



Lead agencies must be able to determine whether a project's potential impacts could be considered significant. Thresholds of significance are a practical, convenient tool for making such determinations.

CEQA Thresholds of Significance

A Do-It-Yourself Guide for Public Agencies

by **Niko Letunic and Christopher E. Ferrell, Ph.D.**

Determining the significance of a project's environmental impacts is one of the trickiest aspects of the California Environmental Quality Act (CEQA). However, lead agencies can make the process much simpler and more efficient by using thresholds of significance — quantitative or qualitative criteria beyond which an environmental effect may be considered significant.

Unfortunately, significance thresholds are one of CEQA's most misunderstood provisions. The biggest and most common mistake that agencies make concerning thresholds is to equate them with the impacts on the familiar Environmental Checklist Form of the State's CEQA Guidelines (Appendix G). The checklist is simply a list of potential impacts that public agencies should be mindful of when reviewing projects. For example, would the project "expose sensitive receptors to substantial pollutant concentrations"? However, it provides little guidance in judging whether the potential impacts might be environmentally significant. Who or what should be defined as "sensitive receptors"? Which pollutants should be considered?

What constitutes a "substantial" concentration? Agencies that rely exclusively on the checklist — and their project applicants — are likely to experience environmental reviews that are needlessly confusing, frustrating and inefficient.

A 1994 paper by the Governor's Office of Planning and Research (OPR), titled "Thresholds of Significance: Criteria for Defining Environmental Significance" stresses the benefits to public agencies of using thresholds of significance. The paper can be found at http://ceres.ca.gov/topic/env_law/ceqa/more/tas/threshold.html. Among the many benefits, the proper use of thresholds:

- Promotes predictability and consistency — over time and across reviewers — in the environmental review process.
- Reduces duplication of effort.
- Bolsters the defensibility of significance determinations.
- Focuses analyses on impacts expected to be significant rather than simply controversial or "headline grabbing."
- Encourages the submission of projects that incorporate mitigation into their design by offering a "significance target."

OPR's paper also provides specific advice to public agencies for developing

thresholds of significance. Based on OPR's advice and our experience on the topic, we have devised a six-step guide for public agencies to follow in developing CEQA thresholds of significance for general use as part of their environmental review process:

1. Using the *CEQA Guidelines'* Environmental Checklist Form as a departure point, isolate the specific physical or environmental impact(s) for which thresholds are to be established; be as precise as possible in identifying the impact(s) of interest.
2. Gather material relative to the impact(s) isolated in Step 1, including plans, studies, policy documents, surveys, reports, research papers, laws, regulations and other documents and data, whether prepared internally or by others.
3. Review the material gathered in Step 2, looking for any potential thresholds of significance for the impact(s) of interest: that is, quantitative or qualitative criteria, standards, measures, circumstances or

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conditions that might make it possible to differentiate, in the agency’s judgment, between a significant impact and one that is less than significant. Limit the list to thresholds that are backed by “substantial evidence” — a CEQA term meaning enough facts, data and other credible information that support choosing a certain threshold as the point at which an impact acquires significance. For impacts that do not lend themselves readily to the application of thresholds, it is better simply not to establish thresholds; the environmental significance of such impacts should be determined on a case-by-case basis.

4. From among the candidate thresholds identified in Step 3, select one (or more) that best meets CEQA’s intent and the agency’s goals. To the extent possible, thresholds should:

- Reflect the agency’s policies and the values of its constituents, especially as expressed in adopted plans.
- Be based on specific and enforceable environmental laws, rules and regulations.
- Be consistent with, though not necessarily the same as, those of other agencies, particularly regulatory ones.
- Be quantitative and objective rather than qualitative or subjective.
- Be simple to interpret and implement.

5. Formalize the selected threshold(s) in writing. A written threshold should state the criteria for significance clearly and succinctly to avoid misinterpretation; reference the

factual basis for the criteria; explain why the threshold constitutes environmental significance; and, if applicable, reference the settings, locations or other physical scope to which it applies.

6. Thresholds should be submitted for public review and, ideally, adopted by ordinance or resolution of the agency’s governing body. Less preferably, they may be adopted administratively by agency staff or simply put into use as unadopted in-house guidelines.

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In navigating the above process, agencies are encouraged to provide the public with opportunities to assist in the development of thresholds, possibly in the form of an ad hoc committee or technical working group. Given the complexities inherent in CEQA, agencies are encouraged to obtain legal advice during the process to ensure that any resulting thresholds are legally defensible. Establishing thresholds of significance requires a not-insignificant commitment of agency resources. However, public agencies that take the plunge will find

their efforts repaid in a more efficient, streamlined and predictable environmental review process.

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Legislative Update

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It specifies that all property that is taken by eminent domain shall be used only for the public use stated at the time of the taking, except for purposes, public or private, that are incidental to that use. It states that when property taken by eminent domain ceases to be used for the public use stated at the time of the taking, or fails to be put to that use within 10 years following the date of that taking, the former owner would have the right to acquire the property at fair market value and would be taxed at its base year value, with any authorized adjustments, as had been last determined at the time the property was acquired by the condemner. It would apply to all condemnation actions commenced or pending on or after June 23, 2005.

More information on the measures discussed? Go to the CCAPA website legislative section at www.calapa.org. The “Hot Bill List” and “Position Letters” can be found there.

Setting It STRAIGHT

We regret that in the “Inside This Issue” Section of the January/February 2007 issue of *CalPlanner*, the name of Daniel J. Curtin, Jr. was mistyped. We are sorry for any confusion or inconvenience this may have caused.