

Responsible Agency Notice of Determination Standard Operating Procedure

October 16, 2023

This Responsible Agency (RA) Notice of Determination (NOD) Standard Operating Procedure (SOP) describes (1) the California Environmental Quality Act's (CEQA) requirements for filing an NOD and (2) the CEQA Program's instructions for completing an NOD using an NOD Template for Unincorporated Kern County, a Template for UIC Projects in Kern County, and a Template for other counties. For instructions on how to file an NOD with the State Clearinghouse (SCH), see "Filing an NOD with SCH" SOP on the CEQA Program's SharePoint site.

This SOP assists the CEQA Program's RA Project Manager (PM) in drafting an NOD to file with the SCH. This SOP shall be used in conjunction with the NOD Template form, CEQA statute, CEQA Guidelines, and case law as well as other CalGEM CEQA Program SOPs.

CEQA Requirements for Filing an NOD

A Lead Agency (LA) or RA files an NOD for a negative declaration (ND), mitigated (MND), or environmental impact report (EIR) after the agency approves or determines to carry out a project. (14 CCR §§ 15075, 15094, 15096.) The filing of an NOD by a LA is required. The filing of an NOD by the RA is optional. If the RA chooses to file an NOD, the RA should file an NOD in the same manner as the LA. (14 CCR § 15096(i).) However, the RA does not need to state in the NOD that the EIR, MND, or ND complies with CEQA. (14 CCR § 15096(i).) Rather, the RA should state that it considered the ND, MND, or EIR as prepared by the LA. (14 CCR § 15096(i).)

Upon considering the EIR, MND, or ND, an RA must reach its own conclusions on whether and how to approve the project. (14 CCR § 15096(a).) If any feasible alternative or mitigation measures within the RA's powers could lessen or avoid any significant effect, the RA shall not approve the project. (14 CCR § 15096(g)(2).) When the RA relies on an EIR, the RA is also required to make findings for each significant effect of the project and, if necessary, to adopt a statement of overriding considerations. (14 CCR § 15096(h).)

The findings an RA must make when considering an LA's EIR are described at 14 CCR § 15091(a). In particular, the RA needs to make one or more of the following findings for each significant impact related to the parts of a project that the EIR analyzes and the RA will approve or carry out (See CalGEM RA Review SOP and RA Review Form):

- 1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental impact;
- 2) The measures necessary for mitigation are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency; or
- 3) Specific economic, legal, technological, or other considerations make mitigation infeasible.

The RA must also supply a brief explanation of the rationale for each finding. (14 CCR § 15091(a).) The RA can use the NOD to document these requirements and provide them to the public through the SCH.

An RA should file an NOD in the same manner as a LA. (14 CCR § 15096(i).) An NOD filed for an ND/MND (14 CCR § 15075) or an EIR (14 CCR § 15094) must include:

- 1) An identification of the project, including the project title as identified on the proposed EIR/ND/MND, its location (using street address or map), and the SCH identification number. The SCH number is usually on the cover page of the EIR/ND/MND.
- 2) A brief description of the project. This should be based on the NOI project description or the PR project description.
- 3) The agency's name, the applicant's name, if any, and the date on which the agency approved the project.
- 4) The determination of the agency whether the project in its approved form will have a significant effect on the environment. For EIRs, this should be summarized in the EIRs Executive Summary listing the significant effects. For ND/MNDs, there will be no significant effects.
- 5) A statement that an EIR/ND/MND was adopted or certified pursuant to the provisions of CEQA.
- 6) A statement indicating whether mitigation measures were made a condition of the approval of the project, and whether a mitigation monitoring plan/program was adopted. The mitigation monitoring plan/program should be included in the EIR/MND.
- 7) For EIRs, whether findings were made pursuant to 14 CCR § 15091. Generally, findings are included in an agency staff report or a RA SOP on the part of CalGEM.
- 8) For EIRs, whether a statement of overriding considerations was adopted for the project.
- 9) The address where a copy of the Final EIR/ND/MND and the record of the project approval may be examined.
- 10) If different from the applicant, the identity of the person undertaking a project which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies or the identity of the person receiving a lease, permit, license, certificate, or other entitlement for use from one or more public agencies.

In addition, CalGEM should file the NOD with the SCH within five business days of approving a project. The filing and the SCH's posting of the NOD starts a 30-day statute of limitations on court challenges to the CEQA approval. (14 CCR § 15112(c)(1).) If an RA does not file an NOD, the statute of limitations on court challenges to the approval under CEQA is 180 days, typically from the approval date. (14 CCR § 15112(c)(5).)

A sample NOD is provided in CEQA Guidelines Appendix D. The sample NOD also includes the following, which should also be included in a NOD:

- 1) The mailing address and contact name and phone for the public agency filing the NOD.
- 2) The project's location including the county in which the project is located.
- 3) Identification of the type of public agency filing the NOD (LA or RA).
- 4) Signature of the public agency, title of signatory, date of signature and date received for filing with the SCH the Office of Planning and Research.

Instructions for Completing a CalGEM NOD Template

The CEQA Program has three NOD Templates to use for filing an NOD when CalGEM is the RA on a project. Two of the Templates are for projects that are within unincorporated Kern County (UKC) and the third Template is for projects located in incorporated cities within Kern County or other counties. The NOD Templates are:

- *NOD Template for Projects within Unincorporated Kern County, Attachment 1*
Use this Template for oil and gas projects that are located within UKC and when CalGEM can rely on the "Revisions to the Kern County Zoning Ordinance - 2015 (C) Focused on Oil and Gas Local Permitting" EIR (Kern County EIR) as an RA. If the use of the Kern County EIR is suspended, on hold, or staff has been told not to use the EIR for RA reviews, use the "NOD Template for Projects not in Unincorporated Kern County."
- *NOD Template for Projects within Unincorporated Kern County, Underground Injection Control (UIC), Attachment 2*
Use this Template for UIC projects that are located within UKC and when CalGEM is able to rely on the Kern County EIR as an RA for a project. If the use of the Kern County EIR is suspended, on hold, or staff has been told not to use the EIR for RA reviews, use the "NOD Template for Projects not in Unincorporated Kern County."
- *NOD Template for Projects not in Unincorporated Kern County, Attachment 3*
Use this Template for all projects that are not located in UKC (i.e. incorporated cities that are in Kern County and all other counties).

If a proposed project does not fit into one of the Templates, consult with the CEQA Program Senior assigned to the project.

When drafting an NOD using one of the Templates, follow the instructions and complete sections in blue font. Most of the sections are self-explanatory, except for the project approval date and the determination section.

The date that CalGEM approved the project (e.g., issued a permit or a project approval letter) is usually the date a senior district engineer emailed staff, stating they approved the project.

The Determination section is based on the determination made by the LA in the CEQA document on which the RA review was based. Check the appropriate boxes based-on information in the LA CEQA document.

When staff completes the NOD, staff certifies the form by adding their name, their title, and the date they completed the NOD. Prior to filing an NOD with the SCH, staff must delete all blue instructional text from the NOD.

Once the NOD is certified, staff should file the NOD with the SCH within five business days of a Project's approval. While the five-day time frame is not a statutory requirement, it is the CEQA Program's goal to file an NOD within that time.

For instructions on how to file an NOD with the SCH see "Filing an NOD with SCH SOP" on the CEQA Program's SharePoint site.

Attachment 1. NOD Template for Projects within Unincorporated Kern County

Instruction is in blue text

Lead Agency: Kern County Planning & Natural Resources Department
2700 M Street, Suite 100 Bakersfield, CA 93301-2370
(661) 862-8600

State Clearinghouse #: SCH# 2013081079

Lead Agency Project Title: "Amendments to Mitigation Measures included in the Final SREIR (2020/2021) for Title 19 of the Kern County Zoning Ordinance - Chapter 19.98 Oil and Gas Activities and related actions"; "Final SREIR (2020/2021) for Revisions to Title 19, Chapter 19.98 – Kern County Zoning Ordinance (2020-A) Focused on Oil and Gas Local Permitting"; and "Revisions to the Kern County Zoning Ordinance - 2015 (C), Focused on Oil and Gas Local Permitting"

CalGEM Project Title: *Per CEQA Program Naming Convention*

Project Applicant: *Operator Name*

Project Location: *Oil Field; Section, Township, Range, and Meridian; and/or written description.*

County: Kern County

Project Description:

The project activity(-ies) being permitted by the Geologic Energy Management Division (CalGEM) is within the scope of Title 19, Chapter 19.98 of Kern County Zoning Code (Oil and Gas Production), which dictates site development standards for all oil and gas exploration, extraction, operations, and production activity(-ies) in unincorporated Kern County. CalGEM, as a CEQA Responsible Agency, issued a *Project Approval Letter (UIC/UGS)/permit* for the proposed project activity(-ies), which consists of the following:

CalGEM approved permit(s) for *Operator* to *drill/rework/abandon* the wells listed below, in the *xxx* Oil Field of Kern County.

To determine whether NOIs are in the same project, check the project description (PD) submitted by the operator. The PD of each NOI should show the same title, as well as similar location of wells/environmental setting in aerial maps. If applicable, the PD provides a list of well names or NOIs in the same project.

API #	Well Name	Latitude, Longitude

CalGEM, as a Responsible Agency under CEQA, considers the environmental effects of those parts of a projects that it will carry out or approve or which will be subject to the exercise of powers by CalGEM. (Pub. Resources Code, § 21002.1; Cal. Code Regs., tit. 14, § 15096.) This review includes considering the Lead Agency's environmental document and determining whether the project falls within the scope of the document and whether and how to approve the project involved.

CalGEM completed its review of the proposed project activity(-ies) and determined that CalGEM will rely on the Lead Agency's environmental document, as it pertains to the proposed project activity(-ies).

This Notice of Determination (NOD) is to advise that CalGEM, as the **Responsible Agency** under CEQA, approved the above project activity(-ies) on [XX/XX/2023](#).

Pursuant to the provisions of CEQA, a Supplemental Recirculated Environmental Impact Report (SREIR) was prepared and certified by the Lead Agency, Kern County, for the project "Amendments to Mitigation Measures included in the Final SREIR (2020/2021) for Title 19 of the Kern County Zoning Ordinance - Chapter 19.98 Oil and Gas Activities and related actions"; "Final SREIR (2020/2021) for Revisions to Title 19, Chapter 19.98 – Kern County Zoning Ordinance (2020-A) Focused on Oil and Gas Local Permitting"; and "Revisions to the Kern County Zoning Ordinance - 2015 (C), Focused on Oil and Gas Local Permitting" (SCH# 2013081079).

The SREIR was approved on March 8, 2021, and the related revisions to the zoning ordinance became effective on April 7, 2021. The Mitigation and Monitoring Report Program was revised and approved on August 23, 2022. During the review and approval process for this project activity(-ies), CalGEM considered the environmental impacts of the project, as shown in the SREIR prepared by the Lead Agency, and accepts the following determinations made by the Lead Agency:

1. **Environmental Impacts** from the project will
 - ☒ Have a significant effect on the environment
 - ☐ Not have a significant effect on the environment
2. **Environmental Document** prepared for this project, pursuant to the provisions of CEQA:
 - ☒ Environmental Impact Report (EIR)
 - ☐ Mitigated Negative Declaration (MND)
 - ☐ Negative Declaration (ND)
3. **Mitigation Measures** were
 - ☒ Made a condition of approval of the project
 - ☐ Not made a condition of approval of the project
4. **Mitigation Monitoring and Reporting Plan (MMRP)** was
 - ☒ Adopted for this project
 - ☐ Not adopted for this project

5. Statement of Overriding Considerations was

- ☒ Adopted for this project
- ☐ Not adopted for this project

6. Findings were

- ☒ Made for this project, pursuant to the provisions of CEQA (Cal. Code Regs., tit. 14, § 15091)
- ☐ Not made for this project, pursuant to the provisions of CEQA (Cal. Code Regs., tit. 14, § 15091)

A copy of the SREIR and associated documents prepared by Kern County Planning & Natural Resources Department, including the Response To Comments, MMRP, Statement of Overriding Considerations, Findings, and all other related documents, are available for public examination at the Planning and Natural Resources Department, located at: 2700 "M" Street, Suite 100, Bakersfield, CA 93301; or an electronic copy of these documents may be accessed online at: <https://kernplanning.com/environmental-doc/oil-and-gas-sreir/>.

Certified: *Staff Name*
Title

Date: *XX/XX/202X*

Geologic Energy Management Division

Attachment 2. NOD Template for Projects within Unincorporated Kern County (UIC)

Instruction is in blue text

Lead Agency: Kern County Planning & Natural Resources Department
2700 M Street, Suite 100 Bakersfield, CA 93301-2370
(661) 862-8600

State Clearinghouse #: SCH# 2013081079

Lead Agency Project Title: "Amendments to Mitigation Measures included in the Final SREIR (2020/2021) for Title 19 of the Kern County Zoning Ordinance - Chapter 19.98 Oil and Gas Activities and related actions"; "Final SREIR (2020/2021) for Revisions to Title 19, Chapter 19.98 – Kern County Zoning Ordinance (2020-A) Focused on Oil and Gas Local Permitting"; and "Revisions to the Kern County Zoning Ordinance - 2015 (C), Focused on Oil and Gas Local Permitting"

CalGEM Project Title: *Per CEQA Program Naming Convention*

Project Applicant: *Operator Name*

Project Location: *Oil Field; Section, Township, Range, and Meridian; and/or written description.*

County: Kern County

Project Description:

The project activity(-ies) being permitted by the Geologic Energy Management Division (CalGEM) is within the scope of Title 19, Chapter 19.98 of Kern County Zoning Code (Oil and Gas Production), which dictates site development standards for all oil and gas exploration, extraction, operations, and production activity(-ies) in unincorporated Kern County. CalGEM, as a CEQA Responsible Agency, issued a *Project Approval Letter* for the proposed project activity(-ies), which consists of the following:

The UIC PD describes the environmental setting, the project number, the purpose of the application, amount of water use projected, source, and method of disposal.

Eg. Operator has applied for XXX activity of UIC Project ### in the XXX area of the XXX Oil Field, Kern County, California. The purpose of the UIC application is to XXX.

CalGEM, as a Responsible Agency under CEQA, considers the environmental effects of those parts of a projects that it will carry out or approve, or which will be subject to the exercise of powers by CalGEM. (Pub. Resources Code, § 21002.1;

Cal. Code Regs., tit. 14, § 15096.) This review includes considering the Lead Agency's environmental document and determining whether the project falls within the scope of the document and whether and how to approve the project involved.

CalGEM completed its review of the proposed project activity(-ies) and determined that CalGEM will rely on the Lead Agency's environmental document, as it pertains to the proposed project activity(-ies).

This Notice of Determination (NOD) is to advise that CalGEM, as the **Responsible Agency** under CEQA, approved the above project activity(-ies) on [XX/XX/2023](#).

Pursuant to the provisions of CEQA, a Supplemental Recirculated Environmental Impact Report (SREIR) was prepared and certified by the Lead Agency, Kern County, for the project "Amendments to Mitigation Measures included in the Final SREIR (2020/2021) for Title 19 of the Kern County Zoning Ordinance - Chapter 19.98 Oil and Gas Activities and related actions "; "Final SREIR (2020/2021) for Revisions to Title 19, Chapter 19.98 – Kern County Zoning Ordinance (2020-A) Focused on Oil and Gas Local Permitting"; and "Revisions to the Kern County Zoning Ordinance - 2015 (C), Focused on Oil and Gas Local Permitting" (SCH# 2013081079).

The SREIR was approved on March 8, 2021, and the related revisions to the zoning ordinance became effective on April 7, 2021. The Mitigation and Monitoring Report Program was revised and approved on August 23, 2022. During the review and approval process for this project activity(-ies), CalGEM considered the environmental impacts of the project, as shown in the SREIR prepared by the Lead Agency, and accepts the following determinations made by the Lead Agency:

1. **Environmental Impacts** from the project will
 - ☒ Have a significant effect on the environment
 - ☐ Not have a significant effect on the environment
2. **Environmental Document** prepared for this project, pursuant to the provisions of CEQA:
 - ☒ Environmental Impact Report (EIR)
 - ☐ Mitigated Negative Declaration (MND)
 - ☐ Negative Declaration (ND)
3. **Mitigation Measures** were
 - ☒ Made a condition of approval of the project
 - ☐ Not made a condition of approval of the project
4. **Mitigation Monitoring and Reporting Plan** (MMRP) was
 - ☒ Adopted for this project
 - ☐ Not adopted for this project
5. **Statement of Overriding Considerations** was
 - ☒ Adopted for this project
 - ☐ Not adopted for this project
6. **Findings** were

- ☒ Made for this project, pursuant to the provisions of CEQA (Cal. Code Regs., tit. 14, § 15091)
- ☐ Not made for this project, pursuant to the provisions of CEQA (Cal. Code Regs., tit. 14, § 15091)

A copy of the SREIR and associated documents prepared by Kern County Planning & Natural Resources Department, including the Response To Comments, MMRP, Statement of Overriding Considerations, Findings, and all other related documents, are available for public examination at the Planning and Natural Resources Department, located at: 2700 "M" Street, Suite 100, Bakersfield, CA 93301; or an electronic copy of these documents may be accessed online at: <https://kernplanning.com/environmental-doc/oil-and-gas-sreir/>.

Certified: *Staff Name*
Title

Date: *XX/XX/202X*

Geologic Energy Management Division

Attachment 3. NOD Template for Projects not within Unincorporated Kern County

Instruction is in blue text

Lead Agency:

*Full Lead Agency Name
Department
Full Mailing Address and phone number*

State Clearinghouse #:

*SCH#
If a Local Agency's CEQA document does not have a
SCH# enter "N/A" in place of the number.*

Lead Agency Project Title:

Full Project Title

CalGEM Project Title:

Per CEQA Program Naming Convention

Project Applicant:

Operator Name

Project Location:

*Oil Field; Section, Township, Range, and Meridian; and/or
written description.*

County:

Full County Name

Project Description: *The purpose of the Project Description (PD) is to summarize oil and gas activity(-ies) (abandon, rework, new drill, etc.) approved by CalGEM through Notice(s) of Intention (NOI or project approval letter). In the PD, provide a statement of the proposed project objectives, how the activities are within the scope of the previous environmental document, and the rationale for how the activities are consistent with the existing local zoning characterization of the activity(-ies). Describe the environmental setting and any potential project impacts on the environment and/or surrounding community. Identify other necessary activities related to the proposed development, exploration, and/or construction activities.*

The project activity(s) being permitted by the Geologic Energy Management Division (CalGEM) is within the scope of *XXX*.

CalGEM, as a CEQA Responsible Agency, issued a *Project Approval Letter (UIC/UGS)/permit* for the proposed project activity(-ies), which consists of the following: CalGEM-approved permit(s) for *Operator* to *drill* the wells listed below, in the *XXX* Oil Field of *XXX* County.

For oil and gas projects only. Fill out the following table. In cases then there is more than one NOI, to determine whether NOIs are in the same project, check the PD submitted by the operator. The PD of each NOI should show the same title, as well as similar location of wells/environmental setting in aerial maps. If applicable, the PD provides a list of well names or NOIs in the same project.

API #	Well Name	Latitude, Longitude

CalGEM, as a Responsible Agency under CEQA, considers the environmental effects of those parts of a projects that it will carry out or approve, or which will be subject to the exercise of powers by CalGEM. (Pub. Resources Code, § 21002.1; Cal. Code Regs., tit. 14, § 15096.) This review includes considering the Lead Agency's environmental document and determining whether the project falls within the scope of the document and whether and how to approve the project involved.

CalGEM completed its review of the proposed project activity(-ies) and determined that CalGEM will rely on the Lead Agency's environmental document, as it pertains to the proposed project activity(-ies).

This Notice of Determination (NOD) is to advise that CalGEM, as the **Responsible Agency** under CEQA, approved the above project activity(-ies) on [XX/XX/2023](#).

1. **Environmental Impacts** from the project will
 - ☒ Have a significant effect on the environment
 - ☐ Not have a significant effect on the environment
2. **Environmental Document** prepared for this project, pursuant to the provisions of CEQA:
 - ☒ Environmental Impact Report (EIR)
 - ☐ Mitigated Negative Declaration (MND)
 - ☐ Negative Declaration (ND)
3. **Mitigation Measures** were
 - ☒ Made a condition of approval of the project
 - ☐ Not made a condition of approval of the project
4. **Mitigation Monitoring and Reporting Plan** (MMRP) was
 - ☒ Adopted for this project
 - ☐ Not adopted for this project
5. **Statement of Overriding Considerations** was
 - ☒ Adopted for this project
 - ☐ Not adopted for this project
6. **Findings** were
 - ☒ Made for this project, pursuant to the provisions of CEQA (Cal. Code Regs., tit. 14, § 15091)
 - ☐ Not made for this project, pursuant to the provisions of CEQA (Cal. Code Regs., tit. 14, § 15091)

A copy of the *environmental document* and associated documents prepared by *lead agency*, including the Response To Comments, MMRP, Statement of Overriding Considerations, Findings, and all other related documents, are available for public examination at the *lead agency*, located at: *address*; or an electronic copy of these documents may be accessed online at: *link*. *If no webpage link is provided for an environmental document, direct the reader to the lead agency's physical address.*

Certified: *Staff Name*
 Title

Date: XX/XX/202X

Geologic Energy Management Division