

# Administrative Record Procedures

Updated: July 16, 2024

This guidance document is provided for creating and maintaining an Administrative Record (AR) for each project that the California Geologic Energy Management Division (CalGEM) approves or undertakes that is subject to the California Environmental Quality Act (CEQA).<sup>1,2</sup> This document briefly summarizes AR legal information and guidance for CalGEM staff undertaking CEQA tasks organized by review type. Staff are to consult with a CEQA Program Senior for any type of record or documentation not found in this Standard Operation Procedure (SOP) or before diverging from this document.

## I. Administrative Record Legal Basis

The AR is the collection of all the information or evidence that an agency received or otherwise considered during its CEQA review for a proposed project. This SOP covers everything that CalGEM's CEQA Program needs to compile the AR for a project. With limited exception, the AR is all the evidence that a court, CalGEM, and any other parties may rely on in litigation challenging CalGEM's compliance with CEQA. Courts consider the entire AR to determine whether it contains substantial evidence supporting CalGEM's CEQA determinations.<sup>3</sup> Therefore, CalGEM must maintain, and, as necessary, document the evidence that was before it during the CEQA review process.<sup>4</sup> In addition, CalGEM uses the AR to understand the details of a project and in responding to Public Records Act requests.

### 1.1 PRC § 21167.6 Record of Procedure Requirements

PRC § 21167.6 needs to be followed. PRC § 21167.6 use of “all” and “any” is broadly inclusive, covering every piece of electronic and hard copy evidence that was before CalGEM in making a CEQA determination.<sup>5</sup> PRC § 21167.6(e) lists the sweeping types of information or evidence that an AR must include, organizing the evidence into the 11 categories:

1. All project application materials.
2. All staff reports and related documents prepared by the respondent public agency with respect to its compliance with the substantive and procedural requirements of CEQA and with respect to the action on the project.

---

<sup>1</sup> Pub. Resources Code (PRC) § 21000 et seq.

<sup>2</sup> Typical CalGEM CEQA projects are when CalGEM (1) approves a notice of intention, well stimulation permit application, or project approval letter application, (2) plugs and abandons orphan wells; and (3) adopts or amends regulations.

<sup>3</sup> PRC §§ 21168, 21168.5.

<sup>4</sup> See PRC §§ 21167.6, 21168, 21168.5.

<sup>5</sup> PRC § 21167.6.

3. All staff reports and related documents prepared by the respondent public agency and written testimony, or documents submitted by any person relevant to any findings or statement of overriding considerations adopted by the respondent agency pursuant to CEQA.
4. Any transcript or minutes of the proceedings at which the decision-making body of the respondent public agency heard testimony on, or considered any environmental document on, the project, and any transcript or minutes of proceedings before any advisory body to the respondent public agency that were presented to the decision-making body before action on the environmental documents or on the project.
5. All notices issued by the respondent public agency to comply with CEQA or with any other law governing the processing and approval of the project.
6. All written comments received in response to, or in connection with, environmental documents prepared for the project, including responses to the notice of preparation.
7. All written evidence or correspondence submitted to, or transferred from, the respondent public agency with respect to compliance with CEQA or with respect to the project.
8. Any proposed decisions or findings submitted to the decision-making body of the respondent public agency by its staff, or the project proponent, project opponents, or other persons.
9. The documentation of the final public agency decision, including the final environmental impact report (EIR), mitigated negative declaration, or negative declaration, and all documents, in addition to those referenced in paragraph (3), cited or relied on in the findings or in a statement of overriding considerations adopted pursuant to CEQA.
10. Any other written materials relevant to the respondent public agency's compliance with CEQA or to its decision on the merits of the project, including the initial study, any drafts of any environmental document, or portions thereof, that have been released for public review, and copies of studies or other documents relied upon in any environmental document prepared for the project and either made available to the public during the public review period or included in the respondent public agency's files on the project, and all internal agency communications, including staff notes and memoranda related to the project or to compliance with CEQA, but not including communications that are of a logistical nature (e.g., meeting invitations and scheduling communications) or any material subject to privileges in the Evidence Code or exemptions in the Public Records Act.

11. The full written record before any inferior administrative decision-making body whose decision was appealed to a superior administrative decision-making body prior to the filing of litigation.

## 1.2 California Court Rule 3.2205 Requirements

California Court Rule 3.2205 describes the form and format of the AR. Under this rule, the AR must be organized in the specific order listed and have a detailed index at the beginning of the AR. While the list generally includes the broad range of evidence that CalGEM will consider, the list is not exhaustive.

Absent a court order to the contrary, Rule 3.2205 requires the following be included in the AR in order as listed here:

1. The Notice of Determination (NOD).
2. The resolutions or ordinances adopted by the lead agency approving the project.
3. The findings required by PRC § 21081, including any statement of overriding considerations.
4. The final EIR and all non-final drafts, all other matters included in the final EIR, and other types of environmental impact documents prepared under CEQA, such as a negative declaration, mitigated negative declaration, or addenda.
5. The initial study.
6. Staff reports prepared for the administrative bodies providing subordinate approvals or recommendations to the lead agency, in chronological order.
7. Transcripts and minutes of hearings, in chronological order.
8. The remainder of the AR, in chronological order.

## 1.3 Retention of Record

CalGEM must retain the evidence until the statute of limitations to challenge the project under CEQA expires, which typically is 180 days after the NOD is filed.<sup>6</sup> In addition, CalGEM's Record Retention policy requires retaining CEQA project files in the office for two years. After that, the CEQA project records are to be maintained at the State Records Center for an additional five years for a total of seven years of records retention. After seven years, the AR may be destroyed unless a litigation hold initiated by the California Department of Conservation's (DOC) Legal Office or a court order prevents the destruction.

As a California appellate court explained in 2020, a public agency "may not destroy, but rather must retain writings PRC § 21167.6 mandates for inclusion in the [AR]."<sup>7</sup> This is an important consideration, as DOC and CalGEM's general retention policies could

---

<sup>6</sup> See PRC § 21167.

<sup>7</sup> *Golden Door Properties, LLC v. Superior Court of San Diego County* (2020) 53 Cal.App.5th 733, 764. [https://ceqaportal.org/ceqacase.cfm?cq\\_id=1948](https://ceqaportal.org/ceqacase.cfm?cq_id=1948).

result in discarding evidence that CalGEM must include in an AR. For example, DOC's email system discards many emails after 90 days. Therefore, it is critical to save all project-related emails to the appropriate folder(s) as described in the following sections of this guidance.

Any questions that are not clarified in this SOP regarding what to include in the AR, including whether something is privileged or confidential, should be directed to DOC's Legal Office after conferring with a CEQA Program Senior.

In CalGEM's CEQA Program, each staff person/contracted staff/project manager (staff) is responsible for creating, collecting, and maintaining all information that makes up the AR. Each CalGEM employee or contracted staff person involved in analyzing all or a portion of a project will contribute to the project's AR, and the CEQA Program staff should make sure that other staff know where to save the material. The AR will be organized and maintained and will be updated when new information is made available.

## II. Responsible Agency Review

For projects where CalGEM is the Responsible Agency (RA) under CEQA, staff will file all relevant AR documents in the project file folder(s). If a Notice of Intention (NOI) or Application for Injection Approval was submitted via WellSTAR, all relevant documents will be downloaded from WellSTAR to the project file folder(s). As the CEQA analysis for a project progresses, all documents and emails used to make the final CEQA determination will continue to be saved in the project file folder(s). Use the "Table 1: List of Documentation for AR Project Folder" (in Attachment 1), PRC § 21167.6(e), and California Court Rule 3.2205 as guides for what documents must be saved to a project file folder(s). Staff will file completed project RA reviews and NODs in the CEQA Program's SharePoint files.

## III. Lead Agency Review

For projects where CalGEM is the Lead Agency (LA) under CEQA, staff will file all relevant AR documents in the project file folder(s). If an NOI or Application for Injection Approval was submitted via WellSTAR, all relevant documents will be downloaded from WellSTAR to the project file folder(s). As the CEQA analysis of the project progresses, CalGEM will continue to save all relevant documents, as listed in PRC § 21167.6(e), used for CEQA compliance and determinations within the appropriate project file folder(s). Use the "Table 1: List of Documentation for AR Project Folder" (in Attachment 1), PRC § 21167.6(e), and California Court Rule 3.2205 as guides for to what documents must be saved to a project file folder(s). CEQA Program staff will file completed project LA reviews, environmental documents, and CEQA notices in the CEQA Program's SharePoint files.

## IV. Privileged and Confidential Information

The AR may contain information that could require additional review before being released. Some of the information in the file is privileged, confidential, or otherwise exempt from disclosure. Information that is privileged, confidential, or exempt must be

filed in a separate folder titled "Privileged and Confidential" within the project file. An attorney with the Legal Office will review the files in the "Privileged and Confidential" folder prior to certifying an AR or releasing records for a Public Records Act request to confirm the records should not be part of the AR or otherwise released.

In addition to attorney-client communications and advice, and attorney work product, other types of information that is often gathered as part of the CEQA review process and will generally need to be kept confidential are:

1. The precise locations of highly sensitive biological species and resources.<sup>8</sup> Because of the sensitivity of the data, the California Department of Fish and Wildlife (CDFW) limits the level of location detail that is made readily available to the public. The California Natural Diversity Database (CNDDDB) has guidelines on what species information should be kept confidential.
2. Information gathered as a result of AB 52 Tribal consultation that the Tribe(s) designate as private or confidential.<sup>9</sup> Best practices of AB 52 Tribal consultation is to treat comments and information given by Tribes as confidential. Considerations of privacy and sovereignty should be applied before including information from Tribal consultation in the AR. This includes keeping the information private from other tribes that are being consulted with.
3. Well records that CalGEM considers to be confidential according to PRC § 3234. All well records, including production reports, are public records when filed with the CalGEM unless the owner or operator requests, in writing, that CalGEM maintain the well records of onshore exploratory wells or offshore exploratory wells as confidential information. The records of other wells may be maintained as confidential information if, based upon information in a written request of the owner or operator, the supervisor determines there are extenuating circumstances if a confidential well(s) is part of a project under CEQA, the information pertaining to the well(s) is considered "Privileged and Confidential." CEQA staff can refer to "Step 18. Confidentiality Review" on WellSTAR when reviewing the NOI to determine if the well is designated as confidential.

Finally, if staff are unsure if the information fits into any above categories or if staff have information not listed above, then staff should confer with a CEQA Program Senior to determine how to retain this project information while keeping it confidential in the AR.

## V. Practical Guidance for CalGEM CEQA Staff

Staff should focus on project document management. The AR contains only those documents that are relevant to CalGEM's CEQA compliance or project decision on the merits, which includes materials submitted to or created by CalGEM until it approves or

---

<sup>8</sup> CNDDDB Data Use Guidelines pg. 9.

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=27285&inline>

<sup>9</sup> Tribal Consultation Under AB 52: Requirements and Best Practices pg. 11, AB 52 Tribal Consultation Procedural Requirements – Confidentiality.

[https://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](https://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf).

rejects the project.<sup>10</sup> Documents are saved in the CEQA Program folder on SharePoint under the project's name. The naming conventions are needed to have consistent file names and organization so that documents can be found readily, and all the correct documents can be placed in the AR in the appropriate order.

### File Organization

There are core folders that are in all project files. There are also folders that are specific to the project and created at staff's discretion to keep information within the overall project folder organized.

#### Core Folders:

- Correspondence
- Application and Data Files
- LA CEQA Review
- RA CEQA Review
- Archive
- Confidential & Privileged

#### Folders/Subfolders as Needed:

- Meetings
- Meetings/Internal
- Meetings/External
- Initial Study
- Initial Study/Archive
- Initial Study/AB 52 Tribal/Notification
- Initial Study/AB 52 Tribal/Consultation
- Initial Study/AB 52 Tribal/Consultation/Comments
- Initial Study/Public Comments
- EIR/Public Comments
- Initial Study/Studies\_Reports
- EIR/Studies\_Reports
- Initial Study/RA\_TA Comments
- EIR/RA\_TA Comments
- Initial Study/Correspondence
- CEQA Notice
- Note to file
- EIR
- EIR/Archive

#### Documents in Core Folder:

- Communication List
- Chronology

### Correspondence Naming Convention

Correspondence can refer to emails, letters, and records of verbal conversations and writings memorializing conversations or events. When naming or renaming a file, the title of a file should not be overly long, as long titles may crash the file, rendering the document unusable. The naming conventions used to document these correspondence types are:

---

<sup>10</sup> PRC, § 21167.6; see Topic Paper, CEQA Portal. "CEQA Portal Topic Paper Administrative Record." *CEQA Portal Topic Paper: Administrative Record*, 30 Nov. 2018, <https://ceqaportal.org/tp/Administrative%20Record.pdf>.

## Email

When saving an email to the AR, the email or email chain should be saved in PDF format and then renamed with the following naming convention:

email\_email title up to five words (abbreviations are allowed) the date of the email in YYYYMMDD format.

Saving a chain of emails is encouraged over saving individual emails, to capture the complete AR without as many individual files.

Examples:

email\_Deep Rose Geo CDFW Status\_20231018.eml

email\_Cymric McKittrick Project ISMND\_20230922.pdf

email\_Re\_Termo Sycamore Slough Exploratory\_20230125.eml

## Letters

When saving a letter to the AR, the letter should be saved in \*.pdf format and then renamed with the following naming convention:

Letter\_who the letter is from\_abbreviated topic of the letter\_the date of the letter in YYYYMMDD format.

Examples:

Letter\_DCH\_concern over permitting process timeline\_20220416.pdf

Letter\_N&D Consulting\_CDFW consultation complete\_20230630.pdf

## Conversation

When saving a record of a verbal conversation and writings memorializing conversations or events to the AR, first write what was said in the conversation, making sure to include the date of the conversation, who was in the conversation, in what format the conversation took place (ex. Teams, phone call, etc.), the topic of the conversation, and notes on the conversation. This written record should be saved in either \*.pdf or \*.docx format and named with the following naming convention:

Conversation\_\_abbreviated topic of the conversation\_the date of the conversation in YYYYMMDD format.

Examples:

Conversation\_draft ISMND comments\_Chevron Cymric\_20210517.pdf

Conversation\_Tribal feedback\_KRH Lucky-Five\_20211213.docx

## VI. References

California State Lands Commission. Platform Holly Decommissioning Project public contract solicitation. Division of Contracting and Division of Environmental Planning and Management. 22 Sep. 2020.

"CNDDDB Data Use Guidelines - California." *CNDDDB Data Use Guidelines*, CNDDDB & State of California DFG Biogeographic Data Branch, 2011, [CNDDDB Data Use Guidelines \(ca.gov\)](https://www.cndddb.ca.gov/).

Court of Appeal, CA 4th District. "Golden Door Properties v. Superior Court of San Diego County." *Golden Door Properties v. Superior Court of San Diego County*, CA 4th District Court, 30 July 2020, [Golden Door Properties v. Superior Court of San Diego County \(ceqaportal.org\)](https://ceqaportal.org/court-of-appeal-ca-4th-district-golden-door-properties-v-superior-court-of-san-diego-county).

Hill, Stephanie. "Appellate Court Rules on Preservation of Documents and Discovery Relating to Administrative Records in CEQA Litigation." *Appellate Court Rules on Preservation of Documents and Discovery Relating to Administrative Records in CEQA Litigation*, 13 Nov. 2020, <http://www.meyersnave.com/appellate-court-rules-on-preservation-of-documents-and-discovery-relating-to-administrative-records-in-ceqa-litigation/>.

California Legislative Information, [Pub. Resources Code, § 21167.6](#). Accessed 23 Oct. 2023.

California Legislative Information, [Pub. Resources Code, § 21167.6.2](#). Accessed 8 Nov. 2023.

California Legislative Information, [Pub. Resources Code, § 3234](#). Accessed 8 Nov. 2023.

Robinson, Terrie L. "Tribal Consultation under AB 52: Requirements and Best Practices." *Tribal Consultation Under AB52: Requirements and Best Practices*, Native American Heritage Commission, [nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](https://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf) Accessed 8 Nov. 2023.

California Rules of Court. Title 3 (Civil Rules), Division 22 (Petitions Under CEQA), Rule 3.2205. Form and format of administrative record lodged in a CEQA proceeding, 1 July 2014, [www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3\\_2205](http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_2205).

Shute, Mihaly & Weinberger, LLP 5 Considerations for Preparation of Administrative Records. "5 Considerations for Preparation of Administrative Records." *5 Considerations for Preparation of Administrative Records*, 10 Dec. 2020, [www.smwlaw.com/2020/12/10/5-considerations-for-preparation-of-administrative-records/](http://www.smwlaw.com/2020/12/10/5-considerations-for-preparation-of-administrative-records/).

Topic Paper, CEQA Portal. "CEQA Portal Topic Paper Administrative Record." *CEQA Portal Topic Paper: Administrative Record*, 30 Nov. 2018, [ceqaportal.org/tp/Administrative%20Record.pdf](https://ceqaportal.org/tp/Administrative%20Record.pdf).

## Attachment

A project AR may include the documents in Table 1.

**Table 1: List of Documentation for AR Project Folder**

Documentation	Folder	Lead Agency	Responsible Agency
	<b>Project Application Materials</b>		
Notice of Intent to Drill (NOI) This is in WellSTAR and can be printed if the project's approval is litigated	Application and Data Files	Maybe	Maybe
Project Approval Letter	Application and Data Files	Maybe	Maybe
Biological surveys and assessments	Application and Data Files	Maybe	Maybe
Local agency approvals and permits (If available).	Application and Data Files	Maybe	Maybe
Maps and Figures	Application and Data Files	Yes	Yes
	<b>Staff Reports and Related Documents</b>		
Preliminary Review (PR)	CEQA Review	Yes	N/A
Responsible Agency Review (RA Review)	CEQA Review	Maybe	Yes
	<b>Notices Issued by the CalGEM/DOC</b>		
Notice of Exemption	CEQA Notice	Yes	N/A
Notice of Determination	CEQA Notice	Yes	Yes
Notice of Preparation	CEQA Notice	Yes	N/A
Notice of Completion	CEQA Notice	Yes	N/A
	<b>CEQA Documents and Drafts of the Documents</b>		
Initial Study (IS) drafts and final	<ul style="list-style-type: none"> <li>Initial Study/Archive</li> <li>Initial Study</li> </ul>	Yes	N/A
Negative Declaration (ND) /Mitigated Negative Declaration (MND) drafts	<ul style="list-style-type: none"> <li>Initial Study/Archive</li> </ul>	Yes	N/A
Negative Declaration (ND) /Mitigated Negative Declaration (MND) final	<ul style="list-style-type: none"> <li>Initial Study</li> </ul>	Yes	N/A
Environmental Impact Report (EIR) drafts and final	<ul style="list-style-type: none"> <li>EIR</li> <li>EIR/Archive</li> </ul>	Yes	N/A
CEQA Findings and any statement of overriding	<ul style="list-style-type: none"> <li>Initial Study</li> <li>EIR</li> </ul>	Yes	N/A

considerations, if a DEIR was written			
Signed Certification Page, if an ND/MND/EIR was certified	<ul style="list-style-type: none"> <li>○ Initial Study</li> <li>○ EIR</li> </ul>	Yes	N/A
All public comments on CalGEM's CEQA documents, if an IS or ND/MND/EIR was written	<ul style="list-style-type: none"> <li>○ Initial Study/Public Comments</li> <li>○ EIR/Public Comments</li> </ul>	Yes	N/A
CalGEM's response to public comments if an ND/MND/EIR was written if response to comments is required.	<ul style="list-style-type: none"> <li>○ Initial Study/Public Comments, or</li> <li>○ EIR/Public Comments</li> </ul>	Yes	N/A
Documentation of the CalGEM's final decision if an ND/MND/EIR was written	<ul style="list-style-type: none"> <li>○ Initial Study</li> <li>○ EIR</li> </ul>	Yes	N/A
CEQA findings and supporting materials	<ul style="list-style-type: none"> <li>○ Initial Study</li> <li>○ EIR</li> </ul>	Yes	N/A
Technical reports or studies used for CEQA analysis or incorporated by reference	<ul style="list-style-type: none"> <li>○ Initial Study/Studies_Reports</li> <li>○ EIR/Studies_Reports</li> </ul>	Yes	N/A
Comments from Responsible and Trustee Agencies	<ul style="list-style-type: none"> <li>○ Initial Study/RA_TA Comments</li> <li>○ EIR/RA_TA Comments</li> </ul>	Yes	N/A
Comments from Tribes as part of AB52 Tribal consultation	<ul style="list-style-type: none"> <li>○ Initial Study/AB 52 Tribal/Notification</li> <li>○ Initial Study/AB 52 Tribal/Consultation/Comments</li> </ul>	Maybe <sup>11</sup>	N/A
Details of sensitive species information	<ul style="list-style-type: none"> <li>○ Initial Study/Studies_Reports</li> <li>○ EIR/Studies_Reports</li> </ul>	Maybe <sup>12</sup>	Maybe
Receipt from SCH for payment of CDFW fee	<ul style="list-style-type: none"> <li>○ Initial Study</li> <li>○ EIR</li> </ul>	Yes	N/A
Internal and external communications such as, memos, emails, notes of phone calls, written	<ul style="list-style-type: none"> <li>○ Initial Study/Correspondence</li> <li>○ Initial Study/Meetings</li> </ul>	Yes	Yes

<sup>11</sup> Tribal Consultation Under AB52: Requirements and Best Practices pg.11 AB52 Tribal Consultation Procedural Requirements – Confidentiality.

[chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf).

<sup>12</sup> CNDDDB Data Use Guidelines v. 4 2011 pg.9 Can CNDDDB information be displayed on maps that will be publicly available?

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=27285&inline>.

notes, and notes and agendas of meetings.			
Internal and external communications for the sole purpose of scheduling meetings.	<ul style="list-style-type: none"> <li>○ Meetings/communication</li> </ul>	No	No
Emails transmitting administrative drafts of the environmental document(s) without other text.	<ul style="list-style-type: none"> <li>○ Initial Study/Correspondence</li> </ul>	No	No
All other documents cited/referenced or relied upon in the CEQA decision-making process.	<ul style="list-style-type: none"> <li>○ Initial Study/Studies_Reports</li> <li>○ EIR/Studies_Reports</li> </ul>	Yes	Yes