

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] Section 21082.2; State CEQA Guidelines Section 15064). A *threshold of significance* for a given environmental impact defines the level of effect above which the Lead Agency will consider impacts to be significant, and below which it will consider impacts to be less than significant. 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 traffic, air quality, and noise impacts, while aesthetics impacts are typically evaluated using qualitative thresholds.

Lead Agencies have discretion to formulate their own significance thresholds. 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 informally or formally 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 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. 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 activity may vary with the setting. For example, a given level of impact that is not significant in an urban area may be significant in a rural area (e.g., noise or aesthetics).

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" (14 CCR § 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 an IS/MND (PRC Section 21082.2(d); State CEQA Guidelines Section 15064(a)(1)).

How Do You Select Appropriate Thresholds of Significance?

Lead Agencies are responsible for determining 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 Section 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. 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 (14 CCR 15064.7(a)) to develop and formally adopt thresholds of significance, though most do not do so. 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 Section 15064.7(b)). Thresholds used only for a specific project are not required to be adopted by ordinance or other formal means.

In adopting thresholds, lead agencies should consider the following factors¹:

- 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.

¹ Some of these factors are derived from the discussion in Letunic and Ferrell (2007) listed below under Sources.

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 thresholds is commonly included in the Methodology section of each EIR chapter.

Thresholds of Significance Under NEPA

There is no mention of “thresholds” in the Council on Environmental Quality (CEQ) NEPA regulations. Most federal agencies do not use established thresholds but determine the significance of environmental effects based on the context that effects occur within, and the intensity of the effects. In determining an effect's intensity, federal agencies consider “factors” such as public health, characteristics of the geographic area, controversy, uncertain risks, precedent-setting aspects, cumulative effects, effects on cultural resources and endangered species, and violation of environmental protection laws. (40 CFR 1508.27)

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?

The role of regulatory standards as thresholds of significance continues to be very controversial. Using regulatory 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 regulatory standards, and the regulatory standards that do exist sometimes are 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. There have been repeated unsuccessful legislative attempts to amend CEQA to essentially overturn the *CBE* case and require the use of regulatory standards to determine impact significance.

In the meantime, Lead Agencies are free to use regulatory standards as thresholds as long as compliance with the regulatory standards keeps impacts from being significant. Some standards (e.g., air quality, water quality) are already built into Appendix G.

Often lead agencies such as a city or county, and resource or wildlife agencies, disagree about the thresholds to be applied to impacts on wildlife or other protected resources. Under CEQA case law, a lead agency is not required to follow the recommendations of other agencies, although a number of agencies choose to do so. The critical factor for the lead agency in this circumstance is to be sure that the lead agency’s selected threshold is supported by some substantial evidence.

Questions sometime 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:

- *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. (For discussion of the significance of greenhouse gas emissions generally, see *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 62 Cal.4th 204).

- *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 not significance 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 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.

- *Oro Fino Gold Mining Corp. v. County of El Dorado (1990) 225 Cal.App.3d 872.*

The court upheld the use of general plan noise standards as the threshold for determining that an EIR was required for a project.

Thresholds of Significance in the CEQA Guidelines

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

- **Section 15064** – provides general guidance to Lead Agencies regarding how to determine whether environmental effects caused by a project are significant.
- **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 evidenced, and be formally adopted; 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.

Related Topics

- Environmental Setting and Baseline (In preparation)
- Impact Analysis (To come)

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