

Federal Endangered Species Act

The Federal Endangered Species Act of 1973, as amended (“Act”), requires all federal agencies to consider listed species in their planning efforts and to take positive actions to further the conservation of these species. Section 9 of the Act prohibits any taking of a listed species. Definition of “Take” The definition of “take” includes to harass, harm, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. A notable component of this definition is the definition of “harm.” “Harm” in the definition of “take” means an act that actually kills or injures protected wildlife. Such acts may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering (50 CFR 17.3). Agency Consultation Sections 7 and 10 of the Act allow the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to approve exceptions to the federal prohibition against take of a listed species. If there is another federal agency involved with a project, Section 7 of the Act requires federal interagency consultation to minimize impacts to listed species. If no other federal agency is involved, Section 10 of the Act is invoked for an area in which several projects will occur, for activities connected to a single project, or for takings as small as a single specimen. Under both Sections 7 and 10, the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service will evaluate potential effects of the project and require specific protection measures.

Your Responsibilities Under the Act

Compliance with the Federal Endangered Species Act may be required for your proposed project. Listed species change from time to time and the species listed here may not represent a current comprehensive list of all protected species. Agencies that provide funding through National Fire Plan grants are required to contact the U.S. Fish and Wildlife and/or the National Marine Fisheries Service for information about federally listed, proposed, and sensitive species in your project area. If the project may affect one or more federally listed species, consultation is required. You are responsible for implementation of any conservation measures agreed upon between granting agency and the regulatory agency. Please work with the granting agency during development of any project modifications and conservation measures.

CEQA Internet Links

U.S. Fish and Wildlife Service

<http://endangered.fws.gov/policies/index.html>

U.S. National Marine Fisheries Service

<http://swr.nmfs.noaa.gov/>

California Environmental Quality Act

The California Environmental Quality Act (CEQA) is a statute that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible.

Agency Consultation

CEQA applies to certain activities of state and local public agencies. A public agency must comply with CEQA when it undertakes an activity defined by CEQA as a "project." A project is an activity undertaken by a public agency or a private activity which must receive some discretionary approval (meaning that the agency has the authority to deny the requested permit or approval) from a government agency which may cause either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment.

Most proposals for physical development in California are subject to the provisions of CEQA, as are many governmental decisions which do not immediately result in physical development (such as adoption of a general or community plan). Every development project which requires a discretionary governmental approval will require at least some environmental review pursuant to CEQA, unless an exemption applies.

The environmental review required imposes both procedural and substantive requirements. At a minimum, an initial review of the project and its environmental effects must be conducted. Depending on the potential effects, a further, and more substantial, review may be conducted in the form of an environmental impact report (EIR). A project may not be approved as submitted if feasible alternatives or mitigation measures are able to substantially lessen the significant environmental effects of the project.

Your Responsibilities Under the CEQA

Compliance with the CEQA may be required for your proposed project. Project proponents are encouraged to contact your state and local public agencies, where discretionary approval is required, to obtain information about compliance with CEQA.

CEQA Internet Links

<http://ceres.ca.gov/ceqa/>

California Endangered Species Act

The California Endangered Species Act (CESA) (Fish and Game Code Sections 2050 to 2097) is administered by the California Department of Fish and Game and prohibits the take of plant and animal species designated by the Fish and Game Commission as either threatened or endangered in the state of California. "Take" in the context of the CESA means to hunt, pursue, kill, or capture a listed species, as well as any other actions that may result in adverse impacts when attempting to take individuals of a listed species.

Agency Consultation

Sections 2091 and 2081 of the CESA allow the California Department of Fish and Game to authorize exceptions to the state's prohibition against take of a listed species. Section 2091 allows state lead agencies that have formally consulted with the California Department of Fish and Game to take a listed species, if the take is incidental to carrying out an otherwise lawful project that has been approved under the California Environmental Quality Act (CEQA). Section 2081 allows the Department to authorize take of a listed species for educational, scientific, or management purposes. Private developers whose projects do not involve a state lead agency under CEQA may not take a listed species without formally consulting with the California Department of Fish and Game and agreeing to strict measures and standards for managing the listed species.

Your Responsibilities Under the CESA

Compliance with the CESA may be required for your proposed project. Listed species change from time to time and the species listed here may not represent a current comprehensive list of all protected species. Project proponents and non-federal agencies (state, county, city, etc.) that approve projects are encouraged to contact your local California Department of Fish and Game office for information about state-listed, proposed, and sensitive species in your project area.

CESA Internet Links

http://www.dfg.ca.gov/hcpb/ceqacesa/cesa/incidental/cesa_policy_law.shtml