

This is the sixth in a series of blog posts on reforming the California Environmental Quality Act (CEQA). The first post, discussing different paradigms for CEQA, is [here](#). The second post, discussing the conceptual framework for reform, is [here](#). The third post, discussing designating a state agency to set binding, clear standards for CEQA implementation, and setting stricter limits on alternatives analysis, is [here](#). The fourth post, discussing the creation of an exclusive list of the type of impacts to be considered under CEQA, is [here](#). The fifth post, discussing the creation of mandatory, standardized thresholds of significance, and default methodologies and mitigation measures, is [here](#). In this post, I will discuss creating accelerated dispute resolution, including judicial review, for CEQA.

Accelerated dispute resolution

A key source of delay is judicial review of CEQA claims – disputes over the application of the law will be inevitable, even with clearer standards. Providing a quicker review process, ideally with more technical as well as legal expertise than generalist judges can provide, would be beneficial. Reducing the levels of judicial review would be beneficial as well – prior research indicates that [a major driver of delays in judicial review](#) is a second level of judicial review.

There are five distinct changes to facilitate accelerated and more effective judicial review under CEQA.

First, the designated agency would initially hear any claim that a lead agency has done inadequate CEQA review. Review would be conducted by staff panels with subject-matter expertise (such as biologists, engineers) as well as lawyers with specific expertise in CEQA. Panels would be staffed based on the relevant technical expertise required to resolve particular claims. Hearings would be held on an accelerated timeframe with short briefing schedules.

Second, the designated agency would only hear claims based on the administrative record before the agency at the time it made its decision. The administrative record would be limited to the public comment and the record before the agency when it made its decision. (Greater clarity about the scope of the administrative record, to reduce the disputes over what is included within it, should be provided.)

Third, the designated agency would apply the substantial evidence standard to review of the agency's decision. Agency decisions to not prepare an EIR would be subject to a substantial evidence standard supporting the agency's conclusion, not

the fair argument standard under current law.

Fourth, to raise a claim before the designated agency, petitioners must meet a standing requirement in which their interests relate to environmental harm – similar to the zone of interests test for federal challenges to NEPA, a standard that I [have blogged about before](#).

Fifth, judicial review of the designated agency’s decision would be primarily directed to a mandamus petition in the court of appeal. The standard of review would be whether substantial evidence supported the designated agency’s panel review of the record before it. The courts would be urged (as under the current streamlining law) to resolve cases within an expedited timeframe.

Claims about CEQA that do not involve review of a designated panel decision, including constitutional claims, could still be raised in superior court. Litigants challenging the adequacy of an agency’s CEQA compliance could also still seek review of the designated panel’s decision in superior court, but would need to file a bond to account for the longer time period of litigation entailed by adding an additional layer of judicial review.

(There is a state constitutional law issue about whether judicial review of a state administrative agency decision can be primarily directed to the courts of appeal. One case holds not (*Communities for a Better Environment v. Energy Resources Conservation and Development Commission*, 57 Cal.App.5th 786 (2020)). Another case implies that such a statute is permissible, so long as the statutory bar on filing for judicial review in Superior Court is not an absolute bar, and allows such claims in “exceptional circumstances.” *Gerawan Farming v. Agricultural Labor Relations Bd*, 247 Cal.App.4th 284, 305-06 (2016); see also *Wonderful Nurseries v. Agricultural Labor Relations Bd*, 116 Cal.App.5th 351, 375 (2025). Allowing petitions to be filed in superior court, albeit with a bond, does not eliminate superior court jurisdiction in the ways that past court decisions have found unconstitutional.)