

# The Coastal Review Process Relationship to the NEPA and CEQA Processes

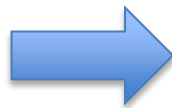
On-Demand Training Module



# Information About this Module

- Focuses on the similarities and differences between the National Environmental Policy Act (NEPA), California Environmental Quality Act (CEQA), and California Coastal Act requirements for permitting projects in the coastal zone
- Provides examples to illustrate specific considerations for permitting Caltrans projects under the Coastal Act

Link to



[Caltrans Coastal Program On Demand Module – Introduction to Project Delivery in the Coastal Zone](#)

[Fact Sheet – Coastal Permits: CDPs and Their Relationship to the NEPA and CEQA Process](#)



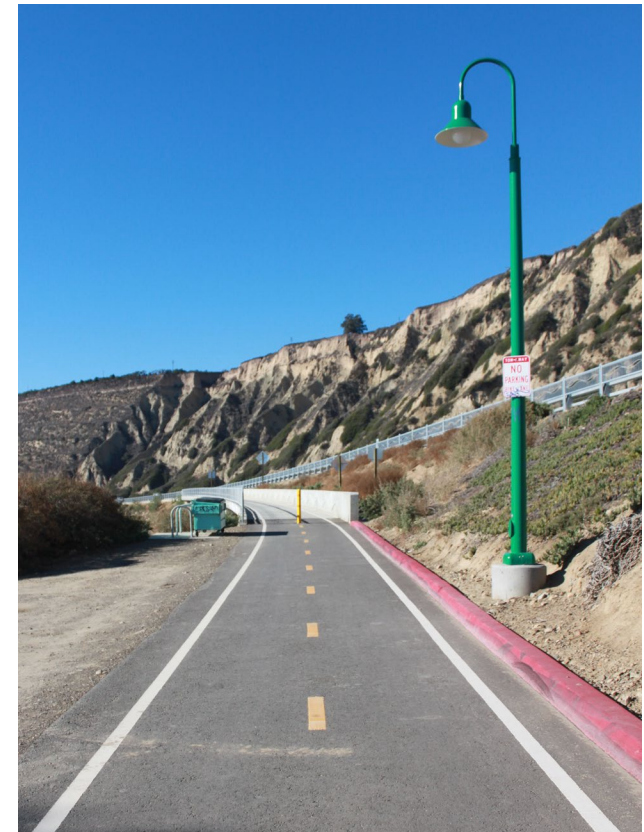


# COASTAL REVIEW PROCESS



# Overview of Coastal Review Process

- Caltrans projects in the coastal zone typically require a Coastal Development Permit (CDP) issued by the California Coastal Commission (Commission) or by a local agency with a Commission-certified local coastal program (LCP)
  - Project requirements can be intensive





# Overview of Coastal Review Process

- Think of coastal permitting as a ***review process***, similar to NEPA and CEQA , instead of just a ***permit application***



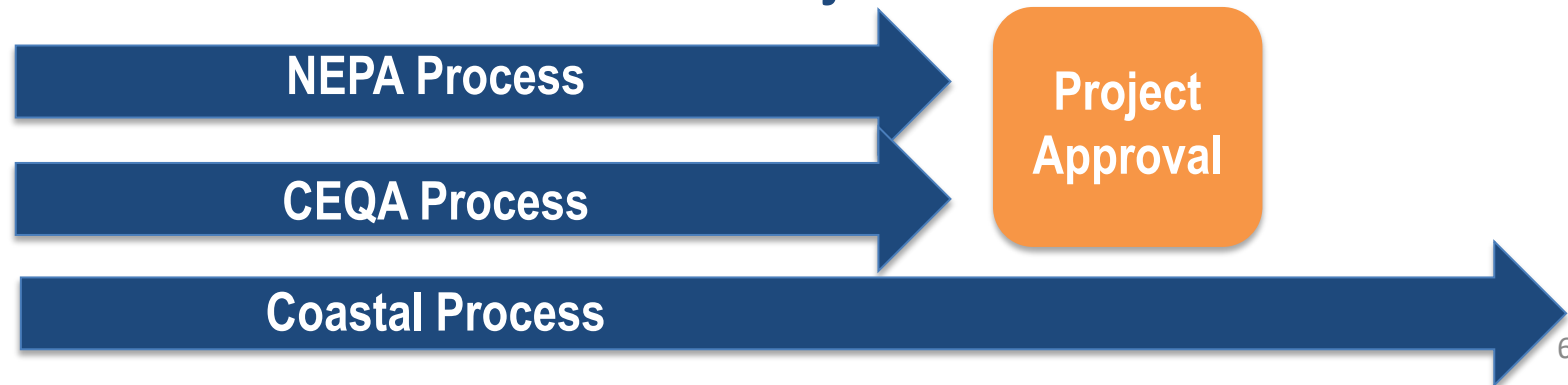




# Coastal Permitting Process

- The coastal review process has **parallel but independent** environmental review requirements
  - Process must be completed under a set of state laws with different regulations and standards (*the California Coastal Act*)
  - Decisions made for a CDP are **entirely separate** from, and independent of, decisions made by Caltrans under NEPA and CEQA

## Review Process for Coastal Projects





# Coastal Review Process

- Completing NEPA and CEQA does not guarantee CDP approval
  - Identifying and addressing coastal policy considerations in your environmental documents can streamline future CDP approvals
- Coastal policies that should be considered in the preparation of your environmental document include, among others:
  - Protecting and enhancing public access opportunities
  - Protecting coastal views to and along the shoreline
  - Maintaining agricultural production



Link to



[Caltrans Forms and Templates - Annotated Outlines, Coastal Section](#)




# SIMILARITIES AND DIFFERENCES BETWEEN NEPA, CEQA, AND COASTAL ACT REQUIREMENTS





# Comparison of Processes

	NEPA	CEQA	California Coastal Act
<p>What laws guide the regulatory processes?</p> 	<p>Established a national policy to protect the environment and required an EIS be prepared for major federal actions having a significant affect on the environment</p>	<p>Required state and local agencies to identify significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible</p>	<p>Gave Coastal Commission jurisdiction over resources within the coastal zone</p> <p>Certified LCPs give local governments decision making ability within their jurisdictions</p>




# Comparison of Processes

	NEPA	CEQA	California Coastal Act
<p>When do they apply?</p> 	<p>To any project on federal lands, with federal funding, or requiring federal approval</p>	<p>To any discretionary activity undertaken in the state of CA by a public agency, or a private activity that must receive discretionary approval from a governmental agency</p>	<p>To any action that meets the definition of development in the Coastal Zone</p> <p style="text-align: center;"> <span style="background-color: #8B4513; color: white; padding: 5px 15px; border-radius: 5px;">Link to</span>   </p> <p style="text-align: center;"> <a href="#"><u>California Coastal Act Section 30106 – Definition of “Development”</u></a> </p>



# Comparison of Processes

	NEPA	CEQA	California Coastal Act
<p>What does the law require?</p> 	<p>Preparation of an Environmental Document which informs the public and decision makers about a project's impact, feasible alternatives, and available mitigation</p>	<p>Preparation of an Environmental Document which informs the public and decision makers about a project's impact, feasible alternatives, and available mitigation</p>	<p>Requires a CDP for development in the coastal zone from the Coastal Commission or local agency</p> <p>The project must be found consistent with Coastal Act resource protection policies</p>





# Comparison of Processes

	NEPA	CEQA	California Coastal Act
How are projects assessed and how is significance determined?	Procedurally focused and requires an EIS when the action as a whole has the potential to affect the quality of human life, and is based on context and intensity	Requires the identification and mitigation of each significant impact on the environment  An EIR is required if the project may have a significant impact on any single environmental resource	Projects assessed according to Coastal Act Chapter 3 policy standards, the policy standards of the certified LCP, or both  This analysis is independent of the NEPA and CEQA process  Some impacts are strictly prohibited regardless of any determination of significance



# Comparison of Processes

	NEPA	CEQA	California Coastal Act
<p>What is the appropriate baseline data to use?</p>	<p>Requires analysis of the no-build alternative</p>	<p>Baseline conditions are the conditions on the ground at the time the Notice of Preparation is circulated for an EIR, or when environmental analysis begins</p>	<p>What is on the ground at the time a permit application is submitted is a permitted activity, or was in place prior to the Coastal Act. The Commission may require additional background data, such as permit history or historical site information</p>





# Comparison of Processes

	NEPA	CEQA	California Coastal Act
What technical information is needed?	Caltrans prepares technical studies and an Environmental Document based on the project's potential for impact	Caltrans prepares technical studies and an Environmental Document based on the project's potential for impact	Caltrans prepares a CDP application for submittal to the Coastal Commission or local agency  The documentation to support the CDP application can necessitate preparation of technical studies and analysis in addition to what is required under NEPA and CEQA





# Comparison of Processes

	NEPA	CEQA	California Coastal Act
<p>Who makes final decisions regarding project approval?</p> 	<p>Decisions to approve a project are made by the lead agency</p> <p>The lead agency then applies for permits needed to implement the project</p>	<p>Decisions to approve a project are made by the lead agency</p> <p>The lead agency then applies for permits needed to implement the project</p>	<p>The Coastal Commission or local agency makes the final decision on approval via the CDP process. If a project is found inconsistent with the Coastal Act or LCP, it could be denied, or recommended for approval with special conditions</p> <p>Either case could require re-design and have cost and schedule impacts</p>



# Comparison of Processes

	NEPA	CEQA	California Coastal Act
What are the considerations regarding document preparation coordination?	<p>Begin coordination with the Coastal Commission or local agency during scoping to consider any coastal resource policy issues</p> <p>For more complicated projects, discuss your CDP application before your ED has been finalized the minimize the need for re-evaluation</p>	<p>Begin coordination with the Coastal Commission or local agency during scoping to consider any coastal resource policy issues</p> <p>For more complicated projects, discuss your CDP application before your ED has been finalized the minimize the need for re-evaluation</p>	<p>Technical studies that support the CDP application should be no more than 1 to 2 years old</p> <p>Older technical studies should be reviewed to determine if they require updating</p>



# Comparison of Processes

	NEPA	CEQA	California Coastal Act
What mitigation is necessary?	Agencies are required to identify and include all relevant and reasonable mitigation measures that could improve the action	Mitigation measures which substantially reduce significant impacts are required to be identified	<p>Mitigation is determined on a case-by-case basis to make the project consistent with resource protection policies and standards</p> <p>Mitigation requirements are usually implemented through special conditions of the CDP, and mitigation required during the CDP process can be different than mitigation in the NEPA or CEQA document</p>





# Comparison of Processes

	NEPA	CEQA	California Coastal Act
<p>How is public input provided?</p> 	<p>Provides for public participation through the Environmental Document review process, which includes public noticing, hearings, and related outreach efforts</p>	<p>Provides for public participation through the Environmental Document review process, which includes public noticing, hearings, and related outreach efforts</p>	<p>Requires notice to be provided to all neighboring properties located within a 100 foot radius, and to other interested parties</p> <p>Public is provided the opportunity to comment at a Coastal Commission hearing or in writing</p> <p>LCPs always require a mailed notice of hearing</p>



# COASTAL RESOURCE PROJECT EXAMPLES



# Comparison of Processes – Agricultural Impacts Example

The Coastal Act requires that prime agricultural land be maintained in agricultural production and prohibits the conversion of agricultural land to non-agricultural uses except in limited circumstances

For some projects, the Coastal Commission will request an Agricultural Viability Analysis, which can include:

- Information on historic ag uses
- Soil types and crop production capabilities
- Regional crop production statistics

Other additional studies, such as an economic analysis, may be required.







# Comparison of Processes – Agricultural Impacts Example (cont'd)

## Please take a moment to review

Mitigation measures for agricultural impacts recommended by the Coastal Commission have included:

- Requirements for the implementation of an Agricultural Preservation Program, which included:
  - Provisions for the establishment of agricultural conservation easements
  - Community garden programs
  - Adult education programs (including workshops regarding plant cultivation and cooking with fresh produce)
- The establishment of agricultural endowments for the development of grade-specific curriculum for grades 1-8 focusing on vegetable cultivation
- Changes in proposed transportation project design to avoid or minimize impacts to agricultural resources
- Post-construction soil remediation



# Comparison of Processes – Shoreline Protective Structures Example

The Coastal Act acknowledges that shoreline protective structures like sea walls or revetments that are designed to combat erosion can also alter natural land forms and processes

The Coastal Act limits construction of shoreline protective structures to those needed to protect existing structures and public beaches

Coastal Commission staff may request information beyond what is typically provided in a NEPA/CEQA document:



- Geotechnical assessment
- Wave Run-Up studies
- Marine/sandy beach biological assessment
- Beach sand and recreation economic valuation analysis



## Comparison of Processes – Shoreline Protective Structures Example

### **Please take a moment to review**

Mitigation measures recommended by the Coastal Commission, often above and beyond those identified as part of CEQA, have included:

- Time limits for the authorization of a shoreline protective device, usually 5, 10 or 20 years
- Sunset clause for when shoreline protective device must be removed and requirement for a seawall or revetment Removal and Restoration Plan
- In-lieu mitigation fee for beach sand loss
- In-lieu mitigation fee for impacts to public recreation
- Mitigation for biological impacts
- Adaptive management program
- Shoreline protective structure repair and maintenance requirements
- Water quality protection measures





## Next Steps and Best Practices

- The coastal permitting process has its own standards and requirements
- Considerations for coastal permit preparation should be conducted throughout the project delivery process
  - Begin at project initiation
  - Continue through construction and beyond
- Doing so can help avoid schedule delays and budget overruns





# ADDITIONAL RESOURCES AND TOOLS



# Resources and Tools

- [Caltrans Coastal Program On Demand Module #1](#) – Introduction to Project Delivery in the Coastal Zone
- [Fact Sheet](#) – Coastal Permits: CDPs and their Relationship to the NEPA and CEQA Process
- [Forms and Templates](#) - Annotated Outlines
- [Caltrans SER Volume 5](#) – Coastal Requirements
- [Caltrans Coastal Program On Demand Module #2](#) – Preparing a Complete Coastal Development Permit Application





# Resources and Tools

- Coastal Commission Staff Reports
  - Agricultural Resources Mitigation Examples
    - [North Coast Corridor Notice of Impending Development](#)
  - Shoreline Protective Structures Mitigation Examples
    - [Surfer's Beach Revetment and Coastside Trail](#)