (FOIA) and the California Public Records Act (PRA). The MOU can address whether an applicant can have access to information and whether that makes the information subject to broader disclosure and release. Agency staff should seek legal assistance to assist in understanding the FOIA and the PRA requirements relevant to the various communications, data, analyses, and draft documents developed, gathered, and used during the joint NEPA-CEQA process.

Final approval and submission of documents to appropriate entity. Joint documents are generally approved by authorities at different levels of government. This element identifies those authorities as well as defines which agency will hold ultimate approval authority to ensure that the NEPA and CEQA review meets relevant requirements.

Media releases, hand-outs, talking points, presentations. The MOU can address how agencies will coordinate key messages and set out the procedures for overarching communications and consultation. The MOU can assign responsibilities for producing and approving media releases and hand-outs for public distribution. Depending on the likely responses and issues surrounding a project, as well as resource and staffing constraints, an MOU may designate a particular agency to coordinate content and

distribute the materials to specific stakeholders and address concerns and responses from stakeholders and the public.

Process for reviewing contractor work, approving publication. The MOU could address the procedure for review of documents provided by the contractor and assign responsibility for final approval and release or publication.

Issue Resolution

Identify potential issues. This element applies to any other agency needing to contact or discuss the document with the contractor. It should also be addressed by the agency in the agreement with the contractor.

Raising potential issues. Some joint processes may identify issues or potential areas of concern early in the collaboration. Including those issues in the MOU allows the involved agencies to focus on resolving and ameliorating them as part of the planning and environmental review.

Issue resolution process. Conflicts will arise during the joint document process on any number of issues, including proper procedure, methodologies for studies/surveys/determinations, amount of information to be developed/included in the documents, and strategies for addressing questions raised in the public comment process. Agencies should establish a method for productively resolving these conflicts in the MOU. Involvement of agency counsel early is important, particularly where any legal requirements are at issue. If the involved parties feel the joint process could become contentious, include a process to identify and engage a facilitator or mediator.

EXAMPLE TEXT: *“In case of a dispute arising from the implementation of this Memorandum of Understanding, the Parties shall exhaust alternative dispute resolution methods such as negotiation and mediation before elevating the issue to their leadership. Parties shall act in good faith to resolve the dispute.”*

EXAMPLE TEXT: *“If disagreements on the findings, conclusions, impacts, or resource condition in the joint environmental analysis cannot be resolved, each Party shall provide an explanation of assumptions used to reach these conclusions including reasons for the differing conclusions for insertion in separate NEPA and CEQA sections of the document.”*

Format of environmental document. Agency regulations may mandate a set format for environmental reviews. An MOU can address any differences between agency NEPA and CEQA document formats by describing the format that will be used.

The MOU can specify whether any agency has the ability to halt publication if the document does not meet their needs and set out a process for making sure that all comments are adequately addressed.

Amendments/Changes to the MOU

Mutual consent needed to modify the MOU. The MOU should outline the procedure for modifications made to the MOU, especially stating that mutual consent between all parties is necessary to modify the structure or provisions in the MOU.

Notice for amendment/termination of the MOU. The MOU should state how much time a party must give in its notice to amend or terminate the MOU.

Post NEPA and CEQA Collaboration and Cooperation:

Implementing/monitoring/enforcing mitigation. Depending on the project and its requirements, agencies involved in the MOU might have statutory authority to enforce mitigation elements in the project. This element of the MOU outlines the mitigation measures that are relied upon in concluding the NEPA and CEQA review and identify which agency(s) will have a role in implementation and/or monitoring.

NOTE:

Since 2007, the California Department of Transportation (Caltrans) and the Federal Highway Administration (FHWA) have participated in a unique environmental program referred to as “NEPA Assignment,” which is authorized under the transportation reauthorization laws. To implement the program, Caltrans and FHWA entered into a Memorandum of Understanding pursuant to 23 U.S.C. 327. Under this MOU, FHWA assigned, and Caltrans accepted, responsibility for NEPA. First established as a Pilot Program by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A legacy for Users (SAFETEA-LU), this was made permanent, renewable every five years, with the enactment of the Moving Ahead for Progress in the 21st Century Act (Map-21) in 2012.

Appendix D: 2019 Stakeholder Assessment

Introduction

The National Environmental Policy Act²⁸ (NEPA) and the California Environmental Quality Act²⁹ (CEQA), respectively, represent federal and state approaches for conducting the environmental and review processes for projects generally, and most recently for renewable energy and transmission projects in California. While these two processes are separate based on federal and state law, they have similar requirements. This has enabled federal and state agencies to work together to create joint NEPA-CEQA documents. Even if they are not joint documents, it is beneficial to have closely coordinated documents.

Kearns & West (K&W), an impartial collaborative solutions/facilitation and engagement firm, was engaged by the Bureau of Land Management (BLM) through Department of Interior's Office of Collaborative Action and Dispute Resolution (CADR) to conduct discussions with key stakeholders to explore and discuss conducting joint NEPA-CEQA processes, to determine if the stakeholders thought that joint documents are not feasible, and to explore how coordinated documents and other related topics could improve the NEPA-CEQA environmental review processes.

Discussions focused on how BLM, California state and local agencies, and environmental consultants can develop a procedure for preparing joint documents, and/or improve efficiencies and coordination in preparing separate documents. In addition, the assessment gathered input on how to best design a workshop that will highlight the key challenges and potential solutions to improve the execution of joint or highly coordinated documents.

Over the course of these discussions, it became evident that all stakeholders involved in the environmental document preparation are in search of ways to improve the drafting process for joint or coordinated documents. As a result, many expressed appreciation that BLM initiated this effort.

As a next step, a workshop was held to facilitate interactions among stakeholders and achieve actionable outcomes. The workshop happened on June 19, 2019 at U.C. Riverside and consisted of presentations and group discussions around the issues and potential strategies associated with conducting joint documents. Rationale, objectives, and expected outcomes are presented in this document, and a draft agenda is provided in Appendix E.

Methodology and Findings

The discussions provided a wide range of issues associated with both past and present NEPA and CEQA coordination efforts. Although specific comments and points of view varied, general themes emerged that were frequently raised by multiple stakeholders. The issues outlined below were mentioned by stakeholders with experience developing both NEPA documents and CEQA documents. This suggests that there are opportunities for federal-state, and federal-local coordination to address them.

Comments were sorted into key topics and subtopics (categories below). From this data organization, the frequency of topics being mentioned across the discussions was determined. The percentages below

²⁸ 42 U.S.C §4321 *et seq.* https://www.fsa.usda.gov/Internet/FSA_File/nepa_statute.pdf

²⁹ California Public Resources Code §21000 *et seq.*

http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=PRC&division=13.&title=&art=&chapter=&article=

reflect the portion of stakeholders who identified or commented on a topic, highlighting their relative importance. We apply the following language to topics within categories based on our analysis:

- Most – when more than 75 percent of stakeholders identified a subject.
- Some/Several – between 25 and 75 percent of stakeholders identified a subject.
- Few/A small group – between 1 and 25 percent of stakeholders identified a subject.

The topics are organized in several categories:

- **Strategies for Coordinating NEPA and CEQA Analyses** – ways to potentially address issues through interagency coordination;
- **Scenarios** – in-depth discussions on the risks and benefits of different ways to align NEPA and CEQA processes.

The discussions conducted were anonymous and findings are summarized. All statements listed below are those of the people who were interviewed and not of the author unless otherwise stated.

Issues

The following topics are listed in order of the number of participants raising the topic.

Public Process Concerns (85%)

The new page and time limits associated with Executive Order 13807 and Secretarial Order 3355³⁰ create the potential for disrupting a functional public engagement process, including:

- Many stakeholders shared the potential need for separate public meetings based on differing NEPA and CEQA timelines, which might lead to public process fatigue.
- Many stakeholders noted that under separate documents, two notice and comment periods (one at the federal level and one at the state level) as well as the need for recirculation or supplemental documents could lead to confusion.
- A few stakeholders pointed out that the applicant will get exposure to extra rounds of potentially hostile public processes.
- A few stakeholders expressed the potential political risk for local CEQA-agencies given public frustrations and confusion.

Increased Litigation Risk (69%)

- Some of the stakeholders' specific litigation concern focused on the defensibility of shorter documents given a history of long documents surviving legal challenges.
- A few of the stakeholders cited concerns that misaligned processes reaching different conclusions could exacerbate downstream litigation.

Tight Timeframe Concerns (62%)

- Several stakeholders indicated that there are challenges aligning studies with seasons in a shorter timeframe.
- Some stakeholders expressed that there is no binding timeline on CEQA to force it to adhere to potentially tighter NEPA timeframes.

³⁰ Executive Order 13807 and Secretarial Order 3355 established page and time limits associated with EISs and EAs, which were of concern to many participants and were involved in many of the discussions. These orders were rescinded in January 2021. However, the September 2020 revisions to the CEQ's NEPA implementing regulations established page and time limits for NEPA documents, so the themes remain relevant for consideration by project teams.

- A few stakeholders noted that the timeline for the process should be connected to the scale of a project (e.g. conducting a full CEQA analysis on a large transmission line is likely more complex and would take more time than a more straightforward, smaller project which may be able to meet shorter timeframes).
- A few stakeholders expressed optimism that the shorter timelines would drive a more reasonable timeframe.

Misalignment Between Separate NEPA and CEQA Documents (38%)

- Several stakeholders shared that if the two processes can no longer be reconciled into a single joint document and parallel process timeline, they may reach different conclusions. This leads to many of the complications cited in sections above such as litigation risk and public process misalignment.

Predetermination Risk in Pre-Application Period (15%)

- A few stakeholders suggested that there needs to be a robust pre-application period where applicants and agencies, both federal and state/local, get started on completing studies, in order to meet the new federal NEPA requirements. However, if the scope in the pre-application period gets too far ahead of the Notice Of Intent (NOI) or Notice Of Preparation (NOP), the public may feel as though BLM and the CEQA lead agency have a predetermined outcome, undermining public confidence and an open and transparent process.

Underprepared Applicants (15%)

- A few stakeholders noted that unprepared applicants have frequently caused delays and inefficiencies. For example, delayed filings might require additional studies, preparation of supplemental documents, and recirculation of draft documents. While this is true with any joint or coordinated NEPA-CEQA processes, the risk is particularly acute with tighter timeframes since it could cause less time for coordination and the documents not being in the same timeframe could lead to more misalignment of the documents.
- These few stakeholder discussions noted that tighter timelines could exacerbate the potential impacts of under-prepared applicants because they will have less time to correct mistakes or find missing information.

Strategies for Coordinating NEPA and CEQA Analyses

In addition to providing thoughts on a variety of issues related to NEPA-CEQA streamlining, stakeholders were also asked to reflect on existing efficiencies and suggest new strategies to address the issues mentioned above. These strategies are compiled below.

Coordination (77%) – Stakeholders cited the need for close coordination between BLM and CEQA-lead agencies:

- **Pre-Application Coordination (92%)** - Most stressed the importance of a highly organized, applicant-driven, ramp-up period ahead of the NOI/NOP.
- **Single Contractor (23%)** – A few stakeholders recommended that applicants seek contractors with pre-existing awareness of the specific issues of working with the appropriate CEQA-lead agency. They also suggested that coordination and consistency can be improved by having the same contractor prepare the NEPA document and CEQA document, if they are prepared separately.

Appendices and Incorporation by Reference (54%)

- Many stakeholders reflected on the possibility of using appendices and references. There are two different points of view on using extensive appendices in a CEQA or joint document – some suggest it is possible citing CEQA §15221³¹, which allows CEQA documents to reference certified NEPA documents. Others suggest that California courts may not allow extensive use of technical appendices, but this has yet to be challenged within the court system.

Public Process Alignment between NEPA and CEQA (46%)

- Several stakeholders recommended that aligning public process (e.g. coordinating NOI/NOP, scoping periods, public comment periods, and final decisions) makes involvement opportunities clearer to the public and avoids public participation fatigue.
- Some stakeholders suggested that coordinated public involvement may help avoid issues such as delays, recirculation, negative public opinion, or litigation.
- A few stakeholders shared that CEQA allows that if materials are distributed and reviewed in the same manner as NEPA materials, there is no need for an additional review.

Agreements Among Agencies (23%)

- A few stakeholders mentioned or suggested using a Memorandum of Understanding (MOU) or other agreements to organize NEPA and CEQA processes between BLM and CEQA-lead agencies, as a way to establish enforceable common deadlines. Establishing agreed coordination in an MOU or another agreement can help assure desired coordination.

Joint Documents Decrease Litigation Risks (8%)

- Despite the numerous issues facing joint documents as a result of the new page and time limits, a few stakeholders still viewed joint documents as a strategy to mitigate potential risks of litigation because both BLM and CEQA-lead agencies will publish aligned environmental documents and will conduct parallel public processes.

Scenarios

The following six scenarios were developed to assist discussions and collect concrete feedback on potential risks and benefits with different procedural possibilities. Five of these scenarios were articulated by the BLM team, and the sixth emerged through the stakeholder discussions.

- Scenario 1 – Joint Document completed in a one-year timeframe.
- Scenario 2 – Separate Documents completed in a one-year timeframe.
- Scenario 3 – Separate Documents, CEQA starts first, NEPA and CEQA finish together.
- Scenario 4 – Separate Documents, NEPA and CEQA start together, finish separately.
- Scenario 5 – Separate Sequential Documents, CEQA starts and finishes, and then NEPA starts and finishes.
- Scenario 6 (proposed by stakeholders) – Separate Sequential Documents, NEPA starts and finishes, and then CEQA starts and finishes.

Despite being very different, key themes emerged from the comments addressing the key challenges with each scenario, these are addressed in Table 1 at the bottom.

³¹ 14 CCR §15221. NEPA Document Ready Before CEQA Document, *available at* [https://govt.westlaw.com/calregs/Document/ID0BEF5B0D48811DEBC02831C6D6C108E?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/ID0BEF5B0D48811DEBC02831C6D6C108E?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

Scenario 1 – Joint Document

NEPA and CEQA start together and are completed together in a joint document in a shorter timeframe. This scenario assumes a ramp up where applicants and agencies finish all studies prior to the NOI/NOP.

Scenario 1 – Joint Document



Scenario 2 – Closely Coordinated

NEPA and CEQA start together and are completed together in separate documents in a shorter timeframe. This scenario assumes a ramp up where the applicant and agencies finish all studies prior the NOI/NOP.

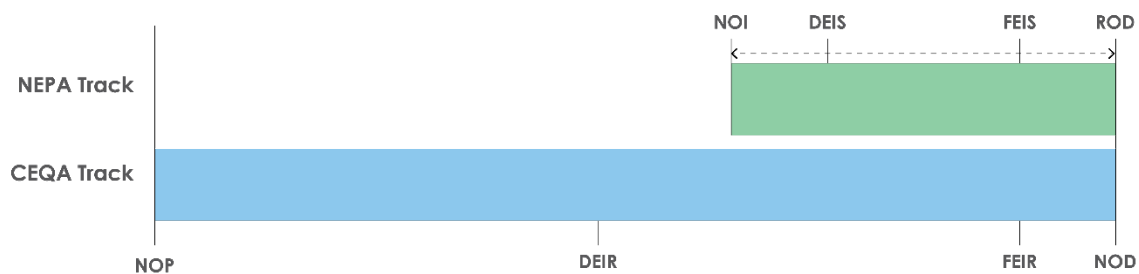
Scenario 2 – Closely Coordinated



Scenario 3 – CEQA First, Simultaneous End

CEQA starts, then NEPA begins and completes, concurrent with the end of the CEQA document.

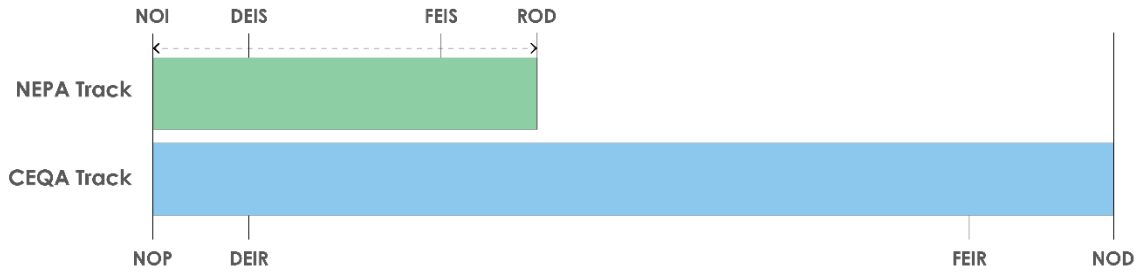
Scenario 3 – CEQA First, Simultaneous End



Scenario 4 – Simultaneous Start, NEPA Ends First, then CEQA Ends

NEPA and CEQA start at the same time; NEPA finishes in a shorter timeframe while CEQA takes longer. A supplemental NEPA document is prepared to align with the CEQA document (and depending on the NEPA document it could cause a revised/supplemental CEQA document).

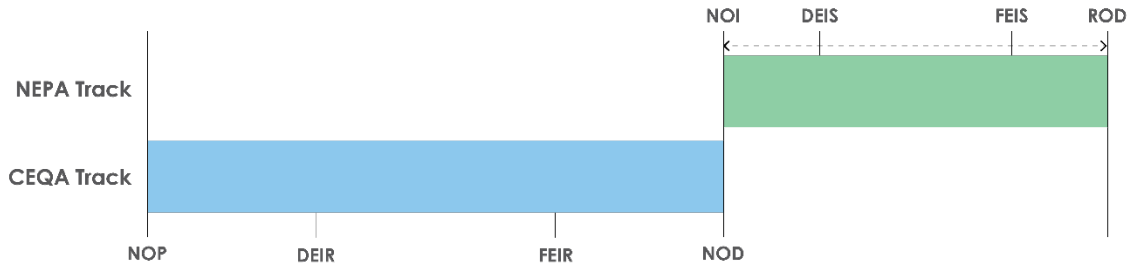
Scenario 4 – Simultaneous Start, NEPA Ends First, then CEQA Ends



Scenario 5 – CEQA First, then NEPA

CEQA is completed before NEPA is started. The NEPA document incorporates the CEQA document by reference. This potentially decreases the length of the NEPA document and process. Revisions to the CEQA document may be necessary if the CEQA document is inconsistent with the NEPA document.

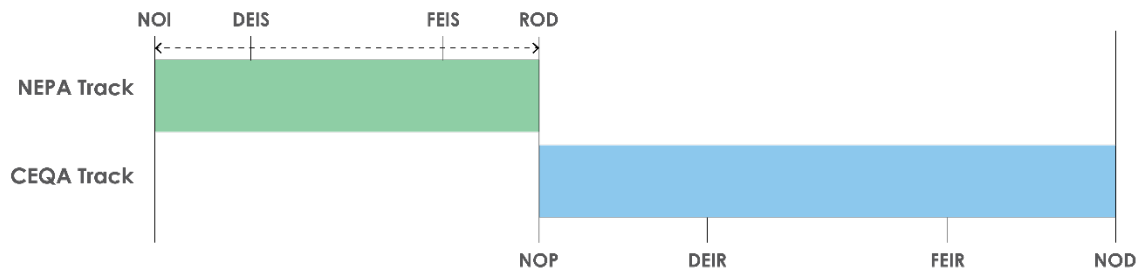
Scenario 5 – CEQA First, Then NEPA



Scenario 6 – NEPA First, Then CEQA

Scenario 6 was brought up by several stakeholders as a possible discussion point. Because Scenario 6 only emerged from stakeholders’ mid-way through our assessment, we did not update the discussion guide to include the new concept. However, Scenario 6 will be included in the workshop design.

Scenario 6 – NEPA First, Then CEQA



Scenarios Key Themes

There were common themes that emerged in the discussions of the six scenarios. Table 1 tracks whether stakeholders commented on a theme. As a note, these topics came up as part of the assessment discussions, and the key themes identified could evolve during workshop discussions.

In addition to the topics already discussed above, below are additional points that were raised in the discussions about the scenarios:

- **Impact on Costs** – The different process milestone alignments can lead to increased costs or cost savings. While some provide cost reduction opportunities on the grounds that the consultant could borrow content from the completed NEPA document, or vice-versa, others might trigger the need for supplemental documents, thus increasing time and cost.
- **Compatibility of Environmental Assessment (EA)/Environmental Impact Review (EIR)/Mitigated Negative Declaration (MND)**– It is important to consider how different combinations of EIR/EIS/EA/MND documents impact the timeframe and page limits of each scenario. Certain combinations might not be feasible under specific scenarios. More research is needed to clarify how the MND would or would not work with an EIR.
- **Risk of Misalignment** – When documents are not joint there is a risk of disagreement between the two separately prepared documents which can lead to conflicting findings or mitigation requirements exposing applicants and agencies to future litigation.
- **Risk of Recirculation** – With two processes running in sequence, there is a risk of conflicting conclusions in the two documents. The result could trigger recirculation, or supplemental environmental documents. To avoid that risk, it might be better to align the processes and have a longer ramp-up period.

The following table summarizes the issues brought up during the discussions of the 5 scenarios (the 6th scenario was not covered in all discussions and, therefore, is not included here). Check marks indicate which issues were brought up during discussions; this does not necessarily mean that topics without check marks are not relevant for specific scenarios.

Challenges Identified by Stakeholders	Scenarios				
	1	2	3	4	5
Litigation risk	✓	✓	✓	✓	✓
Public process risk	✓	✓	✓	✓	✓
Require coordinated pre-application period	✓	✓	✓	✓	✓
Need for coordination without a joint document		✓	✓	✓	✓
Incorporation by reference as a strategy			✓	✓	✓
Potential to need supplemental documents		✓		✓	
Risk of misalignment between documents		✓			✓
Need a single contractor for Fed and State			✓	✓	
Cost savings due to sharing between documents		✓			
Applicant risk of repetitive costs		✓			

Table 1: Topics brought up by stakeholders when discussing the phasing scenarios.

Stakeholder Workshop Suggestions

Stakeholders were asked to provide suggestions on the ideal design for a workshop that would bring together key stakeholders to discuss the opportunities and challenges with aligning NEPA and CEQA processes.

Workshop Logistics

- **Length of the Workshop** – A **one-day** workshop was the most frequently recommended time length, making the best use of time and resources, particularly to encourage the participation of county-level CEQA staff, who may not have the resources or flexibility for a longer workshop that might require overnight lodging.
- **Location** – A majority of stakeholders stated that in order to encourage maximum participation the workshop should be held at a location in Southern California.
- **Venue** - Stakeholders suggested the Ontario Convention Center, the U.S. Fish and Wildlife Service (USFWS) office, and UC Riverside as potential venues. Of these suggestions, the Ontario Convention Center was the most common suggestion due to its proximity to the airport. It was also a common venue during the Desert Renewable Energy Conservation Plan (DRECP) process, so it is familiar to many of the participants.

Stakeholder Workshop Design Considerations

Below are suggestions that emerged through the discussions.

Share a Clear Framework and Potential Outcome List Ahead of the Workshop – Several stakeholders expressed a desire for a clear framework that can be shared ahead of the meeting. They also suggested that the workshop needs to be designed with clear anticipated outcomes and cautioned against an unstructured brainstorm.

Refine the Scenario Framework as a Tool to Guide Discussions – Several stakeholders suggested the scenario discussion approach as a useful tool to keep the conversation focused in the context of emerging issues.

Benefit of a Facilitator, Caution Around History and Personalities – Several stakeholders suggested a sensitivity around the longer history of NEPA-CEQA processes by the participants, as well as caution around the variety of strong personalities involved. They suggested that having a strong facilitation team will be helpful.

Consider Breakout Groups for Consultant – Two stakeholders suggested that it may be beneficial to separate drafting consultants from NEPA-CEQA lead agencies for at least a portion of the workshop because the conversations may yield different results.

Develop Narrow Expectations for Outcomes – Stakeholders cited a long history of challenges and frustrations associated with NEPA-CEQA documents and processes. Against this backdrop, stakeholders warned that an unstructured conversation could easily devolve into a referendum on policies which would not be a productive discussion.

Appreciation – Most of the stakeholders expressed approval and appreciation towards BLM for initiating and conducting this effort. There was a common theme that examining and improving the joint or coordinated NEPA-CEQA effort is a valuable use of time.

Workshop Recommendations

Incorporating the feedback summarized above, the author suggests the following objectives and expected outcomes for the workshop.

- **Develop Best Practices to Address New Time Constraints and Page Limits** – Through group discussions of scenarios, participants can actively evaluate the issues, and in doing so, develop with potential solutions or practices to address the issues.
- **Reach Conclusion on the Feasibility of Joint Documents** – Participants will have an opportunity to weigh all that they heard throughout the day and decide whether they think joint documents are feasible within the current framework.
- **Develop a working outline to guide processes on (1) joint or closely coordinated documents, (2) pre-application periods, and (3) public process coordination.** Given the alignment in most discussions on the importance of these topics and the support for improved coordinated efforts, addressing these three topics in the workshop will be a productive use of participants’ time in the workshop.

To achieve these three outcomes, the following techniques will be employed to ensure the best possible use of time:

- **Break out groups** – Encourage stakeholders to engage in dialog with one another in small groups to understand differences and develop potential solutions. Participants may be divided by consultants and lead agencies.
- **Scenarios discussions** – Use the scenarios to talk through issues such as public participation, pre-application periods, and applicant under-preparedness.
- **Facilitation** – Steer discussions towards productive paths by establishing clear ground rules (what is in the discussion, what is NOT in the discussion, and participant behavior – open dialog, share “airtime,” etc.) Also, the facilitation team will prepare discussion guides to set clear objectives and processes and generate recommendations.

Conclusion

Stakeholders are in search of better processes associated with conducting NEPA and CEQA environmental reviews. Identifying efficiencies and improved coordination that could enhance the environmental document drafting process. For this reason, there is strong support from those who participated in discussions for this effort spearheaded by BLM. While the task at hand is highly complex, and in some cases contentious, the author suggests that there are opportunities to improve agency coordination in preparing joint or coordinated NEPA and CEQA documents.

As a logical next step to the substantive round of discussions, the results of which will inform a well-designed workshop with clear objectives and actionable outcomes. Using issues and strategies as a guide, the workshop will engage members of federal, state, and local agencies as well as environmental consultants with discussions and problem-solving exercises.

Appendix A: Stakeholders

Discussions with key stakeholders took place from March 27th to April 25th.

Organization	Name
AECOM	Robert Dover

Organization	Name
<i>Aspen Environmental Group</i>	Susan Lee and Emily Capello
<i>Bureau of Land Management</i>	Greg Miller
<i>Bureau of Land Management</i>	Brandon Anderson
<i>Bureau of Land Management</i>	Elizabeth Meyer-Shields
<i>Bureau of Land Management</i>	Carrie Sahagun
<i>California Department of Fish and Wildlife</i>	Magdalena Rodriguez
<i>California Public Utilities Commission</i>	Billie Blanchard
<i>Dudek</i>	Wendy Worthey, Rica Nitka, Matthew Valerio
<i>Environmental Science Associates</i>	Janna Scott and Jason Ricks
<i>Kern County</i>	Lorelei Oviatt
<i>State Clearinghouse</i>	Scott Morgan and Natalie Kuffel
<i>San Bernardino County</i>	Heidi Duron and Terri Rahhal

Appendix B: Frequency Analysis

NEW ISSUES	
92%	Page Limit Concerns
85%	Public Process Concerns
69%	Increased Litigation Risks
62%	Compressed Timeframe Concerns
38%	Alignment Between Separate Documents
38%	Coordination between Applicants and Agencies
23%	Procedural concerns (e.g. conflicting notice and comment)
15%	Incorporation by Reference concerns (e.g. overuse of appendices)
15%	Predetermination of Scoping Decisions
15%	Concerns about underprepared applicants
15%	Questions about party standing in conflicting public process

STRATEGIES	
92%	Expanded use of pre-application period to prepare materials
77%	Greater coordination between agencies and applicant
54%	Increased incorporation by reference
46%	Greater efforts to coordinate public processes
23%	Use of an agreement such as an MOU to ensure coordination
23%	Use of appendices to meet page limits

STRATEGIES

23%	Use of a single contractor to write both NEPA and CEQA
8%	Joint Document to decrease litigation risks

Appendix E: 2019 NEPA-CEQA Workshop Summary

NEPA CEQA Workshop

Wednesday June 19, 2019

Agenda and Meeting Objectives

On June 19th, 2019, the Bureau of Land Management (BLM) hosted an in-person workshop with CEQA lead agencies, environmental firms involved in preparing the environmental documents, and BLM staff on the examination of the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) joint or coordinated document process. All involved think that it is very important to coordinate closely on these documents and associated processes.

The workshop brought together key stakeholders with extensive experience on conducting joint or coordinated documents for renewable energy and transmission line projects in the Southern California Desert to discuss opportunities for coordination using six scenarios for preparing joint or coordinated NEPA and CEQA documents. The workshop consisted of a review of a stakeholder assessment, which synthesized findings from discussions with many of the stakeholders' present and other state, local and BLM representatives, break out groups where members discussed different NEPA-CEQA phasing scenarios, and full group discussions where the group reflected on key themes and potential next steps.

The workshop had the following objectives:

- Facilitate a productive dialogue around the challenges faced by the NEPA and CEQA processes within the current regulatory framework. Consider the scenarios and associated challenges and solutions.
- Discuss potential solutions to the challenges.
- Develop a working outline on recommended guidance to improve processes associated with:
 - (1) joint or closely coordinated documents,
 - (2) the pre-application process, and
 - (3) public process coordination.
- Identify actions and next steps to improve the efficiency and effectiveness of joint or closely coordinated NEPA CEQA documents and processes.

Opening Remarks and Project Overview

Opening remarks were provided by Melissa Harris, the Acting Senior Planner and Environmental Analyst for the BLM. Melissa thanked members for participating and sharing their diverse perspectives on coordination opportunities between the NEPA and CEQA processes.

Anna West, Senior Facilitator from Kearns & West (K&W), then briefly recapped findings from the stakeholder assessment, highlighting the key issues and strategies that emerged from 13 discussions with 19 individuals with NEPA-CEQA experience. She explained that K&W conducted these advance discussions to inform the structure and content of the workshop.

Following the presentation members were asked to provide input on the issues and strategies heard. The key themes from the discussions are summarized below:

- Early coordination and preliminary meetings

- All discussed the benefit of conducting biological and cultural surveys before the Notice of Intent (NOI) or Notice of Preparation (NOP) goes out, meaning that data is acquired early and can ensure an efficient process from NOI to Record of Decision (ROD) or NOP to Notice of Determination (NOD).
- Early coordination is key to minimizing potential conflicts down the line. If all relevant stakeholders are participating from the beginning there will be no major surprises.
- Preliminary meetings should involve all stakeholders including NEPA and CEQA lead agencies, tribes, and the applicant, stopping short of involving the public. It is encouraged to have the applicant conduct early public meetings to obtain their input.
- There is no “one-size-fits-all” approach. Each project must be assessed individually to determine the best path towards the NOD/ROD.
- Public confusion
 - The purpose of the NEPA and CEQA processes is to engage the public to provide input and help them understand the decisions and why they were made.
 - Different terminology in NEPA and CEQA documents can generate public confusion. Particularly, the words “significance” and “mitigation,” mean different things in the context of each document.

NEPA-CEQA Coordination Scenarios

Participants then reflected on the six coordination scenarios and discussed Table 1, which compiles challenges identified during stakeholder discussions.

Challenges Identified by Stakeholders	Scenarios				
	1	2	3	4	5
Litigation risk	✓	✓	✓	✓	✓
Public process risk	✓	✓	✓	✓	✓
Require coordinated pre-application period	✓	✓	✓	✓	✓
Need for coordination without a joint document		✓	✓	✓	✓
Incorporation by reference as a strategy			✓	✓	✓
Potential to need supplemental documents		✓		✓	
Risk of misalignment between documents		✓			✓
Need a single contractor for Fed and State			✓	✓	
Cost savings due to sharing between documents		✓			
Applicant risk of repetitive costs		✓			

Table 1 Challenges identified with Scenarios 1-5 during preliminary stakeholder discussions

The group noted that litigation risk, public process risk, and the need for coordinated preliminary meetings are key topics in all scenarios, therefore they are the key issues to be discussed. Some also noted that including materials in the appendices is not necessarily discouraged, but it may lead to a very convoluted document. Additionally, there is a concern that it might increase litigation risk. However, members mentioned that there are no NEPA and CEQA processes that have issued a ROD or NOD within the current regulatory framework, therefore, at this point we don’t know how this new approach on the NEPA and CEQA documents may impact these topics.

Breakout Groups

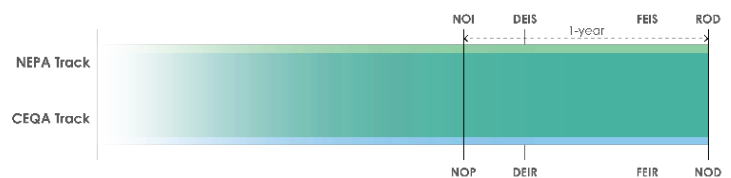
To further explore the issues and potential solutions associated with the NEPA and CEQA processes under the new time constraints and page limits, members were separated into two groups that discussed scenario pairings. These scenarios were used as a vehicle for discussion of key coordination points. After each breakout group members shared key themes from their discussion with the entire group and reflected on differences and/or similarities.

Breakout Group #1: Joint and Closely Coordinated, one-year Scenarios

During the morning breakout group members focused on Scenario 1, a Joint Document, and Scenario 2, a Closely Coordinated, One-Year Document. Both scenarios have the NEPA and CEQA processes starting and finishing within a short timeframe. Discussions focused on opportunities and risks associated with the two processes and on ways to complete them efficiently.

Scenario 1 is generally considered the ideal scenario because it produces one document for both NEPA and CEQA and thus implies close coordination between both agencies as well as applicants and consultants. To achieve this, the NEPA and CEQA lead agencies must be closely coordinated from start to finish, regularly communicating about environmental studies, document content, and the public processes. Participants indicated that various preliminary meetings to finalize project design, discuss and conduct environmental studies, and reach agreements on terminology are needed. The ideal situation for a joint document is when agency priorities are aligned, and they are willing to work together to accommodate each other's requirements.

Scenario 1 – Joint Document



When the joint document is not feasible, participants suggested that Scenario 2 is the next best option because it maintains the parallel timelines, which, if managed correctly, can prevent confusion, inefficiencies, and the need for supplemental documents, particularly because the public processes can be aligned and therefore better coordinated.

Scenario 2 – Closely Coordinated, 1 year



The major benefit of Scenario 2 is the fact that the processes are separate (but parallel) so that agencies don't have to compromise on how to structure their documents, and as a result each agency can produce a more defensible document.

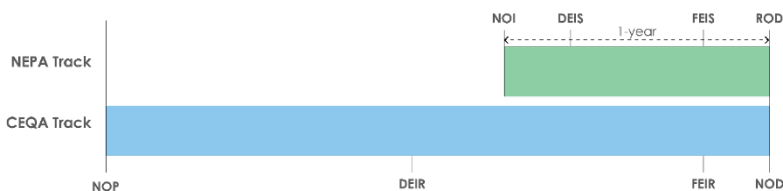
Like the joint document, this scenario also requires close coordination between agencies, applicants, and consultants for the separate processes to be completed together within one year. Participants also emphasized that documents should be as detailed as possible about the full array of alternatives so that the environmental analysis addresses any potential project changes that may arise later in the review process and would otherwise require the development of new alternatives.

The key takeaway from these discussions was that early and often coordination is the most important component to ensure the Environmental Impact Report (EIR) and Environmental Impact Statement (EIS) can be completed within one year.

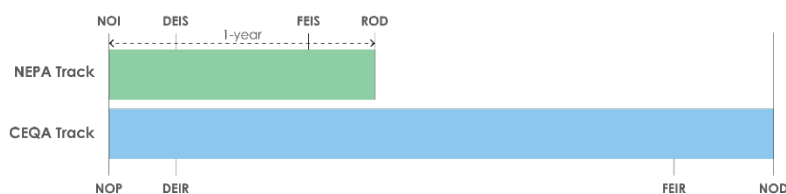
Breakout Group #2: Staggered NEPA and CEQA Scenarios

After lunch, members once again split into breakout groups, this time to discuss the remaining four scenarios, in which NEPA and CEQA either start together or finish together, not both. Members were given different scenario pairings; one group discussed Scenarios 3 and 5, where CEQA goes first, and the other group discussed Scenarios 4 and 6, where NEPA goes first. This session was focused on early coordination/preliminary meetings and public participation, which constitute key components of the EIR and EIS processes.

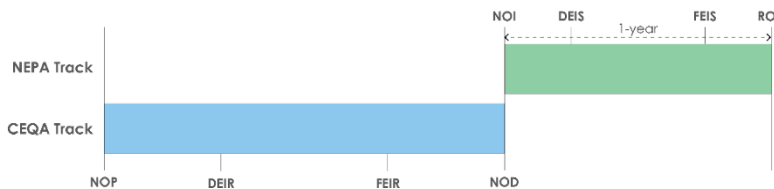
Scenario 3 – CEQA First, Simultaneous End



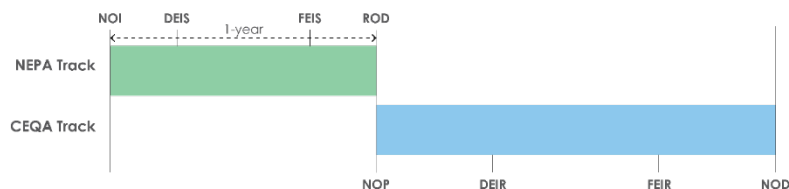
Scenario 4 – Simultaneous Start, NEPA Ends First, then CEQA Ends



Scenario 5 – CEQA First, Then NEPA



Scenario 6 – NEPA First, Then CEQA



Following the breakout group discussions members reconvened and shared findings and reflected on key themes and differences. The consensus was that Scenarios 1 and 2 are preferred overall, if feasible. If not feasible, it was suggested that Scenarios 3 (when the CEQA entity has the larger role) and 4 (when the NEPA entity has the larger role) are preferred to Scenarios 5 and 6, because the latter extend the timeline and greatly increase the risk of needing supplemental documents.

Common between all scenarios discussed was the need for early and often coordination. Regardless of the way the NEPA and CEQA processes are aligned, participants agreed that agencies must have upfront meetings to determine the scope of the project, clarify how to address and simplify language, pin down project design, and conduct studies/collect data.

Suggestions on how to best coordinate before the NOI/NOP include:

- Agencies should create, share, and approve templates of the EIR and EIS with each other.
- All relevant stakeholders (NEPA lead, CEQA lead, applicants, tribes, consultants, etc.) should have a kick-off meeting to discuss the project.

- Agencies should have a formal agreement (MOU, PAA, etc.) that lays out how they will coordinate throughout the processes.
 - One participant brought up a caveat that sometimes the MOU process can take up to 9 months to a year, which would slow the process down.
- Determine ideal Scenario for the specific project.
- Identify key points of contact at each agency.
- Finalize project design.
- Include alternatives in data gathering.
- Build mutual understanding of requirements for NEPA and CEQA processes.
- Coordinate on what to include in the document; both agencies must be willing to accommodate each other's requirements.

In addition, participants discussed the public participation process and the considerations needed in order to prevent public confusion, process fatigue, and potential litigation risks. Some of the comments include:

- The point of these laws is to allow the public an opportunity to understand and provide input on projects, therefore it is important to prioritize public engagement and ensure that documents/meetings are not too convoluted.
- Having less meetings is better for the public, applicants, and agencies, especially local ones who tend to have a stronger relationship with members of the public. However, if not possible, agencies should invite each other to their respective public meetings.
- Investigate if, when there are separate public processes due to misaligned timelines (i.e. NEPA before CEQA), the CEQA public process can incorporate and build upon comments made by members of the public during the NEPA meetings, or vice versa depending on which process engages the public first. If possible, this could reduce the public's fatigue since they will (1) be given new content to react to and (2) see that comments are being addressed.



Full Group Discussion

To close out the day, participants were asked to reflect on key themes and next steps by writing down their thoughts on index cards. After jotting down notes, each member shared their key takeaways and recommended actions from the workshop. Below is a synthesis of the ideas heard:

Key Themes

- **Early Coordination:** Clearly defined, early, and often coordination is key to improving the efficiency and effectiveness of NEPA and CEQA processes, regardless of which scenario is selected.
- **Scenarios:** Key themes heard on scenarios:
 - Scenarios are not “one size fits all.”
 - The group agreed to strive for Scenario 1 (Joint document) and Scenario 2 (Closely Coordinated, 1 year), and largely agreed that most will be using Scenario 2, if feasible.

- If the CEQA entity has a larger role in the permitting decision then it was decided that Scenario 3 and 5 are more appropriate, and of these the group agreed that Scenario 3 (CEQA starts first, NEPA starts second, they finish at the same time) is preferred.
- If the NEPA entity has the larger role, then Scenarios 4 and 6 are more appropriate, and Scenario 4 (Simultaneous start, NEPA ends in one year, CEQA continues) is preferred.
- Level of agency involvement will determine scenarios selection (i.e. small or large CEQA or NEPA roles per scenarios suggested above).

Next Steps

1. **Best Management Practices:** Develop, flesh out, and widely share best management practices and guidance to:
 - a. **Conduct Early Coordination:**
 - i. Map out preliminary meeting process (i.e. general coordination meetings, BLM attending county informational meetings, etc.);
 - ii. Define preliminary applicant standard, role, and expectations; and
 - iii. Clarify ideal points of contact at each agency.
 - b. **Navigate Scenarios:**
 - i. Choose ideal NEPA-CEQA scenario
 - ii. Share recommendations to maximize success of staggered Scenarios (3-6).
 - c. **Define NEPA and CEQA terminology** and how to prevent issues around these terms (e.g. significance, alternatives, mitigation measures, project changes, etc.)
 - d. **Design the public participation process** to minimize process fatigue and public confusion – share recommended practices for each Scenario.
2. **Scenarios:**
 - a. **Develop a Matrix of Scenarios and Factors** that provides guidance for each scenario and highlights potential triggers for recirculation.
 - b. **Decision Tree:** Develop a decision tree to aid each agency’s decision on what scenario to use in each situation and map out what a coordinated process would look like for certain projects:
 - i. Small CEQA, bigger NEPA
 - ii. Small NEPA, bigger CEQA
 - iii. Equal(ish) NEPA and CEQA
3. **Messaging:** Develop key messaging for stakeholders including tribes (and others) who rarely have resources for one process and may be angered by two.
4. **NEPA 101/CEQA 101:** Develop briefings on the NEPA process for state and local agencies and briefings on the CEQA process for BLM/federal entities so that agencies can better understand requirements for each other’s NEPA and CEQA processes.
5. **Compatibility:** Need better understanding of how the different processes fit together (NEPA, CEQA, Section 106, AB52, ESA, 15221, etc.)
 - a. Section 106 and AB52 coordination
 - b. Further explore when and how 15221 can be applied (differing perspectives)
6. **Establish Templates:**
 - a. Joint document
 - b. Memorandum of Understanding/Partnership Agreement templates?
7. **State Engagement**

- a. Share workshop findings/outcomes with CPUC, CEC, CDFW, etc., and obtain their buy-in on next steps.
 - b. Check in on California policy on achieving a more efficient CEQA process. How can this workshop and next steps inform CA initiatives?
8. **Concentric Circles Engagement:**
- a. **Counties:** the importance of notifying BLM upfront; further outreach/engagement?
 - b. **Developers:** define and share the applicant role and expectations in the preliminary meetings process; obtain feedback on the workshop findings and next steps.
 - c. Others (Tribes, NGOs, etc.)?
9. **Understanding the CA Independent System Operator process:** Help the NEPA and CEQA leads better understand the CAISO process, power purchasing agreements, and timeframes in coordination with NEPA and CEQA environmental reviews.

Adjourn

To close out the meeting, Melissa Harris once again thanked participants for joining and sharing their thoughts. She shared that the discussion was very productive and enlightening to all present. As a follow up, Anna West indicated that a meeting summary along with key themes and next steps would be made available to participants.

Attendees

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Tiffany Arend	Bureau of Land Management
Elizabeth Meyer-Shields	Bureau of Land Management
Greg Miller	Bureau of Land Management
José Najar	Bureau of Land Management
Carrie Sahagun	Bureau of Land Management
Wendy Worthey	Dudek
Janna Scott	Environmental Science Associates
Craig Murphy	Kern County
David Prusch	San Bernardino County
Project Team	
Melissa Harris	Bureau of Land Management
Cathy Humphrey	Bureau of Land Management
Jorge Kalil	Kearns & West
Melina Smith-Castro	Kearns & West
Anna West	Kearns & West
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