

# Environmental Approval Process for Local, State, and Federal Projects

# What is CEQA?

## **C**alifornia **E**nvironmental **Q**uality **A**ct

Enacted 1970 to ensure state and local agencies consider the environmental impact of their decisions when approving a public or private project.

# What is NEPA?

## **N**ational **E**nvironmental **P**olicy **A**ct

Requires federal government to consider the environmental impact of a project decision.

Required on projects spending federal dollars or impacting federal land or federal resources.

# CEQA is based on NEPA

- NEPA is procedural
- CEQA is also substantive
  - Must avoid or minimize when feasible
  - Requires a statement of overriding considerations if significant and unavoidable impacts
- NEPA is processed as a combined NEPA/CEQA document
  - Environmental assessment/initial study
  - Environmental impact statement/environmental impact report

# Who's Involved?

- Implementing Agency
  - Performs the work
- Lead Agency
  - Principle responsibility for approving CEQA
  - Federal agency under NEPA
- Responsible Agency
  - Public agency with discretionary approval authority under CEQA
- Cooperating Agency
  - Local, state, or federal agency under NEPA

# Typical Agency Involvement

- Responsible/Cooperating Public Agencies
  - Federal Highway Administration (FHWA)
  - State (Caltrans) has delegated NEPA authority from FHWA (SAFETEA-LU NEPA Memorandum of Understanding)
  - City/County
  - Water/Sewer districts
  - State/Federal permitting agencies
- Responsible Private Agencies
  - Utility companies
  - Railroad

# Environmental Roles

- Each agency has
  - Legal requirements
  - Processing requirements
  - Staff review and approval requirements
  - Policy board approval

# Key Environmental Criteria

- Human Environment
  - Land use, growth, community impacts, traffic, pedestrians, bikes, visual aesthetics, cultural resources
- Physical Environment
  - Hydrology, floodplain, water quality, storm water, geology, paleontology, hazardous waste, air quality, noise, energy
- Biological Environment
  - Natural communities, wetlands and waters, plants, animals, invasive species
- Construction Impacts
- Cumulative Impacts

# Delivery Processing

- Most projects involve multiple jurisdictional agencies
- The agencies involved depend on:
  - Role of the agency
  - Location of the project
  - Funding source for the project
- Each additional agency adds more requirements, processing time, and approvals

# EIR/NOD Under CEQA vs. EIS/ROD Under NEPA

| EIR/NOD - CEQA   | EIS /ROD - NEPA  |
|--|--|
|  | Notice of Initiation   |
| Notice of Preparation (NOP)  | Notice of Intent (NOI)—Caltrans prepares NOI and Requests FHWA Publication of NOI in <i>Federal Register</i> .   |
| Send responsible agency letters  | Caltrans sends cooperating agency and participating agency letters   |
|  | Develop coordination plan  |
| Prepare draft EIR  | Prepare draft EIS  |
|  | Provide participating agencies and public opportunity for involvement in purpose and need and range of alternatives  |
|  | Collaborate with participating agencies on methodologies to be used and level of detail for alternatives analysis  |
|  | Make available to participating agencies as early as practicable information regarding environmental resources in project area and location of alternatives      |
| Quality Assurance (QA)/Quality Control (QC) Review<br>Technical Specialist Review<br>Internal Peer Review<br>Supervisor Review<br>Technical Editor Review<br>Legal Review (optional) | QA/QC Review<br>Technical Specialist Review<br>Internal Peer Review<br>Supervisor Review<br>Technical Editor Review<br>NEPA QC Review<br>Legal Review (required) |

- EIR – Environmental Impact Report
- EIS – Environmental Impact Statement
- NOD – Notice of Determination
- ROD – Record of Decision

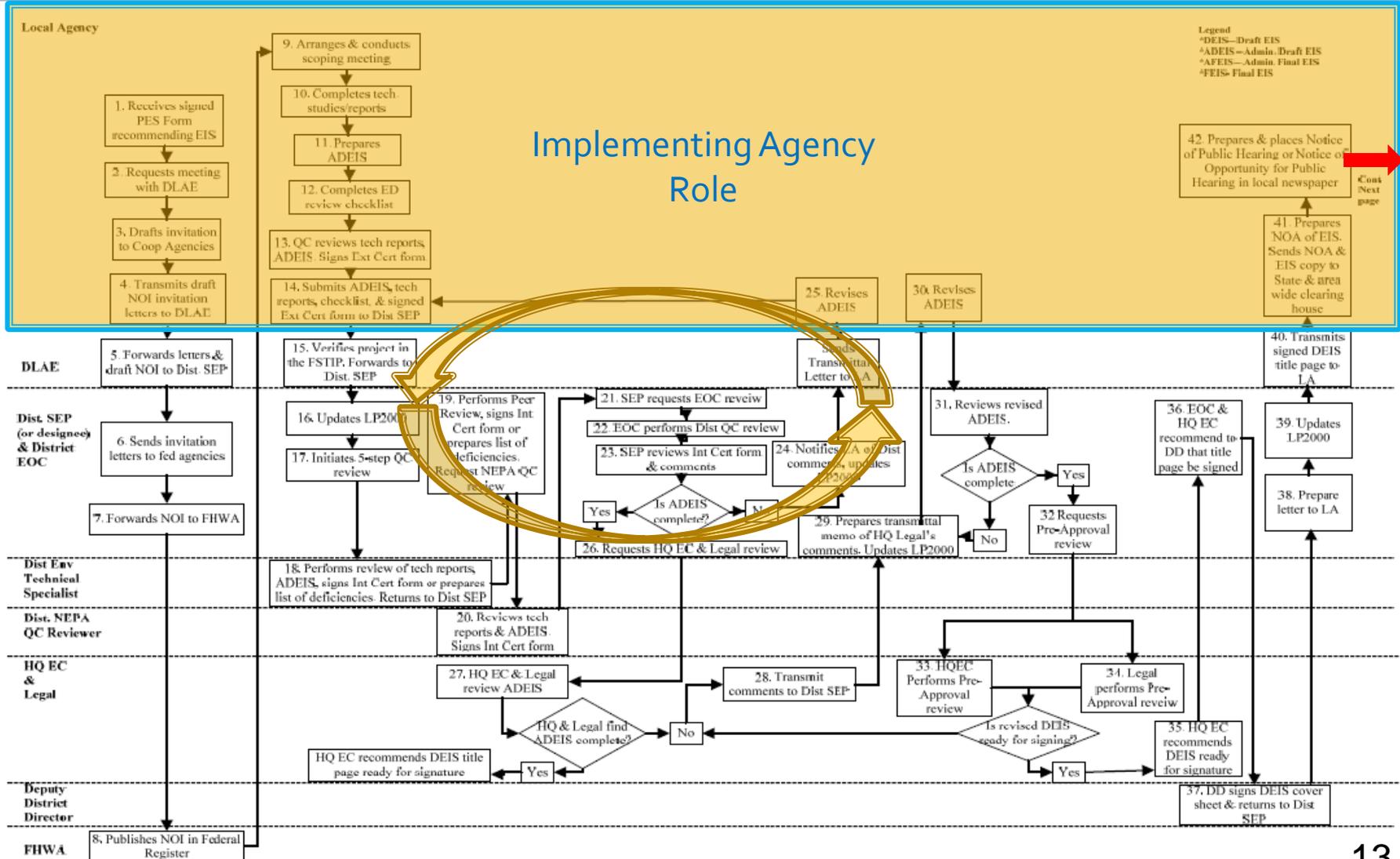
# EIR/NOD Under CEQA vs. EIS/ROD Under NEPA

| EIR/NOD – CEQA (cont)   | EIS /ROD – NEPA (cont)   |
|---|--|
|   | Review by Headquarters District Environmental  |
|   | Revise and resubmit as necessary   |
| Sign and approve EIR  | Sign and approve EIS   |
| Circulate draft EIR   | Circulate draft EIS FHWA is still the entity that must publish the federal register notice   |
| Publish Notice of Availability/Notice of Public Hearing   | Publish Notice of Availability/Notice of Public Hearing (newspapers/ <i>Federal Register</i> )   |
| 45 -Day comment period  | 45 -Day comment period starts when <i>Federal Register</i> notice is published   |
| Hold public hearing   | Hold public hearing  |
| Revise EIR and respond to comments  | Revise EIS and respond to comments   |
|   | Prepare justification, get lead agency approval, and develop preferred alternative to higher level of detail to assist in compliance with environmental laws and development of mitigation measures  |
| If applicable, obtain California Department of Fish and Game 2080.1 Consistency Determination or Incidental Take Permit | Finalize as applicable compliance with all federal laws, regulations and executive orders, including but not limited to:<br>Wetlands Only Practicable Alternative Finding<br>Section 106 Process<br>Section 7 Consultation<br>NEPA/404 Concurrence through Final ED Stage<br>Section 4(f) Evaluation<br>Compliance with all Executive Orders<br>Air Conformity Statement |

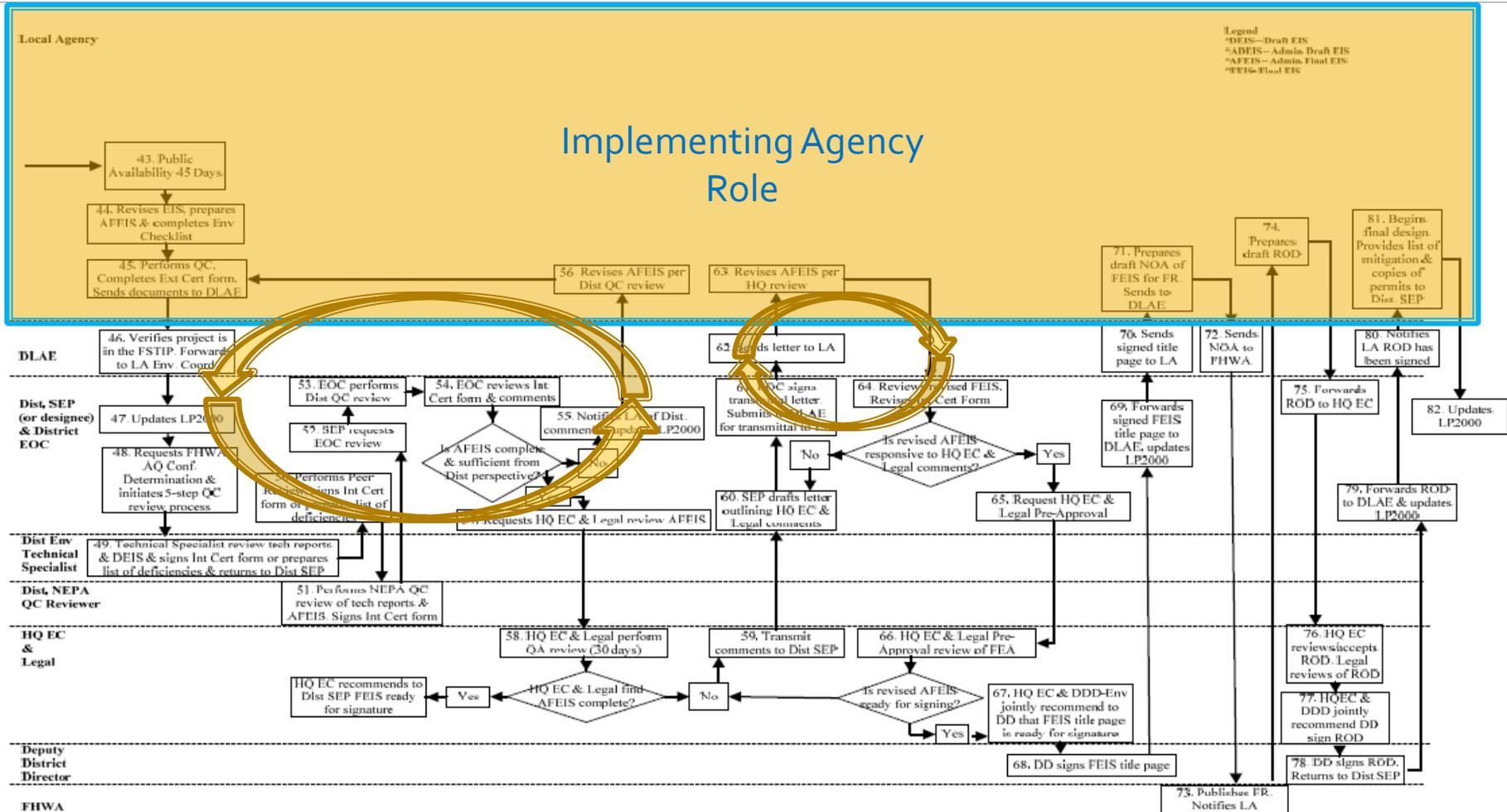
# EIR/NOD Under CEQA vs. EIS/ROD Under NEPA

| EIR/NOD – CEQA (cont)   | EIS /ROD – NEPA (cont)  |
|---|---|
| QA/QC Review  | QA/QC Review  |
|   | Review by HQ District Environmental Coordinator   |
|   | Revise and resubmit as necessary  |
| Sign and approve EIR  | Sign and approve EIS  |
| Circulate final EIR   | Circulate final EIS - must be distributed no later than the time the document is filed with Environmental Protection Agency by FHWA for notice of publication in Federal Register                   |
| Publish Notice of Availability  | Publish Notice of Availability (local newspapers and <i>Federal Register</i> )  |
| No review period for a final EIR  | 30-Day review period  |
| Prepare certification, findings, Statement of Overriding Considerations (if applicable) | Prepare Record of Decision (ROD)  |
| Prepare and sign Notice of Determination  | Submit to Caltrans environmental coordinator and revise as necessary  |
| File Notice of Determination with the State Clearinghouse                               | Caltrans signs ROD  |
|   | FHWA publishes notice in Federal Register to start 180-day statute of limitations pursuant to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users Section 6002 |

# Environmental Process



# Environmental Process



# Secrets to Delivery Success

- Determine federal involvement early
- Help agencies understand how your project fits within their requirements
- Make all agencies understand and buy into the project schedule
- Be persistent with agency staff
- Keep the public and their representatives informed
- Share the credit for accomplishments