

## **Rules of the Superior Court of California, County of Ventura.**

### **Rule 28.00. ACTIONS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”).**

**A. DEFINITION OF A CEQA CASE.** A CEQA case is any case where a petition or complaint filed by any party alleges one or more claims under the California Environmental Quality Act, Cal. Public Resources Code §21000, et seq.

**B. ASSIGNMENT OF CEQA CASES.** Under *Public Resources Code* §21167.1, all CEQA cases are assigned to a single judge for all purposes, including the hearing on a petition for writ of mandate and trial. The designated CEQA judge and the number of the CEQA Department are posted on the court’s website at <http://www.ventura.courts.ca.gov/Courtroom/C43>.

**C. UNAVAILABILITY OF ASSIGNED JUDGE.** In the event of the temporary unavailability of the judge assigned to a CEQA case for all purposes, another judge may be assigned to hear matters in that case. Until and unless the court issues an order or notice revoking the existing single assignment or assigning a new judge for all purposes, any hearing that may take place before another judge does not affect the status of the case as originally assigned for all purposes.

#### **D. PLEADINGS ALLEGING A CLAIM UNDER CEQA.**

The caption page of the first pleading in any case that alleges one or more claims under CEQA shall clearly identify that the case is a CEQA case. The words “CEQA case” must appear on the caption page. In addition, at the time the pleading is filed, the person presenting the pleading for filing must notify the clerk processing the filing that the case is a CEQA case. The party who filed the first pleading in any case that alleges one or more claims under CEQA must deliver a courtesy copy of the Petition to CEQA Judge’s assigned courtroom.

**E. CEQA CASES PROVISIONALLY COMPLEX.** The Court designates CEQA cases provisionally complex pursuant to *California Rules of Court*, rule 3.400(c). Upon filing of the first paper in a CEQA case, the case will be assigned to the CEQA Department for the purpose of assessing whether or not the case is complex.

**F. BRIEFING SCHEDULE.** Unless otherwise ordered by the court, the following briefing schedule shall be followed in all CEQA cases:

1. Petitioners shall file and serve personally, by overnight mail or, if previously agreed, by fax or electronic service, an opening memorandum of points and authorities in support of the Petition within thirty (30) days from the date the administrative record is served.
2. Respondent and Real Party in Interest shall file and serve personally, by overnight mail, or if previously agreed, by fax or electronic service, Opposition points and authorities, if any, within thirty (30) days following service of petitioners’ memoranda of points and authorities.
3. Petitioners shall have twenty (20) days from service of the Opposition’s points and authorities to file and serve personally, by overnight mail, or if previously agreed, by fax or electronic service, a Reply memorandum of points and authorities.

**G. PROVIDING ELECTRONIC/DIGITAL COPIES OF THE PETITION, OPPOSITION, AND REPLY WITH HYPERLINKED CITATIONS TO THE RECORD.**

The court requests that the parties provide electronic/digital copies of all briefs with Hyperlinks, which connect to the portions of administrative record cited within the Petition, Opposition and Reply. These electronic/digital briefs must be in compliance with *California Rules of Court*, rule 3.2207 and provided to the court by way of DVD/CD, in searchable, non-alterable, PDF format. A separate electronic copy of the electronic/digital Petition, Opposition, and Reply should be provided to the court on a “thumb drive.” These electronic/digital briefs should be provided directly to the assigned courtroom.

**H. INITIAL CASE MANAGEMENT CONFERENCE & CASE MANAGEMENT STATEMENT (RULE 3.2226).**

1. Within seven (7) days after the filing of the first pleading in any case that alleges one or more claims under CEQA (i.e., the Petition), the Petitioner/Plaintiff must confer with Respondent and Real Party as to an agreeable date to conduct an initial case management conference under *California Rules of Court*, rule 3.2226. Within ten (10) days after the filing of the first CEQA pleading, the Petitioner/Plaintiff must contact the judicial secretary for the CEQA judge by way of email and convey the agreed upon proposed date(s) for the initial case management conference. All parties (Respondent and Real Party) must be copied on the email sent to the judicial secretary.

2. Pursuant to *California Rules of Court*, rule 3.2226(d), at least three (3) days prior to the initial case management conference, the parties must file a joint case management conference statement which addresses the issues set forth in subdivision (c) of rule 3.2226. The joint case management conference statement should also address whether the parties wish to resolve the matter by selecting a mutually acceptable person to serve as a mediator pursuant to *Government Code* section 66031 and whether the appointment of a referee is appropriate under *Code of Civil Procedure* §§638-639.

3. At the initial case management conference, the parties should be prepared to discuss all issues pertinent to the resolution of the case, including but not limited to the preparation and certification of the administrative record and a briefing and hearing/trial schedule for all claims alleged by the parties.

**I. SETTLEMENT MEETING.** Under *Public Resources Code* §21167.8(a), within twenty (20) days from the date of service upon a public agency of a CEQA petition, the public agency shall file with the court a notice setting forth the time and place at which all parties shall meet and attempt to settle the litigation. The meeting shall be scheduled and held not later than forty-five (45) days from the date of service of the Petition upon the public agency.

**J. MEDIATION OR APPOINTMENT OF REFEREE.** In accordance with *Government Code* §66031, within five (5) days after the deadline for Respondent/Defendant to file a response to the action, the parties shall file a statement with the court indicating whether they wish to resolve the matter by selecting a mutually acceptable person to serve as a mediator. In this statement, the parties should also address whether the appointment of a referee is appropriate under *Code of Civil Procedure* §§ 638 or 639.

**K. PREPARING THE ADMINISTRATIVE RECORD.** The administrative record shall be prepared in accordance with the timelines set forth in *Public Resources Code* §21167.6(b). In accordance with §21167.6(a), within ten (10) business days after the action is filed, the petitioner must serve the responding agency with either a request for preparation of the administrative record or a notice of election to prepare the record.

**1. Preparation of the Administrative Record by the Public Agency.**

(a) Within twenty (20) calendar days after receipt of a request to prepare the administrative record, the public agency responsible for such preparation shall personally serve on petitioners a preliminary notification of the estimated cost of preparation, setting forth the agency's normal costs per page, other reasonable costs, if any, the agency anticipates, and the likely range of pages. This notice shall also state, to the extent then known, the location(s) of the documents anticipated to be incorporated into the administrative record, shall designate the contact person(s) responsible for identifying the agency personnel or other person(s) having custody of those documents, and shall provide a listing of dates and times when those documents will be made available to petitioners or any party for inspection during normal business hours as the record is being prepared. This notice shall be supplemented by the agency from time to time as additional documents are located or determined appropriate to be included in the record.

(b) Upon receipt of this preliminary notification, petitioners may elect to prepare the record themselves provided they notify the agency within five (5) calendar days of such receipt. If petitioners so elect, then within forty (40) calendar days of service of the initial notice to prepare the administrative record, petitioners shall prepare and serve on all parties a detailed index listing the documents proposed by petitioners to constitute the record. Within seven (7) calendar days of this notification, the agency and/or other parties shall prepare and serve the petitioners and all parties with a document notifying them of any document(s) or item(s) that such parties contend should be added to, or deleted from, the record. The agency shall promptly notify petitioners of any required photocopying procedures and/or conditions with which petitioners must comply in their preparation of the record.

(c) If petitioners do not so elect, then within forty (40) calendar days after service of the request to prepare the administrative record, the agency shall prepare and serve on the parties a detailed index listing the documents proposed by the agency to constitute the record and provide a supplemental estimated cost of preparation. Within seven (7) calendar days of receipt of this notification, petitioners and/or any other parties shall prepare and serve the agency and all parties with a document notifying the agency of any document(s) or item(s) that such parties contend should be added to, or deleted from, the record.

**2. Preparation of the Administrative Record by Petitioner(s).**

(a) Within twenty (20) calendar days after receipt of petitioners' notice of election to prepare the record themselves, the public agency responsible for certification of the record shall personally serve on petitioners a preliminary notification designating, to the extent then known, the location(s) of the documents anticipated to be incorporated into the administrative record, the contact person(s) responsible for identifying the agency personnel or other person(s) having custody of those documents, and the dates and times when those documents will be made available to petitioners or any party for their inspection and copying. This notice shall also state any required photocopying procedures and/or conditions with which petitioners must comply in

their preparation of the record. This notice shall be supplemented by the agency as additional documents are located or determined appropriate to be included in the record.

(b) Within forty (40) calendar days after service of petitioners' notice of election, petitioners shall prepare and serve on all parties a detailed index listing the documents proposed by petitioners to constitute the record. Within seven (7) calendar days of this notification, the agency and/or other parties shall prepare and serve the petitioners and all parties with a document notifying them of any document(s) or item(s) that such parties contend should be added to, or deleted from, the record.

### **3. Format of the Administrative Record.**

The format of the administrative record shall be governed by California Rules of Court, rules 3.2205 - 3.2208.

#### **(a) Binding and length of volumes of the administrative record**

The administrative record must be provided in one or more volumes of not more than 300 pages that are separately bound. The pages of the administrative record must be numbered consecutively and bound on the left margin. The cover of each volume of the records must be the same size as its pages and contain the same material as the cover of a brief, but must be labeled "Administrative Record."

#### **(b) Index**

At the beginning of the first volume of the administrative record, there must be an index of each paper or record in the order presented in the record referring to each paper or record by title or description and the volume and page at which it first appears.

#### **(c) Organization**

The administrative record must be organized in the following order:

- (1) The Notice of Determination;
- (2) All resolutions or ordinances adopted by the lead agency approving the project or required by law;
- (3) The Draft or revised Draft Environmental Impact Report and initial study;
- (4) The comments received on and the responses to those comments prepared for the Draft Environmental Impact Report or Negative Declaration, including any modification of the environmental documents and project made after the comment period;
- (5) The remainder of the Final Environmental Impact Report, including all appendices and other materials;
- (6) The staff reports prepared for the approving bodies of the lead agency;
- (7) Transcripts or minutes of all hearings; and
- (8) The remainder of the administrative record.

#### **(d) Electronic/digital Copy of the Administrative Record (CRC rule 3.2207)**

In addition to a hard copy of the administrative record, the court requests that an electronic/digital copy be provided to the court that is both searchable and readable, and must include electronic bookmarks with links to the first page of each exhibit and with bookmark titles that identify the exhibit number of letter and briefly describe the exhibit. This electronic/digital

copy of the administrative record must be in compliance with California Rules of Court rule 3.2207 and provided to the court on both a CD/DVD and “thumb drive.”

#### **4. Disputes Regarding the Contents of the Administrative Record**

Once the record has been filed, any disputes about its accuracy or scope should be resolved by appropriate noticed motion. If the agency has prepared the record, petitioners may contend that it omits important documents or that it contains inappropriate documents; if the petitioners have prepared the record, the agency may make similar objections. A motion to supplement the certified record with additional documents and/or to exclude certain documents from the record may be noticed by any party and should normally be filed concurrently with the filing of petitioners’ opening memorandum of points and authorities in support of the writ. Opposition and reply memoranda on the motion should normally be filed with the opposition and memoranda, respectively, regarding the writ.

(Effective January 1, 2019)