

Summary of Environmental Laws

By Naomi Ages, Student, USC Law School
Sierra Club Angeles Chapter
Conservation Legal Committee



California Environmental Laws

California Environmental Laws and Regulations homepage:
<http://www.calepa.ca.gov/LawsRegs/>

California Coastal Act

<http://www.coastal.ca.gov/ccatc.html>

The California Legislature enacted the California Coastal Act in 1976 in order to control coastal development throughout the state. The Act created a “coastal zone” that extends 1,000 yards inland from the mean high tide line. Each city or county government whose area includes land in the zone must create a Local Conservation Plan (LCP) for the area, which guide planning, conservation, and use of coastal resources. The Act includes environmental protections and prioritizes recreational use over development. Any person wishing to develop land within that zone must obtain a permit from the relevant city or county, and the development plan must be consistent with the policies of the Act. The California Coastal Commission reviews LCPs and development plans in order to implement the Act.

More Information:

http://www.greenfoothills.org/news/2005/06-2005_CoastalAct.html

Link to regulations:

<http://weblinks.westlaw.com/toc/default.aspx?Abbr=ca%2Dadc&Action=ExpandTree&AP=CAT14D5%2E5CH1AR2&ItemKey=CAT14D5%2E5CH1AR2&RP=%2Ftoc%2Fdefault%2Ewl&Service=TOC&RS=WEBL8.02&VR=2.0&SPa=CCR-1000&fragment#CAT14D5.5CH1AR2>

Scroll down to Title 14: Natural Resources; Division 5.5: California Coastal Commission

Citation Information: Cal Pub. Resources Code § 30000 et seq.

California Environmental Quality Act (CEQA)

http://www.ceres.ca.gov/topic/env_law/ceqa/stat/

<http://www.ceres.ca.gov/ceqa/guidelines/>

The goal of CEQA, passed in 1970, is for California's public agencies to identify, avoid, and/or mitigate the negative environmental effects of their programs and projects, such as development, conditional use permits, and zoning laws. Before implementing a project, an agency must determine if the project is subject to CEQA, and if so, perform an Initial Study to determine if the environmental impacts of the project will be "significant."

Based on those findings, the agency will prepare either a Negative Declaration if there are no significant impacts, a Mitigated Negative Declaration if it finds significant impacts but alters the project to avoid or mitigate them, or an Environmental Impact Report (EIR) if it finds significant impacts. An EIR provides information about the project's impact to the general public and state and local agencies, and lists ways in which those impacts can be minimized. It must also suggest alternatives for the project and evaluate the environmental consequences of each alternative.

More Information:

http://ceres.ca.gov/topic/env_law/ceqa/summary.html

Link to Regulations:

<http://weblinks.westlaw.com/toc/default.aspx?Abbr=ca%2Dadc&Action=ExpandTree&AP=CAT14D2CH2&ItemKey=CAT14D2CH2&RP=%2Ftoc%2Fdefault%2Ewl&Service=TOC&RS=WEBL8.02&VR=2.0&SPa=CCR-1000&fragment#CAT14D2CH2>

Scroll down to Title 14: Natural Resources; Division 2: Department of Conservation; Chapter 2: Implementation of the California Environmental Quality Act

Citation Information: Cal. Pub. Resources Code §§21000 et seq.

Hazardous Substance Account Act/Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

CERCLA: http://www.access.gpo.gov/uscode/title42/chapter103_.html

The Hazardous Substance Account Act is California's equivalent to CERCLA, which was adopted in 1993. It addresses hazardous waste sites and apportions liability for them. Owners of nonresidential property must provide information to buyers, lessees, or renters regarding hazardous substances that have or may have been released on the property. Failure to provide such information subjects owners to penalties. The Act further provides that owners are responsible for the cleanup of such sites, and the removal of toxic substances, where possible. The California Environmental Protection Agency oversees these regulations in California.

More information:

<http://www.xlenvironmental.com/library/disclosu.htm>

Proposition 65, the Safe Drinking Water and Toxic Enforcement Act

<http://www.oehha.org/prop65/law/P65law72003.html>

Proposition 65 was enacted as a ballot initiative in 1986. The Act is intended to warn citizens of exposure to substances that are known to cause cancer, birth defects, and other reproductive harms. The state must publish a list of chemicals known to cause the aforementioned harms, which must be updated once a year. Businesses must post notification where such harmful substances are present and post a warning as to their effects. Businesses are also forbidden from releasing those Proposition 65 substances into drinking water sources. Chemicals are added to the Proposition 65 list in four principal ways: based on the scientific findings of independent committees, regulations passed by federal agencies (FDA, EPA), if they are subject to their own warning labels, or meet criteria set by the California Labor Code. The Office of Environmental Health Hazard Assessment administers Proposition 65.

More Information:

<http://www.oehha.ca.gov/Prop65/background/p65plain.html>

Link to Regulations:

<http://weblinks.westlaw.com/toc/default.aspx?Abbr=ca%2Dadc&Action=ExpandTree&AP=CAT11D4CH1&ItemKey=CAT11D4CH1&RP=%2Ftoc%2Fdefault%2Ewl&Service=TOC&RS=WEBL8.02&VR=2.0&SPa=CCR-1000&fragment#CAT11D4CH1>

Scroll Down to Title 11: Law; Division 4: Proposition 65 Private Enforcement

Citation Information: Cal Health & Saf Code § 25249 et seq.

Federal Environmental Laws

Environmental Protection Agency Administered Laws:

<http://www.epa.gov/lawsregs/laws/index.html>

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

<http://www.epa.gov/superfund/policy/cercla.htm>

CERCLA, or Superfund, is a 1980 law passed to address the cleanup of abandoned toxic waste sites. The Act assigns liability for each site, and funds the cleanup of that site from a fund (the “Superfund”) created from taxes and fines levied on the site’s polluters. The law is intended to ensure that rather than taxpayers, entities who are responsible for toxic pollution bear the cost of paying for cleanup. Superfund cleanups are usually initiated in the form of lawsuits, either by the government or by corporate entities. The Environmental Protection Agency administers CERCLA.

Links to Regulations: http://www.access.gpo.gov/nara/cfr/waisidx_03/40cfr300_03.html
<http://www.epa.gov/fedrgstr/EPA-GENERAL/2007/May/Day-02/g7990.htm>
<http://epa.gov/brownfields/regneg.htm>

Citation Information: 42 U.S.C. §§ 9601 et seq.

Resource Conservation and Recovery Act (RCRA)

<http://www.epa.gov/rcraonline/>

Passed in 1976, RCRA governs solid and hazardous waste disposal. The Act encourages states to develop plans to manage industrial and municipal solid waste, sets criteria for municipal solid waste landfills waste disposal facilities, and prohibits the open dumping of solid waste. It controls the hazardous waste from its creation to its disposal, and regulates underground storage tanks containing hazardous waste and petroleum materials. RCRA also endorses reduction in waste and recycling programs. In 1984, Congress amended the Act with the Federal Hazardous and Solid Waste Amendments (HSWA), which required the phasing out of land disposal of hazardous waste. It also increased enforcement authority for EPA, the agency that administers RCRA, and set more stringent hazardous waste management standards. It was amended again in 1992 and 1996, allowing greater enforceability in federal sites, and allowing flexibility for land disposal of some waste.

Link to Regulations: <http://www.epa.gov/osw/laws-reg.htm#regs>

Citation Information: 42 U.S.C. §§ 6901 et seq.

Clean Water Act

<http://www.epa.gov/r5water/cwa.htm>

Implemented in 1972, the Clean Water Act is aimed at protecting surface water quality, with the broad goal of “the protection and propagation of fish, shellfish, and wildlife, and recreation on the water.” The Act works by reducing discharges into waterways, financing municipal wastewater treatment facilities, and managing polluted runoff. It mixes regulations (for issues like sewage runoff—a “point” source) and more voluntary programs for “nonpoint” runoff. It operates with a comprehensive, watershed-based approach to water quality, focused on preserving healthy areas and mitigation and repair strategies polluted ones. The EPA has responsibility for regulations related to the Clean Water Act.

Link to Regulations: <http://www.epa.gov/owow/oceans/regulatory/marinedischarge.html>
<http://www.epa.gov/owow/wetlands/guidance/coral.html>

Citation Information: 33 U.S.C. §§ 1251 et seq.

National Environmental Policy Act

NEPA

<http://www.epa.gov/compliance/nepa/index.html>

The National Environmental Policy Act, passed in 1970, established nationwide goals and policies for the “protection, maintenance, and enhancement of the environment.” It relies on the Federal Agencies to accomplish these goals through the process NEPA provides. Generally, the Act requires Agencies to assess the environmental impact resulting from projects and decisions, and to make decision with the goal of “productive harmony” between people and nature in mind. As such, Agencies must provide environmental impact statements assessing the impact of federal actions. NEPA works similarly to CEQA (discussed above) in terms of assessing and reporting on potential environmental effects. The Act is administered by the Council on Environmental Quality (CEQ), which NEPA created.

Link to Regulations: http://www.nepa.gov/nepa/regs/ceq/toc_ceq.htm

Citation Information: 42 U.S.C. §§ 4321 et seq.

Endangered Species Act

<http://www.fws.gov/conservation/whatwedo.html#General>

Passed in 1973, the Endangered Species Act provides the method for the federal government to identify and protect species that are “threatened” or in danger of extinction. An endangered species is one that faces extinction throughout all or a significant portion of its range. A threatened species is one likely to become endangered in the foreseeable future. Any agency, US citizen, or organization can make a recommendation for a species to be added to or removed from the endangered list. The Act requires that the government designate “critical habitat” for any species listed, and can require areas outside the species geographical area if necessary. Under the Act, some government agencies are charged with implementing recovery plans for endangered species, often in cooperation with the states in which the species live. If any non-federal entity wishes to undertake an activity that may affect a listed animal, it must submit a conservation plan that accords with the Act’s policies and goals. The US Fish and Wildlife Service Administers the Endangered Species Act.

Link to Regulations: <http://www.nmfs.noaa.gov/pr/laws/esa/policies.htm>

Citation Information: 16 U.S.C.A. §§ 1531 et seq.

Clean Air Act

<http://www.epa.gov/air/caa/>

The current version of the Clean Air Act (last amended in 1990) is based on the 1970 Act. It requires the Environmental Protection Agency (EPA) to set and enforce national air pollution standards. These standards, known as National Ambient Air Quality Standards (NAAQS) limit concentrations of pollutants in the air (carbon dioxide, ozone, carbon monoxide, sulfur dioxide, lead, nitrogen dioxide, and particulate matter), which are monitored by state and local environmental agencies at monitoring sites. If a state or local area is found to be in violation of those standards, they are subject to fines or can be required to reduce pollutants through emissions standards, alternative energy investment, and other policies. In 1997, the government issued regulations strengthening the Clean Air Act, but enforcement has been postponed. Stricter regulations regarding nitrogen oxides, sulfur dioxide, and mercury emissions were announced in 2005.

Link to Regulations: http://www.access.gpo.gov/uscode/title42/chapter85_.html

Citation Information: 42 U.S.C. §§ 7401 et seq.

Toxic Substances Control Act

<http://www.epa.gov/lawsregs/laws/tsca.html>

The Toxic Substances Control Act

Passed in 1976, the Toxic Substances Control Act gives the EPA the ability to monitor the industrial chemicals that are produced in and imported into the United States. Under the Act, the EPA can require testing of these chemicals, and ban their production or importation if they are found to pose significant health or environmental risks. There is an inventory of over 75,000 chemicals covered by the Toxic Substances Control Act.

Link to Regulations: <http://www.epa.gov/EPA-TOX/2000/December/Day-15/t31728.htm>

Citation Information: 15 U.S.C. §§ 2601 et. seq.