

CEQA Portal Topic Paper

Thresholds of Significance

What Is a Threshold of Significance?

CEQA requires a Lead Agency to determine the significance of all environmental impacts (California Public Resources Code [PRC] § 21082.2; 14 CCR [State CEQA Guidelines] § 15064¹). A *threshold of significance* for a given environmental impact defines the level of effect above which the Lead Agency will normally consider impacts to be significant, and below which it will normally consider impacts to be less than significant (See State CEQA Guidelines § 15064.7(a)). Thresholds of significance may be defined either as quantitative or qualitative standards, or sets of criteria, whichever is most applicable to each specific type of environmental impact. For example, quantitative criteria are often applied to air quality and noise impacts, while aesthetics impacts are typically evaluated using qualitative thresholds.

Lead Agencies have discretion to formulate their own significance thresholds (See State CEQA Guidelines § 15064.7(b)). Setting thresholds requires the Lead Agency to make a policy judgment about how to distinguish significant impacts from less-than-significant impacts.

Lead Agencies can set thresholds on a project-by-project basis, or they can adopt thresholds to be consistently applied to all projects. For the Lead Agency, having clearly established thresholds promotes predictability and consistency (over time and across reviewers) in the environmental review process, can bolster the defensibility of significance determinations in the agency's CEQA documents, and can focus the analysis on impacts expected to be significant rather than impacts that are simply controversial. However, CEQA does not require that a Lead Agency use the same significance threshold for different CEQA documents.

The determination by a Lead Agency of whether a project may have a significant effect on the environment calls for careful judgment, based to the extent possible, on scientific and factual data (State CEQA Guidelines § 15064(b)(1)). Thus, establishing a single threshold of significance, while desirable in most instances, may not be possible for every environmental impact, because the significance of an impact may vary with the setting. For example, an effect that is less than significant in an urban area may be significant in a rural area (e.g., noise or aesthetics). Moreover, it should be noted that compliance with a chosen threshold does not excuse an agency of its obligation to consider information presented to it regarding a project's impacts. The lead agency must evaluate any substantial evidence supporting a fair argument that, despite compliance with a threshold, the project's impacts are nevertheless significant.

¹ All references to the "State CEQA Guidelines" refer to California Code of Regulations, title 14, division 6, chapter 3, section 15000 *et seq.* The California Supreme Court "afford[s] the Guidelines 'great weight' unless a provision is 'clearly erroneous under the statute.' [Citations.]" (*Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 954.)



Lead Agencies may not arbitrarily establish thresholds to either create or avoid significant impacts. Thresholds must be backed by *substantial evidence*, which is defined in the CEQA statute to mean “facts, reasonable assumptions predicated on facts, and expert opinion supported by facts” (State CEQA Guidelines § 15064.7(b)).

Why Are Thresholds of Significance Important?

Thresholds of significance are key elements of any CEQA document, as the level at which thresholds are established can determine whether the impacts of a project are deemed significant (thus requiring mitigation) or less than significant (thus not requiring mitigation). Further, if significant project impacts are identified that cannot be reduced below the threshold of significance through mitigation, the Lead Agency is obligated to prepare an EIR rather than a Negative Declaration or Mitigated Negative Declaration (PRC § 21082.2(d); State CEQA Guidelines § 15064(a)(1)).

How Do You Select Appropriate Thresholds of Significance?

Lead Agencies are responsible for establishing the thresholds of significance for all documents they prepare. They can rely on several sources, including: Appendix G of the State CEQA Guidelines; CEQA’s mandatory findings of significance (State CEQA Guidelines § 15065); thresholds established by regulatory agencies; thresholds provided in General Plans or other local planning documents; or thresholds established by other agencies. For example, many jurisdictions rely on thresholds established by a local or regional air district when analyzing air quality impacts.

Appendix G is the most common source, though Lead agencies are not required to use it and are free to develop their own thresholds.² It is also important to note that an impact can be significant even if it is not covered by an Appendix G question.

Lead Agencies are encouraged in the State CEQA Guidelines to develop and formally adopt thresholds of significance, though most do not do so (§ 15064.7(a)). Thresholds established for general use by a Lead Agency must be: adopted by ordinance, resolution, rule, or regulation; be subjected to public review; and be supported by substantial evidence (State CEQA Guidelines § 15064.7(b)). Thresholds used only for a specific project are not required to be adopted by ordinance or other formal means. However, “[w]hen using a threshold, the lead agency should briefly explain how compliance with the threshold means that the project’s impacts are less than significant” (State CEQA Guidelines § 15064(b)(2)).

In adopting thresholds, lead agencies should consider the following factors³:

² In 2018, the Natural Resources Agency adopted a substantially revised version of Appendix G, which was approved by the Office of Administrative Law and filed with the Secretary of State on December 28, 2018.

³ Some of these factors are derived from the discussion in Letunic and Ferrell (2007) listed below under Sources.

- Whether the threshold is consistent with the agency's policies, especially as expressed in adopted plans;
- Whether there are environmental laws, rules and regulations that can be used in developing the thresholds;
- Whether the threshold is consistent with thresholds recommended by other agencies, in particular regulatory agencies with jurisdiction over the resource in question;
- Whether a threshold is quantitative and objective rather than qualitative or subjective; and
- The degree to which the threshold is simple to interpret and implement.

Further, where appropriate, thresholds should be dynamic and flexible to account for application in different settings (rural vs. urban) and site-specific conditions.

Are Thresholds of Significance Required in Initial Studies and EIRs?

The development and use of thresholds of significance are not required by CEQA. However, it is good and accepted practice to do so in both Initial Studies and EIRs because it allows readers to more easily understand the chain of facts and logic that led the Lead Agency to their significance conclusions.

Because many Initial Studies/Mitigated Negative Declarations (IS/MNDs) rely on the State CEQA Guidelines Checklist (found in Appendix G), the statements provided in Appendix G often serve as the thresholds by which impacts are evaluated. The Appendix G statements may also be used in an EIR. However, because an EIR typically provides a more in-depth analysis of the project's environmental impacts, it typically also includes more detail to support the selection of significance thresholds than an IS/MND; a discussion of the chosen thresholds is commonly included in the methodology section of each EIR chapter.

Thresholds of Significance Under NEPA

There is no mention of "thresholds of significance" in the Council on Environmental Quality (CEQ) NEPA regulations, although changes adopted in 2020 include a new "thresholds" section incorporating several factors for agencies to consider when determining "whether NEPA applies or is otherwise fulfilled." (40 C.F.R. § 1501.1.) The changes also specify that, in considering whether the effects of the proposed action are significant, agencies shall analyze the potentially affected environment and the degree of the effects of the action. (40 C.F.R. § 1501.3.) In considering the "degree" of effects, agencies should consider the "short- and long-term effects", the "beneficial and adverse effects", "effects on public health and safety" and effects that would violate laws, including State and local laws, protecting the environment.



Thresholds of Significance in a Joint CEQA/NEPA Document

Because NEPA and CEQA define significance in different terms, NEPA and CEQA agencies tend to treat significance differently in their environmental documents. CEQA and NEPA practices can be aligned in a joint environmental document by explaining which significance determinations are being made. Specific significance determinations should then be set forth in the document. The federal and state agencies can describe each specific impact in common language that is consistent with both NEPA and CEQA practice. Following each description, the agencies should include a section in which the determination is made and explained. (Council on Environmental Quality and Governor's Office of Planning and Research 2014)

When working on a joint CEQA/NEPA document the two Lead Agencies should meet at the start of the project and come to an agreement on aspects of document preparation where CEQA and NEPA differ, including the application of thresholds of significance. Because CEQA requires judgements about impact significance, joint CEQA/NEPA documents should include CEQA thresholds, but may also explain significance in terms of NEPA “context” and “intensity” criteria. Some federal agencies opt to not include significance determinations in their NEPA documents, arguing that such determinations are up to the lead agency decision-maker. If the Agencies cannot agree on a single approach to determining significance, then separate CEQA and NEPA significance conclusions can be provided for some or all impacts.

Areas of Controversy Regarding Thresholds of Significance

Historically, the role of regulatory standards as thresholds of significance has been very controversial. Using regulatory or “environmental” standards (e.g., air and water quality standards, building codes) as thresholds promotes efficiency in the CEQA process by reducing the need to “reinvent the wheel” when analyzing highly regulated impacts. However, many impacts are not covered by these regulatory standards, and the standards that do exist are sometimes vague, ineffective in reducing impacts (for example, because they require economic balancing), or not enforced.

In *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal. App.4th 98, the court invalidated a State CEQA Guideline that required Lead Agencies to rely on adopted environmental standards to determine significance because it was inconsistent with the “fair argument” standard of review. After several unsuccessful legislative attempts to amend CEQA to essentially overturn the *CBE* case and require the use of regulatory standards to determine impact significance, the Natural Resources Agency amended the State CEQA Guidelines in 2018 to add a new Section 15064.7, subdivision (d), to provide guidance on the use of environmental regulatory standards as thresholds of significance. Section 15064.7(d) states, in relevant part:



Any public agency may adopt or use an environmental standard as a threshold of significance. In adopting or using an environmental standard as a threshold of significance, a public agency shall explain how the particular requirements of that environmental standard reduce project impacts, including cumulative impacts, to a level that is less than significant, and why the environmental standard is relevant to the analysis of the project under consideration.

Thus, while lead agencies such as a city or county, and resource or wildlife agencies, often disagree about the thresholds to be applied to impacts on wildlife or other protected resources, under the State CEQA Guidelines and case law, a lead agency is not required to follow the recommendations of other agencies, but has the option to do so. The critical factor for the lead agency in this circumstance is to be sure that their selected threshold is supported by some substantial evidence.

Questions also sometimes arise about whether an impact is “big” enough to be significant. Generally, CEQA is concerned about impacts on the environment generally, rather than impacts on a small set of persons. A number of lead agencies, for example, do not consider impacts on views from private roads to be significant, while impacts on views from public roads or trails may be considered significant.

Important Cases

The following important published cases involve issues related to thresholds of significance:

- *King and Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814:

With regard to the County’s assessment of a project’s noise impacts, the court rejected the use of what was, in effect, a single “absolute noise level” threshold of significance (e.g. exceed 65 dBA CNEL) on the grounds that the use of such a threshold fails to consider the magnitude or severity of increases in noise levels attributable to the project in different environments. (See also *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714 [“the lead agency should consider both the increase in noise level and the absolute noise level associated with a project”].)

- *Golden Door Properties, LLC v. County of San Diego* (2018) 27 Cal.App.5th 892:

In this case, the court held that a county “guidance document” containing a recommended efficiency metric for assessing the significance of a project’s GHG emissions constituted a threshold of significance for general use and, therefore, “must be adopted by ordinance, resolution, rule, or regulation, [be] developed through a public review process[,] and be supported by substantial evidence.” (Citing State CEQA Guidelines § 15064.7, subd. (b).)

- *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129:

Here, in reviewing a challenge to a Mitigated Negative Declaration (MND), the court of appeal held that the observations and “fact-based comments” of residents supported a fair argument

that the project would have a significant adverse impact on traffic congestion, *notwithstanding the fact that the traffic study prepared for the project concluded that the increase in traffic would not exceed the city's predetermined threshold of significance*. The court emphasized that the selected thresholds of significance do not "necessarily shield the City from the EIR requirement. Thresholds of significance may not be applied 'in a way that forecloses the consideration of any other substantial evidence showing there may be a significant effect.'" (Quoting *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 114, disapproved on other grounds by *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086.)

- *Mission Bay Alliance v. Office of Community Investment and Infrastructure* (2016) 6 Cal.App.5th 160:

The court upheld the use of "ambient plus increment" (or "existing-plus-project increment") thresholds for assessing project noise impacts as consistent with CEQA. The court noted, however, that the EIR in that case was careful not to ignore the severity of existing noise levels by incorporating a smaller incremental threshold for areas where existing ambient noise levels were already high.

- *Center for Biological Diversity v. Dept. of Fish & Wildlife* (2015) 62 Cal.4th 204:

In this case, the California Supreme Court upheld the use or assessment of a project's consistency with statewide GHG reduction goals (here, A.B. 32) as a permissible significance criterion (threshold of significance). Note, however, that the court in this case ultimately concluded that the EIR failed to adequately support its conclusions that impacts would be less than significant under this criterion with substantial evidence.

- *Rominger v. County of Colusa* (2014) 226 Cal.App.4th 690:

A Lead Agency need not use the Appendix G checklist and is free to devise its own significance thresholds.

- *Save Cuyama Valley v. County of Santa Barbara* (2013) 213 Cal.App.4th 1059.

The court upheld the use of a project-specific significance threshold for hydrological impacts, and rejected an argument that all significance standards must be based on the Appendix G checklist. The court also held that project-specific thresholds do not need to be formally adopted, and the lead agency does not need to explain why it is not using the Appendix G checklist as the threshold.

- *North Coast Rivers Alliance v. Marin Mun. Water District* (2013) 216 Cal.App.4th 614.

The court upheld an analysis of greenhouse gas emissions impacts based on adopted County GHG goals.

- *Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184.



The court upheld noise significance standards that were developed by an expert who assisted in preparing the EIR.

- *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884:

The court ruled that project specific thresholds did not need to be adopted by ordinance or other formal means. The court also ruled that regulatory standards can be presumed to provide sufficient protection to the applicable resources, and that such standards can thus be used as significance thresholds.

- *Citizens for Responsible and Equitable Environmental Development v. City of Chula Vista* (2011) 197 Cal.App.4th 327:

A Lead Agency may use a regulatory standard as a threshold of significance when it concludes it is appropriate to do so because it keeps impacts from being significant.

- *Porterville Citizens for Responsible Hillside Development v. City of Porterville* (2007) 157 Cal.App.4th 885.

The court held that height and view impacts of a proposed development were less than significant because only a few persons would be affected.

- *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322:

Thresholds of significance are not conclusive and do not excuse the lead agency from considering evidence that a significant impact may nevertheless occur.

- *Protect the Historic Amador Waterways v. County of Amador* (2004) 116 Cal.App.4th 1099:

A reduction in streamflow was a potentially significant impact, even though it was not explicitly covered by an Appendix G question. Lead Agencies must address evidence submitted by a commenter that an impact might be significant despite the significance thresholds used in an EIR.

- *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477.

The court upheld an EIR's determination that impacts on public views would be significant, but impacts on private were not significant. The EIR determination was based on policies in the City's local coastal program that protected public views, and the absence of city policies protecting private views.

- *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98.

Regarding the use of regulatory standards and thresholds of significance, the court invalidated a State CEQA Guidelines requirement for Lead Agencies to rely on adopted environmental standards to determine impact significance. The court held that this requirement conflicted with CEQA's standard for determining whether to prepare an EIR whenever it can be fairly argued on the basis of substantial evidence that a project may have a significant environmental impact.

Thresholds of Significance in the CEQA Guidelines

Thresholds of significance are described in the following sections of the State CEQA Guidelines:⁴

- **Section 15064** – provides general guidance to Lead Agencies regarding how to determine whether environmental effects caused by a project are significant.
- **Section 15064.3** – provides specific considerations for evaluating a project's transportation-related impacts, including that “[g]enerally, vehicle miles traveled [VMT] is the most appropriate measure of transportation impacts.”
- **Section 15064.4** – provides specific guidance to Lead Agencies regarding how to determine whether the emissions of greenhouse gases by a project are significant.
- **Section 15064.5** - provides specific guidance to Lead Agencies regarding how to determine whether environmental effects caused by a project on archaeological and historical resources are significant.
- **Section 15064.7** – defines thresholds of significance and encourages Lead Agencies to develop and publish such thresholds; requires that thresholds of significance that are to be adopted for general use be developed through a public review process, be supported by substantial evidence, and be formally adopted; and allows Lead Agencies to consider using thresholds of significance adopted by other public agencies or experts, provided those thresholds are supported by substantial evidence.
- **Section 15065** – discusses the circumstances under which a Lead Agency must deem environmental impacts as significant.

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⁴ In addition to adding a new Section 15064.3, Sections 15064, 15064.4, and 15064.7, were revised as part of the December 2018 amendments to the State CEQA Guidelines.



Sources

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